



# **DARLINGTON BOROUGH COUNCIL**

## **LICENSING POLICY**

**in relation to**

## **THE LICENSING ACT 2003**

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**CONTENTS**

|                   |   |                |
|-------------------|---|----------------|
| <b>Section 1</b>  | <b>Introduction</b>                     | <b>page 1</b>  |
| <b>Section 2</b>  | <b>Scope of Policy</b>                  | <b>page 3</b>  |
| <b>Section 3</b>  | <b>Licensing Objectives</b>             | <b>page 4</b>  |
| <b>Section 4</b>  | <b>Personal Licenses</b>                | <b>page 4</b>  |
| <b>Section 5</b>  | <b>Premises Licenses</b>                | <b>page 5</b>  |
| <b>Section 6</b>  | <b>Impact of Licensable Activities</b>  | <b>page 5</b>  |
| <b>Section 7</b>  | <b>Other Licensing Controls</b>         | <b>page 7</b>  |
| <br>              |   |                |
| <b>Section 8</b>  | <b>Prevention of Nuisance</b>           | <b>page 8</b>  |
| 8.1- 8.5          | Location and Impact                     | page 8         |
| 8.6               | Saturation Effect                       | page 10        |
| 8.7               | Staggered Closing                       | page 11        |
| 8.8               | Littering                               | page 13        |
| <br>              |   |                |
| <b>Section 9</b>  | <b>Public Safety</b>                    | <b>page 13</b> |
| <br>              |   |                |
| <b>Section 10</b> | <b>Crime and Disorder</b>               | <b>page 14</b> |
| 10.1–10.4         | Control Measures                        | page 14        |
| 10.5              | Drugs                                   | page 16        |
| 10.6              | Pavement Cafes                          | page 16        |
| <br>              |   |                |
| <b>Section 11</b> | <b>Protection of Children from Harm</b> | <b>page 17</b> |
| 11.1–11.2         | Control Measures                        | page 17        |
| 11.3              | Sex Related Activities                  | page 18        |
| 11.5              | Stage Hypnotism                         | page 19        |
| 11.5-11.6         | Further Information                     | page 20        |
| <br>              |   |                |
| <b>Section 12</b> | <b>Supplementary Information</b>        | <b>page 21</b> |
| 12.1              | Planning                                | page 21        |
| 12.2              | Consultation                            | page 22        |
| 12.3              | Determining Applications                | page 22        |
| 12.4              | Conditions                              | page 23        |
| 12.5              | Enforcement                             | page 23        |
| 12.6              | Delegated Authority                     | page 23        |
| 12.7              | Off Licenses                            | page 23        |
| 12.8              | Late Night refreshment providers        | page 24        |
| 12.9              | General Information                     | page 24        |
| <br>              |   |                |
| <b>Section 13</b> | <b>Appendices</b>                       |                |
| <b>Appendix A</b> | <b>Making Applications</b>              | <b>page 25</b> |
| <b>Appendix B</b> | <b>Glossary of Terms</b>                | <b>page 28</b> |
| <b>Appendix C</b> | <b>Scheme of Delegation</b>             | <b>page 33</b> |
| <b>Appendix D</b> | <b>Responsible Authorities</b>          | <b>page 35</b> |

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## 1.0 INTRODUCTION

- 1.1 Darlington Borough Council is a Licensing Authority under the Licensing Act 2003 (The 2003 Act) and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the Borough in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment. Conditions can be attached to licences only to ensure the following:
- a. The Prevention of Crime and Disorder
  - b. Public Safety
  - c. The Prevention of Public Nuisance
  - d. The Protection of Children from Harm

These are known as the “Licensing Objectives” and are the only matters that can be considered when determining an application. The Council’s decision making ability is constrained either by the provisions of the 2003 Act and/or Regulations made under the 2003 Act. The Council is also required to have regard to guidance from the Secretary of State for the Department of Culture, Media and Sport (DCMS) but may, if it considers it appropriate, deviate from the guidance where there are good reasons, which can be justified. The Policy must not ignore or be inconsistent with the provisions of the Licensing Act 2003. In determining its Policy the Council will give appropriate weight to the views of those it has consulted.

- 1.2 The 2003 Act requires every Council to prepare and publish a Licensing Policy statement from January 2005, and to review and republish it at least every three years (during this three year period the Council will keep the Policy under review and in the event of any amendment will first consult on and then publish any revision). The initial Policy was approved by Darlington Borough Council on 6 January 2005 and published on 7 January 2005. This Revised Policy will take effect from 7 January 2008.

*This Policy relates to licensable activities as defined in the 2003 Act, and follows the revised guidance published by DCMS. It seeks to provide clarity and guidance on the approach adopted by the Licensing Authority, and in those matters that will normally be taken into account, when making decisions on licensing applications.*

The Council, when publishing or revising this Policy Statement, seeks to achieve proper integration with policies affecting local crime prevention, community safety, planning, transport, tourism, race equality schemes and cultural strategies and other plans introduced for the management of Town Centre and the night time economy. There are regular liaison meetings between the Police, Licensing Section and Transport Policy Division to ensure the need to disperse people from the Town Centre quickly and safely and avoid concentrations which produce disorder and disturbance.

- 1.3 The 2003 Act requires consultation with:
- a. The Police
  - b. The Fire Service
  - c. Representatives of licence holders
  - d. Local businesses and their representatives
  - e. Local residents and their representatives
- 1.4 In formulating this Policy the Council has had regard to the provisions of the European Convention on Human Rights in that everyone has the right to respect for their home and private life and that every person is entitled to the peaceful enjoyment of their possessions (including a licence). The Human Rights Act 1998 makes it unlawful for a Public Authority to act in a way that is incompatible with a convention right. Consequently an aim of this Policy and the decision-making processes of the Licensing Authority is to ensure that a licensing decision does not cause a breach of a convention right. The Licensing Authority has also taken into account the provisions of the Crime and Disorder Act 1998 with regard to the likely effect of the exercise of its functions on crime and disorder in the Darlington area and is committed to doing all it can to prevent crime and disorder.
- 1.5 The Council recognises its responsibilities under the Race Relations Act, 1976, as amended by the Race Relations (Amendment) Act, 2000. The impact of this Policy on race relations will be monitored through the Local Authority's Race Equality Scheme.
- 1.6 In preparing this Policy, the Government's new National Alcohol Strategy (published 5 June 2007) has been considered in relation to crime and anti-social behaviour and the effect of binge drinking on the health of the population. The Council has also taken into account the Home Office "Safer Clubbing Guide".
- 1.7 The Council is required to disclose information regarding licence applications in accordance with the Freedom of Information Act. Further information relating to this Act and the rights of individuals can be found at on the Council's website.
- 1.8 With the exception of the approval and review of this Licensing Policy for which responsibility rests with full Council, decisions on licensing matters are taken in accordance with an approved scheme of delegation aimed at ensuring timely, efficient and effective decision-making. A table setting out how the Licensing Authority deals with the various licensing applications is included in the Policy document at **Appendix C**. The Licensing Committee receives reports regarding licences determined by officers under delegated powers, to maintain an overview of the general situation.
- 1.9 Separate guidance on the procedures to be followed by applicants and objectors is available from the Licensing Authority.

## 1.10 Profile of Darlington

The Borough of Darlington is a compact area with a clear identity. It comprises the town of Darlington and its surrounding rural area, covering a total area of 19,745 hectares. The River Tees and North Yorkshire lie to the south, the Teesside conurbation to the east, County Durham to the north and rural Teesside to the west. There are excellent communication links with a principal station on the East Coast rail mainline, the A1 (M) Motorway and Durham Tees Valley International Airport within its boundaries. Darlington is a medium sized town, with an employed workforce of approximately 40,000, and where most of the population live in the urban area. There are around 2,800 businesses, most of which are now in the service sector. The Town Centre is of sub-regional importance for shopping and services and the town is also an important employment centre. Generally Darlington is an economy of small, owner-managed businesses that co-exist with branch factories, offices and shops. Service sector employment is expected to continue to dominate the local economy with further strong growth in tourism and miscellaneous services, female and part-time employment.

