

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to:	EXECUTIVE / FULL COUNCIL
Date:	8 February 2016 / 10 March 2016
Subject:	To report on the Review of the Authority's Licensing Policy
Portfolio Holder(s):	Licensing section of the Trading Standards, Public Protection Department
Head of Service:	Jim Woodcock
Report Author:	Dafydd Merfyn Jones, Principal Officer
Tel:	01248 752847
E-mail:	dmjpp@anglesey.gov.uk
Local Members:	Portfolio Member Richard Dew

A –Recommendation/s and reason/s

To endorse report and adopt amended Policy – following Review of the Authority's Licensing Policy

B – What other options did you consider and why did you reject them and/or opt for this option?

The Authority is required under the terms of the Licensing Act 2003 to Review its Licensing Policy every five years. However the introduction of the Deregulation Bill plus changes in other sections of existing legislation has necessitated an early review. The Review was also conducted as part of a collaborative exercise with the other North Wales Authorities

C – Why is this a decision for the Executive?

All matters relating to Licensing Policy fall under the auspices of the Full Council

CH – Is this decision consistent with policy approved by the full Council?

Yes - all activities relating to Licensing Policy are Council, as opposed to Executive functions – by virtue of Section 5 – 8 of the Licensing Act 2003

D – Is this decision within the budget approved by the Council?

There is no additional cost to the Authority and the Policy could provide for an increase in income

DD – Who did you consult?

What did they say?

1	Chief Executive / Strategic Leadership Team (SLT) (mandatory)	No comment
2	Finance / Section 151 (mandatory)	No comment
3	Legal / Monitoring Officer (mandatory)	Policy approved
4	Trading Standards Environmental Health Planning Tourism Social Services	
5	Property	Agreed to evaluate applications on their own merit
6	Information Communication Technology (ICT)	
7	Scrutiny	
8	Local Members	No observations received
9	Any external bodies / other/s	Police – No comment Fire & Rescue Service Betsy Cadwaladr Health Board

E – Risks and any mitigation (if relevant)		
1	Economic	The Licensing Policy sets out the due process and the Authority's concern for the sale and supply of alcohol, regulated entertainment and late night refreshment throughout the district
2	Anti-poverty	To provide opportunities for employment across a wide range of opportunities in a safe and approved environment
3	Crime and Disorder	Control of Crime and Disorder is one of the Four main Objectives of the Act and the Authority's approved Policy
4	Environmental	Local Environment protected by Conditions
5	Equalities	An Equalities Impact Assessment was fully considered however as the Revised Policy is substantially based on the current Policy adopted in late 2013 also continues in line with the Act and general guidance no adverse impact is anticipated
6	Outcome Agreements	

7	Other	Improves collaborative working with the Emergency Services, other Responsible Authorities and other North Wales Authorities
---	--------------	---

F - Appendices:

Appendix A - The revised Policy containing the principles, rules and guidance, method of application, public health considerations, recent legislative changes and a glossary of terms.

FF - Background papers (please contact the author of the Report for any further information):

Licensing Act 2003
Deregulation Bill 2015
Home Office Guidance issued under section 182 of the Licensing Act 2003
The Live Music Act 2012
Anti-Social Behaviour Crime and Policing Act 2014



CYNGOR SIR
YNYS MÔN
ISLE OF ANGLESEY
COUNTY COUNCIL

LICENSING POLICY

1. Background
2. Scope and Extent of the Licensing Act
3. Licensing Objectives
4. Cumulative Impact, Late Night Levy & Early Morning Restriction Orders
5. Planning/Building Control
6. Premises Licence (New Application, Variations & Terms and Conditions)
7. Temporary Event Notices
8. Personal Licences
9. Club Premises Certificates.
10. Operating Schedule
11. Hours of Operation
12. Enforcement
13. Licensing Process
14. Licensing Committee
15. Additional information

Appendix 'A' Guidance on the procedures & problem premises + Delegation Chart

Appendix 'B' Public Health

Appendix 'C' Mandatory Licensing Conditions

Appendix 'D' Recent Legislative Changes

Appendix 'E' Glossary of Terms

1. Background

1.1 The Licensing Policy Statement is based upon the Licensing Act 2003. This document sets out the policies that the Council will apply when making decisions upon applications, hearings, reviews and appeals, for:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of a member of the club;
- The provision of late night refreshment (supply of hot food or drink from a premises between 23.00 and 05.00 hours); and
- The provision of regulated entertainment to the public or club members or with a view to making profit including raising money for charity where the entertainment involves:
 - A theatrical performance or film exhibition
 - An indoor sporting event
 - Boxing or wrestling bouts
 - Performance of live music
 - Playing of recorded music
 - Dance performance
 - *Live Music Act – see Appendix D*

1.2 Guidance on the procedures to be followed by applicants and those making representations may be found attached as Appendix 'A'

1.3 The Isle of Anglesey is a rural area with a population of 70,000 mainly centered around Holyhead, Llangefni, Amlwch and Beaumaris surrounded in turn by numerous villages each with their own individual character. It has 129 miles of coastline and attracts large amounts of visitors, especially over the main holiday periods.

1.4 There are few recognized "night clubs" or major concentration of licensed premises with village and school halls providing venues for social and cultural events. Several open air concerts and shows provide for the larger and temporary events.

2. Scope and Extent of the Licensing Act

2.1 It is the duty of the Council to carry out its functions under the Act with a view to promoting with equal importance the **Four Licensing Objectives**, expanded upon in Sections 3 to 6:

- **Prevention of Crime and Disorder;**
- **Public Safety;**
- **Prevention of Public Nuisance and,**
- **Protection of children from harm.**

2.2 It is recognised that the licensing function is only one means of securing the delivery of the above objectives. The Council will therefore continue to work in partnership with its Local Communities, the police, local businesses and all other relevant stakeholders and partners.

- 2.3** In undertaking its licensing function, the licensing authority is also bound by other legislation:
- Section 17 of the Crime and Disorder Act 1998 requires a local authority to do all that it reasonably can to prevent crime and disorder in its locality.
 - The European Convention on Human Rights, which is given effect by the Human Rights Act 1998, places a duty on public authorities to protect the rights of individuals in a variety of circumstances.
 - Health and Safety at Work Act 1974 and Health Act 2006 (Smoke free Premises 2007)
 - Environmental Protection Act 1990;
 - Disability Discrimination Act 1995 and The Anti-social Behaviour Act 2003
 - The Local Authorities (Alcohol Consumption in designated Public Places Regulations) 2001. Health Act 2006
 - Violent Crime Reduction Act 2006 and Crime and Disorder Act 1998
 - Crime and Security Act 2010 and Schedule 7 Policing & Crime Act 2009
 - Race Relations Act 1976 as amended by the Race Relations (amendment) Act 2000
 - Gambling Act 2005, The Regulatory Enforcement and Sanctions Act 2008
 - European Union Service Directive, The Provisions of Service Regulations 2009
 - The Equality Act 2010
 - Police Reform and Social Responsibility Act 2011
 - The Live Music Act 2012
 - Anti-Social Behaviour Crime and Policing Act 2014, Immigration Act

Notes: - Where existing law already places statutory obligations on applicants the Council will not impose the same or similar duties by way of condition on the premises licence or club.

- 2.4** The Licensing Authority will also seek to discharge its responsibilities identified by other Government Strategies, so far as they impact on the objectives of the Licensing Bill. Examples of these Strategies are set out below:
- Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance;
 - Safer Clubbing;
 - Local Government Regulation /Trading Standards Institute (TSI) Code of Best Practice on Test Purchasing;
 - Crime and Disorder Reduction Strategy and,
 - Enforcement Concordat.
 - The Government Alcohol Strategy presented to Parliament March 2012

Many of these strategies are not directly related to the promotion of the four licensing objectives, but indirectly impact upon them. Co-ordination and integration of such policies, strategies and initiatives are therefore important and are underlined in the Government Strategy which is expected to look at minimum unit pricing, integrating strategies of health, social services, criminal justice and education.

- 2.5** The Council would also draw attention to examples of initiatives that are relevant to licensing:
- *CCTV coverage of town centre*
 - *Exclusion Orders from Town Centre*
 - *Safer Clubbing Guide*
 - *Pub Watch & Safety Advisory Group*

- 2.6** The objective of the licensing process is to allow the carrying on of retail sales of alcohol and the provision of licensable activities in a way which ensures public safety and which is neither to the detriment of residents, or gives rise to loss of amenity. It is the Council's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 2.7** The Council recognises that the entertainment industry on the Island is a contributor to the local economy. It attracts tourists and visitors, makes for vibrant towns and communities and is a major employer. Commercial occupiers of premises also have a legitimate expectation of an environment that is attractive and sustainable for their businesses. But there must be a balance with the needs of the residential population, whose amenity the Council has a duty to protect.
- 2.8** The Council will also have regard to wider considerations affecting the amenity of any area. These include littering and fouling, noise, street crime, the capacity of the Island's infrastructure, the Island's resources and also police resources to cope with the influx of visitors, particularly at night.
- 2.9** The Council has adopted this policy, which sets out the general approach the Council will take when it considers applications for premises and personal licences. In adopting this policy, the Council recognises that each application will be considered on its merits.
- 2.10** The purpose of the Statement of Licensing Policy is to assist officers and members in reaching a decision on a particular application, setting out those matters that will normally be taken into account. In addition, the Policy document seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move to, remain or invest in the Island with some measure of certainty.
- 2.11** The Licensing Act 2003 makes provision for this policy (initially enacted in January 2005) to be consulted on and reviewed periodically however due to the introduction of the Police Reform & Social Responsibility Act 2011 the Policy was reviewed in April 2012 and subsequently in January 2013.

The Review in December 2012 centered on the Live Music Act 2011 which came into force on the 1st October and the Late Night Levy and Early Morning Restrictions Orders enacted on the 31st October, 2012. This latest and current version was reviewed in late 2015 and enacted on the 24st February, 2016.

- 2.12** The policies will normally apply to any licence application determined after the date that the Council resolved to make these policies operational, irrespective of the date on which the application was made. This Policy applies to;
- Premises Licence
 - Club Premises Certificate
 - Personal Licence & Temporary Event Notice

- 2.13** Where the Guidance published by the Government under Section 182 of the Licensing Act 2003 is revised at any time the Licensing Authority will have regard to it where it departs from this Policy.
- 2.14** The Council will have due regard to the representations of the Public Health Authority which is one of the additional Responsible Authorities that will be consulted regarding Premises Licences. Although there is no specific Licensing Health Objective it is reasonable for a Health Authority to comment on the safety of the public within the scope of the night time economy and any strain placed on its service and resource.
- 2.15** The Council will also have due regard to the representations of the Licensing Section of the Authority which is one of the additional Responsible Authorities that will be consulted regarding Premises Licences. This will allow the Licensing Authorities to take further steps in addition to the current coordinating function and be able to refuse, remove or review licences themselves without having first received representations from another party.

