



Chester-le-Street District Council

Draft Review  
of Licensing Act 2003  
Statement of Licensing Policy

November 2007

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## **Introduction - The Licensing Act (2003) and Chester-le-Street District**

1.1 Chester-le-Street is the business, residential and shopping centre of one of the smallest English Districts. Situated in the northern part of County Durham, between Durham City and Gateshead in Tyne and Wear, the district has a population of 57,000. The area has many attractions, from beautiful countryside to a rich heritage.

1.2 The District consists of a central conurbation, including a busy town centre and market area and a number of outlying villages. Historically, the town was dominated by the coal industry, however, with the decline of traditional industry, some areas are now experiencing socio-economic problems. Nationally and internationally recognised leisure and tourist attractions such as Beamish Museum, Durham County Cricket Club and the Riverside development together with historic landmarks such as Lumley and Lambton Castles contrast with some of the most deprived wards in England. The table below outlines the current age profile of the population in the district.

### **Population Profile of Chester le Street District by Age**

Age Band	Chester-le-Street District
0-14	9,000
15-24	6,000
25-34	5,700
35-44	8,900
45-54	7,500
55-64	7,100
65+	9,000
Total	53,200

1.3 The towns close proximity to the A1(M) and the re-instatement of the railway station on the main east coast line establish Chester-le-Street firmly into both regional and national transport infrastructures.

1.4 The Council believes that in partnership with businesses, residents and responsible authorities that a healthy equilibrium has been achieved of the interests of the partners. Businesses have benefited from less red tape and more flexibility (e.g. increased opening hours and diversification of forms of entertainment) than the previous regime but only by working hard towards achieving all four of the licensing objectives. This has lead to residents and visitors benefiting by the responsible authorities requiring higher standards for new and refurbished premises through schemes such as increased acoustic insulation, CCTV and membership of the Pubwatch initiative.

1.5 Many of the well established licensed premises have undergone extensive refurbishment to the benefit of all, whilst new establishments have been created, raising standards and augmenting the local economy.

1.6 The Council has continued to encourage diversity of entertainment and a number of premises throughout the district provide facilities for live music on a limited scale. On a much greater scale, international events continue at the Riverside both in terms of International Sporting Events and musically in the form of internationally renowned acts.

1.7 The recent licensing of the Riverside Park area has laid the foundation for more extensive musical and cultural events to be held and the planned licensing of the newly regenerated Civic Heart will provide a focal point for future cultural events in the town centre.

1.8 Diverse events are already being scheduled through the use of Temporary Event Notices (TENs) at the Civic Heart and indeed their use throughout the wider district has seen such diverse events as boxing tournaments, ceilidhs, rowing regattas, jazz quartet, storytelling, swimming galas, ale festivals and the Durham County Council Elements Touring Theatre Scheme in the outlying areas of the district. To date, over one hundred TENs have been received by the Council since they came into use in November 2005.

1.9 The Council recognises, however, that not all of the changes created by the Act have been wholly beneficial. In particular, the new regime has highlighted the large number of centralised alcohol and fast food establishments in close proximity to residential areas and the resultant public nuisance that can be caused. Working towards the correct balance of business and resident's needs is an ongoing task involving all key partners, including monitoring and enforcement by the Licensing Team and its relevant partners.

1.10 From a diversity point of view the Council also recognises that the District still lacks a permanent bingo hall, theatre or cinema, though they do exist on a smaller or temporary scale.

1.11 The highest concentration of licensed premises is found in the town centre. This is characterised by a high density of residential, commercial and leisure premises in close proximity. The majority of existing licensed premises are traditional in origin and were constructed in an era before the development of the night-time economy and the associated modern drinking culture. The table below outlines the breakdown of licensed premises by type.

Number of Alcohol Premises Licences	Number of Non Alcohol Premises Licences	Number of Non Alcohol Premises Licences (Vehicles)	Number of Club Premises Certificates	Number of Personal Licences	Number of TENs with Alcohol	Number of TENs without Alcohol
119	26	2	22	288	75	32

1.12 In recent years, the town centre has experienced a significant development in its licensed premises sector. The south end of the town centre has seen particularly rapid development. Between 2002 and 2004 planning permission was granted for a number of licensed premises. These developments could see the overall capacity of town centre licensed premises rise by over 2,000.

1.13 The Licensing Act 2003 (the Act) intends to create a modern, responsive regulatory regime. It ensures that premises that are causing problems within the community can be dealt with appropriately. But it also provides that businesses and community activities that benefit and enhance people's lives by providing important opportunities for the enjoyment of leisure time will be afforded a lighter touch.

1.14 Prior to the Act, the Council believes it had already developed a flexible and progressive attitude towards licensing. This was clearly demonstrated in the months preceding the implementation of the Act. The District not only saw an overall expansion within the night-time economy but also a substantial move towards staggered closing times with a number of premises benefiting from extended hours.

1.15 The Council's policy is outlined at 2.38-2.45. This document expands upon the policy and how it will be implemented in practice. In particular, it will detail how the Council will use the discretionary powers the Act affords. It does not give the detail of specific procedures, nor does it outline the procedures to be followed in situations where the Council is not afforded discretion. In these instances, the information is contained in other documents including:

- The Act itself / statutory instruments made under it
- The guidance issued by the Department for Culture, Media and Sport under section 182 of the Act

1.16 The Review of the Statement of Licensing Policy will be formally adopted on 20 December 2007 and will come into force 7 January 2008.

