



**Licensing Act 2003**

**Statement of  
Licensing Policy**

**For the period 7 January 2016 - 6 January 2021**

# Eden District Council Licensing Authority

## Statement of Licensing Policy

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# 1 Introduction

1.1 The Licensing Act 2003 regulates the licensable activities on licensed premises, by qualifying clubs and at temporary events.

1.2 Eden District Council is a Licensing Authority (the Authority) for the purposes of the Act. The Authority must carry out its licensing functions with a view to promoting the four licensing objectives, which are:

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

1.3 The Act makes provision about the regulation of four licensable activities, which are:

- the sale by retail of alcohol
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- the provision of regulated entertainment
- the provision of late night refreshment

1.4 Regulated Entertainment is:

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- A boxing or wrestling entertainment
- A performance of live music
- Any playing of recorded music
- A performance of dance
- Any other entertainment of a similar description to the music and dance categories above

1.5 Late Night Refreshment is:

- the supply, on or from any premises, of hot food or hot drink to the public for consumption on or off the premises between the hours of 11pm and 5am

1.6 Applicants are referred to the provisions of the Act for further information on licensable activities including limitations and exemptions.

- 1.7 Section 5 of the Act requires the Authority to determine its policy for a five year period with respect to the exercise of its licensing functions under the Act and revise its policy every five years. It is required to publish a statement of that policy and this document is that statement. The policy is to be kept under review and shall be revised at such times as the Authority considers appropriate.
- 1.8 Prior to determining its licensing policy, the Authority consulted with various persons and organisations. The consultees are set out in Appendix 4. The Authority is grateful for all of the representations it received. The Authority will also consult as required prior to revising its licensing policy.
- 1.9 In determining its policy, the Authority considered the provisions of the Act and had particular regard to:
- the licensing objectives
  - the guidance issued by the Home Office under section 182 of the Act
  - the representations made following consultation
  - its duties and obligations under other legislation, including:
    - The Equality Act 2010 which places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity and to foster good relations between persons with different protected characteristics - age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
    - The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The Council will have particular regard to the following relevant provisions of the European Convention on Human Rights:
      - Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
      - Article 8 that everyone has the right to respect for his home and private life; and
      - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.
    - The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on our Authority to have due regard to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups. Eden District Council is

committed to carry out extensive work to ensure that the Council meets the requirements of the Race Relations legislation.

- The Crime and Disorder Act 1998 - section 17 of that Act imposes a duty on local authorities to exercise their functions with regard to the impact on crime and disorder and the need to do all it reasonably can to prevent crime and disorder in its area.

1.10 In addition to its powers under the Act, there is also a range of other legislation which is relevant to the provisions of this Act. This includes:

- Health and Safety at Work Etc Act 1974
- Town and Country Planning Act 1990
- Environmental Protection Act 1990
- Criminal Justice and Police Act 2001
- Crime and Disorder Act 1998
- (as amended by the Police and Justice Act 2006)
- Anti-Social Behaviour Act 2003
- Regulatory Reform (Fire Safety) Order 2005
- Health Act 2006
- Policing and Crime Act 2009
- Police Reform and Social Responsibility Act 2011
- Live Music 2012
- Anti-social Behaviour, Crime and Policing Act 2014
- Deregulation Act 2015

(This is not an exhaustive list)

1.11 The Authority will seek to use the full range of its powers in promoting the licensing objectives. Some relevant legislation gives powers to the police and other authorities to act. The Authority will seek to work in partnership with those authorities, as well as with businesses and other parties, to promote the licensing objectives.

1.12 If representations are made, conditions may be imposed on licences and certificates where they are necessary for the promotion of one or more of the four licensing objectives. These will be focussed on matters which are within the control of individual licensees and others granted relevant authorisations. If no representations are made the only conditions that will be attached to a licence will be those that are consistent with the Operating Schedule and statutory conditions under the 2003 Act.

1.13 The Authority has been careful to avoid duplication with other regulatory regimes in formulating its policy and will seek to avoid duplication in the exercise of its licensing functions. There will be free exchange of information between the relevant Authority staff and relevant committees (including, for example, the planning applications committee). Applicants are encouraged to make any necessary applications for planning permission at the same time as they make an application for a licence.

1.14 The policy statements in this document are for the guidance of applicants in preparing applications and for those affected by proposals. They set out the usual stance that the Authority will take in relation to applications. For

applicants' information, the reasons why policies have been adopted have often been summarised after the policy. The 'reasons' are given for information only and do not form part of the policy. Brief summaries of the law have also often been included for guidance and ease of reference only; they are not intended to be either comprehensive or definitive.

- 1.15 Applicants are encouraged to discuss their circumstances/proposals with officers from the Authority and other responsible authorities prior to submission of an application for a licence. Applicants are also encouraged to inform local residents and businesses of their intentions. It is hoped that this will help to minimise the possibility that relevant representations will be made objecting to the proposals. In this way, the Authority and applicants will best be able to affect the grant of licences, which meet applicants' requirements whilst promoting the licensing objectives.
- 1.16 Applications (including all accompanying documents) must be in the prescribed form and must meet all of the requirements of the Act.
- 1.17 Failure to submit an application in the correct form will result in that application being returned. The Authority will endeavour to explain why the application is considered to be deficient and will invite the applicant to re-submit the application with all the required information.
- 1.18 The Act limits the representations which can be made about licence applications and who can make such representations. Essentially, representations must relate to one or more of the licensing objectives and may be made by any individual, body or business or by someone representing such persons. Anyone considering making an objection is invited to discuss their objection with licensing officers prior to submitting their representation.
- 1.19 In this document:
  - "the Act" means the Licensing Act 2003
  - "the Authority" means the Licensing Authority, namely Eden District Council
  - "the District" means the area within the Authority's jurisdiction
  - Unless indicated to the contrary the words and phrases defined in the Act shall have the meanings given in the Act when used in this document.
  - Any reference to the grant of a licence, certificate or provisional statement shall, unless the context indicates or it is specifically stated otherwise, include reference to the variation, review or renewal of a licence.
  - Policies in relation to premises licences shall also apply to provisional statements and club premises certificates unless it is expressly stated to the contrary or the context indicates otherwise.
  - The Authority shall not rely upon those paragraphs entitled "Reason". These are included to explain why the Authority reached a particular policy decision.

- Words denoting any gender shall include all genders, words in the singular shall include the plural and vice versa, and words denoting persons shall include firms and corporations.

## **2 Fundamental Principles**

- 2.1 The policy will promote the four licensing objectives contained in the Act, namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.
- 2.2 Nothing in the Statement of Licensing Policy will undermine the rights of any person to apply under the Act for a variety of permissions and have their application considered on its individual merits as well as against the relevant policy and statutory framework. It does not override the right of any person to make representations on any application or to seek a review of a licence or certificate where they are permitted to do so under the Act.
- 2.3 All licensing applications will be determined on their individual merits following consideration of the proposals in the application and any relevant representations. In general, licences will be granted on the terms applied for but licences will not normally be granted in terms which conflict with any of the policies in this document unless an applicant is able to demonstrate that the exceptional circumstances of their application justify a departure from the policy. The Authority will not depart from the policy if any of the licensing objectives will be undermined by a proposal in the application.
- 2.4 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act. The licensing function cannot be used for the general control of anti-social behaviour once consumers are beyond the direct control of the individual, club or business holding the licence, certificate or other authorisation concerned. However, the Authority expects every holder of a licence, certificate or permission to make every effort to minimise the impact of their activities and anti-social behaviour by their patrons within the immediate vicinity of their premises.
- 2.5 The Authority is keen to promote the artistic and cultural life of the District and licensing will be approached with a view to encouraging cultural activities and innovative forms of public entertainment for the wider cultural benefits of communities generally. Only conditions strictly necessary for the promotion of the licensing objectives will be attached to a licence for activities of this nature as the Authority is aware of the need to avoid imposing substantial indirect costs. Where there is any indication that licensing requirements are deterring such events, the policy may be reviewed with a view to investigating how the situation may be remedied.
- 2.6 The Authority aims to create a safe and family friendly environment within the District, particularly within the town centres. Applicants should give consideration to this when preparing their operating schedules.
- 2.7 However, the Authority expects that designated premises supervisors should normally be on the premises when alcohol is supplied. Where 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 Designated Premises Supervisor is encouraged to provide, or ensure that, the person has some training on the requirements of the Act and any conditions attached to the licence. It is recommended that a record of such training is maintained.