## 2.0 SCOPE OF THE POLICY

2.1 The Licensing Activities specified in the Licensing Act 2003, which are covered by this Policy, include:

- a. The retail sale of alcohol (including both “On” and “Off” sales)
- b. Supply of hot food or drink from a premise from 23.00 to 05.00 hours
- c. Supply of alcohol to club members
- d. Provision of entertainment listed below (known as regulated entertainment) to the public, to club members or with a view to profit
- e. Film exhibitions
- f. Performances of a play
- g. Indoor sporting events
- h. A boxing or wrestling entertainment
- i. Live music performances
- j. Playing of recorded music
- k. Dance performances
- l. Provision of facilities for making music
- m. Provision of facilities for dancing
- n. Circuses (for which a Temporary Event Notice would be required)

(NB incidental music is not deemed to be a licensable activity)

2.2 The Act also covers:

- a. The licensing of individuals for the retail sale of alcohol (“Personal Licences”)
- b. The licensing of premises for the retail sale of alcohol, the provision of regulated entertainment or late night refreshment (“Premises Licences”)
- c. The supply of alcohol or the provision of regulated entertainment to certain clubs (“Club Premises Certificates”)

- d. The permitting of certain licensable activities on a temporary basis (“Temporary Event Notices”)

2.3 The Policy relates to new applications, renewals where applicable, transfers and variations of licences and certificates, including where applicable, Temporary Premises Licences. It also includes reviews of licences and certificates. Such a review could lead to the revocation of a licence or certificate (in general a reference in this Policy to a licence will include a Club Premises Certificate). All references to “Licensing Authority” refer to Darlington Borough Council’s Licensing Authority.

2.4 The Council will encourage and promote a broad spectrum of entertainment and, in particular, live music, dancing and theatre. The Council recognises that performances of traditional music and dance are of immense value in developing cultural diversity and the promotion of vibrant communities. The Council will therefore seek to licence public spaces to make provision for a diverse range of entertainment.

### 3.0 LICENSING OBJECTIVES

3.1 In carrying out its licensing functions the Council is required to promote the licensing objectives set out in the Act. These are:

- a. The Prevention of Crime and Disorder
- b. Public Safety
- c. The Prevention of Public Nuisance
- d. The Protection of Children from Harm

The Council attaches equal importance to each of these four objectives.

3.2 To achieve these objectives the Licensing Authority will use its full range of powers and engage all relevant stakeholders including the Council’s Planning, Community Safety, Environmental Health Services, Children’s Services, Trading Standards Services, Transport Providers, Police, the Fire Authority, local businesses, community representatives and local people.

### 4.0 PERSONAL LICENCES

4.1 The Licensing Authority recognises it has very little discretion in the granting of Personal Licences. Provided an applicant is over eighteen years of age, has a qualification acceptable to DCMS and does not have relevant criminal convictions the application will be granted.

If an applicant has a relevant conviction, that is not spent, only the Police can oppose the application on the grounds that the Crime Prevention objective would be undermined. If the Police make an objection then a hearing must be held (without an objection then the application must be granted).

**4.2 Policy:** In the event of an objection the Licensing Authority will only grant a licence if it is satisfied that to do so will be in the interests of the crime prevention objective. When making such a decision, the seriousness and relevance of any conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances will be considered.

**Reason:** The prevention of crime and disorder is both an objective of the Licensing Act 2003 and a responsibility of the Licensing Authority under the Crime and Disorder Act 1998. A person holding a Personal Licence should be a person who is not only properly qualified but a person who will assist in the prevention of crime. Granting a licence to a known criminal could undermine rather than promote the crime prevention objective.

## **5.0 PREMISES LICENCES AND CLUB PREMISES CERTIFICATES**

NB This Policy concentrates on premises that provide multiple licensable activities. Further information is provided at Section 12.7 - 12.8 in respect of premises to which many parts of this Policy do not fully apply.

In many cases it may be helpful to all concerned for applicants and/or their advisers to discuss with Licensing Authority Officers their draft-operating schedule before it is formally submitted. This will help to ensure it properly addresses all issues of concern to the Licensing Authority.

**5.1 Policy:** Applicants for Premises Licences will be expected to address the licensing objectives. It may assist to consider Local Crime Prevention Strategies, Planning and Transportation Policies and Tourism and Cultural Strategies when determining their operating schedule. The Licensing Authority will expect the operating schedule to have regard to the nature of the area in which the premises are located, the type of premises, the licensable activities to be provided, the hours of operation, impact on the locality and the needs of the local community. In this respect the Licensing Authority will expect the applicant to demonstrate how the premises will be a “good neighbour” both to residents and other venues and businesses. The Applicant will be required to demonstrate that he/she has satisfactorily addressed each of the licensing objectives as part of any application to vary the operation of the premises.

**Reason:** To comply with the legislative requirements of the Licensing Act 2003.

## **6.0 THE IMPACT OF LICENSABLE ACTIVITIES**

**6.1 Policy:** When considering whether a licensable activity should be approved the Licensing Authority will, if relevant representations are received, assess the likelihood of it contributing to unacceptable, adverse impact in terms of crime and disorder and public nuisance, in particular to local residents and businesses. Applicants should therefore consider the following when making an application:

- a. The proposed hours and days of operation and how often an activity occurs.

- b. The location of the premises, particularly in relation to residential properties and such places as hospitals, hospices and places of worship.
- c. The number and type of current and future customers.
- d. The means of access and egress to the premises, which should have public access on principal pedestrian routes.
- e. The availability of public transport for patrons arriving at and leaving the premises compared to the anticipated level of private transport usage.
- f. The likely effect of car parking demand on both principal roads and residential streets and the impact this may have on local residents and emergency access.
- g. The need, if any, for provision of portable toilet facilities outside of the premises.
- h. The cumulative impact of licensed premises within the area and the scope for mitigating such impact.
- i. Waste disposal arrangements including bin storage and the collection and containment of litter from the vicinity of the premises.
- j. Public nuisance caused by unauthorised advertising and fly-posting

and, in considering any application from premises which are currently licensed, the Licensing Authority will, if relevant representations are received, take into account any evidence of:

- a. Past demonstrable adverse impact from the activity, particularly on local residents and businesses; or
- b. If adverse impact has been caused, that appropriate measures have been agreed and put into place to address any future adverse impact. If measures are to be put into effect or alternatively if there has been insufficient time to assess their usefulness a licence may be granted for a limited period only.

6.2 **Reason:** To achieve the licensing objective of preventing public nuisance. To promote this objective the Licensing Authority, in considering the likelihood of adverse impact, will, along with other matters, take into account:

- a. The precise nature of the activity, particularly in terms of entertainment, as this may impact in terms of the age of patrons and their behaviour.
- b. Noise levels and type of noise, which may be acceptable during daytime hours but may have greater impact at times when ambient noise levels are much lower.
- c. The impact of patrons arriving, queuing and exiting which should take place on main pedestrian routes rather than through residential areas.
- d. The impact of other sources of nuisance from smells, smoke, refuse storage, vermin and other similar causes of nuisance.

NB Where steps can be taken to mitigate adverse impact and such steps are reliable, practical and robust then an activity may be licensed.



### 6.3 **Additional Information**

The Licensing Authority will focus on matters within the control of the individual licensee and the steps they can take to achieve the licensing objectives. In making its decisions the Licensing Authority accepts the difficulties that licence holders face in preventing anti social behaviour once patrons are beyond the direct control of the licensee. However, the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly behave in an anti social way which impacts on local residents and/or businesses. The Licensing Authority recognises the Council's responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder. The aim of this Policy therefore is to achieve a balanced approach to these difficult issues.

### 7.0 **OTHER LICENSING CONTROLS**

7.1 The Government has suggested that Policy Statements should include other mechanisms that are available for addressing the issue of patrons behaving badly away from licensed premises such as:

- a. Planning controls.
- b. Positive measures to create a safe and clean Town Centre environment in partnership with local businesses, transport operators and the Council.
- c. Powers of Local Authorities to designate parts of their area as places in which alcohol may not be consumed in public.
- d. Police enforcement of normal law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices.
- e. The prosecution of any Personal Licence Holder or member of staff who is selling alcohol to children and/or people who are drunk.
- f. The confiscation of alcohol from adults and children in designated areas.
- g. Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises.
- h. The power of the Police, other Responsible Authority or a local resident or business to seek a review (and possible revocation) of the licence or certificate in question.

7.2 For a variety of reasons many of these mechanisms may be of limited effectiveness and value in dealing with anti social behaviour away from licensed premises. The Licensing Authority will therefore consider the grant of a licence very carefully in the event of receiving relevant representations, particularly when the hours sought extend far into the hours of the following morning. It should be noted however that the Licensing Act 2003 is NOT the primary mechanism for the general control of nuisance and anti social behaviour once individuals are away from licensed premises and therefore beyond the direct control of the licensee or premise concerned.

## 8.0 PREVENTION OF NUISANCE

Many parts of this section are directly relevant to the Licensing Objective on the prevention of Crime and Disorder and should be cross-referenced accordingly.