## **BACKGROUND**

### **The Licensing Act 2003**

2.1 The Licensing Act 2003 (the Act) received Royal Assent in July 2003 and the Provisions of the Act came into force on 7 February 2005. The Act requires Chester-le-Street District Council (the Council) to carry out its functions under the legislation with a view to promoting four licensing objectives:

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

2.2 The Council recognises that balancing the interests of owners, employees, customers and neighbours of licensed premises such as pubs, clubs and off-licences will not always be straightforward, but it will always be guided by the four objectives of the Act.

2.3 The Act required the Council to prepare a statement of licensing policy that stated its position in relation to its duties under the Act. The Council welcomed the new powers granted to it by the Act and has used them, in consultation with responsible authorities, licensees and with the general public, in a socially responsible way. The original Statement on Licensing Policy was published in January 2004 and this revised policy was to be published in January 2008.

2.4 This revised policy, as with the original policy, covers the following licensable activities:

- a) The licensing of individuals for the sale of alcohol (Personal Licence)
- b) The licensing of premises for the sale of alcohol, provision of regulated entertainment or late night refreshment (Premises Licence)
- c) The supply of alcohol or the provision of regulated entertainment to certain clubs (Club Premises Certificates)
- d) The permitting of certain licensable activities on a temporary basis (Temporary Event Notices)

2.5 The Council recognises that individual licensees and others in possession of relevant authorisations cannot be held responsible for incidents that do not occur in the vicinity of their licensed premises. In cases of dispute the question of "in the vicinity" will ultimately be decided by the courts. Nonetheless, the Council also believes that a responsible attitude towards issues such as drinks promotions, training of bar staff and proper management of premises can have a significant effect on the behaviour of patrons once they have left the premises.

2.6 This revised Statement of Policy does not seek to undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to

have each application considered on its individual merits. It does not seek to override the right of any person to make representations on an application or seek a review of a Licence or Certificate where provision has been made for them to do so in the Act. In all cases of doubt arising from the contents of this policy and the governing legislation, the overriding consideration will be towards the governing legislation.

### **Consultation Process**

2.7 In preparing this statement the Council has consulted with and considered the views of a wide range of people and organisations (see list below). In addition to this, a focus group was held on 20 November at the Civic Centre to which all formally constituted residents' groups in the area were invited with local councillors and officers. The consultation document was also posted on the Chester le Street District Council website ([www.chester-le-street.gov.uk](http://www.chester-le-street.gov.uk).)

### **Review Consultees 2007**

- a) Durham Constabulary;
- b) County Durham and Darlington Fire and Rescue Service;
- c) Existing Premises Licence holders;
- d) Existing Club Premises Certificate holders;
- e) Global Online Assessment for Learning (GOAL)
- f) British Institute of Inn Keeping (BIIB)
- g) British Beer and Pub Association
- h) BEDA (Bar Entertainment & Dance Association)
- i) Representatives of Residents in the Council area (i.e. Community and Residents Associations)
- j) Representatives of businesses (inc. Pubwatch)
- k) Equity
- l) Chester-le-Street District Branch of the Parish and Town Councils Association
- m) Security Industry Authority
- n) Durham County Council (Trading Standards / Tourism / Education / Social Services / Planning / Highways)
- o) Alcoholics Anonymous
- p) Other Council Departments (Planning, Community Safety)
- q) Local MP and MEP's
- r) Durham and Chester-le-Street Primary Care Trust
- s) All Chester-le-Street District Councillors

### **Chester-le-Street and the Night-Time Economy**

2.8 The term night-time economy incorporates traditional matters such as alcohol consumption and the general infrastructure of the licensed sector and its associated problems, such as alcohol related crime and anti-social behaviour. However, it also includes a range of broader issues including late night transport,

entertainment including non-alcohol related activities, food establishments and policing.

2.9 The night-time economy is complex and its regulation depends on many factors. Whilst the overall number of premises and general capacity are important, so too are the management of both individual premises and the night-time economy as a whole. Therefore businesses have been and will continue to be expected to make appropriate use of control strategies such as closed circuit television (CCTV), door supervision, bar staff training, taxi marshals, paid for policing, drug and violence policies. They will also be expected to recognise and manage the impact that amplified music, drinks promotions and dispersal of patrons leaving the premises will have on the local environment.

2.10 The night-time economy in the district benefits from a town centre CCTV system, efficient taxi service, Pubwatch scheme and a dedicated Police Licensing Unit. The Council, in partnership with other relevant agencies, will continue to monitor appropriate provisions relevant to the night-time economy. The Council recognises the critical role other agencies, in particular the Police, play in the control and management of this issue. The Council seeks to create an environment where all businesses and agencies are working together to create a safe, diverse and sustainable night-time economy, where individual and collective efforts can work synergistically.

2.11 The Council recognises that the Act does not just apply to the town centre. It must also administer the sale of alcohol and provision of regulated entertainment throughout the entire district. The busy town centre area contrasts with the more rural and decentralised areas of the district that experience different issues. These do not have the high concentrations of licensed premises found in the town centre, however, noise and alcohol related crime and anti-social behaviour can, and still do occur.

### **Chester-le-Street and the Licensing Objectives Prevention of Crime and Disorder**

2.12 In considering all issues the Council recognises the stringent powers the Act affords as well as the broad freedom and flexibility it offers. Whilst seeking to work in partnership with businesses, the Council will not hesitate to take action against those that are not making a reasonable effort to promote the licensing objectives.

2.13 Licensed premises, especially those offering late night entertainment, alcohol and refreshment can be a source of crime and disorder problems. Therefore the Council will have particular regard to the likely impact of crime and disorder related to licensing within the District, particularly when considering the location and impact of any application.