- 2.8 The Authority is aware that different areas and premises within the District have different characteristics and where possible will ensure that licence conditions reflect these. In particular:
- villages of a more quiet and rural nature
  - urban centres, particularly where redevelopment is being encouraged
  - village halls and community type premises which are the centre of the community and run effectively by volunteers

2.9 The Authority recognises that there is a need to disperse people from town and city centres swiftly and safely to avoid concentrations which produce disorder. The Licensing Committee will report any concerns to the local transport Authority identified in the Local Plan.

- 2.10 The Licensing Committee will consider wider issues which may need to be given due consideration and will periodically receive reports on:
- needs of the local tourist economy
  - cultural strategy for the area
  - employment situation in the area and the need for new investment and employment where appropriate

### **3 Personal Licences**

The Law (Part 6 of the Act)

- 3.1 A personal licence is a licence granted to an individual, which authorises that individual to supply alcohol or authorise the supply of alcohol.
- 3.2 A person should submit an application for a personal licence to the Licensing Authority for the area in which they are ordinarily resident.
- 3.3 The requirement to renew personal licences was abolished by Section 69 of the Deregulation Act 2015.
- 3.4 An applicant for a personal licence must be aged 18 or over and must possess a licensing qualification and no personal licence held by him must have been forfeited in the period of five years ending with the date of his application (section 120(2) of the Act).
- 3.5 The Authority will require all applicants to produce a criminal records certificate.
- 3.6 Only the police may object to the grant of a personal licence to an individual. Such an objection can only be made where the applicant has been convicted of a relevant offence or any foreign offence and the police consider that the grant of a licence would undermine the crime prevention objective.



### 3.7 Policy

Provided that the applicant meets the requirements of section 120 (2) (a), (b) and (c) of the Act, the application of an individual for a personal licence will be granted save that if the applicant has been convicted of a relevant offence which is unspent under the Rehabilitation of Offenders Act 1974, and the chief officer of police has given the Authority an objection notice, a licence will not normally be granted unless the applicant can demonstrate that the grant to him of a personal licence would not undermine the crime and disorder prevention objective. In considering the application, the Authority will afford the applicant a right to a hearing before its Licensing Committee or a sub-committee of the Licensing Committee. Applicants are referred to Section 8 of this document, dealing with the exercise and delegation of functions. The factors that the Council will take into account when considering representations in this matter include (but are not limited to) the following:

- the nature and type of the offence
- how long ago the offence was committed
- how serious the offence was
- whether the offence was premeditated or was the result of a genuine mistake
- whether the applicant abused a position of trust when he committed the offence
- whether the offence was motivated by discrimination
- the conduct of the applicant since commission of the offence

#### Reason

The Authority has a duty when exercising its licensing functions to promote the prevention of crime and disorder and the other licensing objectives. Unless the circumstances are exceptional, granting a licence to an individual with a relevant conviction would undermine the Authority's ability to promote the crime prevention objective. Personal licence holders are expected to act in accordance with the law and will be key to ensuring that the provisions of the Act, and any conditions attached to a premises licence, are complied with. The Authority also has a duty under the Crime and Disorder Act 1998 to have regard to the effect on crime and disorder of the exercise of any of its functions and to do all it can to prevent such crime and disorder.

## 4 Premises Licences/Club Premises Certificates

Unless the context indicates to the contrary, the policies in this section shall relate to the grant of a premises licence, the issue of a provisional statement and the grant of a club premises certificate.

### 4.1 The Law

#### **Premises Licence (Part 3 of the Act):**

A premises licence authorises the use of premises for one or more of the licensable activities. Premises may be any place including a piece of land.

Applications can be made for a premises licence for any premises situated in the District.

- 4.1.1 An application for a premises licence will be required for large temporary events, which are outside the provisions relating to temporary event notices. (See also Paragraph 7)
- 4.1.2 Individuals, companies, charities and other specified persons and organisations may make applications. An individual may not apply unless he is aged 18 years or over.
- 4.1.3 An application can be made to the Authority for any place used for licensable activities or recognised club activities within its area and the application must be accompanied by:
- the required fee
  - an Operating Schedule
  - a plan of the premises
  - if it is intended to sell alcohol, a form of consent given by the person the applicant wishes to have specified in the Premise Licence as the Premises Supervisor.
- 4.1.4 The applicant will also be required to notify, and enclose a copy of the application and relevant attachments, all Responsible Authorities for the Eden District Council Licensing Authority area. These include:
- The Chief Officer of Police, Cumbria Constabulary
  - The Chief Fire Officer, Cumbria Fire and Rescue Service
  - Food, Health and Safety Team and Environmental Protection, Eden District Council
  - Health and Safety Executive (where appropriate)
  - Development Control, Planning Services, Eden District Council/Lake District National Park
  - Children's Services, Carlisle
  - Trading Standards, Cumbria County Council, Carlisle
  - Director of Public Health, Cumbria County Council, Carlisle
  - Any Licensing Authority in whose area part of the premises is situated.
  - In relation to a vessel the appropriate Authority:
    - The Maritime and Coastguard Agency
    - The Environment Agency
    - The British Waterways Board
- (Responsible Authorities may require risk assessments and other documentation to be provided.) See Appendix 5 for contact addresses.
- 4.1.5 All applications must be in the prescribed form and include all necessary documents. Applications may be in writing or sent electronically via Business Link or the licensing authority's own electronic application facility. Those requirements are set out in Section 17 of the Act. Particularly important is the operating schedule, which must include a statement of the following matters:
- the relevant licensable activities

- the times during which it is proposed that the relevant licensable activities are to take place
- any other times when it is proposed that the premises are to be open to the public
- where the applicant wishes the licence to have effect for a limited period, that period
- where the relevant licensable activities include the supply of alcohol, prescribed information in respect of the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor
- where the relevant licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises or both
- the steps which it is proposed to take to promote the licensing objectives
- such other matters as may be prescribed

4.1.6 Applicants will be required to advertise and give notice of their applications in the manner prescribed by Regulations.

#### 4.1.7 Large Scale Events

The Licensing Authority would expect organisers of any large scale events over 499 people, where licensable activities are to take place, to prepare an event management plan incorporating risk assessments.

The organisers must contact the Licensing Authority at least three months prior to the event, in order that consideration can be given to forming a Safety Advisory Group (SAG).

#### 4.1.8 **Club Premises Certificate** (Part 4 of the Act):

The Authority may issue a “Club Premises Certificate” to a qualifying Club. The Certificate will specify that the premises may be used for one or more of the ‘qualifying club activities’ and that the Club is a qualifying Club in relation to each of those activities.