### 8.1 LOCATION OF PREMISES, LICENSING HOURS AND THE PREVENTION OF NUISANCE

**Policy:** The Licensing Authority must strike a fair balance between the benefits to a community of a licensed venue and the risk of disturbance, nuisance and loss of amenity to local residents. Consequently, in certain sensitive areas or appropriate cases, the Licensing Authority may, on the receipt of relevant representations, limit the number of licensed premises and/or restrict the hours of operation. Each application will be considered on its merits, having regard to all available evidence including information within the application itself.

**Reason:** This Policy is aimed at the fulfilment of the licensing objective of preventing public nuisance.

### 8.2 Additional information

The Government's view is that longer licensing hours should be encouraged in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. The Government believe that shops and public houses should generally be permitted to sell alcohol during the hours they intend to open. The Government wishes that entertainment providers should be encouraged to provide a range of entertainment during their operating hours, to promote live music, dancing and theatre for the wider cultural benefit the community.

The Licensing Authority acknowledges this view but also considers that it is self evident that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example the risk of residents sleep being disturbed by patrons leaving licensed premises is obviously greater at 2am than at 11pm.

### 8.3 LOCATION AND IMPACT OF ACTIVITY

**Policy:** The Licensing Authority will normally, on the receipt of relevant representations, encourage a closing time of 11pm for licensed premises in predominantly residential areas. Hours of 12 am and beyond will normally be more appropriate for premises located:

- a. In predominantly commercial areas, such as the Town Centre.
- b. Where there is a high level of accessibility to public transport services.
- c. Where there is an appropriate amount of car parking, readily accessible to the premises.
- d. The operating schedule indicates that the applicant is taking appropriate steps to comply with the licensing objective of

**preventing public nuisance.**

**Later closing times ie beyond 2 am will normally be more appropriate where it can be demonstrated that, in addition to the above:**

- a. The licensed activities would not be likely to cause adverse impact especially on local occupiers, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it.**
- b. There will not be any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area.**
- c. The activity will not be likely to lead to a demonstrable increase in car parking demand in surrounding residential streets or on roads.**

**8.4 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 such as parts of the Town Centre and the rest of the Borough.

8.4.1 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 highway. It may be exacerbated by patrons 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 patrons departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.

8.4.2 Parts of this Borough are very sensitive to the impact of licensed activities because they are either residential in character or close to residential areas. Many shopping areas are close to 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 patrons 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 being prevented from parking close to their homes and by increasing the danger from traffic in residential streets.

8.4.3 Some commercial areas in the Borough, however, particularly the Town Centre may be more suitable locations for licensed activities, especially those with late opening hours or which attract significant numbers of people. In the Town Centre, more patrons are likely to travel by public transport and licensable 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 residential areas so that additional noise may be less of a problem.

Nevertheless, late at night, the impact of licensed activities is more likely to be objectionable to residents living within or close to a licensed activity. The ambient noise level is lower so that noise disturbance from activities becomes more probable.

8.4.4 Persons who visit entertainment venues, which open beyond the provision of the main public transport services, are more likely to use taxis or private cars or they seek to park in residential streets close to the activity. This Policy allows for later closing times where it can be shown that there will not be an adverse impact.

## 8.5 Additional information

This part of the Policy is concerned with whether a proposal is appropriate in a location with particular regard to the impact on any residential areas. In those parts of the Borough, which are predominantly residential, it is anticipated that, in the event of receipt of relevant representations, the normal hours of opening of new licensed activities would be encouraged to be a maximum of 11 pm.

Opening hours of midnight and beyond are more likely to be considered to be acceptable, in principle, for premises in commercial areas with high levels of public transport accessibility. However, in all cases, following the receipt of relevant representations, the granting of a licence will still depend on the impact of an activity, particularly on local residents. It is necessary to consider, amongst other things, the level of impact that could arise from noise and vibration, litter, parking, movement of patrons, crowds and queuing; and whether any impact is particularly unacceptable late at night.

## 8.6 SATURATION AND CUMULATIVE EFFECT

8.6.1 The Licensing Authority recognises that the cumulative effect of licensed premises may result in an increase in numbers of people either walking through or congregating in streets or cause adverse effects on the area and this in turn may have a number of undesirable consequences, for example:

- a. An increase in crime against both property and persons.
- b. An increase in noise causing disturbance to residents.
- c. Traffic congestion and/or parking difficulties.
- d. Littering and fouling.

8.6.2 In considering a Saturation Policy, the Licensing Authority will take into account:

- a. The Character of the surrounding area.
- b. The potential and real impact of the licence on the surrounding area, both individually and cumulatively with existing licences.
- c. The nature and character of the proposed operation.
- d. Any other relevant considerations.

8.6.3 Where there is evidence that a particular area of the Borough is suffering adverse effects arising from a concentration of licensed premises, or that residential areas are under stress, this will be taken into account in determining any further applications or variations to existing licences for premises within the area identified. The onus will be on those making relevant representations to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed. The Licensing Authority may consider a specific Saturation Policy if this proves necessary. The Licensing Authority in considering whether to adopt a special Saturation Policy

will take the following steps:

- a. Consider any serious and chronic concern from a responsible authority or representatives from residents or local businesses concerning nuisance and/or disorder.
- b. Assess the causes.
- c. Where it can be demonstrated that disorder and nuisance is arising as a result of patrons of licensed premises, identify the area from which problems are arising and the boundaries of that area
- d. Consult with all concerned.
- e. Where appropriate adopt and publish a Special Policy about future licence applications from that area.

8.6.4 At the present time the Licensing Authority has not designated any Saturation Areas within the Borough. If in future the Licensing Authority is invited to designate any such areas the Licensing Policy will be revised and advertised. Current licence holders will be informed and new applicants advised on their initial enquiry. Any such Policy would be subject to regular review.

## 8.7 STAGGERED CLOSING TIMES

8.7.1 **Policy:** In areas containing a number of licensed premises the Policy of the Licensing Authority will be to encourage licensees to stagger their closing times. Where voluntary agreements cannot be obtained, or are unsuccessful and problems of nuisance for local residents or businesses arise, the Licensing Authority will, if representations are made, consider whether it is appropriate to limit the hours of individual licensed premises. This will be particularly the case in areas judged to be noise sensitive areas.

**Reason:** The aim of this Policy is to minimise disturbance and strain on transport systems and public nuisance. One of the aims of the new licensing regime was to prevent the mass exodus of patrons at 11 pm or 2 am that occurred under the current pre-2003 legislation. Fixed licensing hours were to be abolished in favour of hours tailored to individual premises. However the same cumulative effect referred to in Section 8.6 may arise where the closing time of a number of licensed premises coincide.

8.7.2 **Policy:** The Licensing Authority will expect the operating schedule to effectively address the assessments made to minimise noise disturbance, both inside the premises and as patrons are leaving the premises. Operating schedules must also outline the measures identified as being required to prevent nuisance to patrons, local residents and local businesses.

**Reason:** One of the greatest causes of annoyance to residents trying to sleep is the noise including music emanating from licensed premises. Such noise might preclude the grant of a licence or, if one has already been granted, for it to be reviewed with a view to possible revocation. It might also lead to a Noise Abatement Notice being issued under the Environmental Protection Act 1990 and related environmental legislation subject to evidence and circumstances. Responsible Applicants and licensees will wish to avoid the need for such action,

as they will wish to comply with the licensing objective of preventing public nuisance.

8.7.3 In addition, residents are frequently disturbed when patrons leave entertainment venues in the early hours of the morning. While licence holders cannot be held solely responsible for the behaviour of their patrons after they have left the premises, they have a duty to put in place such measures that will assist in the quieter exiting and dispersal of such patrons. This is because people leaving the premises, particularly late at night or in the early hours of the morning, can be a significant problem. Patrons may be less inhibited about their behaviour and may be unaware of the noise they are creating. This is particularly the case when patrons have been exposed to high levels of sound within the premises, causing them to shout to be heard. Upon leaving the premises there may be then a tendency to continue to shout and this may cause more disturbance, in particular, to local residents.

#### 8.7.4 **Additional information**

The Licensing Authority will expect the Applicant to propose practical steps to prevent nuisance or disturbance to local residents. In relation to noise from within the building the Licensing Authority will expect the applicant to have carried out a thorough acoustic assessment to ascertain the impact of any sound escaping from the licensed premises. This noise could relate not only to music but also from fixed plant equipment or from patrons themselves. If there is sound escape the Licensing Authority will expect this to have been addressed in practical ways such as:

- a. Working with the Council's Environmental Protection team to establish a suitable noise management scheme.
- b. Keeping doors and windows closed and providing adequate alternative ventilation.
- c. Reducing sound levels and installing a sound-limiting device to prevent sound exceeding the appropriate level.
- d. Installing and maintaining soundproofing measures to contain sound and vibration.
- e. Providing quieter areas for patrons.
- f. In the event of beer gardens or similar outdoor areas, ensuring that amplified music is not relayed to such areas and that these areas are properly screened.

