

Licensing Act 2003

Statement of Licensing Policy

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For the period 1st April 2009 to 31st March 2012

Licensing Act 2003 - Statement of Licensing Policy

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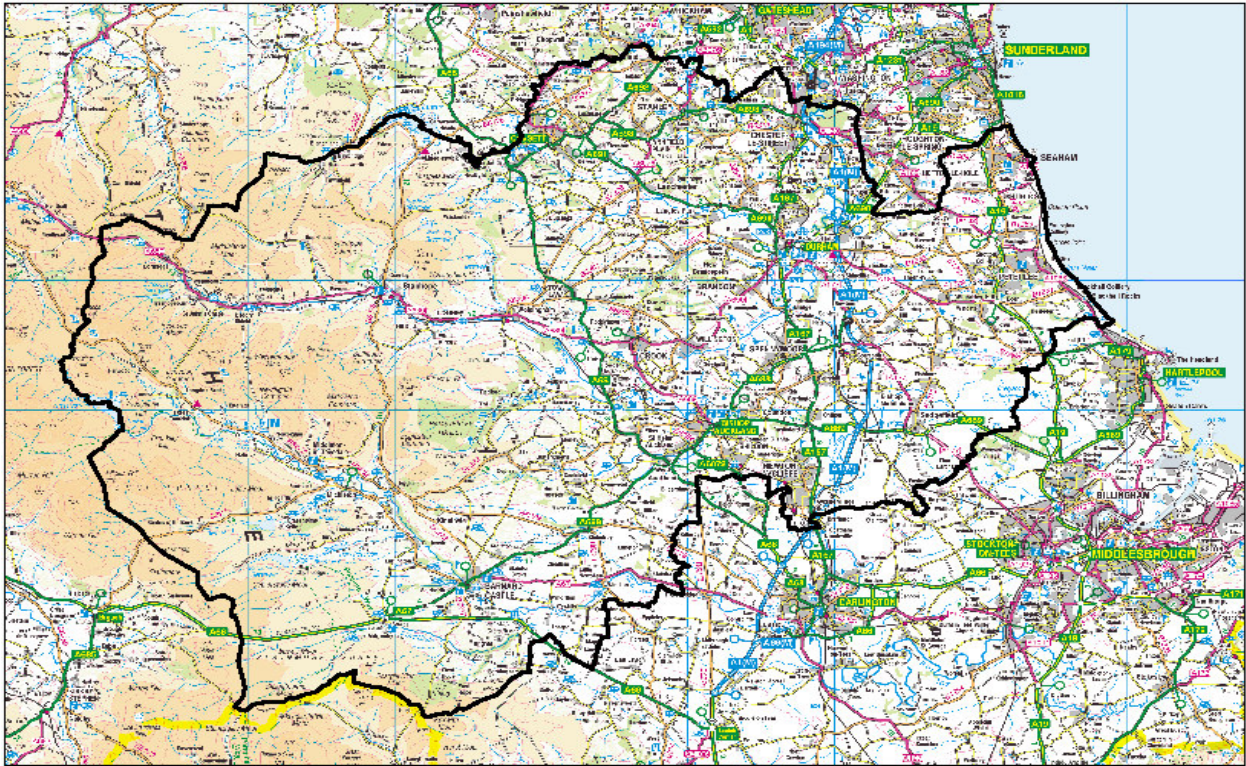
DURHAM COUNTY COUNCIL - STATEMENT OF LICENSING POLICY

1. Introduction

- 1.1 The County of Durham is located in the heart of the North East of England. From its western boundary high in the Pennine Hills, to the limestone cliffs of its North Sea coastline, County Durham features a rich diversity in lifestyle and culture including a historic University, a World Heritage Site, Beamish and Bowes Museums, Durham City, Lumley and Lambton Castles, designated areas of Outstanding Natural Beauty, and historic villages and market towns. Approximately 4 million visitors are attracted to the County each year.
- 1.2 The County currently has a resident population of around 493,500 with more than half of the residents living in villages of less than 10,000 people. Many of the County's 12 main towns and 240 other small towns and villages are associated with its proud coal mining heritage.
- 1.3 Since the Licensing Act 2003 ("the Act") came into force in February 2005 thousands of licences and other permissions have been issued to premises and

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persons involved in the sale and supply of alcohol and the provision of regulated entertainment and late night refreshment throughout Durham County.



The administrative area of Durham County Council

2. Main Principles of the Licensing Policy

2.1 This statement has been prepared pursuant to Section 5 of the Act by Durham County Council in its capacity as Licensing Authority and as such is referred to as the Licensing Authority throughout this policy.