2.14 In accordance with 'the prevention of crime and disorder' objective, applicants will be expected to demonstrate in their Operating Schedule that sufficient measures have been identified, implemented and maintained to address crime and disorder in the 'vicinity' of their premises. Controls must be relevant to the style and characteristics of the proposed activities.

2.15 The Council recognises that only a minority of customers will behave badly and this Policy Statement cannot address issues relating to behaviour of individuals or groups unless they are in the immediate vicinity of the applicant's licensed premises. However, applicants should note that this Policy Statement is an integral part of a coordinated approach to reducing crime and disorder and should therefore demonstrate in their Operating Schedules, and day-to-day operations, how they participate in promoting and satisfying local policies and initiatives including local crime prevention strategies. The term 'vicinity' can only be defined when having regard to the individual circumstances of an application and also having due regard to any objections or observations received from responsible authorities or interested parties wishing to minimise such risks.

### **Public Safety**

2.16 The Public Safety objective is concerned with the physical safety of the people using the relevant premises and not with public health, which is dealt with in other legislation. The Health and Safety at Work etc Act 1974 (and associated secondary legislation/guidance) and Fire Safety Legislation will in most instances be the primary mechanism for securing adequate standards of public safety. However, some premises may not be subject to the provisions of this legislation. Additionally, licensed premises can present some unique safety risks which are difficult to address via traditional legislation. These can arise because it is often difficult to anticipate peoples' behaviour whilst intoxicated. Conventional approaches to controlling safety risks such as signage and physical barriers may need to be reconsidered. In these instances the Council may impose additional suitable conditions to supplement the existing health and safety law.

2.17 A commitment in the Operating Schedule to higher standards of safety, such as the use of British Standard Specification accreditation for safety measures would be encouraged and positively considered.

2.18 It is essential that premises covered by this Policy Statement are constructed or adapted and operated so as to safeguard users of these premises against these risks.

2.19 The Council will work closely with the Fire and Rescue Service in accordance with the joint enforcement protocol issued by the Fire and Rescue Service. A copy of this document is available from the Licensing Department of the Council.

2.20 The Council will pay particular regard to representations from its Officers as well as from the Fire and Rescue Service and the Police to determine if measures proposed are sufficient to ensure the safety of the public. The Council will not normally grant an application for a licence, or variation, where representations are made by one of these bodies expressing serious concern regarding public safety, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these representations.

2.21 Prior to the determination of an application, an applicant must ensure the Council has been provided with such certificates as are necessary to ensure the safety of the premises. These may include:

- Electrical inspection report certificate
- Fire alarm test inspection report
- Emergency lighting inspection and test report
- Fire fighting equipment
- Flame retardant properties of materials certificate (new premises or upholstery)
- Ceiling certificate (in the case of cinemas)
- Gas safety certificate

2.22 The Council will consider attaching conditions to licences and permissions to promote safety, and these may include conditions drawn from the pool of model conditions, which will be published separately to the Policy Statement.

2.23 To ensure Operating Schedules adequately address these issues, applicants are advised to seek advice from the Health and Safety Officers of the Environmental Health Team at the Council (or the Health and Safety Executive, where appropriate) and the Fire and Rescue Service before preparing their plans and Schedules.

### **Prevention of Public Nuisance**

2.24 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances that can impact on people living, working or sleeping within the vicinity of the premises.

2.25 The concerns mainly relate to noise nuisance, light pollution and noxious smells and due regard will be taken on the impact these may have. Accordingly, the Council will expect Operating Schedules to satisfactorily address these issues and provide information as to how the potential nuisances will be prevented.

2.26 The Council will consider attaching conditions to licences and permissions to prevent public nuisance and these may include conditions drawn from the

model pool of conditions which can be found in Appendix D of the Guidance issued under Section 182 of the Licensing Act 2003. ([www.culture.gov.uk](http://www.culture.gov.uk))

2.27 The extent to which the above matters need to be addressed will be dependent upon the nature of the area where the premises are situated, the type of premises, the licensable activities to be provided, operational procedures and the needs of the local community. In general, the Council will expect more comprehensive measures to be in place at late night entertainment venues or in premises with a history of public nuisance problems.

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

2.28 The general relaxation in the Licensing Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and other individuals accompanying children also have responsibilities.

2.29 Access by children to licensed premises will, generally, be a matter for the business unless the Council considers that conditions are required in order to promote the licensing objective of the “protection of children from harm”. Accordingly, the Council expects Operating Schedules to identify the control measures to demonstrate compliance with this objective.

2.30 The Council recognises the Social Care & Health department of Durham County Council as being competent to advise on matters relating to the protection of children from harm.

2.31 It is obviously not possible to properly anticipate every issue of concern that could arise in respect of children with regard to individual premises. Each application will be considered on its individual merits. However, applicants will be expected to demonstrate, and provide evidence that, suitable controls are in place. Such matters should include proposals or arrangements to prevent children from:

- Acquiring or consuming alcohol;
- Being exposed to drugs, drug taking or drug dealing;
- Being exposed to gambling;
- Being exposed to entertainment of an adult or sexual nature;
- Being exposed to incidents of violence or disorder;
- Being exposed to excessive noise;
- Being exposed to tobacco smoking and its effects;
- Purchasing cigarettes from vending machines;

2.32 In premises where there are Amusement With Prizes (AWP) machines and cigarette vending machines, the Council will expect Operating Schedules to

demonstrate the measures to be taken to prevent access by children in accordance with the Gambling Commission's Gaming Machine Permits Code of Practice available at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) and to encourage applicants of premises a licence to show both AWP and cigarette vending machines on the plan.