The Licensing Authority will expect popular venues, which attract queues, to formulate a system to avoid disturbance to residents. This can sometimes be achieved by simply ensuring that the direction of the queue is away from any residential accommodation.

8.7.5 Excessive noise and/or disorder require more rigorous action. It is important that queues formed later in the evening are supervised to keep noise to a minimum. This action can also help stop drug dealers from passing on drugs during the queuing process but the prime purpose is to prevent noise and disturbance. Door Supervisors will generally carry out this role, but they must be given clear instructions as to their duties and responsibilities – where necessary they should be adequately supervised.

- 8.7.6 In terms of patrons leaving the premises particularly late at night or early in the morning the Licensing Authority will expect the applicant to have considered including in the operating schedule such practical steps as:
- a. Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors.
  - b. At appropriate times making loudspeaker announcements to the same effect.
  - c. Instructing door staff to ask customers leaving the premises to leave the area quietly.
  - d. Reducing the volume of music towards the end of the evening and having in place arrangements for playing quieter, more soothing music as the evening winds down.
  - e. Availability of licensed taxis, private hire vehicles or public transport to take patrons from the premises.
  - f. In appropriate cases, requiring Door Supervisors or a Manager to patrol nearby streets to assess for themselves whether there is a problem and how best to deal with it.
  - g. Banning from the premises people who often leave in a noisy fashion.
  - h. Increasing outside lighting levels without causing collateral intrusion.
  - i. Installing outside CCTV systems.
  - j. Where there is a private forecourt, preventing patrons from using it for eating and drinking etc after a specified time.

NB this list is not exhaustive

## 8.8 LITTERING

**Policy: Promotional flyers, advertising leaflets etc should be collected at regular intervals by the licensee or his/her representative and deposited in the premises' own waste bins. At the end of each evening staff should patrol the vicinity, collect all discarded flyers within a 20 metre radius of the premises and deposit them in the premises' own waste bins. Where promotional material is distributed away from the premises concerned the same principle applies, however, at the end of the evening staff must return to the distribution site(s), collect all relevant discarded promotional material and return it to their own premises.**

**Reason:** The aim of this Policy is to prevent public nuisance from littering.

## 9.0 PUBLIC SAFETY

- 9.1 **Policy: The Licensing Authority will expect the premises to be constructed and maintained to the highest possible standards of safety. It will expect the applicant to have addressed the requirements of Health and Safety at Work and Fire Safety legislation and, where appropriate, the Technical Standards published by the District Surveyors Association. In particular the Licensing Authority will expect compliance with Fire Safety Legislation in relation to upholstery, curtains and other hanging materials.**

**Reason:** The Licensing Authority expects premises to be constructed with safety in mind and that the operating schedule details how the premises will be

properly managed and maintained to ensure public safety at all times. The Licensing Authority will further expect the operating plan to reflect the maximum capacity as determined by the Fire Authority or other relevant legislative body.

9.2 When addressing the issue of public safety, an applicant must demonstrate that those factors that impact on the standards of public safety have been considered. These may include:

- a. The occupancy capacity of the premises.
- b. The age, design and layout of the premises, including means of escape in the event of a fire.
- c. The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature.
- d. The hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different).
- e. Customer profile (eg age, disability).
- f. The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.

9.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- a. Suitable and sufficient risk assessments.
- b. Effective and responsible management of premises.
- c. Provision of a sufficient number of people employed or engaged to secure the safety of the patrons and the premises.
- d. Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons.
- e. Adoption of best practice guidance (Fire Safety Risk Assessment-Open air events and venues or Large Places of assembly (over 300 persons) or Small places of assembly; The Event Safety Guide, Safety in Pubs published by the BBPA).
- f. Provision of effective digital CCTV in and around premises.
- g. Provision of toughened or plastic drinking vessels.
- h. Implementation of crowd management measures.
- i. Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc pertinent to safety.

## 10.0 CRIME AND DISORDER

This section should be read in conjunction with the section on Prevention of Nuisance with which it is directly cross-referenced.

10.1 **Policy: The Licensing Authority will expect the applicant to indicate in his operating schedule the steps proposed to prevent crime and disorder on and in the vicinity of their premises and/or events.**

**Reason:** Prevention of crime and disorder is both an objective of the Licensing Act 2003 and a responsibility of the Licensing Authority under the Crime and Disorder Act 1998. It is important, therefore, that the applicant be able to



demonstrate to the Licensing Authority the practical steps that will be taken to further this objective in the operating schedule. The factors that impact on crime and disorder may include:

- a. Underage drinking
- b. Drunkenness on premises
- c. Public drunkenness
- d. Drugs
- e. Violent behaviour
- f. Anti-social behaviour

10.2 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- a. Effective and responsible management of premises.
- b. Training and supervision of staff.
- c. Adoption of best practice guidance (eg Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other Voluntary Codes of Practice, including those relating to drinks promotions eg The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA).
- d. Acceptance of accredited means of age identification e.g. DVLA photo driving licence or "PASS" approved proof of age' cards
- e. Provision of effective digital CCTV in and around premises.
- f. Employment of Security Industry Authority licensed door-staff.
- g. Provision of plastic or shatter resistant glasses.
- h. Provision of secure, deposit boxes for confiscated items.
- i. Procedures for assessing risk associated with promotions and events such as "happy hours" for the potential to cause crime and disorder, and plans for minimising such risks.
- j. Measures to prevent the use or supply of illegal drugs.
- k. Employment of licensed door supervisors and other appropriately trained staff.
- l. Installation of non-retrievable bottle bins at exits and ensuring that patrons do not leave with bottles or glasses (on licence sales).
- m. Provision of litterbins and other security measures, such as lighting, outside premises.
- n. Membership of Darlington 'Pubwatch' scheme.

10.3 The Licensing Authority will expect the operating plan to include a risk assessment into the use of door-staff, in terms of the actual need for such a service and also the ratio of such personnel to patrons based on capacity of the premises.

10.4 **Policy: The Licensing Authority will normally require a Personal Licence holder to be on the premises at all times when alcohol is being sold.**

**Reason:** It is important that there is an accountable, responsible person present at all times when alcohol is being sold. This is to ensure that alcohol is not sold to persons who have had too much to drink and to ensure that alcohol is only sold to persons over the age of 18 years. In terms of crime and

disorder, there is a need for an identified person with whom the Licensing Authority and Police can discuss any problems/issues arising from the licensable activities offered on the premises.

## 10.5 DRUGS

**Policy: The Licensing Authority will normally expect all licensees of venues that offer alcohol and entertainment to provide and implement a written drugs Policy. This must be included as part of the operating schedule.**

**Reason:** To further the crime prevention objective and to ensure public safety.

### 10.5.1 Additional information:

The Licensing Authority recognises that drug use is not something that is relevant to all licensed premises. Many entertainment venues can however be popular with drug mis-users and suppliers. The production of a drugs Policy (advice on writing a Policy is available from the Licensing Authority) combined with the effective professional management of a venue will assist in keeping incidents of drug abuse to a minimum. The Licensing Authority will normally expect that all licensees who provide entertainment along with retail alcohol sales will comply with the Home Office Safer Clubbing Guidelines. These include:

- a. The provision of free drinking quality (potable) water in public areas eg the bar area and not in toilets.
- b. The installation of a drugs deposit box in all licensed premises providing entertainment beyond 11pm.
- c. A drugs register to record confiscated drugs and drugs deposits.
- d. Full qualified first aiders at all premises which provide entertainment beyond 11pm.
- e. The provision of cooler, quieter areas for patrons.

## 10.6 PAVEMENT CAFES

**Policy: The placing of tables and chairs on the highway requires a Pavement Café Licence issued by the Council. In the case of tables and chairs on private land the Licensing Authority will expect the applicant to advise of arrangements (including hours of operation) to minimise nuisance as part of the operating plan.**

**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. The provision of tables and chairs outside the premises either on the highway or on private land can enhance the attractiveness of the venue. It can have the benefit of encouraging a continental style café culture. However, late at night these tables and chairs can contribute to noise and public order problems. This is because they can encourage patrons and passers by to loiter rather than disperse. The placing of tables and chairs on the public highway will need the consent of the Licensing Authority in

the form of a separate Pavement Café Licence.

## 11.0 PROTECTION OF CHILDREN FROM HARM

- 11.1 **Policy: Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from physical, moral or psychological harm, relevant to the individual style and characteristics of their premises and events.**

**Reason:** 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 Licensing Authority has taken account of the view of DCMS that the use of licensed premises by children should be encouraged. However it will, where necessary, impose conditions designed to protect children.