3. Licensing Objectives

Prevention of Crime and Disorder

- 3.1** The Statement of Licensing Policy and the procedures and conditions that form part of the process should promote the Licensing Objectives (see Para 1.3).
- 3.2** To achieve these objectives the authority will use a full range of measures including its planning controls, transport controls, crime and disorder policies and powers. The Council will enter into partnership arrangements, working closely with the police, the fire authority, local Health Board, local businesses, community representatives and local people in meeting these objectives.
- 3.3** The Council will have regard to the Crime and Disorder Act 1998 under which it has a duty to prevent/reduce crime and disorder in the area.
- 3.4** One of the key priorities of the Council's Crime and Disorder Strategy is to reduce the level of crime in specified areas. The policy will have regard, therefore, to the likely impact of licensing on related crime and disorder on the Island, particularly when considering the location and impact and the operation and management of all proposed licence applications, renewals and variations of conditions.

The Council will have due regard to the representations of North Wales Police Service, unless there is clear evidence that these are not relevant, which is one of the Responsible Authorities that will be consulted regarding premises licence and Temporary Events Notices applications.

3.5 Safer Clubbing

The Council wishes to promote the principles of "Safer Clubbing". It will recommend the current Home Office guidance on the subject to relevant Premises Licence and Club Premises Certificate holders. Appropriate and proportional licensing conditions may be imposed to control the environment at relevant premises in support of the "Safer Clubbing" objectives.

3.6 **Drugs**

Special conditions will need to be imposed for certain types of venues to reduce the possibility of sale and consumption of drugs and to create a safer environment for those who may not have taken any cognisance of such matters, further conditions may be imposed from time to time. These conditions take into account the above-mentioned "Safer Clubbing" advice issued by the Home Office. In all cases where these conditions are to be imposed, advice will be taken from the local Drugs Action Team and the Police.

3.7 **Door Supervisors**

The Council may consider that certain premises require supervision for the purpose of promoting the reduction of crime and disorder, and to generally provide a safer operation of the premises. In such cases, the Council may impose a condition that licensed door supervisors (approved by the Security Industry Authority) must be employed at the premises either at all times or at such times as certain licensable activities are being carried out, and at a number and ratio to be determined by the Council.

3.8 **Late Night Levy**

Changes in the primary legislation through the Police Reform & Social Responsibility Act 2011 provided a potential for the Authority to adopt an additional local power to assist in the control of any adverse effect the Late Night Economy could have on the local community, including the cost of enforcement and management. The Late Night Levy would potentially allow the Authority to raise a contribution from late-opening alcohol suppliers towards the cost of Policing that aspect of the economy

3.9 **Early Morning Restriction Orders**

The Early Morning Restriction Orders are seen as a simple prepackages tool for potential use by the Authority to readjust the focus of the night time economy away from problem drinking, if such measures would promote the Licensing Objectives. Technically after a period of consultation and a potential Hearing the opening hours of problem premises and even problem areas could be reduced or curtailed between the hours and midnight and 0600 hours.

Public Safety

3.11 The Council wishes to promote high standards of public safety in relation to premises and activities within the scope of the Licensing Act 2003 and the non-smoking regulations laid down in the Health Act 2006..

3.12 The Environmental Health Section of the Council which enforces health and safety requirements in relevant premises will be consulted as a Responsible Authority and its officers may also act as Authorised Persons for enforcement purposes under the Licensing Act 2003.

3.13 The Council recognises that general health and safety duties will not always adequately cover specific issues that arise in premises in connection with certain entertainments and therefore conditions will need to be attached to a licence / certificate. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness and alcohol poisoning. There must be no doubt that it remains an offence to sell or supply alcohol to a person who is drunk.

3.14 In the case of premises requiring a Premises Licence or Club Premises Certificate the Council may select certain conditions if they are appropriate and proportional to the nature of the activities specified in the operating schedule, and reflect the four licensing objectives set out at Para 1.3.

3.15 Where activities are organised by volunteers or a committee of a club or society or community premises the Council considers it good practice that the same level of health and safety protection is provided as if an employer / employee relationship existed, irrespective of whether there are strict legal duties applicable under the health and safety legislation.

Applicants are also encouraged to take a proactive approach to general safety issues, including that of their customers, and to discuss appropriate measures with the responsible authorities concerned

3.16 Where any conditions have been applied to a Premises Licence or Club Premises Certificate an Authorised Officer of the Council may inspect the premises at any reasonable time for the purpose of checking that the conditions are being complied with.

3.17 The Council would expect that organizers of any large scale events, where licensable activities are to take place, to prepare an event management plan incorporating appropriate risk assessments and present them to the Safety Advisory Group.

3.18 Fire Safety

The Council will have due regard to the representations of North Wales Fire Service which is one of the Responsible Authorities that will be consulted regarding licence / premises certificate applications.

3.19 The Council may select appropriate and proportional conditions from a range conditions in relation to fire safety matters in consultation with North Wales Fire Service.

In any premises where a work activity takes place the Fire Precautions (Workplace) Regulations 1997 (as amended), The Regulatory Reform (Fire Safety) Order 2005 will also apply. These regulations are enforced by North Wales Fire Service and will confer a statutory duty on premises supervisors to conduct their own Risk Assessments on each Premises.

The Risk Assessment document should address the occupancy figures for the licensed Premises.

Prevention of Public Nuisance

3.20 The Council when making objective judgments about what constitutes a nuisance will focus on impacts of the licensable activities at the relevant premises on people living and working in the vicinity that are unreasonable. The issues will mainly concern;

- Noise from premises;
- Waste;
- Litter;
- Car Parking;
- Light pollution and Noxious odours.

- 3.21 In considering the potential impact of licensed premises on the surrounding locality the Council will initially take into account the type of entertainment activity, proposed hours of operation, the capacity of the premises and the character of the area and proximity to local residents. Additional options could be the introduction of Early Morning Restriction Orders or even the Late Night Levy within that area
- 3.22 The Environmental Health Section of the Council enforce the provisions of the Environmental Protection Act 1990 which relate to noise nuisance and will be consulted in relation to existing premises if a nuisance is caused to residents or the business community. They will also be consulted with regard to the prevention of public nuisance and on receipt of a Temporary Event Notice.
- 3.23 The Council will use a range of licence conditions to control noise from existing premises and to advise developers on the required noise attenuation for new premises (*reference may be made to the 'Good Practice Guide on the Control of Noise from Pubs and Clubs'*). Stricter conditions with regard to noise control will be imposed in areas where the premises are adjacent to residential property.
- 3.24 The Council will not impose conditions on licensed premises that the licensee cannot directly control, or on matters not related to the immediate vicinity of the premises.
- 3.25 North Wales Police also have powers under the Licensing Act 2003 to control noise from premises; in the event that they have to invoke these powers they shall liaise, where practicable, with the Council in accordance with the protocol regarding shared enforcement protocol.
- 3.26 Noise and disturbance arising from the behaviour of patrons that entering or leaving the premises are matters for personal responsibility and are subject to Police enforcement of the normal law concerning disorder and anti-social behaviour.
- 3.27 The Council will balance the potential for limited disturbance in neighbourhoods with the need to encourage and promote live music, dancing and theatre.
- 3.28 The introduction of the non-smoking regulations under the terms of the Health Act 2006 hold implications for potential public nuisance through noxious smells and noise disturbance from crowds gathering outside a Licensed Premises to smoke. Designated Premises Supervisors should be aware that there remains a statutory duty to abide by the four main licensing objectives.
- 3.29 The Council will work together with Licensed Premises Operators to ensure all appropriate terms of the Clean Neighbourhoods and Environment Act 2005 are upheld.
- 3.30 The Anti-Social Behaviour Act 2003 makes provision for the closure of premises for up to 24 hours where noise from any licensed premises is causing a public nuisance.

Protection of Children from Harm

- 3.31 The Council recognises the great variety of premises for which licences may be sought. These will include for example; theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-aways, community halls and schools. Access by children to all types of premises will not be restricted in any way unless it is considered appropriate and proportional to do so in order to protect them from harm in some way.
- 3.32 When considering applications for premises licences, the Council will take into account the history of a particular premises and the nature of the activities proposed to be provided when considering any options appropriate to prevent harm to children. For example where:
- There have been convictions for serving alcohol to minors or where the premise has a reputation/evidence for underage drinking (to include any action undertaken by the Trading Standards Section of the Council regarding test purchases in relation to the supply of alcohol);
 - There is a known association with drug taking or dealing;
 - There is a strong element of gambling on the premises; or
 - Entertainment of an adult or sexual nature is commonly provided.
- 3.33 Where the circumstances described in 6.2 exist then conditions may be attached to the licence to protect children from harm. Such conditions may include:
- Limit the hours when children may be present;
 - Restrict the age of persons on a premises (below 18);
 - Limit or exclude when certain activities may take place; or
 - Require an accompanying adult.
- 3.34 The Police Reform & Social Responsibility Act 2011 allows Licensing Authorities and the Police the option of imposing a period of voluntary closure of up to two weeks (48 hours minimum) on a premises persistently selling alcohol to children as an alternative to prosecution in some cases. The maximum fine has been increased to £20,000.
- 3.35 Where large numbers of children are likely to be present on any licensed premises, for example a children's show or pantomime, then the Council will require the presence of an appropriate number of adult staff (who will have provided a satisfactory Criminal Records Bureau Disclosure) to ensure their safety and protection from harm.
- 3.36 Where the exhibition of films is permitted the authority will expect age restrictions to be complied with in accordance with the British Board of Film Classifications recommendations. *Only in exceptional cases will the authority consider variations of this general rule.*

- 3.37 No film shall be exhibited at licensed premises which is likely to:
- Lead to disorder;
 - Stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender.
- 3.38 The Council will not impose any condition, which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the individual licensee or club.
- 3.39 The Gambling Act 2005 allows a degree of equal chance gaming on licensed premises plus a limited number of gaming machines and the presence of children or vulnerable persons will have to be monitored by the Council and the Designated Premises Supervisor.
- 3.40 Sexual Entertainment Venues** - With the introduction of Section 27 of the Policing and Crime Act 2009 and where a Council has adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 any premises used for more than 12 occasions within a 12 month period for any relevant sexual entertainment, the premises must also be licensed as a Sexual Entertainment Venue. Relevant sexual entertainment includes: lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows.