#### 4.1.9 The qualifying Club activities are:

- the supply of alcohol by or on behalf of the Club to, or to the order of, a member of the Club;
- the sale by retail of alcohol by or on behalf of a Club to a guest or a member of the Club;
- the provision of regulated entertainment where that provision is by or on behalf of the Club for members of the Club or members of the Club and their guests.

4.1.10 The Club is a qualifying Club in respect of the qualifying activities provided that, under the rules of the Club,

- a person may not be admitted to membership, or be admitted as a candidate for membership, to any of the privileges of membership

without an interval of at least two days between their nomination or application for membership or their admission, or

- people becoming members without nomination or prior application may not be admitted to the privileges of membership without an interval of two days between them becoming members and their admission, and
- the Club is established and conducted in good faith as a Club, and
- it has a minimum of 25 members.

## **4.2 General Policy**

4.2.1 Consideration of the impact of licensable activities.

4.2.2 If representations are made when considering an application for a licence, the Authority should take into account the following factors in assessing its likely impact on the licensing objectives in addition to other relevant matters:

- the nature of activities proposed;
- the number of customers likely to attend the premises and the nature of the activities expected;
- the location of the premises;
- the proposed hours of operation;
- the level of public transport accessibility for customers either arriving at or leaving the premises and the likely means of public or private transport that will be used by the customers;
- the physical and accessible nature of the premises;
- the level of likely car parking demand in relation to the use of the premises in comparison with the existing situation and the likely effect on the movement of priority traffic;
- the cumulative impact of licensed premises in an area;
- the scope for mitigating any impact;
- how often the activity is to occur.

4.2.3 In considering any application where premises are already licensed, or have in the past been licensed for any of the licensable activities (under this or previous legislation), the Authority will take into account any evidence from a Responsible Authority or any other person of demonstrable adverse impact from the activity in the past and, if adverse impact has been caused, whether appropriate measures have been proposed or put into effect by the applicant to mitigate that adverse impact. The Authority will also consider any changes of circumstances since the past problems occurred.

### **Reason**

The prime purpose of this policy is to promote the licensing objectives. In furtherance of this aim the policy lists particular matters that the Authority will take into account in considering whether a licensed activity is likely to cause an adverse impact.

The aim of the policy is, therefore, to achieve a balanced approach to these issues.

- 4.2.4 The Authority will support the provision of culture, arts and sport such as music, theatre, street art, circuses and indoor sporting events and will encourage the Council and Parish Councils to seek premises licences for public spaces within the community in their own name.

#### Reason

The policy statements in this document have been prepared following extensive consultation with a range of relevant parties, including trade representatives and the local community. The wishes of applicants have been balanced with the public interest in promoting the licensing objectives. All limitations and restrictions on licences are considered necessary to promote the licensing objectives. Whilst the circumstances of an individual application may justify a departure from some of the policy statements, general adherence to the provisions of the policy will ensure consistency in decision making. This provides certainty for applicants and promotes public confidence in the licensing regime and the quality and safety of licensed premises.

### **4.3 Prevention of Crime and Disorder**

#### 4.3.1 General Policy

The Licensing Authority's starting point is to seek a reduction in crime and disorder throughout the District, 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.

- 4.3.2 In the event of relevant representations being made, the 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. Where necessary, applicants are expected to consider the impact of their proposals on crime and disorder both within and in the vicinity of the premises and to propose practical steps in their operating schedule to prevent crime and disorder. Such steps could include:

- use of CCTV inside and outside the premises
- 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
- ensuring that all staff are appropriately trained
- determine the safe occupancy capacity for the premises by carrying out a fire safety risk assessment
- employment of sufficient security staff controlling admission and patrolling the interior and exterior of the premises (such staff will be required to be licensed by the Security Industry Authority). The 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.

- participation in Pubwatch, Best Bar None or other relevant schemes
- agreed protocols with police and other organisations and a commitment to co-operate and provide such evidence as the Police require
- ensuring that measures are in place to disperse customers over an extended period and ensure customers leave the venue in an orderly fashion and without bottles or glasses

4.3.3 In the event of Police representations, the Authority will not normally specify a person 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 has been granted a personal licence.

#### 4.3.4 Community Safety Partnership

Where appropriate, applicants will be expected to have regard to the information published by the Carlisle and Eden Community Safety Partnership and consider the impact of their proposals on the issues identified as being of particular concern in the area for example:

- violent crime
- fear of crime
- road safety
- anti-social behaviour

Applicants will be expected to propose steps to reduce the risks of such crimes increasing as a result of the licensable activities proposed.

#### Reason

The prevention of crime and disorder is one of the licensing objectives, which the Authority is under a duty to promote. The Authority recognises that some licensed premises can attract or encourage criminal behaviour, especially disorder problems where customers have consumed alcohol.

#### 4.3.5 Drugs

##### Policy

The Authority will expect licensees of venues likely to be affected by drugs to take all reasonable steps to prevent the entry of drugs into licensed premises, to take appropriate steps to prevent drugs changing hands within the premises and to take practical measures to prevent problems arising as a result of drug misuse. This must include the provision of free water (in accordance with legislation) and a disposal policy for drugs, needles and the development of a drugs policy.

In particular the Authority will expect licensees and other staff in such venues to be familiar with the contents of the book "Safer Nightlife" issued by the London Drugs Policy Forum and endorsed by the Home Office and will expect licensees to follow the guidance it contains in relation to the operation of their premises.

In appropriate cases the Authority will consider imposing these recommendations by way of licence conditions.

#### Reason

Evidence indicates that more people are taking illegal drugs and are using a wider range than ever before. This is particularly true of what are often referred to as 'recreational drugs'. Their misuse can hold grave dangers and has even led to fatalities.

Other factors coupled with the taking of the drugs may have contributed to these deaths, such as lack of drinking water, excessive drinking of water, an overly hot environment with inadequate ventilation, or a lack of adequate information about drugs.

Drugs alter the way people behave, so law controls their distribution and possession. Controlled drugs are usually manufactured and supplied illegally, which attracts criminal involvement in their distribution. Drugs manufactured illegally often vary in quality and strength. This puts people taking such drugs in danger.

The Authority recognises that drug use by young people in a club environment is not something that is relevant to all licensed premises. However, many entertainment venues such as nightclubs and dance venues can be popular both with drug misusers and suppliers. It also recognises the difficulties for those running such premises in preventing the use and supply of drugs in their premises. However, it believes that steps can be taken to increase the safety of drug users on premises.

The purpose of this policy is to further the crime prevention objective and to ensure public safety by preventing a tragic loss of life caused by overheating and other factors brought about by and associated with drug abuse.

## **4.4 Public Safety**

### Policy

- 4.4.1 The Authority may inspect any premises in respect of which an application has been made. Officers will determine on the basis of risk which premises require an inspection and will inform the applicants and arrange an appointment as soon as practicable.
- 4.4.2 Where an inspection is to be carried out, the Authority's licensing officers will aim to reduce inconvenience, confusion and inconsistency by co-ordinating inspections and visits along with representatives of the relevant Responsible Authorities.
- 4.4.3 A premises licence will not normally be granted unless the premises meet the statutory and any reasonable additional requirements of the Responsible Authorities.
- 4.4.4 It is acknowledged that the Act covers a wide range of types of premises including cinemas, concert halls, theatres, pubs, night clubs, private members' clubs, shops, restaurants and takeaways. Each type of premises

has different risks associated with it. It is essential that applicants assess all of the risks presented by their premises and proposes practical steps to ensure the safety of staff and customers.