### 11.2 Additional information

The Protection of Children from Harm is a key licensing objective. Nevertheless, the Licensing Authority will not normally impose conditions requiring or prohibiting the admission of children to any premises believing this should remain a matter of discretion of the licence holder. The Licensing Authority has taken account of the view of DCMS that the use of licensed premises by children should be encouraged. However it will, where necessary, impose conditions designed to protect children.

- 11.2.1 Examples of premises where the introduction of additional controls are likely to be necessary are:

- a. Where there have been convictions for serving alcohol to minors or with a reputation for under-age drinking.
- b. Where there is a known association with drug taking or dealing.
- c. Where there is a strong element of gambling on the premises.
- d. Where entertainment of an adult or sexual nature is provided.
- e. Where the supply of alcohol for consumption on the premises is the exclusive and primary purpose of the premises.

- 11.2.2 In such circumstances it may be necessary to impose a complete prohibition this would be only rarely imposed. The Licensing Authority would normally be more likely to impose requirements such as:

- a. Limitations on the hours when children may be present.
- b. Proof of age arrangements for alcohol sales.
- c. Age limitations below 18 (eg considering requiring all persons under 14 years to leave premises before 9pm and persons between 14 years and under 18 years to leave before 11 pm).
- d. Limitations or exclusions when certain activities are taking place.
- e. Requirements for accompanying adults.
- f. Full exclusion of people under 18 from the premises when certain licensable activities are taking place (eg entertainment of a sexual nature, performances of hypnotism etc).

- g. Limitation on the permits of premises to which children might be given access.

11.2.3 Where there is provision of entertainment specifically for children (e.g. a children's disco) the Licensing Authority will require the presence of sufficient adults to control the access and egress of the children and assure their safety. Applicants who wish to offer such activities will be required to submit an appropriate Child Protection Policy which details, among other things, criminal record checks for relevant staff etc.

### 11.3 SEX RELATED ACTIVITIES

**11.3.1 Policy: The Licensing Authority will not normally encourage applications for licences for entertainment which involves a sex related element in any premises located near schools, churches, hospitals, youth clubs or other premises where significant numbers of children are likely to attend. Where such licences are granted, if relevant representations are received, it will impose conditions designed to ensure that children are not admitted to and cannot witness these activities and to prevent crime and disorder problems.**

**Reason:** This Policy is designed to further the licensing objective of protecting children by preventing them being exposed to unsuitable material or acts. This Policy is 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.

#### 11.3.2 Additional information:

Where the activities proposed under the licence include those of a sex- related nature (e.g. topless waitresses, striptease, table dancing) the Licensing Authority will take into account the increased risk to the licensing objectives. For the sake of convenience the term "striptease" in this part of the Policy should be taken to refer to any entertainment or service involving removal of clothing, nudity or the sexual stimulation of patrons. Where relevant representations are made, conditions may be imposed to address these risks, such as:

The area proposed for striptease shall:

- a. Be in a position where the performance cannot be seen from the street.
- b. Be in a designated area of the premises with segregation from the audience.
- c. Be in a position where the performers will have direct access to the dressing room without passing through or in close proximity to the audience.

11.3.3 While striptease entertainment is taking place the Licensing Authority will seek to require that no person under the age of 18 shall be on the licensed premises and that a clear legible and conspicuous notice shall be displayed at each entrance to the premises in a prominent position, so that it can be easily read

by persons entering the premises, in the following terms: NO PERSON UNDER 18 WILL BE ADMITTED.

- 11.3.4 To prevent the possibility of children seeing unsuitable advertisements the Policy of the Licensing Authority will be to seek to attach a condition to the effect: "Except with the consent of the Council there shall be no external advertising of the striptease entertainment either at the premises or in its immediate vicinity".
- 11.3.5 In addition the Licensing Authority will seek to place specific conditions designed to ensure that such entertainment is not obscene in nature. These may include minimum distances between performer and audience (eg in lap dancing), prohibition of physical contact and similar requirements.
- 11.3.6 In considering the grant of applications involving striptease the Licensing Authority will, in the event of relevant representations, also have regard to the increased risk of nuisance to nearby residents.

#### 11.4 STAGE HYPNOTISM

- 11.4.1 **Policy: The Licensing Authority will require notification, in writing, 8 weeks prior to any performance of Stage Hypnotism. Where consent is given for this type of entertainment, the Council will impose conditions designed to ensure the safety of the audience and in particular to ensure that children are not admitted to and cannot participate in such activities.**

**Reason:** This Policy is designed to protect the public and also ensure that children are not exposed to unsuitable acts or influences.

#### 11.4.2 **Additional information:**

Stage hypnotism raises concern in relation to the safety of the public and also the protection of children from harm. This form of entertainment has been widely debated with allegations of long-term harm being caused to participants. Conditions, which the Council may attach, may include:

- a. The requirement of the Stage hypnotist to be a Member of the Federation of Stage Hypnotists or the European Guild of Professional Stage Hypnotists of a similar approval body.
- b. The provision of Public Liability Insurance of not less than £5,000,000 by the Stage hypnotist.
- c. The presence, throughout the performance, of persons with appropriate medical training
- d. No person under the age of 18 years to be hypnotised.
- e. No one under the influence of hypnosis to be permitted to leave the room in which hypnotism is taking place.
- f. Mass hypnotism of audience not to be carried out.
- g. All hypnotised subjects to be free of hypnotic influences when leaving premises.
- h. No indecent acts or acts which are offensive or cause concern to the public to be performed. (This would include the consumption of certain

substances and acts of levitation/suspension of subjects.)

In relation to performances of stage hypnotism the Licensing Authority would seek to prohibit all children under the age of 18 years.

## **11.5 FURTHER INFORMATION**

### **11.5.1 FILM EXHIBITIONS**

Where the exhibition of films is permitted, the Licensing Authority will require the age restrictions of the British Board of Film Classification (BBFC) in respect of the films to be exhibited to be complied with. Only in exceptional cases will variations of this general rule be granted by the Licensing Authority and then only with appropriate safeguards.

In relation to specialist Film Festivals & other occasions where it is desired to show films not classified by the BBFC the Licensing Authority will, provided adequate notice has been given, classify the films concerned. To achieve consistency and the protection of children the Council will use the guidelines published by the BBFC.

### **11.5.2 PACKAGING AND PROMOTION OF ALCOHOLIC DRINKS**

The Licensing Authority supports and promotes the Portman Group Code of Practice relating to the naming, packaging and promotion of alcoholic drinks. The Code seeks to ensure, among other things, that alcoholic drinks promotions are responsible and targeted only at persons over the age of 18 years.

### **11.5.3 GENERAL**

Conditions requiring the admission of children to any premises cannot be attached to licence or certificates. Where no licensing restriction is necessary, this should remain a matter for the discretion of the individual licensee or club or person who has given a temporary event notice. Venue operators seeking premises licences and club premises certificates may also volunteer such prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where no relevant representations are made to the Licensing Authority, these volunteered prohibitions and restrictions will become conditions attached to the licence or certificate and will be enforceable as such. In these circumstances, no other conditions concerning the presence of children on premises may be imposed by the Licensing Authority

Applicants for premises licences and club premises certificates will be required to copy details of their applications to the Body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm and is recognised by the Licensing Authority as being competent to advise it on such matters. The Licensing Authority considers that the competent Body will be the Local Safeguarding Children's Board.

## 12.0 SUPPLEMENTARY INFORMATION

### APPLICATIONS FOR PREMISES LICENCES

#### 12.1 PLANNING CONSENT

**12.1.1 Policy:** An application for a licence should not normally be made until the applicant can demonstrate that the premises have either an appropriate (in terms of the activity and hours sought) planning consent, or an appropriate certificate of lawful use or development. Exceptions may be made where the applicant can demonstrate compelling reasons why the application should be considered although the planning status of the premises has not been finalised.

**Reason:** To avoid unnecessary duplication and thus comply with DCMS guidance. The Licensing and Planning Committees will keep each other advised of their actions to ensure that a licensing application will not be a re-run of the planning application and will not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee.

**12.1.2** Any premises for which a licence is required must also have an authorised use under town planning legislation. Typically, this could be for:

- a. Use for the sale of food or drink for consumption on the premises or of hot food for consumption off the premises (Use Class A3).
- b. Assembly and leisure (Use Class D2), which includes concert hall, dance hall and indoor/outdoor sports and recreation.
- c. Retail shop licensed for the sale of liquor eg an off-licence (Use Class A1).
- d. A hotel, which has a restaurant or bar included in its authorised use (Use Class C1).

The references to “Use Class” come from the Town and Country Planning (Use Classes) Order 1987. The Order classifies uses and labels them with a letter and a number. Not all uses come within a Use Class.