4. Cumulative Impact, Late Night Levy & Early Morning Restriction Orders

- 4.1 The cumulative effect of a proliferation of late night entertainment premises (including night cafes) may result in an increase in numbers of people either walking through or congregating in streets during the night. The consequences of this may lead to;
- An increase in crime;
 - An increase in noise causing disturbance to residents;
 - A significant increase in the level of pedestrian traffic;
 - Traffic congestion and/or parking difficulties;
 - Littering and fouling.
- 4.2 This may result in an unacceptable interference with the amenity of local residents, as it will not always be possible to attribute the cause to patrons of particular premises. This means that while enforcement action to ensure conditions are complied with is taken, this may not resolve all problems in a locality.
- 4.3 In such circumstances the Council may decide to refuse to accept new licences within that area because of the inherent problems associated with the operation of licensed premises. Any applications would, however be considered on its own merits and would be given proper consideration.
- 4.4 In determining applications for a particular area the Council may, among other things-
- Gather evidence or identification of serious and chronic concern from a responsible authority or local residents about nuisance and disorder
 - Identify the area from which problems are arising and the boundaries of that area
 - Make an assessment of the causes

4.5 It should be noted that Licensing is only one means of addressing the problems identified above, and the following mechanisms should be considered in an attempt to deal with the problem(s)

- Planning controls;
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly and confiscation of alcohol in these areas;
- Police powers to close down premises or temporary events for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise;
- Prosecution of personal licence holders who sell alcohol to people who are drunk;
- Powers of the Police, responsible authorities or a local resident or business to seek a review of a licence or premises certificate.

4.6 Early Morning Restriction Order (EMRO).

Allows for early morning restriction on the sale of alcohol in all or part of the Authority area between Midnight and 0600 hours.

Persons that may be affected by an EMRO will have 42 days to make relevant representations for, or against, a proposed EMRO. The Authority will be required to notify licensed premises that would be included in the scope of a proposed EMRO, rather than all premises within the licensing area. A proposal to introduce an EMRO should be publicised on the Authority web site and in a local newspaper.

There will be no exemptions from an EMRO however there will be provision to ensure premises with overnight accommodation can still provide room service and mini bars. EMRO's will not apply to New Year's Eve celebrations.

4.7 Expansion on the Late Night Levy order

The Late Night Levy will be a local power the Authority can choose whether or not to exercise but in making its decision the Authority will have to consider – the cost of policing and other arrangement for the reduction or prevention of crime and disorder in connection with the supply of alcohol between midnight and 0600 hours – also give regard to those costs, the desirability of raising revenue to be applied in accordance with the Regulations.

Local Residents can use their existing rights to make representations and other channels of communication to call for the implementation of the levy in the area. The Authority would be able to fund the services that are connected to the management of the night time economy however the Police would have more scope as to where their share of the levy would be allocated

The Authority would be able to offer up to 30% reduction in the Levy amount for premises demonstrating good practise or playing an active part in a Pubwatch or Best Bar None scheme. Premises with overnight accommodation, theatres, cinemas, bingo halls, community premises and some village inns will be able as a discretionary local exemption from the levy

As of September 2015 Central Government through the auspices of the Home Office are consulting on changes to the Late Night Levy and there may have to be future amendments to the Policy and Guidelines. It may be advisable to contact the Home Office for the latest Guidelines.

5. Planning/Building Control

- 5.1 Any premises for which a license is required the Council will expect, although not a legal requirement, that applicants will hold an authorised use under the planning legislation.
- 5.2 Welsh Assembly planning policy is set out in Planning Policy Wales and Technical Advice Notes. The Council's Planning Policies are set out within the Anglesey Unitary Development Plan.
- 5.3 In general, planning permissions authorise a broad type of use of a premises, whereas licences are granted for a particular type of activity. A planning permission for an entertainment use, for example may cover activities that can have a wide range of different impacts in the locality. The precise nature of the impacts of the specified activities proposed by an applicant for a premises licence need to be considered when the application is made.
- 5.4 Planning and Licensing regimes involve consideration of different (albeit related) matters. For example Licensing may consider public nuisance whereas planning would consider amenities and as such licensing applications should not be a re-run of planning applications but the Council will expect applicants to submit details of any restrictions that may have been imposed by a planning committee.
- 5.5 When any hours differ from Planning and Licensing hours the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
- 5.6 The Council will encourage licence holders to provide facilities enabling the admission of people with disabilities. No conditions will be applied which could be used to justify exclusion on the grounds of public safety.
- 5.7 **Building Control.** It should be borne in mind that Building Regulations govern a variety of issues, which directly contribute to the Licensing Objectives, including means of escape, structural integrity, accessibility and public safety. Building Regulation Approval and Completion Certificates may be required prior to the use of the premises for licensable activities

6. Premise Licence (New Applications and Variation of existing Terms and Conditions).

- 6.1 In considering all new or variation applications, the Council will assess them in light of the licensing objectives and in particular will consider the following:
- 6.2 The steps the applicant has taken or proposes to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.

- 6.3 The steps the applicant has taken or proposes to prevent disturbance by patrons arriving at or leaving the premises.
- 6.4 The steps the applicant has taken or proposes to take to prevent queuing, or, if queuing is inevitable, to divert queues away from neighbouring premises, or otherwise to manage the queue to prevent disturbance or obstruction.
- 6.5 The steps the applicant has taken or proposes to ensure staff leave the premises quietly.
- 6.6 The arrangements made or proposed for parking by patrons, and the effect of parking on local residents.
- 6.7 Whether there is sufficient provision for public transport for patrons.
- 6.8 Whether taxis and private hire vehicles serving the premises are likely to disturb local residents.
- 6.9 Whether routes to and from the premises on foot or by car or service or delivery vehicles pass residential premises.
- 6.10 Whether other measures to prevent nuisance have been considered, such as the use of CCTV or the employment of registered door supervisors.
- 6.11 The measures proposed to prevent the consumption or supply of illegal drugs, including any search procedures.
- 6.12 The measures proposed to comply with the Disability Discrimination Act
- 6.13 The likelihood of violence, public disorder or policing problem arising if a licence was granted.
- 6.14 If the applicant has previously held a licence within the Council, the details of any enforcement action arising from that premises.
- 6.15 Whether the premises would result in increased refuse storage or disposal problems, or additional litter in the vicinity of the premises.
- 6.16 Representations from responsible authorities*
- 6.17 Representations from interested parties**
- 6.18 The Police Reform & Social Responsibility Act 2011 also requires applicants when outlining the steps above to provide further contextual information in support and to demonstrate an awareness of the local community; which could include the area's demographic characteristics and/or specific local crime and disorder issues for example.
- 6.19 When appropriate arrangements are to be made for the committee to receive reports on the needs of the local tourist economy for the area to ensure that these are reflected in their considerations. Similarly the licensing committee should be appraised of the employment situation in the area and the possible need for new investment and employment where appropriate.

6.20 Live Music will cease to make regulated entertainment in venues licensed for the sale and supply of alcohol for consumption on the premises under the following situations: when it is unamplified and takes place between 8 a.m. and 11 p.m. or when it is amplified and takes place in the presence of an audience of 200 persons or less and is provided between 8 a.m. and 11 p.m. - unless the Authority states otherwise on the licence pursuant to a Review Hearing.

6.21 The introduction of a Late Night Levy or Early Morning Restriction Order

(Includes North Wales Police, North Wales Fire Authority, the Council's Environmental Health and Planning Sections.*

*** Includes persons living and businesses operating in the vicinity of the premises.)*

In addition in the case of an application for variation:

6.22 The Council will take account of any non-compliance of other statutory requirements brought to its attention, particularly where these undermine the licensing objectives set out at paragraph 1.3. This is because any non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed; or that the management of the premises is not adequate to protect the public from harm or nuisance.

6.23 Whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse impacts.

6.24 Minor Variations – A premises licence/club premises certificate holder may apply under the “minor variation” procedure for small variations that will not impact adversely on the licensing objectives. There is no right to a hearing, however if the application is rejected, a full variation may be made.

6.25 Disapplication of Designated Premises Supervisor – Where community premises hold a premises licence allowing the supply/sale of alcohol, the licence holder can apply to have the mandatory condition requiring a Designated Premises Supervisor to be appointed, be removed. This passes the responsibility for the sale/supply of alcohol to the premises Management Committee.

6.26 **Premises Licence Annual Fee** - Although premises licences and club premises certificates are granted in perpetuity, licence holders are required to pay an annual fee to the Licensing Authority in relation to both the above

The annual fee becomes payable upon the anniversary of the grant of the premises licence/club premises certificate.

Historically non-payment of annual fees was only recoverable as a civil debt and the premises licences/club premises certificates remained in place regardless of whether payment was received.

During 2012 the Police Reform and Social Responsibility Act amended the Licensing Act 2003 to impose a requirement on Licensing Authorities to suspend premises licences and club premises certificates, where the annual fees were not paid.

The effect of this provision is that Licensing Authorities must now suspend premises licences and premises licence certificates until the fee is paid, and does not have any discretion as to whether or not to impose such a suspension. In accordance with the new provisions once the fee has been paid the licence is automatically re-instated

7 Temporary Event Notices

The Council will produce clear and understandable local publicity about temporary permitted activities. Ten working days (*i.e. ten clear working days excluding the day of submission and the day(s) of the event*) will be the minimum and standard notice period, however in the interest of open consultation, the Council would encourage 20 day's notice to be provided.

For the purpose of a TEN, a temporary event is a relatively small-scale event attracting fewer than 500 people.

7.1 Both the Police and the Environmental Health Department can object to a Temporary Event Notice, within a three day window of submission, which will allow a period for a review of the Notice leading to a modification or in some cases for the Council to add conditions to the Notice.

7.2 A late Temporary Event Notice can be submitted between 9 and 5 working days before the Event but if objections are raised by the Police or Environmental Health there will be no avenue of appeal.

7.3 The duration limit for a Temporary Event Notice has been extended under the terms of the Police Reform & Social Responsibility Act 2012 from the original 96 hours to a maximum of 168 hours in the main to facilitate touring theatres, circuses and voluntary groups wishing to hold a week-long event without the necessary 24 hour break under the terms of the old legislation and on the total annual availability covered by a Temporary Event Notice in relation to a single premises from 15 days to 21 days.

If you have a personal licence, you can give 50 TENs (made up of standard and late TENs) a year; if you don't have a personal licence you can only give 5 (made up of standard and late ENs).

If you have a personal licence, you can give 10 late TENs a year; if you don't have a personal licence you can only give 2 late TENs.

7.4 The Council will proactively provide extensive advice about organising such events, including the issue of public safety. Where the need arises, coordination between responsible authorities and the emergency services will be facilitated through the Safety Advisory Group.

7.5 Many local events will be organised by volunteers or a committee of a club or society. The Council considers it good practice that the same level of health and safety protection is provided as if an employer/employee relationship existed, irrespective of whether there are strict legal duties applicable under the health and safety legislation.

8 Personal Licences

The Council will issue full and clear guidance regarding personal licences but each premises, which holds an appropriate Premises Licence must have a nominated Designated Premises Supervisor for each site. The Designated Premises Supervisor must hold a personal licence however is not required to be present at all times but may authorise other persons to sell alcohol but it is advisable that such authorisation is made in writing. The overall responsibility of operating a licensed premises will fall to the Designated Premises Supervisor and he/she will be the principle point of contact for the Council, Police and other nominated Responsible Authorities.