2.33 The Council expects licensees to be able to demonstrate in their Operating Schedule that they have in place satisfactory arrangements to prevent sales of alcohol to children, including a proof of age scheme. The Council recommends that the following documents should be used as proof of age:

- Passport;
- Photo card driving licence
- Proof of Age scheme card (e.g. P.A.S.S. - [www.pass-scheme.org.uk](http://www.pass-scheme.org.uk))
- Citizen Card supported by the Home Office (details from [www.citizencard.net](http://www.citizencard.net))

The Council commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks which can be found at [www.portman-group.org.uk](http://www.portman-group.org.uk)

2.34 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection from exposure to strong language and sexual expletives. In relation to film exhibition premises, a mandatory condition will be applied requiring access to be restricted to those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification. In certain circumstances children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, and the unpredictability of their age and the lack of understanding of danger.

2.35 Provided that there is no risk to children, the Council has no intention of imposing conditions regarding the admission of children and where no licensing restriction is necessary, admission of children will remain entirely a matter for the discretion of the individual licensee, club, or person who has given a temporary event notice.

2.36 However, applicants/notice givers will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events. Such

measures should include the need for the presence of a sufficient number of adult staff to ensure the well being of children during an emergency.

2.37 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact on harm to children have been considered. Areas that will give particular concern in respect of children include premises:

- where entertainment or services of an adult or sexual nature are commonly provided
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or where concerns exist regarding underage drinking
- with a known association with drug taking or dealing
- where there is a strong element of gambling on the premises
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

## **POLICY STATEMENT**

2.38 The Council continues to welcome the inward investment and town centre regeneration the development of the night-time economy brings. However, the Council will always attempt to safeguard the security and quality of life of residents. The Council expects businesses to promote the four licensing objectives and in doing so identify, implement and successfully manage a full range of control strategies, work in full harmony with all regulatory agencies and have particular regard to their neighbours and the wider environment.

2.39 The Council will consider all applications on their own merits but if no relevant representations are made there is no provision for the Council to impose conditions on a licence other than those volunteered by the applicant. Subsequently, if no representations are made, the Council will issue the licence on the terms sought.

2.40 The Council will monitor and review the operation of the policy where appropriate, above and beyond the minimum statutory requirements. This recognises the fluid nature of the night time economy and the rapid developments that can occur within it.

2.41 If a Responsible Authority identifies or receives any complaint that an area that is suffering problems due to a high concentration of certain types of premises the Council will investigate this matter and if necessary act upon its finding.

2.42 The Council will attempt to use the flexibility afforded by this regime to encourage a diverse range of cultural and leisure activities to avoid creating a mono-culture based on the heavy consumption of alcohol. The Council recognises the need for a greater diversity in the night-time economy to meet the wider expectations of all residents. Thus it will seek to facilitate a more diverse provision of live music, entertainment, street trading, café bars and restaurants. Only conditions strictly necessary for the promotion of the licensing objectives should be attached for activities of this nature and the Council is aware of the need to avoid measures that deter live music, dancing and theatre by imposing indirect costs of a substantial nature.

2.43 To ensure that licensed activities are carried out in accordance with licence conditions and therefore support the licensing objectives, the Council will carry out appropriate monitoring at licensed premises and activities. Where necessary, this will be in conjunction with other relevant agencies.

2.44 Where monitoring indicates enforcement may be necessary, this will be considered and where necessary carried out in accordance with both the Enforcement Concordat and relevant enforcement policies. Such monitoring will include an assessment of whether diverse cultural events are being deterred by the policy and if this is found to be the case, the policy will be reviewed.

2.45 The Council will ensure that there is no unnecessary duplication between licence conditions under the Act and those imposed under other legislation. However, a consequence of this approach is that it may be necessary on occasions to use powers outside of the Act to deal with problems arising from licensed premises and the management thereof.

### **Integration with other Strategies / Partnership Working**

2.46 The Council takes the view that the Act cannot resolve all community problems. However, it will form a cornerstone of its input into the management and regulation of the nighttime economy, as well as being an integral part of the delivery of its key strategies in respect of crime and disorder and anti-social behaviour.

2.47 The Council recognises the important relationship between the Act and other legislation in particular the Crime and Disorder Act 1998 and the Anti-social Behaviour Act 2003 and the essential role partnership working will play in the effective delivery of these key aims. A central partnership will be with the Police, however, the Council appreciates that there are a multitude of other agencies that indirectly impact upon the four licensing objectives.

2.48 Educative measures such as the Safer Clubbing Guide ([www.drugs.gov.uk](http://www.drugs.gov.uk)) and Alcohol Harm Reduction Strategy ([www.strategy.gov.uk](http://www.strategy.gov.uk)) provide

authoritative guidance. Non-statutory agencies such as the National Proof of Age Standards Scheme, Portman Group and the local Pubwatch scheme provide valuable advice. Other Council departments such as Planning and Environmental Services play important roles both in the development of the night-time economy and in minimising any less welcome aspects of its impact. The law requires that the relevant statutory Planning and Licensing regimes must operate to different agendas, assessing, as material considerations, separate issues. This ensures that licensing applications are not merely a re-run of planning applications (and vice versa) However, the Council is committed to high standards of customer care, including as part of this the provision of a high quality one stop shop service for customers seeking advice on both planning and licensing issues. As such officers will always endeavor to work together to provide meaningful joined up advice to customers seeking advice on a matter which raises both licensing and planning issues.