**12.1.3** The Local Authority’s Planning Policies are set out in its Unitary Development Plan supplemented by guidance on A3 Uses (restaurants, takeaways, public houses etc). Government guidance in the form of Planning Policy Guidance Notes (PPG) and Regional Planning Policy Guidance Notes (RPG) is also relevant.

**12.1.4** The strength of these policies is that there is an obligation both on the Local Authority, as local planning authority, and the decision -maker on any appeal, to give considerable weight to them. This helps to ensure consistency in the decision making process.

**12.1.5** In general, planning permissions authorise a type of use, whereas licences relate to a particular premises and operator and may only cover a part of the premises. A planning permission is attached to the premises and is usually permanent. Unlike a licence it cannot normally be reviewed and if necessary revoked.

Furthermore planning is only concerned with the premises and the use and hours proposed. It takes no account of the suitability or otherwise of the applicant.

12.1.6 Within certain limits, the activity may change without a new planning permission. A planning permission for an entertainment use, for instance, may cover activities that can have a wide range of different impacts in the locality. The precise nature of the impacts of the specific activities proposed by a prospective licence holder needs to be considered when an application is made for a licence.

12.1.7 In some cases where an application is made for a licence the town planning use will already be authorised by a previous planning permission or because the premises has long-standing lawful use. Therefore, a new application for planning permission is often not required. However, three points must be made:

- a. The existing planning permission might, and if recently granted is very likely to, have conditions restricting the use of the premises in some way eg the hours of operation. In that case, anybody seeking a licence to operate beyond those hours would first need to obtain a revised planning consent or a relaxation or removal of the condition.
- b. The existence of a planning permission (or lawful use) where there is no condition on the usage does not mean that a licence for late hours of operation or a particular entertainment would necessarily be appropriate. Similarly, if an existing planning permission has conditions on the hours of operation, it does not follow that a licence for a particular activity will be granted up to the hours specified in the planning permission.
- c. Where a long standing planning permission has no condition on hours, or where there is lawful use without planning permission, it is likely there has been no rigorous consideration of late night impact during the planning process. Experience within the borough has revealed the importance of these issues and planning permissions are no longer likely to be granted without such constraints.

## 12.2 CONSULTATION

**Policy:** It is the Policy of the Licensing Authority that anyone affected by an application should be made aware of it and of the opportunity to make representations.

**Reason:** The Licensing Authority will carry out the statutory consultation required or permitted by the Act but will also carry out additional, appropriate consultation where necessary to ensure that opportunities will be given to those affected by an application to make representations. Such methods will include the use of the Licensing Authority's web site.

## 12.3 DETERMINATION OF APPLICATIONS

**Policy:** In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its individual merits, taking into account the law and DCMS guidance. In the absence of any objection the licence will be granted, subject only to any mandatory conditions and those conditions which form



## **part of the operating schedule**

**Reason:** To comply with the legislative requirements of the Licensing Act and also Human Rights legislation.

### **12.4 CONDITIONS**

**Policy:** Licence conditions will be tailored to the individual style and characteristics of the premises and events and only be imposed to meet the licensing objectives. Licence conditions will not be imposed where the Licensing Authority considers other regulatory regimes provide sufficient protection to the public eg health and safety at work, fire safety legislation etc.

**Reason:** The Licensing Authority accepts that a “one size fits all” approach is not appropriate to achieving this outcome and that conditions should be tailored to the premises and activities to achieve the licensing objectives. Officers will seek to discuss proposed conditions in advance with the applicant and/or representative with the aim of achieving a mutually agreeable level of protection to the public and fulfilment of the licensing objectives. Premises Licences and Club Premises Certificates will so far as possible reflect local crime prevention strategies and the input of the Darlington Crime and Disorder Reduction Partnership.

### **12.5 ENFORCEMENT**

**Policy:** In general, action will be in accordance with the Licensing Authority’s published enforcement Policy that follows the principles of the Enforcement Concordat.

**Reason:** Application of consistency, transparency and proportionality.

### **12.6 DELEGATED AUTHORITY**

**Policy:** The powers of the Licensing Authority under the Act may be carried out by the Licensing Committee, Sub Committee or, by one or more officers acting in accordance with the scheme of Delegated Authority (see Appendix C).

**Reason:** In the interests of efficiency

## **LICENCES OTHER THAN FOR BOTH ENTERTAINMENT AND SALE OF ALCOHOL**

### **12.7 OFF SALES**

In accordance with DCMS guidelines the Licensing Authority will not normally seek to limit the hours during which alcohol can be sold for consumption off the premises. The Council does, however, expect that a responsible attitude be adopted in relation to the sale of alcohol to and/or for persons under the age of 18 years. Operating schedules should therefore include the following:

- a. Staff training, particularly in relation to refusal of sales.

- b. Proof of age requirements.
- c. Records of refusal of sales.
- d. Consideration of display of posters advertising the illegality of purchasing alcohol on behalf of persons under 18 years of age.

NB this list is not exclusive

Test purchasing exercises will be undertaken in a partnership arrangement between the Council's Trading Standards Service and South Durham Police. Sales of alcohol to or on behalf of persons under 18 years of age may result in a request to review a licence with a view to revocation.

In addition to the above, the operating schedule should also address issues of anti social behaviour that may give rise to crime and disorder and public nuisance. This is particularly the case in relation to gangs of youths congregating outside of premises. Measures such as CCTV provision, both inside and outside of the premises and additional lighting outside of the premises should be considered to address this problem.

## 12.8 LATE NIGHT REFRESHMENT HOUSES

All take-away food premises, including street traders, late night refreshment houses and night cafes which operate beyond 11 pm are required to apply for a Premises Licence from the Licensing Authority. In addition, any premises, which also wish to sell alcohol as part of the premises licence, will need to identify a Designated Premises Supervisor and, where relevant representations are made, ensure that a personal licence holder is normally present on the premises whenever alcohol is to be sold. The application will be subject to the requirements described for premises licences in Appendix A.

Late night takeaways can be a public order "hot spot" when patrons, who have attended late night entertainment premises, congregate in their vicinity. The operating schedule for such premises should therefore address such issues as:

- a. Provision of CCTV both inside and outside of the premises.
- b. Additional lighting both inside and outside of the premises.
- c. Measures to be taken to reduce littering within the vicinity.
- d. Measures to be taken to reduce noise disturbance at the premises and within its vicinity.

NB this list is not exhaustive.

Holders of night time street trading consents for the sale of food are required to apply for a premises licence in addition to their street trading consents.

## 12.9 GENERAL INFORMATION

While every effort will be made by the Licensing Authority to assist applicants in terms of the legislation, the Council cannot be held responsible for individual applications or operating schedules. All applicants are therefore advised to seek appropriate advice from their legal representatives and/or Trade bodies.

## MAKING AN APPLICATION

When making an application the applicant should initially identify any particular issues (having regard to the particular type of premises and/or activities), which are likely to adversely affect the promotion of the 4 Licensing Objectives. Such steps as are required to deal with these identified issues should be included in the operating schedule.

## PREMISES LICENCES

1. Applications may be made by persons aged 18 years or over, who carry out (or propose to do so) a business, which involves the use of premises for specific licensable activities. An application must be made on the prescribed form, accompanied by the prescribed fee. The application must also include a plan of the premises (in the prescribed form) and an *operating schedule*\*. If alcohol is to be sold details must be provided of the *designated premises supervisor*\*. There is a requirement to advertise the application in accordance with the Secretary of State's regulations. Copies of the application will also have to be sent out to other relevant persons, as described in the regulations.
2. If *relevant representations*\* are made the Licensing Authority must, if these cannot be overcome, hold a hearing to determine the application. Relevant representations may come from *Responsible Authorities*\* or *Interested Parties*\*, either of which will be required to notify the Licensing Authority of their concerns, in writing, within a prescribed period of time. After a hearing the Licensing Authority will decide whether or not to grant the licence. The licence may be granted subject to modified conditions, to ensure the 4 Licensing Objectives are properly promoted. It may be granted with the exclusion of one or more licensable activities. It may be granted subject to the Licensing Authority's refusal to specify a person as a designated premises supervisor or alternatively the application may be rejected. In each case the Licensing Authority will give reasons for its decision to the applicant, anyone who made a relevant representation and the Chief Constable of Police. Appeals against the Licensing Authority's decision can be made to the Magistrates Courts.
3. If no relevant representations are received the Licensing Authority must grant the application subject only to any mandatory required conditions and any conditions that are consistent with the operating schedule (for mandatory conditions please refer to Sections 19, 20 and 21 of the Licensing Act 2003).
4. Generally a Premises Licence will be granted for an indefinite period except when the application is for a specific period unless the licence is suspended or revoked. Applications can be made to vary the licence in much the same way as the original application.