8.1 Before the Council will consider the grant or renewal of a license to an applicant he must be in a position to confirm the following:

They are over 18

They possess a relevant licensing qualification

That no license held by them has been forfeited in the period of 5 years prior to this application

They have not been convicted of any relevant offence

Notes: - Relevant offences as referred to above shall include offences such as

Serious violence

Serious dishonesty (including involvement in the sale of smuggled tobacco and alcohol)

The supply of drugs

Offences requiring an entry on the sex offences register

Breach of alcohol licensing laws

8.2 Personal Licences are valid for an indefinite period however once issued the licensing authority which issued the license remains the relevant licensing authority for it and its holder even though the holder may move out of the district.

8.3 The holder of a Personal Licence is also required to notify the Licensing Authority of any relevant convictions and to notify the courts that they hold a personal licence at the first possible opportunity in order that the licence can be considered for endorsement, suspension or revocation. It will be an offence not to conform with the above.

9. Club Premises Certificates

9.1 Some activities carried out by clubs need to be licensed under the Act but generally clubs are treated differently to proprietary clubs and commercial premises. A club is an organisation where members have joined together for a particular reason i.e. social, sporting or political and have combined to buy alcohol in bulk as members of the organisation for supply to members. In order to apply for a Club Premises Certificate the club needs to be a 'Qualifying Club'.

9.2 A qualifying club:

- Have members. Membership is not instant. There is a minimum of 2 days between applications for membership and admission. This includes the privileges of membership (i.e. use of facilities and the consumption of alcohol)
- Has at least 25 members
- The club is conducted in good faith and has full accountability to its members
- Where alcohol is purchased and supplied, that it is done so by an elected committee of the club.

This will entitle them to certain benefits:

- No need for Personal Licence Holders on the premises
- No need for Designated Premises Supervisors
- More limited rights of entry for the Police and Authorised Persons (Licensing Officers) as the premises is considered private and not generally open to the public
- To sell hot food and drink between 11pm and 5am to members and guests without the need for a licence.

10. Operating schedule

- 10.1 All new and variation applications should incorporate an ‘operating schedule’ which outlines how the premises will be operated. This should include details of how the applicant will promote the four licensing objectives and reduce any potential negative impact from the operation of their business on the local community, depending on the type of premises, location and profile of customers.

The proposals contained in the operating schedule will form the main body of the conditions to be applied to the licence, together with any applicable mandatory conditions, any conditions agreed with responsible authorities during the application process and any conditions imposed by a licensing sub-committee where representations have been made.

- 10.2 In completing an operating schedule, applicants are expected to have regard to this statement of licensing policy and to demonstrate suitable knowledge of their local area when describing the steps that they propose to take in order to promote the Licensing Objectives. To demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:
- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
 - any risk posed to the local area by the applicants’ proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.
- 10.3 The Licensing Authority will provide general advice on the drafting of operating schedules and applicants are strongly recommended to discuss their operating schedules with the Licensing Authority and other Responsible Authorities prior to submitting them.

- 10.4 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises concerned. For premises such as a public house where regulated entertainment is not provided, only a relatively simple document may be required. However for an operating schedule accompanying an application for a major entertainment venue or event, it will be expected that issues such as public safety and the prevention of crime and disorder will be addressed in detail
- 10.5 The operating schedule must be set out on the prescribed form and include a statement of the following:-
- Full details of the licensable activities to be carried on at and the intended use of the premises;
 - The times during which the licensable activities will take place;
 - Any other times when the premises are to be open to the public;
 - Where the licence is only required for a limited period, that period;
 - Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor;
 - Whether alcohol will be supplied for consumption on or off the premises or both;
 - The steps which the applicant proposes to promote the Licensing Objectives.
- 10.6 For some premises, it is possible that no measures will appropriate to promote one or more of the Licensing Objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be:
- Precise and enforceable
 - Be unambiguous
 - Not to duplicate other statutory provisions
 - Be clear in what they intend to achieve, and
 - Be appropriate, proportionate and justifiable

11. Hours of Operation

- 11.1 The Council recognises that fixed and artificially early closing times in certain areas can lead to disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time however under the terms set out in the Guidance issued under Section 182 of the Licensing Act 2003 there is no general presumption in favour of lengthening hours.

The four licensing objectives will be the paramount consideration at all times and each case will be judged on its individual merits.

- 11.2 Longer licensing hours for the sale of alcohol may therefore be a factor in reducing problems at late night food outlets, taxi ranks, private hire offices and other sources of transport, which lead to disorder and disturbance.
- 11.2 Shops, stores and supermarkets will be permitted to sell alcohol for consumption off premises at times when they are normally open in the course of their business. Hours may be restricted when representations are received from the Police or resident(s) in the case of individual shops, which are known to be a focus of disorder and disturbance.

11.3 When considering applications for premises licences, the Council will take into account an applicant's requests for terminal hours (the close of business) in the light of the:

Environmental quality;

Residential amenity;

Character or function of a particular area and,

Nature of the proposed activities to be provided at the premises.

11.4 The terminal hours will normally be approved where the applicant can show that the Proposal would not adversely affect any of the above. The Council may set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area.

11.5 Where premises are situated adjacent to residential areas then stricter conditions with regard to noise control may apply, but this should not limit opening hours provided the required conditions are complied with.

12 Enforcement

12.1 Protocol exist on the implementation of a shared enforcement role between the Council and North Wales Police and the Fire and Rescue Service as well as a local Enforcement ladder protocol again agreed between the Council and the Police.

12.2 In general terms, action will only be taken in accordance with agreed enforcement principles and in line with the Council's own enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

12.3 An amendment to the Licensing Act 2003 under the terms set down in the Violent Crime Reduction Act 2006 enabled the Licensing Authority, on the application of a Senior Police Officer to attach interim conditions to licences pending a full review of the licence.

12.4 **Crime & Security Act 2010** – amends the Licensing Act 2003 to allow local authorities to make early morning alcohol restriction orders effectively overriding any premises licence, club certificate or temporary event notices which authorizes the sale of alcohol between the hours of 0300 hours and 0600 hours. The Council must also suspend a premises licence or a club premises certificate for nonpayment of the annual fee. Suspension is by notice operative at least 2 days after notice is given (following a grace period).

12.5 Police Reform & Social Responsibility Act 2011 expands on the above and allows through the auspices of Early Morning Restriction Orders for premises or even areas to be restricted from operating for specified periods between the hours of midnight and 0600 hours.

12.6 The above mentioned Act also allows for the potential of applying a Late Night Levy on premises operating between midnight and 0600 hours to cover the cost of additional policing of the late night economy

12.7 Annual Fees

Amendments made to the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2010 gives councils the power to suspend premises licences and club premises certificates where the annual fee required by regulations is not paid.

- 12.8 The council will suspend any licence or certificate where the required fee is not paid by the 'due date', which is annually on the anniversary of the date that the licence was first granted. The council will follow the below procedure:-
- 12.9 Upon notification/discovery that an annual fee is not paid, the council will give notice to the licence/certificate holder, in writing,
- that the licence/certificate will be suspended 14 days from the date of the notice.
 - It will also state that the suspension will not become effective if the fee is paid prior to the suspension date.
 - If an administration error is claimed, the suspension date may be 21 days from the due date; or the date of suspension on the 14 day notice, whichever is later.
 - A copy of the notice will also be served on the designated premise supervisor/premises manager if they are not the premises licence holder.
- 12.10 If the fee is not paid by the date specified on the notice the licence/certificate will be deemed suspended. The licence/certificate holder and DPS/Manager will be immediately notified of the suspension becoming effective, and informed that the premises may no longer offer any licensable activities until such time as the fee is paid and the suspension lifted. When the full payment is made the council will immediately lift the suspension, and confirm this in writing.
- 12.11 Where a licence/certificate is suspended and licensable activities are provided the council will consider prosecuting the provider for offences under section 136 of the Licensing Act 2003.

13 The Licensing Process

13.1 Conditions of Licence

The Council will, as far as it is reasonably practicable, avoid imposing disproportionate and over burdensome conditions on premises.

- 13.2 The Council could attach conditions to each individual licence as appropriate and given the circumstances of each individual case. Conditions will deal with issues surrounding –

Crime and disorder
Public safety
Cinemas and fire safety
Public nuisance
Protection of children from harm

- 13.3 When attaching conditions the Council will also be aware of the need to avoid measures, which might deter live music, dancing or theatre by imposing indirect costs of a substantial nature. To ensure cultural diversity thrives, the Council, has established a policy to licence some public areas within the community in their own name and details of these areas can be found within the National Register.

The introduction of the Live Music Act 2012 enables unamplified music to be played between the hours of 0800 hours and 2300 hours and amplified music to be played during the same period but only to an audience of 200 persons or less without the need for the entertainment to be regulated unless following a Review Hearing when conditions can be re-enstated or new and additional conditions imposed.

- 13.4 When determining applications the Council will have regard to any Guidance issued by the Home Office. In particular, account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Council's consideration will be balanced against the wider benefits to the community.
- 13.5 **Administration – Application Pathway**
It is considered that many of the functions will be largely administrative. Where there are no Areas of contention, the responsibility for processing any such application shall be delegated to Officers.
- 13.6 The Council will expect individual applicants to address the licensing objectives in their Operational Plan having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community as per section 9.1.17
- 13.7 Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies and local crime prevention initiatives and to have taken these into account where appropriate when formulating their Operational Plan.
- 13.8 The Council acknowledges the advice received from Home Office that the views of vocal Minorities should not be allowed to predominate over the interests of the community.
- 13.9 The powers of the Council under the Act shall be carried out by the Licensing Committee, by a Sub Committee, or by one or more officers acting under delegated authority.
- 13.10 **Interested Parties** The Council's appointed Licensing Committee will deal with applications where there are relevant representations, or where there is an application for a review of a licence. Relevant Representations are only to be considered relevant if they relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

Representation can be made by any other person including a third party or by a Ward Councillor who has been approached to represent the third party. The Council however will need to be satisfied as to the name and address of the interested party and that such a person has been given authority by the third party to act on their behalf.

Representations may be positive as well as negative but if only positive representations are received that it is highly unlikely that a hearing will be necessary.

Provisions of Services Regulation 2009 – transpose the European Services Directive into UK legislation allowing applications, notices and representations to be transmitted by electronic means through Points of Single Contact (www.eu-go.eu). In the UK the point of contact is found under www.ukwelcomes.businesslink.gov.uk allowing licence applications and payments to be made on line.

The Council will advertise applications on their own web site to raise awareness.

Responsible Authorities are responsible for making representations and observations in relation to the impact each licence application may have on the licensing objectives and whether the control measures contained in the application’s operating schedule are adequate to mitigate those impacts:

North Wales Police	North Wales Fire and Rescue Service	Local Health Boards
Trading Standards	Planning	Licensing Authority
Social Services		

13.11 Integrating Strategies and the avoidance of Duplication

Any decision in relation to licensing applications will be entirely separate from any decision in relation to planning. Regular reports will, however, be furnished to the Planning Committee on the situation with regard to licensing for the area, including the general impact of alcohol related crime and disorder.