2.49 The Council responds to this challenging situation in three ways:

- Undertaking a diverse and wide ranging initial consultative process
- Actively seeking and responding to the views of all responsible authorities and interested parties throughout the lifetime of the policy
- Facilitating a suitable multi-agency forum to encourage dialogue and the proper integration of the Licensing Policy with other policies that may impact upon it

2.50 This policy encourages the provision of a broader range of cultural activities, in particular live music. As such, only proportionate and reasonable licence conditions will be imposed on such events. The impact of the policy on relevant cultural activities will be assessed via the County Durham Cultural Strategy Steering Group. This group which includes representatives from County and District Councils and other relevant bodies, monitors the County Durham Cultural Strategy “Yeast in the Dough”.

### **Cumulative Impact**

2.51 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Council can take into account. This should not, however, be confused with ‘need’ which relates more to the commercial demand for a particular type of premises e.g. a pub, restaurant or hotel. The issue of ‘need’ is therefore a matter for planning consideration or for the market to decide and does not form part of this Licensing Policy Statement.

2.52 The Council may receive representations from either a responsible authority or an interested party that the cumulative impact of new licences is leading to an area becoming saturated with premises of a certain type. Such representations may claim that the cumulative impact creates a focal point for large groups of people to gather, creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases the

issue of cumulative impact can be taken into account when considering the individual merits of any application.

2.53 The Council will not operate a quota of any kind, which would predetermine any application, nor will it seek to impose general limitations on trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels and other clubs all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be given to those differences and the differing impact they are likely to have on the local community.

2.54 In determining whether to adopt a 'saturation' policy for a particular area the Council may;

- gather evidence of identification of serious concern from a responsible authority or local residents about actual nuisance and disorder, or the imminent threat of it
- identify the area from which problems are arising and the boundaries of that area and make an assessment of the causes
  - consult with those specified in section 5(3) of the 2003 Act and subject to the outcome of the consultation;
- adopt a policy about future applications for premises within that area

2.55 The Council is keen to stress that as well as the powers under the Act, there are a number of other mechanisms for addressing issues associated with the night-time economy, that have a negative impact. Prior to the implementation of the Act, the following controls were in place:

- Aspects of the planning process
- Street cleansing
- CCTV surveillance to the town centre
- A well established taxi service
- A dedicated Police Licensing Unit

2.56 The Council recognises further powers granted under the Act, including:

- Additional Police and Environmental Health Officer powers to close premises
- Review of licences / certificates

2.57 Additionally, the Council as part of its ongoing strategy for its management of the night-time economy will consider the feasibility of further measures including;

- Adoption of street trading byelaws
- Adoption of legislation relating to drinking in public places

2.58 These measure will be supplemented by other local or national initiatives where appropriate.



## **NON DISCRETIONARY POWERS UNDER THE ACT**

3.1 This section of this document does not set out how the Council will administer the regime. It identifies key areas of the Act where the Council has power(s), but has little or no discretion in how it uses it. That is, areas where the Act has identified a clear procedure to be followed and clear criteria which must be met. In these instances, the Council is required to follow a course of action identified by the Act.

### **Reviews**

3.2 Following the grant of a licence a responsible authority or interested party may request the Council to review the licence/certificate where problems associated with the four licensing objectives have arisen. It is important to note that the Council does not have the power to instigate a review, however once a review of a licence has instigated, the council will administer and determine its outcome at a hearing where an evidential-basis for the allegations made will need to be submitted. However, the Council expects responsible authorities to try to give licensees early warning of any concerns identified at a premises. Revocation of a licence will be seriously considered, even for a first offence, if the prevention of crime objective is being undermined.

3.3 Requests for reviews may be rejected where, in the view of the Council, the complaint is not relevant to the licensable objectives or is frivolous, vexatious or repetitious (see glossary).

### **Provisional Statements**

3.4 Where premises are being or are about to be constructed for the purpose of being used for one or more of the licensable objectives, or are being or about to be extended or otherwise altered for that purpose, applicants may apply for a provisional statement if they have an interest in the premises. This will give the owner some reassurance about whether a licence would be granted if the premises was built as set out in the application for the provisional statement. However, a provisional statement is not an authorisation, so the relevant permission must still be obtained in order to carry on licensable activities.

### **Interim Authorities**

3.5 If a premises licence holder dies, becomes bankrupt or mentally incapable then the licence will lapse. However, if within a seven-day period of such circumstances a person who had an interest in the premises or who is connected to the former holder of the licence, gives the Council an "Interim Authority Notice", the premises licence will be reinstated for a period of 2 months.

## **Personal Licences**

3.6 The Council has very little discretion with regard to the issuing of personal licences. Applications for personal licences will be granted provided the applicant holds a relevant licensing qualification (go to [www.culture.gov.uk](http://www.culture.gov.uk) for a list of the current accredited licence qualification providers) and has not been convicted of a relevant offence. Exceptionally the Police may object, although only on the grounds of crime and disorder. In these instances, a hearing will be held to decide the application.

3.7 In the event of a hearing, the Council will carefully consider whether the granting of a licence will be in the interests of the crime prevention objective. It will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances.

3.8 The Council will produce guidance and application packs/procedures once the Department for Culture, Media and Sport (DCMS) has published the appropriate regulations.

## **Appeals**

3.9 Should an applicant wish to appeal against the decision of the Council, they should give a notice of appeal to the justices' chief executive for the Magistrates' Court within a period of 21 days beginning with the day on which they were notified of that decision. Details of local Magistrates' Courts are available from the Licensing Department.