- 4.4.5 The Authority considers it best practice for all applicants to assess the risks in relation to the following issues.
- 4.4.6 Electrical safety - Any assessment should be carried out in the context of the proposed licensable activities and to meet the appropriate British Standards. Other relevant conditions may be imposed requiring such standards to be maintained throughout the period of the licence.
- 4.4.7 Fire Safety - The fire risk assessment completed in relation to the use of the premises should assist applicants in satisfying the Fire and Rescue Authority that the Public Safety objective will be met. Each premises will be audited by the local fire protection team as dictated by that team's own risk based audit programme.
- 4.4.8 Sanitation - Provision should be made for adequate sanitary facilities to be provided in accordance with the appropriate guidance and capacity of the premises.
- 4.4.9 Seating - Where customer seating is provided, it should be demonstrably safe in consideration of the intended activities and, again, should meet British Standards.
- 4.4.10 Occupancy Limits - The Authority will not generally impose conditions as to occupancy levels where these are adequately addressed by other controls but may do so in any other case where relevant representations are made. Capacities should be addressed in the fire risk assessment.
- 4.4.11 Maintenance - in event of representations beings made, the Authority will normally impose conditions to secure the provision and adequate maintenance of premises and equipment and the compliance with any procedural requirements of any relevant organisation (where such conditions will not duplicate requirements under existing legislation), for example, electrical safety, fire alarm, emergency lighting, ceiling certificate, structural survey. It will also expect that adequate records will be kept to demonstrate compliance with the above requirements.
- 4.4.12 Prevention of injury - where:
- there is evidence of a current or past problem in relation to particular premises or a particular locality, or
  - in all the circumstances it is considered likely that such a problem might occur, and/or
  - premises are to be used primarily for the sale/supply and consumption of alcohol (particularly if those premises have little seating for patrons relative to their size/capacity),

applicants should give consideration to a policy as to the use of plastic, polycarbonate or toughened glass, and a policy not to pass glass bottles over the bar, either throughout the period of operation or at certain times or on



certain occasions, and should include such policies in their operating schedule. If relevant representations are made and the Authority considers it to be necessary, it may impose conditions to secure this.

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.

Reason

The Authority expects premises that are open to customers to meet the highest standards of the relevant organisations in order to best secure the safety of staff and customers. This is also one of the licensing objectives. The Authority believes that customers should feel confident that when they enter premises they will be safe.

## **4.5 Prevention of Public Nuisance**

### 4.5.1 General Policy on Licensing Hours

4.5.2 The Authority recognises that fixed and artificially early closing times can lead to peaks of disorder and disturbance on the streets when large numbers of people leave licensed premises at the same time. Longer licensing hours, particularly relating to the sale of alcohol may therefore be a factor in reducing disorder at late night food outlets, taxi ranks and other sources of transport in areas where there have already been incidents of disorder and disturbance.

4.5.3 The Authority will not seek to introduce any form of 'zoning' in relation to licensing hours. Zoning is defined as the setting of fixed trading hours within a designated area. All residents living in the vicinity of licensed premises have equal rights to make representations concerning applications for and reviews of premises licences, including hours of trading, and to have those representations given equal weight regardless of where they live.

4.5.4 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual shops that are known to be a focus of disorder and disturbance then, subject to representations from the police, a limitation on licensing hours may be appropriate.

4.5.5 In general, the Authority will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence, stricter conditions are likely to be imposed with regard to noise control in the case of premises that are situated in predominantly residential areas and other noise sensitive locations.

Reason

Experience in other areas shows that zoning can lead to additional problems including the movement of people in search of premises opening later and can put greater pressure on town centres than is necessary.

#### 4.5.6 Policy - Location of Premises

4.5.7 The Authority will assess the potential impact of the premises against the characteristics of the area in which they are situated. For example, in the event of representation being made there would be close scrutiny of applications for a closing time of later than 11pm in respect of premises situated in quiet residential areas with low background noise. Greater flexibility on closing times would be considered where for example, applicants could demonstrate that:

- there is a high level of accessibility to public transport services
- there is an appropriate amount of car parking, readily accessible to the premises, and in places where vehicular movement will not cause demonstrable adverse impact to local residents
- the operating schedule indicates that the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance
- the licensable activities would not be likely to cause adverse impact especially on local residents, or that, if there is a potential to cause adverse impact, appropriate measures are to be put in place to prevent or minimise that impact

#### Reason

This part of the policy dealing with opening hours is based on a broad distinction between the approach to be taken in certain predominantly commercial areas like parts of the town centres and the rest of the District.

Any activity involving public entertainment or eating or drinking on the premises has the potential to impact adversely on the surrounding area due to noise, smells, or congestion on the footway. Public nuisance may also be caused by customers being noisy when leaving, leaving litter or taking up on-street car parking space needed by residents. The impact of noise generated by these activities, especially customers departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.

Parts of the District are sensitive to the impact of licensable activities because they are either residential in character or close to residential areas. Many shopping areas are abutted by residential areas, including housing above commercial premises. The impact of traffic and parking related to licensed premises can be considerable. Even where a majority of customers arrive on foot or by public transport, the additional parking demand may be significant, especially where there are already a number of licensed premises. The impact may be felt by local residents in preventing them from parking close to their homes and by increasing the danger from traffic in residential streets.

However, some commercial areas in the District, such as parts of town centres, may be more suitable locations for licensed activities, especially for those, which have late opening hours or attract significant numbers of

people. In town centres, more customers are likely to travel by public transport and the activities may help bring vitality to the area after normal shopping hours. The ambient noise levels are also likely to be higher in the evening particularly when compared with predominantly residential areas so that additional noise may be less objectionable.

An entertainment use attracting large numbers of people should be very close to bus routes or taxi ranks, for instance. For the same reasons, the level of public transport accessibility will be an important factor in considering any exception to the normal closing times in any location.

#### 4.5.8 Noise

#### 4.5.9 Policy

4.5.10 In the event of representations being made, the Authority will not normally grant a premises licence in terms, which are, in its opinion, likely to result in increased noise disturbance to people living or working in the vicinity.

4.5.11 In particular, the Authority will give careful consideration to an application for a licence for premises situated in an area where there are residences in the vicinity which would be adversely affected, such that the proposed hours of operation would be likely to result in unreasonable noise disturbance between the hours of 11pm and 7am.

4.5.12 The Authority expects the applicant to assess the likely sources of noise disturbance that could arise due to the proposed use, consider the existing noise context of the area and propose practical steps to prevent noise disturbance or minimise its effects.

4.5.13 Potential sources of noise include:

- sound leakage from the licensed premises (from entertainment provided, customers on the premises, mechanical equipment etc)
- customers and staff arriving and leaving the premises (including car doors slamming)
- excessive noise from outside entertainment
- customers occupying outside areas for the purpose of smoking and/or the consumption of alcohol

4.5.14 Practical steps could include:

- keeping doors and windows closed whilst entertainment is provided
- installing soundproofing measures to the premises (specialist double glazing, acoustic hoods over extractor fan outlets etc)
- reducing sound levels inside the premises (inclusion of a sound limitation device in the sound system)
- ensure that queues are directed to form leading away from residential premises
- ensure that sufficient door security staff manage queuing and leaving customers to minimise noise
- erect prominent notices at exits requesting customers to leave quietly

- reduce the volume of music entertainment towards the end of the evening
- giving free lollipops to customers leaving the premises
- ensuring that sufficient transport is nearby to enable customers leaving the premises to disperse quickly
- banning from the premises customers known to cause noise disturbance regularly on leaving the premises
- ensuring that customers are encouraged to leave the premises (including any car park or forecourt) swiftly
- ensure the volume of outdoor entertainment does not cause noise disturbance
- terminating the provision of entertainment at a reasonable time
- the prospect of providing police supervision at closing times

4.5.15 The Authority may impose conditions to ensure that appropriate steps are taken to minimise noise disturbance.

4.5.16 Live Music, Dancing and Theatre

4.5.17 The Authority recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community, particularly for children.

4.5.18 When considering applications for such events and the imposition of conditions on licences or certificates, the Authority will carefully balance the cultural needs with the necessity of promoting the licensing objectives.

