

<b>COMMITTEE</b>	<b>FULL COUNCIL</b>
<b>DATE</b>	<b>5 MARCH 2013</b>
<b>TITLE OF REPORT</b>	<b>To report on the Review of the Authority's Licensing Policy Document</b>
<b>REPORT BY</b>	<b>Licensing section of the Trading Standards Department</b>
<b>PURPOSE OF REPORT</b>	<b>Submit Final Draft of Licensing Policy following consultation for endorsement</b>
<b>ACTION</b>	<b>To adopt amended Policy</b>

## **1 INTRODUCTION**

- 1.1** 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 Police Reform and Social Responsibility Act 2011 introduced new legislation and changes to the Licensing Act 2013 which necessitated an early review.
- 1.2** The report summarises the consultation process and due to the fact that the Policy is considered to have worked well and not faced any challenges, response were minimal, and amendments were slight apart from highlighting the introduction of new legislation and additional control options available to the Authority

## **2. BACKGROUND**

- 2.1** Local Authorities are required under Section 5 of the Licensing Act 2003 to Review their Alcohol and Entertainment Licensing Policy every five years and the revised Policy is required to be determined by the 5<sup>th</sup> March, 2013.
- 2.2** A complete copy of the Licensing Policy is available for inspection less Appendix A which only includes guidelines for applicants and remains unchanged. The proposed amendments to the Policy are highlighted.
- 2.3** Appendix B records the register of consultees many of whom were contacted through email to avoid any additional costs in light of the current economic climate. The Licensing Section were also mindful that Central Government are also out to consultation with "Rebalancing the Licensing Act" and several amendments to the Act could be forthcoming within the next few months possibly requiring another review shortly.

## **3. Recommendations**

The County Council to endorse the above report and adopt the amended Licensing Policy.

## APPENDIX A



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COUNTY COUNCIL

### **DRAFT STATEMENT OF LICENSING POLICY FOR THE PURPOSES OF THE LICENSING ACT 2003**

1. Background
2. Introduction
3. Prevention of Crime and Disorder
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6. Protection of Children from Harm
7. Cumulative Impact
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9. Applications for New Grants and Variation of existing Terms and Conditions.
10. Hours of Operation
11. Enforcement
12. Licensing Process
13. Personal Licences
14. Additional information

Appendix 'A' – Guidance on the procedures for Applicants/Objectors

Appendix 'B' – Recommended Delegation of Function

## 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 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
  - Provision of facilities for making music - *to be removed due to Live Music Act*
  - Provision of dancing facilities.

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

## 2. Introduction

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 licensing objectives which are:

- **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
- European Union Service Directive
- The Equality Act 2010
- Police Reform and Social Responsibility Act 2011
- The Live Music Act 2012

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, holder 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 December 2012.

The Review in December 2012 centered on the Live Music Act 2011 which came into force on the 1<sup>st</sup> October and the Late Night Levy and Early Morning Restrictions Orders enacted on the 31<sup>st</sup> October, 2012

**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. 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.

### 3.8 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.

#### 3.9 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

#### 3.10 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.

## 4. Public Safety

- 4.1 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..
- 4.2 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.
- 4.3 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.
- 4.4 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.
- 4.5 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.

4.6 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.

4.7 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.

#### **4.8 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.

4.9 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.

#### **5.0 Prevention of Public Nuisance**

5.1 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.

5.2 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

5.3 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.



- 5.4 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.
- 5.5 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.
- 5.6 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.
- 5.7 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.
- 5.8 The Council will balance the potential for limited disturbance in neighbourhoods with the need to encourage and promote live music, dancing and theatre.
- 5.9 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.
- 5.10 The Council will work together with Licensed Premises Operators to ensure all appropriate terms of the Clean Neighbourhoods and Environment Act 2005 are upheld.
- 5.11 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.

## **6.0 Protection of Children From Harm**

- 6.1 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.

6.2 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.

6.3 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.

6.4 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.

6.5 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.

6.6 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.*

6.7 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.

6.8 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.

6.9 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.

**6.10 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.

## **7.0 Cumulative Impact**

7.1 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.

7.2 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.

7.3 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.

7.4 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

7.5 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.

## **8. Planning**

- 8.1 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.
- 8.2 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.
- 8.3 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.
- 8.4 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.
- 8.5 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.
- 8.6 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.

## **9 Applications for New Grants and Variation of existing Terms and Conditions.**

- 9.1 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:
- 9.1.1 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.
  - 9.1.2 The steps the applicant has taken or proposes to prevent disturbance by patrons arriving at or leaving the premises.
  - 9.1.3 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.
  - 9.1.4 The steps the applicant has taken or proposes to ensure staff leave the premises quietly.

- 9.1.5 The arrangements made or proposed for parking by patrons, and the effect of parking on local residents.
- 9.1.6 Whether there is sufficient provision for public transport for patrons.
- 9.1.7 Whether taxis and private hire vehicles serving the premises are likely to disturb local residents.
- 9.1.8 Whether routes to and from the premises on foot or by car or service or delivery vehicles pass residential premises.
- 9.1.9 Whether other measures to prevent nuisance have been considered, such as the use of CCTV or the employment of registered door supervisors.
- 9.1.10 The measures proposed to prevent the consumption or supply of illegal drugs, including any search procedures.
- 9.1.11 The measures proposed to comply with the Disability Discrimination Act
- 9.1.12 The likelihood of any violence, public disorder or policing problem arising if a licence was to be granted.
- 9.1.13 If the applicant has previously held a licence within the Council, the details of any enforcement action arising from that premises.
- 9.1.14 Whether the premises would result in increased refuse storage or disposal problems, or additional litter in the vicinity of the premises.
- 9.1.15 Representations from responsible authorities\*
- 9.1.16 Representations from interested parties\*\*
- 9.1.17 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.
- 9.1.18 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.
- 9.1.19 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.