## **Temporary Event Notices**

3.10 Temporary Event Notices (TENs) are intended to allow charities, community and voluntary groups, schools, churches and hospitals to hold relatively small-scale short-term events. However, the Council realises that there is potential for this intended aim to be open to misuse or misinterpretation. Where this situation occurs and the Council has grounds to believe it may lead to events that are unsafe, unsuitable or inappropriate for either attendees or other parties it may seek a remedy outside of the Act, either by recourse to other appropriate legislation or legal mechanism such as an injunction. The Council encourages those who seek to utilise such notifications to give as long a period of notification as practicable, as the ten day deadline is an absolute minimum. The address that TENs should be served on Durham Constabulary can be found in paragraph 8.1

## DISCRETIONARY POWERS UNDER THE ACT

4.1 The Council's functions as a Licensing Authority are to be carried out by its Licensing Committee. As many of the decisions and functions will be purely administrative in nature, officers will be given appropriate delegated powers. The scheme of delegation is outlined below:

**Table 1 – Delegated Powers**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Statutory</b>	<b>Officers</b>
Review of Policy	All cases		
Change in Act	All cases		
Change in Regulations	All Cases		
Application for personal licence		If a Police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for Provisional Statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a Police objection	All other cases
Request to be removed as designated premises supervisor		All cases	
Application to 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 certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious		All cases	
Decision to object when local authority is a consultee and not the relevant authority considering the application			All cases
Determination of a Police objection to a temporary event notice		All cases	

Where there are no relevant representations/objections to the grant of premises licences, club certificates, personal licences or temporary activities, officers dealing with these applications will report the outcomes back regularly to licensing committee so that they maintain an overview of the general situation.

## **Hearings**

4.2 A hearing will be arranged to deal with any applications which cannot be dealt with under delegated powers or resolved by agreement between applicants, interested parties and/or responsible authorities.

4.3 Each case will be decided on its own merits.

4.4 Hearings will be held at the earliest opportunity and have regard to the laws of natural justice and the Committee will conduct a quasi-judicial consideration of the application, objections and representations.

4.5 A legal advisor, advocate or friend may represent applicants where they do not choose to represent themselves.

4.6 Conditions may be attached to licences. A list of Pool of Conditions is available on the DCMS website at [www.culture.gov.uk](http://www.culture.gov.uk). Any condition may be drawn from the list, or be based upon such a condition or may be devised having regard to the particular circumstances of the application. The Council recognises that it cannot impose blanket standard conditions.

4.7 Any condition attached to a licence will be related to one or more of the licensing objectives.

## **Premises Licences**

5.1 A premises licence is required for any premises where it is intended that a licensable activity is to take place, with the exception of permitted temporary activities.

5.2 To assist the efficient administration of all application processes, the Council will produce a range of guidance documents/application packs for the applicants. These will detail the relevant procedures and what information should be submitted with an application for a premises licence. This process should include the submission of an operating schedule. The Council recognises that the regulatory regime encompasses a broad range of premises that will vary in size, style and character. Operating schedules will similarly vary in both scope and detail. In respect of some premises it is possible that no measures will be needed to promote one or more of the licensable objectives. However, for larger venues offering late night entertainment, operating schedules need to contain detailed

and justified risk based decisions on the promotion of the four licensing objectives. The section below outlines a non-exhaustive checklist businesses should use in writing their operating schedule. Further detail on each licensing objective may be found in sections 2.12 – 2.37.

### 5.3 Prevention of Crime and Disorder

- Is there is a history of crime, violence, disorder or drugs?
- Ways to deter drug problems/abuse – for guidance please refer to the Safer Clubbing Guide
- Current controls (e.g. searches, signage, training of staff, radio links to Careline, Pubwatch and other public houses, provision of door supervisors and female attendants)
- Culture / age profile of patrons
- Approach, management and likely local impact relating to drinks promotions whilst not specifying a minimum price condition, the Council will expect operators to consider the destabilising effect irresponsible discounting can have on the market)

5.4 Premises with any indication or history of drugs misuse shall include a ‘Drugs Misuse Action Plan’ as part of their operating schedule. Additionally, an action plan will be required if the character of the premises is considered to lead to an increased risk of drugs use.

### 5.5 Public Safety

- The Council recognises that the majority of licensed premises are subject to the Health and Safety at Work etc Act 1974. It is not necessary to detail existing health and safety arrangements within the operating schedule except where the general duties specified do not adequately cover specific issues which arise on the premises, for instance a spillage/breakage policy would have to recognise the potential for some customers to remove footwear whilst on the dance floor
- Where regulated entertainment includes dancing, this should be risk assessed. The Council recognises that dance floors may be a flashpoint for potential violence and disorder, the risk assessment should consider adequate supervision, safe location for DJ or entertainers, potential of special effects and lighting, area for safe bottle or glass storage, use and consumption of drinks on dance floors.
- Ways to monitor numbers and deal with overcrowding issues (Provision of door supervisors)

## 5.6 Prevention of Public Nuisance

- Assessment of likely noise levels in the premises
- Assessment of likely noise levels if outdoor drinking is allowed
- The sound insulation the building will provide (e.g. double glazing, open-able windows, double doors/lobbies to entrances)
- The distance and direction to the nearest noise sensitive premises
- Likely noise sources outside of the premises (e.g. emptying bottle bins, taxis, unruly customers leaving the premises)
- Availability of toilets after closure of premises
- Dispersal of patrons – where necessary the Council will expect a dispersal policy for patrons at the end of the evening. The policy will specify such issues as alterations to the style and volume of music played, public address announcements and use of appropriate signage at exits.
- Ways to limit noise/disorder from patrons leaving the premises

## 5.7 Protection of Children from Harm

- Ways to prohibit unaccompanied children accessing the premises
- Is there entertainment or services of an adult or sexual nature provided?
- Has there have been convictions of members of the current staff at the premises for serving alcohol to minors or a reputation for underage drinking?
- Is there a known association with drug taking or dealing?
- Is there a strong element of gambling on the premises?
- Is the supply of alcohol for consumption on the premises the exclusive or primary purpose of the services provided at the premises?