4.5.19 Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused.

#### Reason

The prevention of public nuisance is a licensing objective. Noise disturbance can be a public nuisance. The Authority is required to promote the licensing objectives. Granting a licence in circumstances where nuisance is likely to be caused will undermine that objective. The Council recognises that noise from licensed premises can cause great disturbance to people living and working near those premises. The Authority recognises that noise can be a nuisance during the day and at night in both residential and commercial areas and other noise sensitive locations if not properly managed or controlled.

4.5.20 Tables and Chairs Outside Premises including Garden Areas

#### Policy

4.5.21 The Authority recognises that provision of tables and chairs outside premises either on the highway or on private land may enhance those premises. It can have the benefit of encouraging a continental style café culture. However, late at night these same tables and chairs can contribute to noise and disorder problems. This is because they can encourage patrons and passers by to loiter rather than disperse. Licensees should note that in certain areas, byelaws prohibit the consumption of alcohol in public. Before planning to use

tables and chairs outside premises (particularly where it is intended that alcohol will be sold), applicants should ensure that they will not contravene any byelaws or orders. Applicants should also ensure that other legislation, for example in relation to highways, planning and smoking will not be contravened.

- 4.5.22 In the event of representations being made, the Authority will carefully consider any application where outdoor tables and chairs are proposed to be provided. In particular the Authority will assess the premises in the context of their location, the hours during which the premises are to be open, the proposed licensable activities and proposals for control of the tables and chairs outside the hours of operation.

#### Reason

This policy is designed to strike a fair balance between the needs of those wishing to enjoy refreshment in the open air and the need to prevent safety and nuisance problems.

- 4.5.23 Littering

Licences for premises, in particular for the provision of late night refreshment for consumption off the premises, will not normally be granted where nuisance is likely to be caused by way of litter/food refuse being deposited on streets surrounding the premises and such nuisance is expected, due to the nature of the premises and likely customers, to exceed the level of nuisance caused by similar premises open during the day (for which no licence is required). In their operating schedule, applicants are expected to propose practical steps to reduce the likelihood of such problems arising, which could include:

- provision of litter bins and smoking bins on/in vicinity of premises
- litter patrols in the area after premises close (these could be organised in partnership with other premises or the local authority for example)

- 4.5.24 Conditions may be imposed seeking to limit the nuisance caused by litter.

#### Reason

Litter and food waste can be detrimental to the amenity of an area and can also represent a public health risk and encourage vermin. This policy seeks to prevent such nuisance occurring in promotion of the relevant licensing objective.

## **4.6 Protection of Children from Harm**

### General Policy

- 4.6.1 The Authority will not normally impose conditions prohibiting the admission of children to any premises, unless relevant representations have been made, believing this should remain a matter of discretion for the licence holder. Licence holders should be aware that there may be restrictions imposed by legislation. In some cases, however, it may be necessary to impose conditions designed to protect children.

4.6.2 The Authority will take strong measures to protect children from harm where it believes from the nature of the premises or proposed activities that harm would be likely. Examples of premises where the introduction of additional controls may be necessary are:

- where entertainment of an adult or sexual nature is intended to be provided
- where those running or working at licensed premises have been convicted of offences of serving alcohol to minors or where there is evidence to suggest that such activities have regularly taken place in the premises
- where the premises are known to be associated with people taking drugs or dealing in drugs
- where there is a strong element of gambling on the premises
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises
- where the nature of the proposed licensable activity is likely to be more harmful to children than to adults (for example if the likely level of noise from regulated entertainment is likely to be high)
- in any other case where there is a presumption that children under 18 should not be admitted to the type of premises concerned
- where premises are located near to schools, youth clubs or other premises commonly used by children
- where there is any contravention of child employment legislation as enforced by Cumbria County Council Children's Services

4.6.3 In such circumstances while it may sometimes be necessary to impose a complete prohibition on the entry of children to the premises whilst licensable activities are being provided, this would be only rarely imposed. The Authority would normally be more likely to impose requirements such as:

- limitations on the hours when children may be present
- limitations on the age at which children are to be permitted to enter the premises
- limitations or exclusions of children when certain activities are taking place
- requirements for accompanying adults
- how the age of potential customers is to be verified both in terms of entry (where there are age restrictions) and in relation to the service of alcohol

4.6.4 Applicants should address the action they intend to take to protect children from harm in their operating schedules.

4.6.5 Where there is provision of entertainment specifically for children (for example, a children's disco) the Authority will require the presence of sufficient adults to control the access and egress of the children and assure their safety.

4.6.6 Where children are working in licensed premises or are taking part in any regulated entertainment the Authority will expect the responsible adult to obtain guidance from Cumbria County Council Children's Services.

- 4.6.7 The Authority recognises Cumbria County Council Children Services as the “Responsible Authority” under the Act, who will act on behalf of both themselves and the Cumbria Local Safeguarding Board in respect of the protection of children from harm.
- 4.6.8 Proof of Age
- 4.6.9 The Authority expects personal licence holders to ensure that alcohol is not supplied to persons under 18 years, except in circumstances allowed by law. The Authority would encourage premises licence holders to have written procedures for the prevention of under age sales.
- 4.6.10 The Authority recommends that the only way to verify a person’s age is by reference to the following:
- passport
  - photo card driving licence issued by an EU country
  - an accredited proof of age scheme identity card
  - an official ID card issued by HM Forces or by EU country bearing the photograph and birth date of the bearer
  - any other nationally recognised scheme as may from time to time be agreed

The Authority recommends that any systems should be accredited and approved by the British retail consortiums Proof of Age Standards Scheme (PASS).

#### Reason

Children are vulnerable and can easily become the victims of crime or get drawn into crime. If they were allowed unrestricted access to all licensed premises, they could witness or become involved in activities inappropriate for their age. These policies are designed to allow flexibility for the licensee, to ensure that where appropriate licensed premises are “user friendly” for children but to ensure they are adequately protected. The policy seeks to ensure that children are adequately protected whilst still able to enjoy licensed premises.

- 4.6.11 Adult Entertainment
- 4.6.12 Policy
- 4.6.13 No-one under the age of 18 should be permitted to enter premises whilst entertainment of an adult nature is being provided.
- 4.6.14 Adult entertainment should not take place in such a location as could be viewed from the outside of the premises. Advertising of adult entertainment should not include any photographs of the entertainment.
- 4.6.15 In the event of representations being made, applications that include provision for adult entertainment to be provided will not normally be granted unless the applicant can demonstrate that performers will be safe and that unlawful activities will not take place.

- 4.6.16 In considering the grant of applications involving striptease, nudity (partial or otherwise) and other forms of adult entertainment the Authority will also have regard to the increased risk of nuisance to nearby residents and will consider rejecting the application or attaching appropriate conditions.
- 4.6.17 The Authority has adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 in relation to the licensing of sex establishments. This will be the subject of a separate policy at a later date.