13.12 The Licensing Committee should receive reports from Anglesey Community Safety Partnership in relation to Crime and Disorder on the Island.

13.13 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Council’s Licensing Committee will therefore receive reports on;

Needs of the local tourist economy
Cultural Strategy for the area
Employment situation in the area and the need for new investment and employment where appropriate
Planning considerations, which might affect licensed premises.

13.14 Where any protocols agreed with the police identify a particular need to disperse people from town centres swiftly and safely to avoid concentrations which could lead to disorder and disturbance, the Council will aim to inform those responsible for providing local transportation so that arrangements can be made, where practicable, to reduce the potential for problems to occur.

- 13.15 Before the Council will consider the grant or renewal of a license to an applicant he must be in a position to confirm the following:

They are over 18

They possess a relevant licensing qualification

That no license held by them has been forfeited in the period of 5 years prior to this application

They have not been convicted of any relevant offence

Notes: - Relevant offences as referred to above shall include offences such as

Serious violence

Serious dishonesty (including involvement in the sale of smuggled tobacco and alcohol)

The supply of drugs

Offences requiring an entry on the sex offences register

Breach of alcohol licensing laws

- 13.16 The Local Health Board is responsible for making representations and observations on licence applications. The Health Board will also use information provided by Public Health Wales in order to inform their decision making. Public health is not yet a licensing objective but the licensing authority believes that public health has much to add to licensing in relation to the local populations' alcohol related health needs. Health bodies such as Public Health have unique access to data not available to other responsible authorities which may inform licensing decisions. Public Health is useful in providing evidence of alcohol related health harms particularly in relation to cumulative impact policies.

14.0 Licensing Committee

- 14.1 The Licensing Committee consists of 15 members of the licensing authority. Hearings take place before the Licensing Act Sub-Committee which is made up of 3 members of the Licensing Committee.

- 14.2 The purpose of a hearing before the Licensing Act Sub-Committee is to allow all contentious issues relating to an application to be heard and considered.

14.3 Delegation and Decision Making

- 14.4 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated at an appropriate level to ensure an efficient and cost effective service.

- 14.5 The Licensing Authority is committed to the principle of delegating its powers to ensure that these objectives are met and has arranged for its licensing functions to be discharged in accordance with the Guidance issued by the Secretary of State.

- 14.6 The Act itself creates a presumption that applications will be granted unless a Relevant Representation (objection) is raised. Where a function is delegated to an officer that officer will be responsible for liaising between the Applicant(s), Interested Parties, and the

Responsible Authorities to ensure that any licence granted is subject to any agreed or mandatory conditions.

- 14.7 Where objections are made then an officer of the Licensing Authority may liaise with the Applicant, Interested Parties and the Responsible Authorities to see if a “settlement” is possible to overcome any objections, without the need for the matter to go before a formal Licensing Sub-Committee. Should this be the case, Members will meet to consider the proposed agreed conditions and if they are considered to be relevant and appropriate, will agree to their being appended to the Licence. Only where objections are raised which cannot be reconciled, will matters be referred to the Licensing Sub-Committee for determination.
- 14.8 Whilst contested Licensing Applications and Review Hearings are Quasi-Judicial in nature, the Sub-Committee will try to keep the proceedings as informal as possible. Some degree of formality is needed to ensure that all parties receive a fair hearing. Procedural requirements will be established to ensure that all parties are able to express their views openly and fairly. The Sub-Committee procedure is inquisitorial rather than adversarial and, whilst Applicants, Interested Parties and Responsible Authorities are entitled to bring legal representation with them if they wish, this is by no means a requirement or a necessity.
- 14.9 Whilst the Sub-Committee usually meets in public, it does have power to hear certain applications in private. The Sub-Committee, however, will always reach its decision in private. A public announcement of the decision is normally made at the end of the Hearing, together with an outline for the reasons for that decision

15. Additional information

- 15.1 Street Traders, will give consideration to the Authority’s Policy regarding street trading and ensure all sites utilized will have to be licensed as per the criteria defined in the Licensing Act.
- 15.2 Premises Operators will give consideration to the Authority’s Table and Chairs Policy in regards to street/garden furniture and any possible implications in pursuance of the four main licensing objectives as set out in the Licensing Act 2003.

Alcohol Deliveries

- 15.3. Applicants seeking a licence that would enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures they intend to operate to ensure that:
- The person they are selling alcohol to is over 18
 - That alcohol is only delivered to a person over 18
 - That a clear document trail of the order process from order to delivery is maintained (with times and signatures) and available for inspection by an authorised officer
 - The time that alcohol is sold on the website/over the phone and the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol.

15.4 Illicit Goods

The Licence Authority will consider licence review applications where there is evidence that illicit alcohol has been offered for sale on the premises. Where other illicit goods, such as tobacco, have been found this may be considered by the Licensing Authority as evidence of poor management and have the potential to undermine the licensing objectives.

The Licensing Authority's approach, which is consistent with the Guidance issued by the Home Office, is that the supply of illicit goods will be taken seriously as these matters undermine the licensing objectives. Licensees supplying illicit goods can expect the Licensing Authority to impose additional controls and sanctions and run the risk of losing their licence.

15.5 **Adult Entertainment**

Applicants for new licences or variations of existing licences must also indicate the nature of any adult entertainment to be carried out at the premises. Where this section contains no information it will be assumed that there are no intentions to allow such activities and the licensing authority will impose a condition to that effect.

Wrexham County Borough Council has adopted Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 which means that venues proposing to provide sexual entertainment must apply for a sexual entertainment venue licence in addition to the premises licence under the Licensing Act 2003.

There is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that does permit premises to offer sexual entertainment no more than 11 times a year and no more frequently than monthly. Where operators intend to take advantage of this exemption, the licensing authority expects a clear explanation in the operating schedule of the proposed signage, publicity and external advertising/display materials. Explicit material should not be visible while signage relating to the nature of the entertainment and the exclusion of children should be prominent and conspicuous.

15. The licensing authority would expect to see the following measures offered in the operating schedule:

- No persons under 18 years of age will be admitted to premises when a performance of adult entertainment is taking place
- No performance shall involve physical contact between the performer(s) and any other person
- No performance shall involve the use of sex articles (as defined in the Local Government (Miscellaneous Provisions) Act 1982 and performers shall at all times wear a g-string or other similar clothing on the appropriate part of the body
- CCTV should cover all performance areas in the premises including those areas set aside for private dances/performances

Appendix 'A' – Guidance on the procedures & problem premises + Delegation Chart

1. Advice and Guidance

- 1.1 Pre-application discussions with the responsible authorities are encouraged to assist applicants in developing their proposals and operating schedules. Officers of the Licensing Authority will endeavour to provide guidance at that stage of the process. Where an officer is representing the Licensing Authority in its role as a Responsible Authority, wherever possible another officer will be designated to process the application and provide applicant guidance.
- 1.2 Where appropriate to do so, officers of the Licensing Authority will assist applicants to work with others who may make representations with a view to resolve areas of concern. Once an application has been lodged there are statutory timescales imposed on the application and determination process which restrict the opportunity for such discussions, liaison and mediation.
- 1.3 Contact details are set out below
- 1.4 The Licensing Authority is obliged by the Act to grant an application unless relevant representations are received. If there are no relevant representations the application will be dealt with by the Licensing Authority's licensing officers under the scheme of delegation (below). If there are relevant representations the application will be considered by the Licensing subcommittee at a public hearing.
- 1.5 Mandatory Conditions are imposed by the Act whether or not the application is opposed.
- 1.6 In determining applications for garages, (i.e. forecourt shops) the Licensing Authority must decide whether or not premises are primarily used as a garage and will expect applicants to submit data which establishes the primary use. Where such information is not available (because for example the premises have only just started trading), we may consider imposing a condition requiring this information to be provided to the Licensing Authority on a regular basis for the following years to ensure the premises are not primarily a garage

2.0 Representations

- 2.1 These may be made by either of the following:
 - (1) Responsible Authorities
 - (2) Any other person Regardless of their geographical location, providing that the representation is not vexatious and frivolous in the opinion of the Licensing Authority.
- 2.2 Any representations must relate to the named premises and are restricted to the 4 licensing objectives. The Licensing Authority will need to be satisfied there is an evidential link between the representations made the licensing objectives and the premises in question.

Where a representation simply relists the licensing objections without stating why it is considered the grant of the application will undermine or fail to promote them, it may be rejected as invalid.

- 2.3 The Licensing Act 2003 (hearings) Regulations 2005 require the Licensing Authority to provide the applicant with copies of any relevant representations made. Any person making a representation to an application should bear in mind that their personal data (such as name and address) will be disclosed to the applicant.

The Licensing Authority will not edit your letter of representation before it sends it out. All letters of representation will be contained in the agenda should the matter proceed to a sub-

committee hearing. Such hearings are open to the public and may include the presence of members of the media. Furthermore, personal data may be published in the minutes which are distributed to all parties to the proceedings and available on the Council's website.

3 Committee

- 3.1 The Committee is composed of 15 Councillors. A contested application will be heard by a sub-committee comprising 3 members of the Licensing Committee.
- 3.2 When considering applications the sub-committee will have regard to this Policy, statutory guidance, the Act and attached regulations and the licensing objectives.
- 3.3 Each application is considered on its individual merits.
- 3.4 Should the sub-committee decide to approve the application the mandatory licence conditions must be applied. In addition, the sub-committee will determine whether it is appropriate to attach other conditions to a licence, certificate or permission to secure achievement of the licensing objectives. Any such conditions will primarily focus on the direct impact of the activities taking place at the premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the vicinity of the premises.
- 3.5 In determining whether a person lives or has business interests sufficiently close to the premises so as to be likely to be affected by the proposed activities, the Licensing Authority will consider factors such as:
 - ♣ The size of the premises
 - ♣ The nature of the premises
 - ♣ The distance of the premises from the location of the residence or business of the person making the representations
 - ♣ The potential impact of the premises (e.g. the number of customers and routes likely to be taken by its customers)
- 3.6 Conditions which seek to control the range or nature of activities within the premises, or which are designed to reduce the potential for anti-social behaviour, may be necessary. Such conditions may also seek to directly impact upon the behaviour of customers on, or within the immediate vicinity of, the premises.
- 3.7 The Licensing Authority will avoid attaching conditions which duplicate other regulatory regimes wherever possible.

4. Appeals

- 4.1 An appeal may be made to the Magistrates' Court against a decision of the Licensing Authority. The appeal must be made within 21 days of being notified of the decision to be appealed against.