5.8 The Council strongly advises that the applicant seeks the views of responsible authorities on their risk assessment, operating schedule and plans relating to the licensable activities to be conducted, at the earliest opportunity. This should make the full application process much easier for all parties.

5.9 It will be a criminal offence enforceable by law to fail to comply with licence conditions.

5.10 The Council reserves the right to address individual opening hours at premises on each individual case. Restrictions may be put in place when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music in a public house after a certain time may be prohibited even though other licensable activities are permitted to continue. However, there will be a presumption to grant the hours requested unless there are specific objections to those hours raised by responsible authorities or interested parties on the basis of the licensing objectives.

5.11 The Council recognises that in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided.

5.12 With regards to shops, the presumption will be to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping, unless representations raise very good reasons, based on licensing objectives, for restricting those hours.

### **Club Premises Certificates**

6.1 The Council recognises that premises to which public access is restricted and where alcohol is supplied other than for profit, give rise to different issues than those presented by commercial enterprises selling direct to the public. These premises make an important and traditional contribution to the life of many communities and bring significant benefits. Clubs will still be required to submit a club operating schedule and should still therefore have regard to section 5. However, the Council recognises that their activities take place on premises to which the public do not generally have access and they operate under codes of discipline applying to members and their guests. The Council will have due regard to this when determining what conditions will be included in certificates. Conditions will only be applied when strictly necessary.

6.2 In order to qualify for this exemption clubs must satisfy the conditions specified in Sections 62-64 of the Act.

### **Monitoring and Enforcement**

7.1 The licensing objectives create a broad range of possible offences, including carrying on licensable activities without a relevant permission or failing to comply with the conditions of a licence. The Council acknowledges the wide range of options available under the Act, to prevent, control or mitigate potential problems, and also understands that it is not the only authority or agency involved. Likewise, the Act itself is only one of several pieces of legislation applicable in these circumstances. In all instances, the Council will be guided by the principles outlined in the Enforcement Concordat and its own enforcement policies.

### **Monitoring**

7.2 Monitoring refers to the various processes by which the Council and other agencies involved gather information concerning this policy, its impact and individual and collective compliance with it. Given the diversity of both the district, premises and businesses involved, monitoring will take a variety of forms encompassing both proactive and reactive visits. Effective monitoring will serve a variety of purposes. In the first instance it will allow for the identification of problems and early intervention in them in order to avoid the need for formal

action. In more serious situations it will act as the basis for gathering intelligence/evidence necessary to take formal action. Over time, monitoring activities will allow the Council to build an accurate picture of the effectiveness of its policy in meeting the licensing objectives, allowing for its continual review and improvement. Where necessary monitoring will focus, in particular, on areas that appear to be suffering specific problems that are caused by a high density of certain types of licensed premises.

7.3 The Council as the Licensing Authority has a central role in collating and disseminating information and intelligence to and from key partners including the Police, Fire and Rescue Service, Trading Standards Officers, Security Industry Authority, Licence holders, other Council departments, Pubwatch, the taxi trade and public representatives. The Council will attempt to achieve this by establishing appropriate working / liaison groups, producing publicity material and holding public meetings where appropriate.

7.4 Notwithstanding the generality of 7.3, given the common thread the issue of under age sale of alcohol has to many of the licensing objectives, the Council will, in particular, monitor complaints or intelligence on this issue. It will endeavour to work closely with key partners, using test purchases or other appropriate measures to investigate or take necessary action.

### **Enforcement**

7.5 The Council in the first instance will attempt to balance the needs and rights of all parties concerned and resolve issues without recourse to formal legal action. Notwithstanding this the Council recognises its duty to protect the security and quality of life of the public. In doing so due regard will be given not only to the powers contained in this Act but also to other appropriate legislation for example; the Environmental Protection Act 1990 and the Health and Safety at Work etc Act 1974.

7.6 This approach will be particularly evident when dealing with Permitted Temporary Activities. The Council embraces the concept of Temporary Event Notices (TENs) and the freedom they allow to charities, community and voluntary groups, schools, churches and hospitals to hold relatively small-scale short-term events. However, the Council realises that this intended aim is open to misuse and misinterpretation by less worthy causes. Commercial or even criminal organisations may attempt to use this relaxation for purposes other than those intended by the Act. Where this situation occurs and the Council has grounds to believe it may lead to events that are unsafe, unsuitable or inappropriate for either attendees or other parties it may seek a remedy outside of the Act, either by recourse to other appropriate legislation or legal mechanism such as an injunction.