#### Reason

These policies are designed to further the licensing objective of protecting children by preventing them being exposed to unsuitable material or acts. They are also designed to further the crime prevention and prevention of nuisance objectives by recognising the increased risk of nuisance or illegal activities such as performers offering “extras” to customers or the plying for trade by prostitutes.

- 4.6.18 Exhibition of Films
- 4.6.19 Policy
- 4.6.20 Where the exhibition of films is permitted, the Authority will expect the age restrictions of the British Board of Film Classification (BBFC) in respect of the films to be exhibited to be complied with and will normally impose conditions to that effect. Only in exceptional cases will variations to this general rule be granted by the Authority and then only with appropriate safeguards.
- 4.6.21 Applicants will be expected to include in the operating schedule arrangements for restricting children from viewing age related films classified according to the recommendations of the BBFC.
- 4.6.22 Licensees will not generally be permitted to exhibit any films that are not classified by BBFC without the prior written consent of the Authority.
- 4.6.23 To achieve consistency and the protection of children the Authority will use the guidelines published by the BBFC. Where it is desired to show films not classified by the BBFC the Authority will, provided at least 4 weeks’ notice has been given, classify the films concerned. Where licensees wish the Authority to reconsider the BBFC classification of a film, a similar procedure will be followed.

#### Reason

To protect children from exposure to films containing adult themes including scenes of violence or of a sexual nature inappropriate to their age.

- 4.6.24 Staging of Plays
- 4.6.25 Policy
- 4.6.26 The Authority would not wish to impose any restriction as to the plays which may be performed on premises licensed for that purpose. The law does not allow any conditions to be imposed regarding the nature of plays which may



be performed or the manner in which they may be performed. However, where a play involves:

- the use of bad language
- nudity or the portrayal of sexual activity
- violence
- drug use, or
- other 'adult' themes or content

4.6.27 The Authority may impose a condition in relation to the age of children who shall be permitted to watch the play. In this regard, the Authority will be guided by the BBFC guidelines relating to films and would encourage theatres and other venues which intend to stage plays to consider each play they intend to stage in the light of those guidelines and impose an age restriction where appropriate and/or ensure that sufficient information is given to parents in the promotional material for plays to allow them to make an informed choice as to whether to allow their child to attend.

Reason

To protect children from exposure to adult themes or content which is not appropriate to their age.

## **4.7 Cumulative Effect**

Policy

- 4.7.1 Where the Authority receives representations from a responsible authority or any other person that the cumulative effect of licensed premises is leading to an area becoming saturated with premises the Authority will consider whether or not the granting of additional licences might lead to one or more of the Licensing Objectives being undermined.
- 4.7.2 The Authority recognises that the cumulative impact of a number, type and density of licensed premises in a given area may lead to serious problems of public nuisance and crime and disorder outside and some distance from the premises.
- 4.7.3 Where representations are received from a responsible authority/any other person that an area has become saturated with premises creating problems of disorder and nuisance over and above the impact from the individual premises, the Authority will first consider whether the imposition of conditions is likely to address these problems and, if not, may consider the adoption of a special policy of refusing new premises licences or club premises certificates because the area is saturated with licensed premises and the granting of any more would undermine one of the licensing objectives.
- 4.7.4 The Authority will take the following steps when considering whether to adopt a special saturation policy:
- identify serious and chronic concerns from a responsible authority or representatives of residents about nuisance and disorder

- where it can be demonstrated that disorder and nuisance is arising as a result of customers from licensed premises, identify the area from which problems are arising and the boundaries of that area
  - assess the causes
  - adopt a policy about future licence applications from that area
- 4.7.5 A saturation policy will only be adopted where there is clear evidence to support any assertion that the addition of the premises in question would produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics.
- 4.7.6 The Authority recognises the diversity of licensed premises and will have full regard to those differences and the differing impact each has on the local community.
- 4.7.7 It therefore also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation and will consider the circumstances of each individual application.
- 4.7.8 Evidence of demand or need (or lack of the same) will not be considered.
- 4.7.9 Other mechanisms for controlling cumulative impact include:
- planning controls;
  - positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
  - the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
  - powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
  - police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
  - the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
  - the confiscation of alcohol from adults and children in designated areas;
  - police powers to close down instantly any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
  - the power of the police, other responsible authorities or any other person to seek a review of the licence or certificate in question;
  - considering raising a contribution to policing the late night economy through the introduction of a Late Night Levy;
  - considering the introduction of Early Morning Alcohol Restriction Orders (EMROs) to address recurring problems such as high levels of alcohol-related crime and disorder if the Authority is satisfied that it has sufficient evidence to demonstrate that making an EMRO would be appropriate for the promotion of the licensing objectives.

These may be supplemented by other local initiatives that similarly address these problems.

#### Reason

It is not the policy of the Authority to seek to limit the number of licensed premises which will be permitted because there are already enough licensed premises to satisfy the demand. That is not a matter for the Authority.

The 'cumulative impact' of the granting of an additional licence on the promotion of the Licensing Objectives is, however, a proper matter for the Authority to consider under this policy and the Authority may adopt a Special Saturation Policy.

The impact from licensed premises increases considerably in areas where there are concentrations of such premises. The adverse effects from licensed uses are particularly acute in some areas of the District both in and around town centres and elsewhere.

### **4.8. Consideration of Applications and the Imposition of Conditions**

#### Policy

- 4.8.1 On granting a licence, the Authority may only impose conditions that are:
- required by law, and/or
  - necessary for the promotion of the licensing objectives
  - and proportionate
- 4.8.2 If no relevant representations are received, a licence will be granted on the terms sought subject only to such conditions as are consistent with the operating schedule and which comply with the above paragraph and any relevant statutory conditions.
- 4.8.3 In deciding what conditions to impose, the Authority shall have regard to the operating schedule together with the provisions of this policy statement, the law and government guidance and the representations made. Where there is any ambiguity or uncertainty in the meaning of any part of the application, the application shall be interpreted in such a way as shall best promote the licensing objectives.
- 4.8.4 Where relevant representations are received, the Authority will consider those representations together with any representations of the applicant, having regard to the provisions of this policy, the law and government guidance. Where relevant representations have been made, the Authority will not normally grant a licence in terms which conflict with this policy statement. In particular it may:
- reject the application - if to do so is necessary to promote the licensing objectives and none of the following actions is reasonably practicable
  - grant the licence but exclude from its scope one or more of the licensable activities applied for in order to ensure that the licence complies with this policy and promotes the licensing objectives

- grant the licence but modify such of the conditions imposed as is necessary to ensure compliance with this policy and to promote the licensing objectives
  - grant the licence but refuse to specify a particular person in the licence as the designated premises supervisor if to name that person would undermine the promotion of the licensing objectives
  - approve different parts of the premises for different activities
- 4.8.5 The Authority will not impose conditions that duplicate other areas of regulation. For example, conditions will not be imposed which simply duplicate planning conditions.
- 4.8.6 However, there may be occasions when conditions will be imposed which the Authority considers necessary for the promotion of the licensing objectives and which overlap with other areas of regulation where, for example, it is considered that planning restrictions do not adequately deal with those matters.
- 4.8.7 In general any conditions imposed will be drawn from a pool of sample conditions.
- 4.8.8 Provided the licensing objectives are not undermined and the proposal does not conflict with the other statements in this policy, licences will be granted so that premises will be able to open to provide licensable activities between such times as the applicant sets out in his application.
- 4.8.9 When deciding what conditions to impose, the Authority will have regard to the particular requirements of people with disabilities, and will, so far as possible, seek to ensure that none of the conditions imposed on licences will have the effect of excluding such persons access to licensed premises.