The following may appeal:

- ♣ The applicant
- ♣ A Responsible Authority or any person who made relevant representations
- ♣ In the case of a review, the holder of the licence or certificate being reviewed

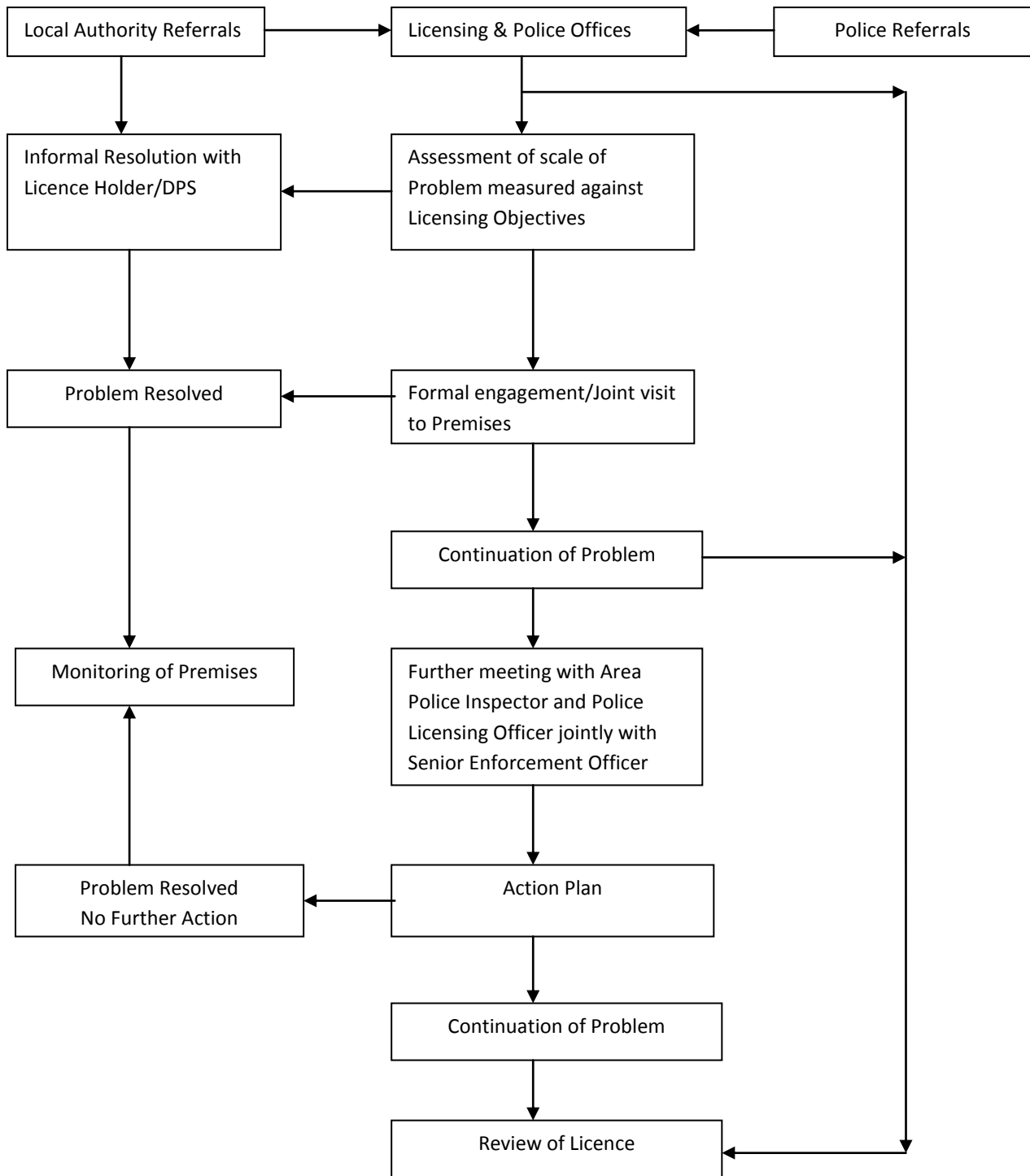
5. Reviews

- 5.1 A responsible authority or any person may ask the Licensing Authority to review a premises licence because of a matter arising at the premises in connection with any of the 4 licensing objectives.
- 5.2 The Licensing Authority will not normally engage its role as a Responsible Authority by calling reviews on behalf of other persons, such as local residents or community groups. These individuals and groups are entitled to do so in their own right where there are sufficient grounds.
- 5.3 Where Responsible Authorities have concerns about problems identified at a premises, the Licensing Authority considers it to be good practice for them to give licence holders early warning of their concerns and the need for improvement. Where possible and/or appropriate it would be expected that advice and guidance in addressing the issue(s) should be given.
- 5.4 The Licensing Authority draws the attention of Responsible Authorities to the Home office publication, "The Practical Guide for Preventing And Dealing with Alcohol Related Problems – What You Need To Know".

6. Suspension of Licences

- 6.1 The Licensing Authority is under a duty to suspend Premises Licences and Club Premises Certificates where the Licensee has failed to pay the annual fee within a prescribed period. Licences which are suspended shall cease to have effect during the suspension period. Furthermore a licence cannot be transferred during said period

LICENSED PREMISES REVIEW PROCEDURE INCORPORATING JOINT PROBLEM SOLVING



PROGRESSION TO EACH LEVEL IS AN OPTIONAL PROCESS AND THIS FLOWCHART IS DESIGNED AS A TEMPLATE FOR THE MONITORING OF TROUBLESOME LICENSED PREMISES

HOWEVER

DEPENDING ON THE SCALE AND MERITS OF EACH CASE A PREMISES COULD BE MOVED TO THE REVIEW STAGE AT ANY TIME

NORTH WALES POLICE AND LOCAL AUTHORITY LICENSING PARTNERSHIP

PREMISES ENFORCEMENT LADDER

It should be noted that the whole emphasis of this enforcement ladder is to achieve the common aim of 'good housekeeping' and 'best practice' plus working together to achieve this. There is no absolute intention at all to review a license as long as problems are willingly addressed by the Designated Premises Supervisor with the support of the North Wales Police and the Licensing Authority

STAGE ONE Incident of disorder/underage drinking/ attempts to purchase alcohol by underage person or on behalf of underage person in/from a licensed premise where the person in charge calls the police for assistance and agrees to work with the police

If problems continue on from Stage One

STAGE TWO Meeting with Police Inspector / Neighbourhood Sergeant, Western Division, Licensed Premises Manager and representative of the Local Authority. Issues will be formally discussed and formal written warning given.

***Mutual Action Plan** agreed with time span of three months. If no further incidents occur then exit from enforcement ladder*

If problems continue on from Stage Two

STAGE THREE Police Inspector / Neighbourhood Sergeant and Western Division Licensed Premises Manager will apply for review of Premises Licence, as appropriate to the circumstances.

The Police will do everything possible to assist and work together with a Designated Premise Supervisor to come off the enforcement ladder. However, the onus of responsibility is on the Designated Premises Supervisor to run good business/premises.

More serious offences can trigger stage two or three automatically (e.g. Willful serving of Pub Watch excluded persons, assault on police by Designated Premises Supervisor, authorized staff or family) and the discretion for this rests with the Police Inspector. More than two entries (in any 12 month period) onto the ladder will result in an immediate stage 3 review (more than one will result in Stage 2).

Delegation of Functions

Matter	Full Committee	Sub-committee	Officers
Application for Personal Licence		If a Police Objection	If no representation made
Application for Personal Licence with Unspent Convictions		All cases	
Application for Premises / Club Premise Certificate		If a relevant representation made	If no relevant representation made
Application for a 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 a 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 or Vexatious etc.			All cases
Decision to Object When Local Authority Is a Consultee and not relevant authority considering the application		All cases	
Determination of a Police Objection to a Temporary Event Notice		All cases	

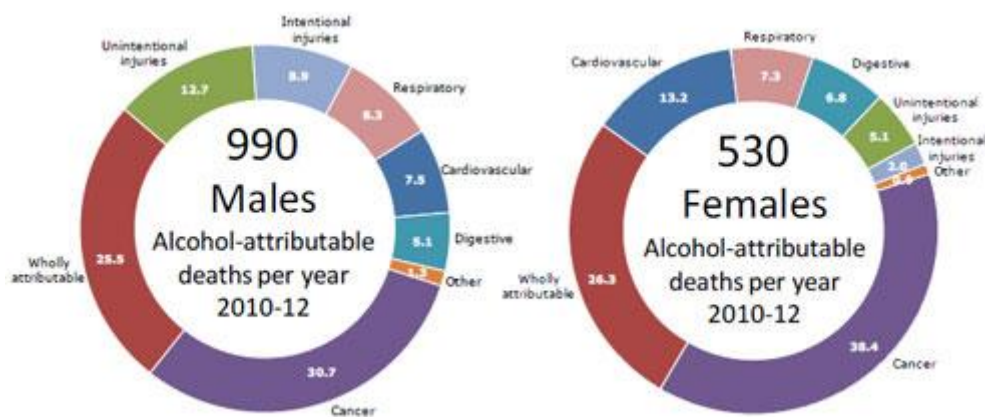
Appendix 'B' – Public Health

ALCOHOL AND HEALTH IN WALES

Alcohol use and its consequences remain a major public health challenge in Wales, the UK and elsewhere. The harmful use of alcohol ranks among the top five risk factors for disease, disability and death throughout the world.

The Public Health Wales Observatory has published [Alcohol and health in Wales 2014](#), updating and extending the previous report released 5 years ago. These are some of the key messages:

- Alcohol is a major cause of death and illness in Wales with around 1,500 deaths attributable to alcohol each year (1 in 20 of all deaths).
- Drinking in children and young people remains a particular concern with 1 in 6 boys and 1 in 7 girls aged 11-16 drinking alcohol at least once a week. Around 400 young people under 18 are admitted for alcohol-specific conditions per year, although the rate has been decreasing for several years.
- Generally, consumption of alcohol has slightly decreased and adults under 45 now drink less. Whilst this decrease is good news, it masks persistent or increased drinking in over 45 year olds.
- Mortality and hospital admission due to alcohol are strongly related to deprivation with rates in the most deprived areas much higher than in the least deprived. There is no sign of improvement in the inequality gap in mortality over time.



Alcohol plays an important and positive role in social and family life and contributes to employment and economic development locally. However, social traditions and economic benefits should not mask the fact that alcohol is a toxic substance that can have a detrimental effect on physical and mental health and wellbeing.

DRINKING LEVELS AND PATTERNS

There's no guaranteed safe level of drinking, but drinking below the recommended daily limits, means the risks of harm to health are low. Even drinking less than lower risk levels is not advisable in some circumstances. Please visit www.drinkwisewales.org.uk.

It is not only the amount of alcohol consumed that increases the risk of harm. Binge drinking, which refers to a pattern of drinking in which a person consumes at least twice the daily recommended amount of alcohol in a single drinking session, can cause acute intoxication and lead to problems such as accidents, injury and violence. Most common in younger age groups, binge drinking is often associated with 'pre-loading'.