## **Contact Information**

8.1 The Council would encourage informal discussion prior to application/notification, and can provide general advice and guidance. The Licensing Department can be contacted at:

The Licensing Department  
Chester le Street District Council  
Civic Centre  
Newcastle Road  
Chester le Street  
County Durham  
DH3 3UT

Telephone: 0191 3872202

E-mail: [licensing@chester-le-street.gov.uk](mailto:licensing@chester-le-street.gov.uk)

Fax: 0191 387 2165

Further information can be found on our website at [www.chester-le-street.gov.uk](http://www.chester-le-street.gov.uk)

## **Responsible Authorities**

Environmental Health Manager  
Chester-le-Street District Council  
Civic Centre  
Newcastle Road  
Chester-le-Street  
County Durham  
DH3 3UT

County Durham and Darlington Fire and Rescue Service  
Fire Brigade Headquarters  
Framwellgate Moor  
Durham  
DH1 5JR

Social Services  
Durham County Council  
129 Front Street  
Chester-le-Street  
County Durham  
DH3 3BL

Durham Constabulary  
Licensing Unit  
Newcastle Road  
Chester-le-Street  
County Durham

Development and Building Control Manager  
Chester-le-Street District Council  
Civic Centre  
Newcastle Road  
Chester-le-Street  
County Durham  
DH3 3UT

### **Equal Opportunity**

8.2 This Statement of Licensing Policy recognises that the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.

## **GLOSSARY OF TERMINOLOGY**

### **Entertainment Facilities**

Facilities for enabling persons to take part in entertainment of a description falling within those mentioned above for the purpose, or for the purposes which include the purpose, of being entertained. The descriptions of entertainment are making music, dancing, and entertainment of a similar description to that falling within those mentioned above. This definition is subject to Part 3 of schedule 1 to the Licensing Act 2003.

### **Frivolous Representation**

This matter is decided on its own merits, however these representations are categorised by a lack of seriousness.

### **Incidental Music:**

Where in certain circumstances the performance of live music, or the playing of recorded music is incidental to another activity, which is not in itself entertainment or entertainment facilities. If the volume of the live or recorded music predominates over the other activities, this would generally not be regarded as incidental. As the Act does not define “incidental” the Council will judge whether music of this kind is incidental to other activities on a case by case basis.

### **Interested Party**

- i) a person living in the vicinity of the premises
- ii) a body representing persons who live in that vicinity
- iii) a person involved in a business in that vicinity
- iv) a body representing persons involved in such businesses

### **Late Night Refreshment**

The provision of hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises between 11p.m. and 5a.m. **or** at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises. Where ‘hot food or hot drink’ is defined as; ‘Food or drink supplied on or from any premises is ‘hot’ for the purposes of schedule 2 to the Act if the food or drink, or any part of it:

- i) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature, or
- ii) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.

### **Licensable Activities and Qualifying Club Activities**

- i) the sale by retail of alcohol
- ii) the supply of alcohol by or on behalf of a club, or to the order of, a member of the club
- iii) the provision of regulated entertainment
- iv) the provision of late night refreshment for those purposes the following licensable activities are also qualifying club activities;
  - i) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club for consumption on the premises where the supply takes place
  - ii) the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place
  - iii) the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests

### **Operating Schedule**

The operating schedule is the part of the application form for a premises licence or club certificate, where the applicant sets out various details about how they propose to operate the premises when carrying on licensable activities; proposed opening hours and times for licensable activities; proposed duration of the licence or certificate; and a statement of the steps the applicant proposes to take to promote the licensing objectives (for example, arrangements for door security to prevent crime and disorder). The significance of the operating schedule is that if the application for the premises licence or club premises certificate is granted, it will be incorporated into the licence or certificate itself and will set out the permitted activities and the limitations on them.

### **Private Event**

An event, where a licensable or other activity takes place, to which the public do not have access. Such an event would be defined as regulated entertainment, and therefore licensable, only if it is provided for consideration and with a view to a profit. For example, a charge to those attending a private event to cover the costs of the entertainment, and no other purpose, would not make the entertainment licensable, as this would not be with a view to a profit. It would be irrelevant if a profit might inadvertently be made as long as there had not been an intention to make a profit.

### **Regulated Entertainment**

- (a) a performance of a play
- (b) an exhibition of a film
- (c) an indoor sporting event
- (d) a boxing or wrestling entertainment
- (e) a performance of live music
- (f) any playing of recorded music
- (g) a performance of dance
- (h) entertainment of a similar description to that falling with paragraph (e), (f) or (g) where the entertainment takes place in the presence of an audience and is

provided for the purpose, or for the purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of schedule 1 to the Licensing Act 2003

### **Relevant Representation**

A representation would only be 'relevant' if it relates to the likely effect of the grant to the licence on the promotion of at least one of the four Licensing Objectives. For example, a representation from a local businessman which argues that his business would be commercially damaged by a new business for which an application is being made under Part 3 of the Act would not be relevant – this is a commercial matter. However, if a representation to the effect that nuisance caused by the new business would deter customers from entering the area and the steps proposed by the applicant to control the nuisance are inadequate would amount to a relevant representation.

### **Repetitious Representation**

This matter is decided on its own merits, however a 'repetitious representation' would be categorised as being similar, or of a similar nature, to a previous representation which has already been decided upon.

### **Responsible Authority**

- i) the Chief Officer of Police for any Police area in which the premises are situated
- ii) the Fire Authority for any area in which the premises are situated
- iii) the enforcing authority within the meaning given by Section 18 of the Health and Safety at Work etc. Act 1974 for any area in which the premises are situated
- iv) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated
- v) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- vi) a body which:
  - (a) 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
  - (b) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters
- vii) any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated
- viii) in relation to a vessel:
  - (a) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57) 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
  - (b) the Environment Agency
  - (c) the British Waterways Board, or

(d) the Secretary of State

(e) a person prescribed for the purpose of this subsection.

**Temporary Event**

The use of premises for one or more of the licensable activities during a period not exceeding 96 hours usually where a premises licence covering the licensable activity is not in place.

**Vexatious Representation**

This matter is decided on its own merits, however vexation may arise because of disputes between rival businesses or persons.