#### Reason

The power to impose conditions is limited by the provisions of the Act. The Authority is under a duty to exercise its licensing functions with a view to promoting the licensing objectives.

#### 4.9 Transfer of Licences

- 4.9.1 When considering an application for the transfer of a premises licence, the Authority will only have regard to the exceptional circumstances of the case as set out in any objection raised by the police on the grounds that the transfer will undermine the crime prevention objective. The effect on the crime prevention objective will be considered against the background of the policies contained in this document.

#### **4.10 Variation of Licences**

- 4.10.1 When considering an application for the variation of a licence, the Authority will consider the impact of the variation in terms of the policies in this document and the licensing objectives. It will not use such an application as a means to review the licence terms and conditions already granted.

- 4.10.2 Minor Variations - A premises licence/club premises certificate holder may apply under the 'minor variation' procedure for small variations that will not impact adversely on the licensing objectives. There is no right to a hearing, however, if the application is rejected, a full variation may be made.
- 4.10.3 Disapplication of designated premises supervisor - Where community premises hold a premises licence allowing the sale/supply of alcohol, the licence holder can apply to have the mandatory condition requiring a designated premises supervisor to be appointed, be removed. This passes the responsibility for the sale/supply of alcohol to the premises Management Committee.

#### **4.11 Provisional Statements**

- 4.11.1 An application for a provisional statement will be considered in the same way as would an application for a premises licence on the assumption that the works are completed as per the schedule of works submitted by the applicant.

#### **4.12 Sexual Entertainment Venue**

- 4.12.1 Where premises are to be used on 12 or more occasions within a 12 month period for relevant sexual entertainment, the premises must also be licensed as a Sexual Entertainment Venue. Relevant sexual entertainment includes: lap dancing, pole dancing, table dancing, strip shows, peep shows, live sex shows. This activity will be the subject of a separate policy.
- 4.12.2 This licence only applies in areas where Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 has been adopted. This was adopted by this Authority on 24 February 2011 with effect from 1 April 2011.

### **5 Complaints/Review of Licences**

#### **5.1 Complaints**

- 5.1.2 The Authority will investigate complaints relevant to the licensing objectives in relation to licensed premises of any description. In the first instance, complainants will be encouraged to raise the complaint directly with the licensee or business concerned. Where a Responsible Authority or any other person (such as a local resident, residents' association or Licensing Authority council member) has made

- (a) valid representations about licensed premises or
- (b) a valid application for a licence to be reviewed

then the Authority may initially arrange a mediation meeting to address, clarify and try to resolve the issues of concern.

- 5.1.3 This process will not override the right of any Responsible Authority or any other person to ask that the Licensing Committee consider their request for a review of the licence or for any licence holder to decline to participate in a mediation meeting.

## **5.2 Licence Reviews**

5.2.1 The Authority will view seriously applications for the review of any premises licence where it involves:

- persistent failure to comply with licence conditions
- actions or omissions by the licensee (or his staff) which undermine the licensing objectives, particularly where they endanger public safety, expose children to actual or potential harm or cause public nuisance

5.2.2 They will also view particularly seriously applications for review where:

- licensed premises have been used for the sale and distribution of illegal drugs and the laundering of the proceeds of drugs crimes
- licensed premises have been used for the sale and distribution of illegal firearms
- there has been repeated breach of copyright in respect of films, music etc
- there have been proven sales of alcohol to and consumption of alcohol by children for consumption on or off licensed premises
- licensed premises have been used for prostitution or the sale of unlawful pornography
- licensed premises have been used for unlawful gaming
- licensed premises have been used as a base for organised criminal activity
- licensed premises have been used for the organisation of racist, homophobic or sexual abuse or attacks
- licensed premises have been used for the sale of illicit tobacco or goods
- licensed premises have been used for the sale of stolen goods
- the police have frequently been called to attend to incidents of disorder at the premises

## **6 Enforcement**

6.1 Where necessary, enforcement action will be taken by the Authority in accordance with the Government's better regulation agenda, the principles of the Statutory Code of Practice for Regulators and the Authority's Licensing Enforcement Policy.

6.2 Applicants should be aware that other agencies may take appropriate action under their own policies or legislation, for example, Cumbria Constabulary, Cumbria Fire and Rescue Service, and Trading Standards etc. The Police Authority have powers under the Act to close premises in certain circumstances.

6.3 In particular, regard will be had to the fundamental principles recommended by the Better Regulation Task Force for good enforcement:

- Targeting - focusing on activities that give rise to the most serious risks or where hazards are least well controlled.
- Consistency - similar approaches in similar circumstances to achieve similar ends.

- Transparency - helping duty holders to understand what is expected and distinguishing between statutory requirements and guidance.
  - Proportionality - action taken should be proportional to the risk presented.
- 6.4 The Authority has established protocols with the Responsible Authorities on enforcement issues to avoid duplication and to provide for the most efficient deployment of their officers in respect of inspection of licensed premises and the enforcement of licensing law. These protocols are periodically reviewed by the Licensing Authority.
- 6.5 Furthermore the policy of the Authority will always be a light touch inspection regime for well managed and maintained premises with a targeted and graduated inspection and enforcement regime for problem and high-risk premises.
- 6.6 The Authority will for its own purposes in undertaking its licensing functions under the Act assess the risks posed by licensed premises to the promotion of the licensing objectives. Generally the broad categories of risks are as follows:
- High risk: nightclubs, pubs, events over 500 persons
  - Medium risk: clubs, off-licences (where not part of a larger store), other late night refreshment premises, theatres, cinemas
  - Low risk: off licences that are part of a larger store, restaurants
- 6.7 However, the Authority recognises that not all premises in a particular category represent the same level of risk to the public. These categories are for guidance only. The circumstances of particular premises may place them in a higher or lower category of risk. Applicants should be aware that officers of the Authority and other agencies may attend the premises unannounced at any time. When inspecting premises, officers will be seeking to ensure that the premises have not been altered or deteriorated since the licence was granted and that all of the licence terms and conditions are being complied with.
- 6.8 The Authority recognises the Hampton principles of inspection and enforcement, which includes:
- Generally, inspections should not take place without a reason.
  - 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.

## **7 Permitted Temporary Activities**

The law (Part 5 of the Act)

- 7.1 Where a person wishes to use premises for one or more of the licensable activities for a period not exceeding 168 hours where the maximum number of persons allowed on the premises at the same time will not exceed 499, a premises licence is not required. The person can simply serve a temporary

event notice (TEN) on the Authority notifying them of the event. The notice must be served on the Authority and a copy served on the police and responsible authority for environmental health functions.

- 7.2 There are two types of TEN; a standard TEN and a late TEN. A standard TEN should be given no later than 10 working days before the day on which the event is to start; a late TEN should be given not before nine and not later than five working days before the day on which the event is to start. 'Working days' are Monday to Friday excluding Christmas Day, Good Friday and other Bank Holidays and exclude the day the notice is received and the first day of the event.
- 7.3 If alcohol is to be supplied, all supplies must be carried out by or under the authority of the person serving the temporary event notice who need not hold a personal licence.
- 7.4 There are limitations on the number of temporary event notices that individuals can give and which can be given in relation to particular premises.
- 7.5 It is hoped that the organisers of such activities will voluntarily comply with the requirements of this policy in staging their events. When considering an objection notice from the police or environmental health, the Authority will take account of the provisions of this document so far as they relate to the promotion of the licensing objectives.
- 7.6 Where the limitations on a temporary event cannot be fulfilled, for example due to the large numbers attending, a premises licence will be required. The Authority would expect early notice of such a major event to allow responsible authorities to discuss and agree operating schedules (See paragraph 4).