*\*see glossary of terms for further information*

Further guidance is contained within the application pack to cover the Regulations.

## REVIEW OF LICENCE

1. Any *Responsible Authority\** or *Interested Party\** may make application to the Licensing Authority for a review of a premises licence if the premises are not operating in accordance with the 4 licensing objectives. Where *relevant representations\** are made the Licensing Authority must, if these cannot be overcome, hold a hearing to review the licence. When an application for a review is received notification of this application will be sent, by the applicant to all of the Responsible Authorities and signage will be prominently placed on the premises themselves advertising the review, thus permitting other persons and/or bodies to also notify the Licensing Authority of their concerns, in writing, within a prescribed period of time. After a hearing the Licensing Authority will decide whether or not to amend the licence. This may be done by not making any change to the licence, modifying the conditions on the licence (adding, amending or removing conditions), removing the Designated Premises Supervisor, excluding a licensable activity for up to 3 months, suspending the entire licence for up to 3 months or by revoking the licence. In each case the Licensing Authority will give reasons for its decision to the licence holder, the applicant for the review and anyone who made a relevant representation. Appeals against the Licensing Authority's decision can be made to the Magistrates Courts.
2. In the case of Club Premises Certificate a Responsible Authority, Interested Party or member of the club may make an application for a review. While the procedure is very similar to that described above there is no option to remove a Designated Premises Supervisor as there is no requirement for Club premises to have such a person.

## PERSONAL LICENCES

1. Personal Licences are needed to enable alcohol to be sold. An application can be made by a person aged 18 years or over, who possesses a licensing qualification as prescribed in the Regulations, who has not been convicted of any relevant offence (which was committed either in England or Wales) or "foreign" offence (committed outside of England or Wales) which is unspent and who has not forfeited a Personal Licence in the preceding 5 years. The application should be made to the Council in the area where the applicant is normally resident. Only the Police can object to an application for a Personal Licence. The Licensing Authority will grant a licence for 10 years if the Police do not make an objection. In the event of an objection being made a Hearing will be arranged and the Licensing Authority, after considering all relevant factors, may decide to either grant the application or reject it. If the Licensing Authority decides to reject the application it will give reasons for its decision to the Applicant and the Chief Constable of Police. There is a right of appeal to the Magistrates Courts against a decision of the Licensing Authority

## TEMPORARY EVENTS NOTICES

1. This applies when an individual wishes to use a premise, which does not have a Premises Licence for an event lasting not more than 96 hours and to which the maximum number of people attending will be less than 500. A Temporary Event Notice in the prescribed form must be given to the Licensing Authority along with the prescribed fee at least 10 working days before the event. As this is such a short period of time the Council will expect that far greater notice is always given unless there is good reason not to do so. The Applicant must also send a copy of the notice to the Police, who must respond within 48 hours of receipt. The Licensing Authority will acknowledge receipt of the notice and will await any comments from the Police. If the Police object to the event and a negotiated agreement cannot be reached the Licensing Authority will hold a hearing to consider the matter. If the Licensing Authority accepts the Police objection it will issue a counter notice and the event cannot proceed. This notice must be issued at least 24 hours before the event was due to take place and the applicant may appeal to the Magistrates Courts. Similarly if the Licensing Authority decides not to accept the Police objection the Police also have the right of appeal to the Magistrates Courts.
2. The Licensing Authority has no option other than to issue a counter notice when:
  - a. The applicant is a Personal Licence holder who has already given 50 Temporary Events Notices (TENs) within the same calendar year.
  - b. The applicant is not a Personal Licence Holder but has already given 5 TENs in that year.
  - c. 12 TENs have been given for the same premises in that year.
  - d. TENs are given for events at the same premises, falling on more than 15 days in a year.

**Glossary of terms**

In this Policy, the following are included to provide an explanation of certain terms included in the Act. In some cases definitions given below are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

**‘Appointed Days’**

The dates on which different provisions of the 2003 Act came into force. On the second appointed day (the 24 November 2005), the old law ceased to have effect all the Licensing Act 2003 licences came into force and the responsibilities of the Magistrates’ Court licensing committees ceased.

**‘Appeals’**

Appeals against decisions of the licensing authority are to the Magistrates’ Court for the area in which the premises are situated. The appeal must be lodged within 21 days of being notified of the Licensing Authority’s decision. On appeal a Magistrates’ Court may, dismiss the appeal, substitute its own decision, remit the case to the licensing authority with directions and make an order for costs.

**‘Authorised Officer’**

An Officer of the Licensing Authority who is authorised to carry out duties in relation to the Licensing Act 2003; a Fire inspector; a Health and Safety Inspector; an Environmental Health Officer; a Trading Standards Officer.

**‘Closure Order’**

Powers that enable the Police and Courts to close premises. The 2003 Act significantly extends the existing powers of the Police to seek court orders in a geographical area that is experiencing or likely to experience disorder or to close down instantly individual licensed premises that are disorderly, likely to become disorderly or are causing noise nuisance.

**‘Club Premises Certificate’**

A permit for a qualifying club to cover the supply of alcohol. It can be granted to members’ clubs which comply with specific conditions eg membership rules, run by club committees, profits go to members not an owner etc. Club Premises Certificates replace registration under the Licensing Act 1964. The law for members clubs has changed relatively little under the 2003 Act. There is no time limit on the duration of the certificate but it may be withdrawn, surrendered or suspended.

## **‘Conditions’**

A Premises Licence may be granted subject to different conditions, and these may be in respect of different parts of the premises and different licensable activities. There is no power to impose conditions on a personal licence. The Secretary of State’s Guidance provides “The only conditions which should be imposed on a premises Licence or Club Premises Certificate are those which are necessary for the promotion of the Licensing Objectives. Accordingly, if the existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties on the premises licence holder”. Conditions must be proportional and tailored to size, style, characteristics and activities taking place at the premises concerned

## **‘Designated Premises Supervisor’**

A person identified on the premises licence as being in day-to-day control of the premises (can be the holder of the premises licence). Any premises where alcohol is sold must have a Designated Premises Supervisor.

## **‘Interim Authority Notices’**

A notice to reinstate a Premises Licence which has lapsed because of the death, incapacity or insolvency of the holder and for which no transfer application has been made.

## **‘Interested Party’**

A person living in the vicinity of the premises; a body representing such persons; a person involved in business in the vicinity; or a body representing businesses in the vicinity. These people may make representations about a new application or apply for a review of an existing licence.

## **‘International Airports and International Ports’**

Premises Licences can be issued to the above in areas where the non-travelling public have access. Areas the non-travelling public are not allowed known as airside or wharf-side are not licensable under the 2003 Act.

## **‘Late Night Refreshment’**

The supply of hot food and/or drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.

### **'Licensable Activities'**

- a. The sale by retail of alcohol.
- b. The supply of alcohol by or on behalf of a club, or to the order of a member of the club.
- c. The provision of Regulated Entertainment.
- d. The provision of Late Night Refreshment.

### **'Licensing Objectives'**

The objectives set out in the Act are:

- a. The Prevention of Crime and Disorder.
- b. Public safety.
- c. The Prevention of Public Nuisance.
- d. The Protection of Children from Harm.

The Licensing Authority must carry out its functions under the Act with a view to promoting the Licensing Objectives.

### **'Mandatory Conditions'**

Conditions that the 2003 Act requires are imposed on a licence. These include specific requirements relating to the sale or supply of alcohol, the use only of Security Industry Authority approved persons as door supervisors and requirements to abide by the requirements of British Film Board Classifications

### **'Objection Notice'**

A procedure whereby the Police can object to the grant of a Personal Licence on the grounds there where having regard to convictions of the applicant for relevant offences, the grant would undermine the crime prevention objective.

### **'Operating Schedule'**

A document containing a statement of the following matters (and any others that may be prescribed):

- a. Steps taken by the Licence holder to tackle the four Licensing Objectives.
- b. The Licensable Activities to be conducted on the premises.
- c. The times during which the Licensable Activities are to take place and any other times when premises are open to the public.
- d. Where the licence is required only for a limited period, that period.
- e. Where the Licensable Activities include the supply of alcohol, the name and address of the individual to be specified as the Designated Premises Supervisor.

### **'Personal Licence'**

A licence granted to an individual for a maximum of 10 years. It enables that person to supply or authorise the supply of alcohol in accordance with the premises licence.



### **‘Premises Licence’**

A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities.

### **‘Provisional Statement’**

A statement issued by the Licensing Authority in relation to premises that are being or about to be constructed or extended for the purpose of being used for one or more licensable activities.