Preloading is a term that relates to people, particularly young people, drinking alcohol at home or in streets before going on to pubs and clubs. It has been associated with higher overall alcohol consumption and a greater likelihood of being involved in a violent incident. People pre-load on alcohol because it's much cheaper to buy in the supermarket or other off licence than in a pub or bar.

The Licensing Authority can consider representations from health bodies acting as responsible authorities. The health bodies can provide information that is relevant to the promotion of the licensing objective of public safety, which includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning.

For example, drunkenness can lead to accidents and injuries from violence resulting in attendances at emergency departments and the use of ambulance services. In some cases, these will also involve breaches of the crime and disorder licensing objective.

In respect of the protection of children from harm there is a duty to protect them from moral, physical and psychological harm and therefore there is lots of potential for health bodies to add value. Under 18 alcohol-related A&E attendances may relate to the objective to protect children from harm and underage or proxy sales of alcohol will have implications for both the crime and disorder and protecting children from harm objectives. Health teams can provide supporting evidence, for example in relation to the effects that drinking alcohol has on the adolescent body.

In some areas, the main barrier to health bodies acting effectively as a responsible authority is that the evidence that they need to support a representation is not routinely collected or available in their area. North Wales police, Welsh Ambulance Service and Betsi Cadwaladr University Health Board are currently working on a pilot project to improve data collection and sharing. It is intended to implement this across the whole of North Wales. The data collected should assist greatly in targeting enforcement where it is needed, informing licensing policy and contributing to the licensing decision making process.

Appendix 'C' - Mandatory Licensing Conditions

The mandatory conditions put in place by the *Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010* were replaced, from 1 October 2014, by those set out in the *Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014*.

A “responsible person” has to ensure compliance with the mandatory conditions. In relation to licensed premises this means:

- the holder of a premises licence in respect of the premises,
- the designated premises supervisor (if any) under such a licence, or
- any individual aged 18 or over who is authorised for the purposes of section 153(4) of the *Licensing Act 2003* by such a holder or supervisor

Where a club premises certificate is in force, a “responsible person” means a member or officer of a club who is present and able to prevent the supply of alcohol.

In relation to the age verification condition, the premises licence/club certificate holder and the designated premises supervisor have specific duties (described in section 5.3 below).

The 2014 Order means that, in addition to the mandatory condition banning below cost sales, four other mandatory conditions now apply, as described below.

Irresponsible promotions

The 2010 Order required “all reasonable steps” to be taken to prevent irresponsible drinks promotions – where the promotions, as defined in the Order, carried a “significant risk” of undermining one or more of the licensing objectives (i.e. the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm).

The 2014 Order now states that the responsible person “must ensure” that irresponsible promotions do not take place. In addition, there are now outright bans on the following activities:

- drinking games or other activities that require or encourage (or are designed to require or encourage) individuals to drink a quantity of alcohol within a time limit, or to drink as much as possible. This does not include “drinking up time”;
- selling or supplying alcohol in association with promotional material on, or in the vicinity of, the premises which can be reasonably considered to condone, encourage or glamorise antisocial behaviour or refer to drunkenness favourably;
- dispensing alcohol directly by one person into the mouth of another – *this was a standalone condition under the 2010 Order*.
- The following promotions are prohibited where there is a “significant risk” to the licensing objectives:
- providing alcohol free or for a fixed or discounted fee
- providing free or discounted alcohol or any other thing as a prize to encourage or reward the consumption of alcohol over a period of 24 hours or less

In relation to what counts as “significant risk”, Home Office guidance states that the following factors may be considered:

- Type of promotion: How big is the discount? For how long does the discount apply?
- Potential customers: Is there likely to be a significant increase in the number of customers? What is the profile of the customer base?
- Type of premises: Is it a high-volume vertical drinking establishment or a community pub?
- History of premises: Have previous promotions been handled responsibly? Has the licence been reviewed recently? Have sufficient security measures been taken for any potential increase in the number of customers?

Where there is any doubt, the guidance recommends that advice should be obtained from the licensing authority and/or police.²⁸

5.2 Potable water

Free potable drinking water must be provided on request where it is “reasonably available”. The 2010 Order had only referred to the provision of free *tap* water.

Home Office guidance explains that what is meant by “reasonably available” is a question of fact: *for example, it may not be reasonable to expect free water to be available in premises for which the water supply had temporarily been lost because of a broken mains supply and where no alternative (for example, bottled water) is available.*

5.3 Age verification

The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises selling or supplying alcohol. This must, as a minimum, require individuals who appear to the person serving alcohol to be under the age of 18 to produce identification bearing their photograph, date of birth and either a holographic mark *or* ultraviolet feature. The addition of the latter feature means that the definition of identification documents that can be used has been widened (some foreign passports and ID cards do not include the holographic mark previously required).

The designated premises supervisor (the person with day-to-day responsibility for the running of the business) has, for the first time, a legal responsibility for ensuring that the sale of alcohol is in accordance with the age verification policy that the premises licence holder is required to have.

Acceptable forms of identification include photo card driving licences; passports; military identification; and proof of age cards bearing the PASS hologram. Other forms of identification that include the required features are acceptable.

An example of an age verification policy is given in Annex A to Home Office guidance on the mandatory conditions.

The age verification condition applies to companies that sell alcohol online or by mail order.

5.4 Smaller measures

The responsible person must ensure that the following drinks, if sold or supplied for consumption on the premises, are available in the following measures:

- beer or cider - half pint
- gin, rum, vodka or whisky - 25ml or 35ml
- still wine in a glass - 125ml

The 2014 Order now requires that measures must be displayed in a menu, price list, or other printed material. Where a customer doesn't specify a measure, they must be made aware of the range of measures available, either verbally or by ensuring that they have seen the printed material. This process does not need to be repeated as long as the customer continues to be aware of the measures available.

Appendix D- Recent Legislative Changes

2. The Live Music Act 2012 and Licensing Act 2003 (Description of Entertainment) (Amendment) Order 2013 removes the licensing requirements for the following:

- 2.1 Film exhibitions for the purposes of advertisement, information, education etc.
- 2.2 Film exhibitions that form part of an exhibit put on show for any purposes of a museum or art gallery.
- 2.3 Music whether live or recorded, which is incidental to other activities which do not require a licence.
- 2.4 Live music as follows:
 - i. amplified live music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises;
 - ii. amplified live music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment); and
 - iii. Unamplified live music between 8am and 11pm in all venues
- 2.5 Use of television or radio receivers for the simultaneous reception and playing of a programme.
- 2.6 Any entertainment or entertainment facilities at a place of public religious worship.
- 2.7 Entertainment at garden fetes or similar functions unless there is an element of private gain.
 - a) Morris dancing or any dancing of a similar nature or a performance of unamplified
 - b) Live music as a part of such a performance.
 - c) Entertainment on road vehicles in motion.
 - d) performance of a play in front of an audience of 500 persons or less between 8:00 and 23:00
 - e) performance of dance in front of an audience of 500 persons or less 26 (unless it is relevant entertainment within the meaning of Schedule 3 para 2A Local Government (Miscellaneous Provisions) Act 1982 - i.e. certain forms of sexual entertainment); between 8:00 and 23:00
 - f) indoor sporting events in front of an audience of 1,000 persons or less between 8:00 and 23:00.

3. Immigration Bill – published by Central Government in September 2016

- 3.1 The new Immigration Bill, currently going through Parliament, places additional responsibilities on licensing authorities to take action where licence holders are found to not be entitled to work in the United Kingdom. The Bill will also place implications on applicants and the following notes are general guidance at this stage.

3.2 Premises Licences:

- A new section 13(4)(ha) designating the Secretary of State as a responsible authority where the premises (not being a vessel) are being, or are proposed to be, used for a licensable activity.
- A new section 16(2A) disqualifying residents of the UK from applying for a premises licence where the resident is not entitled to work in the UK.
- A new section 27(1A) which will cause a premises licence to lapse if the holder of the licence ceases to be entitled to work in the United Kingdom at a time when the holder of the licence is resident in the United Kingdom (or becomes so resident without being entitled to work in the United Kingdom). A new section 42(5ZA) requiring an applicant to give notice of a transfer request to the Secretary of State.
- A new section 42(8) & (9) stating “Where the Secretary of State is given notice under subsection (5ZA) and is satisfied that the exceptional circumstances of the case are such that granting the application would be prejudicial to the prevention of illegal working in licensed premises, the Secretary of State must give the relevant licensing authority a notice stating the reasons for being so satisfied.
(9) The Secretary of State must give that notice within the period of 14 days beginning with the day on which the Secretary of State is notified of the application under subsection (5ZA).”
- A new section 44(5)(b)(ii) requiring a licensing authority, when considering an application for a transfer of a premises licence and where the notice is given under section 42(8) (i.e. by the Secretary of State), to reject the application if it considers it appropriate for the prevention of illegal working in licensed premises to do so.
- A new section 45(2A) requiring local authorities to give notice of a decision to transfer a licence to the Secretary of State if the Secretary of State gave notice of objection under the new section 42(8) & (9).
- A new section 47(3A) disqualifying any person not entitled to work in the UK from applying for an interim authority notice.
- A new section 48(2A) requiring licensing authorities to give notice to the Secretary of State of all applications submitted for an interim authority notice. Where the Secretary of State is satisfied that the exceptional circumstances of the case are such that a failure to cancel the interim authority notice would be prejudicial to the prevention of illegal working in licensed premises, the Secretary of State will give notice to the licensing authority setting out reasons.

3.3 Personal Licences:

A new section 113(2A) inserting new “immigration offence”.

- New subsections 5-8 for section 113 introducing new “immigration penalties”.
- A new section 115(2A) which will cause a personal licence to cease to have effect if the holder of the licence ceases to be entitled to work in the United Kingdom.
- A new section 120(5A) placing a new requirement on the licensing authority to notify the Secretary of State where an applicant for a personal licence has complied with the statutory requirements (i.e. subsection 2(a) to (c)) but not subsection 2(d) (i.e. has relevant immigration related offences/convicted of a foreign offence etc.).

3.4 Where the Secretary of State is satisfied that granting the licence would be prejudicial to the prevention of illegal working in licensed premises, the Secretary of State must, within the

period of 14 days beginning with the day the Secretary of State received the notice under subsection (5A), give the authority a notice stating the reasons for being so satisfied (an “immigration objection notice”).

- A new section 124(3A) & (3B) placing a new requirement on the licensing authority to notify the Secretary of State where a personal licence holder has been convicted of an immigration related offence subsequent to the grant of the licence.
- Where the Secretary of State is satisfied that continuation of the licence would be prejudicial to the prevention of illegal working in licensed premises, the Secretary of State must, within the period of 14 days beginning with the day the Secretary of State received the notice under subsection (3A), give the authority a notice stating the reasons for being so satisfied (an “immigration objection notice”).