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

- 8.1 The Authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.
- 8.2 Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub-Committees to deal with them.
- 8.3 Further, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications, including for example, those licences and certificates where no representations have been made, has been delegated to Authority officers.
- 8.4 The Licensing Committee will consist of 10 councillors. Licensing Sub-Committees of three councillors are expected to consider the bulk of applications where a hearing is necessary. Ward councillors will not sit on a Sub-Committee involving an application within their ward.
- 8.5 Every determination of a licensing application by the Licensing Committee or a Licensing Sub-Committee shall be accompanied with clear, cogent reasons for the decision.



- 8.6 It is expected that the Authority's licensing officers will deal with the majority of licence applications and will decide whether representations are irrelevant, frivolous or vexatious. The person making a representation, which is considered to be frivolous or vexatious, will be given written reasons for that decision.
- 8.7 The Authority will ensure that members and officers are appropriately trained to carry out their duties under the Licensing Act.
- 8.8 The table at Appendix 1 sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committees and Officers.
- 8.9 Officers, a Licensing Sub-Committee and even the full Licensing Committee may decline to exercise their delegated powers in any particular case. On such occasions, officers may refer a matter to a sub-committee, the sub-committee to a full committee and the full committee to the full council.

## Appendix 1 - Table of Delegated Functions

Matters to be Dealt With	Full Committee	Sub-Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant 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	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases

A Full Committee will consist of 10 members, with a quorum of three.

A Sub-Committee will consist of three members.

## **Appendix 2 - Appeals Procedure**

1. Other than in the case of personal licences, an appeal has to be made to North Cumbria Magistrates' Court. In the case of personal licences, the appeal must be made to the magistrates' court for the petty sessions area in which the Licensing Authority (or any part of it) which made the decision is situated.
2. An appeal has to be commenced by the giving of a notice of appeal by the appellant to the justices' chief executive for the magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision to be appealed against.
3. The Licensing Authority will always be a respondent to the appeal, but in cases where a favourable decision has been made for an applicant licence holder, club or premises user against the representations of a responsible authority or any other person or the objections of the chief officer of police, the holder of the premises or personal licence or club premises certificate or the person who gave an interim authority notice or the premises user will also be a respondent to the appeal and the person who made the relevant representation or the chief officer of police will be the appellants.
4. On determining an appeal, the court may:
  - dismiss the appeal;
  - substitute for the decision appealed against any other decision which could have been made by the Licensing Authority; or
  - remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court.
5. The court may make such order as to costs as it thinks fit.
6. The court, on hearing any appeal, may therefore review the merits of the decision on the facts and consider points of law or address both.

### **Appendix 3 - Guides of Best Practice**

1. The Event Safety Guide - A guide to health, safety and welfare at music and similar events (HSG 195) ("The Purple Book") ISBN 978-0-7176-2453-9
2. Guide to Fire Precautions in existing places of entertainment and like premises (The Stationery Office) ("The Primrose Guide") ISBN 0-11-340907-9.
3. Managing Crowds Safely in public venues ISBN 978-0-11-702074-0
4. 5 Steps to Risk Assessment: Case Studies (HSE 2006) INDG 163(rev2)
5. The Guide to Safety at Sports Grounds (The Stationery Office, 2008) ("The Green Guide") ISBN 978-0-11-702074-0
6. Good Practice Guide on the Control of Noise from Pubs and Clubs 2003 - The Institute of Acoustics [www.ioa.org.uk/publications](http://www.ioa.org.uk/publications)
7. Safer Nightlife - London Drugs Policy Forum ISBN 978-1-84726-683-5
8. Talk to Frank - The a-z of drugs [www.talktofrank.com](http://www.talktofrank.com)
9. The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks - [www.portmangroup.org.uk](http://www.portmangroup.org.uk)
10. British Board of Film - Classification Guidelines - [www.bbfc.co.uk](http://www.bbfc.co.uk)
11. HSE Guide - The Radiation Safety of laser installation used for display purposes [HS(G)95] HSE Books ISBN 0-7-76-0691
12. Alcohol Harm Reduction Strategy for England - [www.cabinetoffice.gov.uk](http://www.cabinetoffice.gov.uk)
13. Alcohol Concern - [www.alcoholconcern.org.uk](http://www.alcoholconcern.org.uk)
14. Safety Guidance for Street Arts, Carnivals, Processions and Large-Scale Performance ISBN 978-0-9544892-5-0
15. Point of Sale Promotions  
Risk Assessment to Combating Violence in Licensed Premises  
Licensed Property: Noise Control  
British Beer and Pub Association - [www.beerandpub.com](http://www.beerandpub.com)
16. Fire Risk Assessment - [www.communities.gov.uk/fire/firesafety/firesafetylaw](http://www.communities.gov.uk/fire/firesafety/firesafetylaw)

This is not intended to be an exhaustive list of reference guides but is offered for guidance and may be revised. Where a proposed activity is not covered by the above every effort should be made to research current best practice guidance.

## **Appendix 4 - List of Consultees**

Draft policy available on Eden District Council website from  
22 July 2015 to 14 October 2015

All Council Members within Eden District

All Town/Parish Councils/Meetings within Eden District

All holders of Club Premises Certificates within Eden District

All holders of Premises Licences within Eden District (some of whom are Personal Licence Holders)

All responsible authorities as listed in Appendix 5

Alston Moor Business Association

Appleby Chamber of Trade

Carlisle and Eden Community Safety Partnership

Eden Housing Association

Penrith Chamber of Trade

Penrith Partnership

Penrith Pubwatch

Taxi Drivers' Association

## Appendix 5 - Responsible Authority Addresses

Original application and fee should be sent to the Licensing Section

Copies of applications should be sent to the undermentioned responsible authorities, clearly marking the envelope 'Licensing Act application'

Licensing Section  
Eden District Council  
Town Hall  
Penrith  
CA11 7QF

Environmental Protection  
Eden District Council  
Mansion House  
Penrith  
CA11 7YG

Food Health and Safety  
Eden District Council  
Mansion House  
Penrith  
CA11 7YG

Planning Services  
Eden District Council  
Mansion House  
Penrith  
CA11 7YG

or

Planning Services  
Lake District National Park  
Murley Moss  
Oxenholme Road  
Kendal  
LA9 7RL

Chief Officer of Police  
Penrith Police Station  
Hunter Lane  
Penrith  
CA11 7UT

Chief Fire Officer  
Cumbria Fire and Rescue Service  
Cumbria County Council  
Carlisle East Community Fire Station  
Eastern Way  
Carlisle  
CA1 3RA

Children's Services  
Cumbria LSCB  
1<sup>st</sup> Floor Lower Gaol Yard  
The Courts  
Carlisle  
CA3 8NA

Trading Standards  
Cumbria County Council  
Carlisle East Community Fire Station  
Eastern Way  
Carlisle  
CA1 3RA

Director of Public Health  
Cumbria County Council  
The Courts  
Carlisle  
CA3 8NA

Health and Safety Executive  
2 Victoria Place  
Carlisle  
CA1 1ER

(where the HSE is the enforcing authority for health and safety matters in the premises)

Vessel - In relation to an application for a vessel, contact should be made with the Licensing Office.