### **‘Qualifying Club’**

Formerly a Registered Members Club. The members must have joined together for a particular social, sporting or political purpose and then have combined to purchase alcohol in bulk as members of the organisation for supply to members and their guests. Qualifying conditions are specified in Section 61 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence to support that the club is non-profit making and that there is a minimum of 48 hours delay between application and acceptance of new members. The club must be established and conducted in 'good faith' (this involves consideration of details such as club finances).

### **‘Regulated Entertainment’**

- a. A performance of a film
- b. An exhibition of a film
- c. An indoor sporting event
- d. A boxing or wrestling entertainment
- e. A performance of live music
- f. Any playing of recorded music.
- g. A performance of dance
- h. Provision of facilities for making music
- i. Provision of facilities for dancing

Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance (or entertainment of a similar description falling within the last two of the categories listed above), where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

### **‘Relevant Offences’**

Offences, which may be taken into account when considering an application for a Personal Licence. These are listed in Schedule 4 to the Licensing Act 2003.

### **‘Relevant Representations’**

Comments about the effect/likely effect of either a current premise or the grant of a Premises Licence on the promotion of the 4 Licensing Objectives. These can only be made by a Responsible Authority or an Interested Party. In the case of an Interested Party these must not be frivolous or vexatious.

### **‘Responsible Authority’**

The Chief Police Officer; Fire Authority, Health and Safety Executive/ Enforcing Authority for Health and Safety, Planning Authority, Environmental Health, Trading Standards and the Body responsible for Child Protection. These groups can make representations about an application for a Premises Licence or apply for a review of an existing licence.

### **‘Review of Licence’**

An application by a Responsible Authority or Interested Party (or additionally, in the case of a club premises certificate, a member of the club) for a Premises Licence to be reviewed based on concerns relating to the 4 Licensing Objectives.

### **‘Supply of Alcohol’**

The retail sale of alcohol or the supply of alcohol by or on behalf of a club to members of the club.

### **‘Temporary Event Notice’**

A notice to cover the use of premises for one or more licensable activities during a period not exceeding 96 hours and for less than 500 patrons

### **‘Transfer’**

A procedure where an application can be made to transfer the premises licence into a new name eg if a premises licence holder sells his premises an application may be made to transfer the premises licence to the new owner.

## APPENDIX C

### Scheme of Delegation for Licensing Act Functions

#### Scheme of Delegation for Licensing Act Functions

| <b>Matter to be dealt with</b>  | <b>Full Licensing Committee</b> | <b>Licensing Sub-committee</b>    | <b>Officers</b>                    |
|---|---------------------------------|-----------------------------------|------------------------------------|
| Application for Personal Licence  |                                 | If a Police objection             | If no relevant representation made |
| Application for Personal Licence with unspent convictions   |                                 | If relevant representation made.  | If no relevant representation made |
| 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                    |
| Application 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   |                                 | If referred by an Officer         | All other cases                    |
| Decision to object when local authority is a consultee and not the relevant authority considering the application |                                 | All cases                         |                                    |
| Determination of a Police objection to a Temporary Event Notice   |                                 | All cases                         |                                    |
| Identification of points for clarification in contested hearings  |                                 |                                   | All cases                          |
| Decision as to whether or not a club is established in good faith   |                                 |                                   |                                    |

| <b>Matter to be dealt with</b>   | <b>Full Licensing Committee</b> | <b>Licensing Sub-committee</b> | <b>Officers</b>   |
|--|---------------------------------|--------------------------------|-------------------|
| Decision as to whether a club no longer satisfies the conditions to be a qualifying club |                                 |                                | All cases         |
| Acknowledgement of receipt of Temporary event Notices                                    |                                 |                                | All cases         |
| Service of Counter Notice  |                                 |                                | All cases         |
| Rejection of Personal licence application – person under 18 years of age                 |                                 |                                | All cases         |
| Referral of Personal Licence application to Police – convictions for relevant offences   |                                 |                                | All cases         |
| Referral of Personal Licence holder to Police – convictions during duration of licence   |                                 |                                | All cases         |
| Notice requiring Personal Licence holder to produce licence for updating                 |                                 |                                | All cases         |
| Institution of proceedings   |                                 |                                | Licensing Manager |

## LIST OF RESPONSIBLE AUTHORITIES

The following are the “Responsible Authorities” in relation to licensing applications made to Darlington Council under the new legislation. Copies of application forms **must** be sent to each Responsible Authority at the same time as the application is made.

1.       **POLICE**  
Chief Officer of Police  
Police HQ  
St Cuthbert's Way  
Darlington  
DL15LB
  
2.       **FIRE AUTHORITY**  
Fire Safety Officer  
Fire Brigade HQ  
Framwellgate Moor  
DURHAM  
DH1 5JR  
**Web site [www.ddfire.gov.uk](http://www.ddfire.gov.uk)**
  
3.       **HEALTH & SAFETY**  
Environmental Health Manager  
Darlington Borough Council  
11 Houndgate  
DARLINGTON  
DL1 5RF
  
4.       **PLANNING**  
Planning Services Manager  
Darlington Borough Council  
Town Hall  
DARLINGTON  
DL1 5QT
  
5.       **ENVIRONMENTAL HEALTH**  
Environmental Health Manager  
Darlington Borough Council  
11 Houndgate  
DARLINGTON  
DL1 5RF
  
6.       **CHILD PROTECTION**  
Assistant Director Children and Families  
Town Hall  
DARLINGTON  
DL1 5QT
  
7.       **TRADING STANDARDS**  
Trading Standards Manager  
Darlington Borough Council  
11 Houndgate  
DARLINGTON  
DL1 5RF

If English is not your first language and you would like more information about this document, or if you require information in large print or braille or tape, please contact (01325) 388351.

اگر آپ کو یہ کتابچہ انگریزی کے علاوہ کسی دوسری زبان میں درکار ہو تو براہ مہربانی ٹیلیفون نمبر 01325 388351 پر فون کر کے حوالہ  
نمبر بتائیں۔

ਜੇ ਇਹ ਪਰਚਾ ਤੁਹਾਨੂੰ ਅੰਗਰੇਜ਼ੀ ਤੋਂ ਬਿਨਾਂ ਕਿਸੇ ਹੋਰ ਭਾਸ਼ਾ ਵਿਚ ਚਾਹੀਦਾ ਹੈ, ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ  
ਸਾਨੂੰ ਨੰਬਰ 01325 388351 'ਤੇ ਫੋਨ ਕਰੋ ਅਤੇ ਰੈਫਰੈਂਸ (ਹਵਾਲਾ) ਨੰਬਰ ਦੱਸੋ।

यदि आप यह प्रकाशन अंग्रेज़ी के अलावा अन्य भाषा में चाहते हैं तो कृपया संदर्भ नम्बर (रेफरन्स नम्बर)  
बताकर निम्नलिखित 01325 388351 पर संपर्क करें।

如果你需要其它语言的版本，請與以下電話聯係並報出參考號碼：01325 388351

यदि आपनार ईशरकी छाड़ा अना कोन भाषाय এই प्रकाशनाटिर दरकार থাকे, तहले 01325 388351  
नयरे कोन करान एवम् सूत्र नयरे उल्लेख करान।

إذا رغبت الحصول على هذه النشرة بلغة أخرى غير اللغة الإنجليزية نرجو  
الاتصال بنا على رقم الهاتف التالي : 01325 388351 • مع ذكر رقم الإشارة.

**PROPOSED REVISED LICENSING POLICY JUNE – SEPTEMBER 2007  
CONSULTATION RESPONSES**

| <b>Reference Number</b> | <b>Respondee</b>                        | <b>Comments</b>  | <b>Officer Response</b>  |
|-------------------------|---|--|--|
| 1                       | Fire Service                            | <ol style="list-style-type: none"> <li>1. Amendment to 9.3 of document to reflect up to date guidance</li> <li>2. Website address to be added Fire Service in list of Responsible Authorities</li> </ol>   | Both sections amended  |
| 2.                      | Trading Standards                       | <ol style="list-style-type: none"> <li>1. Grammatical corrections</li> <li>2. Insertion of revised National Alcohol strategy (5/6/07)</li> <li>3. Inclusion of Trading Standards and Children's Services in main text of consultees</li> <li>4. Insertion of "PASS" approved proof of age cards</li> </ol> | All sections amended to reflect Trading Standards comments   |
| 3                       | Punch Taverns                           | No comments to make  | Noted  |
| 4.                      | Durham Constabulary                     | Support of revisions and no additional comments to make  | Noted  |
| 5.                      | British Beer and Pub Association (BPPA) | A general letter asking that the Licensing Policy did not contain requirements that are ultra vires, eg blanket conditions   | Neither the original Policy nor the proposed revised Policy include any of the issues raised by the BBPA |
| 6.                      | Local Safeguarding Children's Board     | No comments to make  | Noted  |