Read the full Bill here: <http://www.publications.parliament...74/15074.pdf>

4. Deregulation Act

4.1 Late Night Refreshment Exemptions

Paragraph 2A of Schedule 2 to the 2003 Act (as inserted by the Deregulation Act 2015) gives licensing authorities powers to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment. Decisions to exempt supplies of late night refreshment are best made with local knowledge. The powers therefore allow licensing authorities to choose to apply an exemption specifically where they think it will be helpful to businesses and where there are no problems with antisocial behaviour or disorder associated with the night time economy. As well as freeing up the businesses in question from unnecessary costs, this can also provide greater flexibility for licensing authorities to target their resources more effectively.

4.4 The powers allow a relevant licensing authority to exempt the supply of late night refreshment if it takes place:

- on or from premises which are wholly situated in a designated area;
- on or from premises which are of a designated description; or
- during a designated period (beginning no earlier than 11.00 p.m. and ending no later than 5.00 a.m.).

4.4 When choosing to designate a particular area as exempt, the relevant licensing authority must define the location, which can be of any size.

4.5 When choosing to designate particular categories of premises as exempt, a licensing authority can only exempt types of premises set out in the regulations. These are:

- motorway service areas;
- petrol stations;
- local authority premises (except domestic premises) unless there is an event taking place at which more than 500 people are present;

- schools (except domestic premises) unless there is an event taking place at which more than 500 people are present;
- hospitals (except domestic premises);
- community premises (church, chapel, village, parish or community hall or other similar building) unless there is an event taking place at which more than 500 people are present;
- licensed premises authorised to sell by retail alcohol for consumption on the premises between the hours of 11pm and 5am.

4.6 *Licensing authorities do not have to use the exemptions at all and can continue to require all late night refreshment providers to be licensed. However, licensing authorities should consider deregulation where appropriate.*

5. **Community and Ancillary Sellers Notice**

Draft and/or secondary legislation has not yet been finalised for CAN's (Community and Ancillary Sellers Notice) but it is envisaged that there will be an ability for community groups and small business accommodation providers to provide/sell limited amounts of alcohol to apply for a CAN. The CAN would last for a three year term with the possibility that Environmental Protection service and the Police could object from the outset.

Option possibly contained in the legislation may include the following

- Alcohol may be sold between 7am and 11pm
 - Notice will be given to the licensing authority
 - The prescribed fee will be paid
 - Police, Environmental Health Authority and licensing authority can object if a CAN will undermine the licensing objectives. Where problems arise, the police and environmental health authority can object, with the result that the CAN may be revoked.
 - Police and licensing authority officers will have rights of entry to investigate where users are in breach of the CAN conditions.
 - No right to a hearing or appeal if a CAN is revoked
-
- Sale of alcohol must be ancillary to provision of goods or services by the business.
 - Sale of alcohol from single named premises.
 - Alcohol for consumption on the named premises
-
- Sale of alcohol must be made by or on behalf of a community group that does not trade for profit.
 - Sale of alcohol must be ancillary to an organised community event.
 - Sales of alcohol may be made from up to three named premises.
 - Sales of alcohol for consumption at organised events of up to 300 people

Appendix 'E' - Glossary of Terms

Authorised Persons – Authorised persons are bodies empowered to carry out inspection and enforcement roles under the Licensing Act 2003.

Club premises certificate – Authorising a **qualifying club** to carry out 'qualifying club activities' under the Licensing Act 2003. This includes time-limited certificates.

Conditions – there are three types of conditions

1. **Proposed Conditions** – are conditions proposed by the applicant in the operating schedule.
2. **Imposed Conditions** – are conditions imposed by the licensing authority after its discretion has been engaged following the receipt of relevant representations.
3. **Mandatory Conditions** – are conditions prescribed by the Act and are included in every premises licence or club premises certificate when specified licensable activities take place.

Cumulative impact area – Area that the **licensing authority** has identified in their licensing policy statement as having a saturation of licensed premises and the 'cumulative impact' of any additional licensed premises could adversely impact on the statutory licensing objectives.

Designated Premises Supervisor (DPS) – This will normally be the person who has been given day-to-day responsibility for running the premises by the **premises licence** holder. Every premises licence that authorises the sale of alcohol is required under the 2003 Act to specify a DPS. The DPS must be a **personal licence** holder. The only exception is for community premises which have made a successful application to the LA to be exempt from the requirement.

Early morning alcohol restriction order – A power under section 119 of the **Police Reform and Social Responsibility Act 2011** to prohibit sales of alcohol for a specific time period between the hours of 12am and 6am, if it is deemed appropriate for the promotion of the licensing objectives.

Expedited/summary review – A chief officer of police can apply for an expedited/summary review of a **premises licence** because of serious crime and/or serious disorder under s.53A of the **Licensing Act 2003**.

Fee bands – In determining the amount of the licence fee for applications for new **premises licences** and **club premises certificates**, and full variations to licences or certificates, each premises falls into a band based on its non-domestic rateable value. Since the introduction of the 2003 Act until 2012/13, the application fees associated with each band for a new licence or certificate have been as follows: Band A (£100); Band B (£190); Band C (£315); Band D [no **multiplier**] (£450); Band D premises licence with **multiplier** (£900); Band E [no multiplier] (£635); Band E premises licence with multiplier (£1,905). The subsequent annual fees associated with each licence or certificate are as follows: Band A (£70); Band B (£180); Band C (£295); Band D [no multiplier] (£320); Band D premises licence with multiplier (£640); Band E [no multiplier] (£350); Band E premises licence with multiplier (£1,050).

Forfeited (personal licence) – Suspension following a court order under s.129 of the **Licensing Act 2003** specified (and where that order has not been suspended, pending an appeal under s.129 (4) or 130 of the Act).

Hearing – Used in the context of applications for a **premises licence** or **club premises certificate** that go to a hearing for determining applications for a premises licence, for provisional statements, to vary a premises licence, for club premises certificates, and to vary club premises certificates.

Judicial review – Includes only those where the High Court notified parties of its decision in the time period specified.

Lapsed (club certificate) – Where a **club premises certificate** has lapsed because it had effect for a limited period, but that period has since expired.

Lapsed (premises licence) – Where a **premises licence** has lapsed due to the death, incapacity, insolvency etc. of the licence holder, as set out under s.27 of the **Licensing Act 2003**. Excludes instances where a premises licence was in effect for a limited period, but the period has since expired (e.g. one-off events).

Late night levy order – A discretionary power for **licensing authorities** under section 125 of the **Police Reform and Social Responsibility Act 2011**. The late night levy is paid by those premises licensed to sell alcohol late at night to raise a contribution to the costs of policing the late night economy.

Late night refreshment – The provision of hot food or drink to the public, for consumption on or off the premises, between 11pm and 5am or the supply of hot food or hot drink to any persons between those hours on or from premises to which the public has access.

Licensing authority – The licensing authority is responsible for the licensing of alcohol, regulated entertainment and late night refreshment.

Minor variation (to licence or certificate) – Applications made under s.41A or s.86A of the **Licensing Act 2003** to make low-risk changes to the terms of a **premises licence** or **club premises certificate**. The fee for a minor variation is prescribed in the Act.

Multiplier – Multipliers are applied to premises used exclusively or primarily for the supply of alcohol for consumption on the premises under the authorisation of a **premises licence (fee bands D and E only)**.

Off-sales – The sale by retail of alcohol for consumption off the premises.

On-sales – The sale by retail of alcohol and the supply of alcohol (by clubs) for consumption on the premises.

Other persons – Any individual, body or business that is likely to be affected by the granting of **premises licence** or **club premises certificate** applications. Other persons may submit relevant representations to the relevant licensing authority and may seek a review of premises licence or club premises certificate.

Personal licence – Authorising an individual to supply or authorise the supply of alcohol in accordance with a **premises licence** under the **Licensing Act 2003**. The application fee for a personal licence is prescribed in the Act.

Premises licence – Authorising premises to be used for the sale or supply of alcohol, the provision of regulated entertainment or the provision of **late night refreshment**, under the **Licensing Act 2003**.

This includes time-limited premises licences. A premises licence fee is based on its non-domestic rateable value. Application fees vary from £100 (Band A) to £1,905 (Band E with multiplier); annual fees vary from £70 to £1,050.

Qualifying club – A number of criteria must be met to be considered a qualifying club for a **club premises certificate**. They are:

- that under the rules of the club, persons may not be admitted to membership or be admitted as candidates for membership, or to any of the privileges of membership without an interval of at least two days between their nomination for membership and their admission;
- that the club is established and conducted in good faith as a club;
- that the club has at least 25 members; and
- that alcohol is not supplied to members on the premises otherwise than by or on behalf of the club.

Relevant representations – Representations which are about the likely effect of the grant of the **premises licence** or **club premises certificate** applications on the promotion of the licensing objectives, that are made by a responsible authority or other person within the period prescribed under section 17(5)(c) of the Act, that have not been withdrawn, and in the case of representations made by a other persons, that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

Responsible authority – Public bodies that must be notified of certain **premises licence** or **club premises certificate** applications and are entitled to make representations to the licensing authority. They include

- the licensing authority and any other licensing authority in whose area part of the premises is situated,
- the chief officer of police for any police area in which the premises are situated,
- the fire and rescue authority for any area in which the premises are situated,
- the Local Health Board for any area in which the premises are situated,
- the enforcing authority for Health and Safety at Work etc. Act 1974 for any area in which the premises are situated,
- the local planning authority for any area in which the premises are situated,
- the local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health in any area in which the premises are situated in relation to,
- a body which represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and are competent to advise such matters,
- in relation to a vessel, a navigation authority having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,
- the local authority responsible for weights and measures in any area in which the premises are situated.

Review – Following the grant of a **premises licence** or **club premises certificate** a **responsible authority** or **other person** may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

Revoked (personal licence) – If the holder of a **personal licence** is convicted of an offence during the application period for the licence, the licence may be revoked under s.124 of the **Licensing Act 2003**.

Surrender (of licence) – If the holder of a licence wishes to surrender it, it is done according to the provisions under section 28 (for a **premises licence**), section 81 (for a **club certificate**) and section 116 (for a **personal licence**).

Temporary event notice (TEN) – A notice under s.100 of the **Licensing Act 2003**, used to authorise relatively small-scale licensable activities, subject to certain criteria and limits. Includes only notices that have been correctly and properly given in the time period specified i.e. excludes notices that were sent back because of mistakes on the form. This also includes notices that were subsequently withdrawn. The fee for a TEN is prescribed in the Act.

Variation (to premises licence) – Applications made under s.34 of the **Licensing Act 2003** to change the terms of a **premises licence**, for example the opening hours, the licensable activities or the conditions. The fee for a variation of **DPS** is prescribed in the Act.

Variation (to club premises certificate) – Applications made under s.84 of the **Licensing Act 2003** to change the terms of a **club premises certificate**, for example the qualifying club activities or the conditions.