#### 9.1.20 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:**

9.2 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.

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

9.4 **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.

9.5 **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.

## **10 Hours of Operation**

10.1 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.

10.2 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.

- 10.3 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.
- 10.4 When considering applications for premises licences, the Council will take into account applicants 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.
- 10.5 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.
- 10.6 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.

## 11 Enforcement

- 11.1 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.
- 11.2 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.
- 11.3 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.
- 11.4 **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 non payment of the annual fee. Suspension is by notice operative at least 2 days after notice is given (following a grace period).
- 11.5 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.
- 11.6 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 The Licensing Process

### 12.1 Conditions of Licence

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

### 12.2 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

12.3 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.

12.4 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.

12.5 **Mandatory Conditions** – The Policing and Crime Act 2009 has introduced a set of Additional mandatory licence conditions, affecting the way that all premises and clubs that sell/supply alcohol on the premises are allowed to operate.

From April 2010 the following three conditions apply to all “on” premises licences and club premises certificates. Certain “irresponsible” drinks promotions are banned

Tap water must be made available free of charge to customers on request

Alcohol may not be directly dispensed into another person's mouth (unless that person is disabled)

From the 1<sup>st</sup> October, 2010 the following conditions will also apply.

An age verification policy to be place to prevent underage sales. Customers to have the opportunity to choose small measures of beers, ciders, spirits and wine



There is no obligation for the Council to re-issue licences that include the additional conditions but where the opportunities arise the licences will be reissued free of charge with the appropriate conditions attached.

**12.6 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.

12.7 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

12.8 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.

12.9 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.

12.10 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.

12.11 **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](http://www.eu-go.eu)). In the UK the point of contact is found under [www.ukwelcomes.businesslink.gov.uk](http://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.

### **12.12 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.

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

12.14 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.

12.15 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.

### **12.16 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 days notice to be provided.

12.17 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.

12.18 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.

12.19 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 136 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.

12.20 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.

12.21 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.

### **13. 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.

13.1 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

13.2 Personal Licences are valid for a period of ten years and 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.

13.3 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.

13.4 The Government, supported by licensing authorities, aims to develop a central licensing register which will amongst other things include details of all personal licence holders.

Future developments relating to the creation of a central licensing register will be reported on the Home Office website.

## 14. Additional information

- 14.1 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.
- 14.2 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.

14.3 **The Live Music Act 2012** provides that live unamplified music between the hours of 0800 and 2300 hours, and for live amplified music to be played between 0800 hours and 2300 hours before an audience of 200 persons or less to be regarded as unregulated entertainment. The premises must be licensed for the sale and supply of alcohol and open for business during those periods. The "exemption" and additional conditions can be revised following a Review.

### 14.4 **Expansion on the 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.

### 14.5 **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

## APPENDIX B

### Responsible Authorities

Ian Williams North Wales Police [ian.g.williams@north-wales.police.uk](mailto:ian.g.williams@north-wales.police.uk)

Mike Plant Fire and Rescue Service [Mike.plant@nwales-fireservice.org.uk](mailto:Mike.plant@nwales-fireservice.org.uk)

Dianne Jones Social Services [dwiss@anglesey.gov.uk](mailto:dwiss@anglesey.gov.uk)

A.Burgess Environmental Health [tbxpp@anglesey.gov.uk](mailto:tbxpp@anglesey.gov.uk)

E.L.Jones Trading Standards [eljpp@anglesey.gov.uk](mailto:eljpp@anglesey.gov.uk)

J.I.Williams Planning [jiwpp@anglesey.gov.uk](mailto:jiwpp@anglesey.gov.uk)

Betsy Cadwaleder Health Board

[Mark.Polin@nthwales.pnn.police.uk](mailto:Mark.Polin@nthwales.pnn.police.uk) [Stephanie.Arton@nthwales.pnn.police.uk](mailto:Stephanie.Arton@nthwales.pnn.police.uk)

[Winston.Roddick@nthwales.pnn.police.uk](mailto:Winston.Roddick@nthwales.pnn.police.uk)

### Internal Consultation

GW6 Elected Members      GW6Directors      Chief executive      Community Safety

Menter Mon      Highways      Planning      Emergency Planning      Policy

### Breweries/Supermarkets

Punch Taverns      Lees      Robinsons      Tates

Summerfiled      Waitrose      Tescos      Premier      McCoys      McDonalds

Magistrates      [Nw-caernarfonmcenq@hmcourts-service.gsi.gov.uk](mailto:Nw-caernarfonmcenq@hmcourts-service.gsi.gov.uk)

Albert Owain [ynysmonclp@btconnect.com](mailto:ynysmonclp@btconnect.com)

Pubwatch Groups [Amlwch, Benllech, Llangefni, Holyhead, Menai Bridge, Beaumaris](#)

Welsh Tourist Board      Ambulance Service      CAB

Gambling Commission      Derek Bebbington      [d.bebbington@gamblingcommission.gov.uk](mailto:d.bebbington@gamblingcommission.gov.uk)

### Other North Wales Authorities

Gwynedd [AmlynAblorweth@gwynedd.gov.uk](mailto:AmlynAblorweth@gwynedd.gov.uk)      Conwy [Kim.Evans@conwy.gov.uk](mailto:Kim.Evans@conwy.gov.uk)

Denbighshire      Flint [Gemma.Brighton@Flintshire.gov.uk](mailto:Gemma.Brighton@Flintshire.gov.uk)      Wrexham [Alan.Davies@wrexham.gov.uk](mailto:Alan.Davies@wrexham.gov.uk)

### Licensing Act 2013

All Premises Licence Holders as per Register – approximately 550