2.2 The purpose of the policy is to promote the Licensing Objectives and set out the general approach to be adopted by the Licensing Authority when exercising licensing functions in order:

- to reinforce to elected Members on the Licensing Committee and any sub-committee the boundaries and power of the local authority, and to provide them with parameters under which to make their decisions. The Committee should be able to test the application against criteria set out in the policy and if necessary add conditions to those set out in the Operating Schedule.
- to inform the licence applicants of the parameters under which the Authority will make licence decisions, and therefore how a licensed premises is likely to be able to operate within an area. (Note however that each case must be examined on an individual basis.)

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- to inform residents and businesses of the parameters under which the Authority will make licence decisions, and therefore how their needs will be addressed.
 - to support decisions made by the Licensing Authority when these decisions are challenged in a Court of Law.
- 2.3 The Policy has been written in accordance with the provisions of the Act and guidance issued by the Secretary of State for the Department of Culture, Media and Sport (DCMS). It replaces the Statements of Licensing Policies which, until the 1st April 2009, were in force in each of the seven former Durham District Authorities.
- 2.4 In adopting this Licensing Policy, the Licensing Authority recognises that residents need to live and work in a safe and healthy environment. Also, that it is important licensed premises are safe and well run, and that they add both to the local economy and vibrancy of the County. The Licensing Authority's aim is to facilitate well managed premises with licence holders displaying sensitivity to the impact of their premises on local residents. The Licensing Authority wishes to encourage the provision of a wide range of entertainment activities within Durham County throughout the opening hours of any licensed premises, and to promote live music, dance, theatre, circus and street arts etc. for the wider cultural benefit of the community, taking into consideration the County Durham Cultural Strategy 'Yeast in the Dough'.
- 2.5 The Licensing Policy takes into account all shared priorities and plans, for instance the Community Strategy, the Alcohol Harm Reduction Strategy, the 'Nightsafe' Strategy, Crime & Disorder Reduction Strategy and key ambitions in terms of national, regional and local priorities. (The Policy will also take into consideration the new Authority's Corporate Plan Objectives once formed.)
- 2.6 The main licences and permissions considered by this Policy are as follows:
- The licensing of individuals for the retail sale of alcohol (a Personal Licence).
 - The licensing of premises for the retail sale of alcohol, the provision of regulated entertainment or late night refreshment (a Premises Licence).
 - The supply of alcohol or the provision of regulated entertainment at certain clubs (a Club Premises Certificate).
 - The permitting of certain licensable activities on a temporary basis (a Temporary Event Notice).
- 2.7 The Policy does not seek to undermine the rights of any person to apply under the Act for a variety of permissions, or have their application considered on its individual merits. Nor does it override the rights of any person making representations on any application or seeking a review of a licence where they are permitted to do so under the Act. The Licensing Authority will only depart from the Policy if the individual circumstances of any case merits such a decision in the interests of the promotion of the Licensing Objectives.
- 2.8 In determining this Policy the following have been consulted:
- Responsible Authorities

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- All persons / bodies throughout the County holding Premises Licences or Club Premises Certificates including pubs, clubs, off licences, supermarkets, take-aways, restaurants and mobile food vendors
- Persons / bodies representative of local holders of Personal Licences
- Persons / bodies representative of businesses and residents in the County
- Safeguarding Children Board
- All Elected Members of Durham County Council
- Clerks of Town and Parish Councils throughout Durham County
- Crime and Disorder Reduction Partnership
- Durham CIU
- The British Beer and Pub Association
- The Federation of Licensed Victuallers
- British Institute of Inn Keeping (BIIAB)
- Alcoholics Anonymous
- The Association of Licensed Multiple Retailers
- Equity
- County Durham Primary Care Trust
- North East Musicians Union
- Global Online Assessment for Learning (GOAL)
- NOCTIS
- Security Industry Authority
- Local MP's and MEP's

2.9 The Licensing Authority is required to review its Policy every 3 years, and for the purposes of that review it will undertake consultation with appropriate residents, businesses and licence holders. Revisions to the Policy will be made wherever appropriate to support the Licensing Objectives.

2.10 In formulating this Policy the Licensing Authority has had regard to the provisions of the European Convention on Human Rights, Human Rights Act 1998, Crime and Disorder Act 1998, and the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000. The Government's National Alcohol Strategy has been considered in relation to crime and anti-social behaviour and the effect of binge drinking on the health of the population. The Licensing Authority has also taken into account the Home Office 'Safer Clubbing Guide'.

2.11 The licensing service works almost exclusively with, through and for people. It is passionate about promoting a just society that gives everyone an equal chance to learn, work and live free from discrimination and prejudice. As a service within a Local Authority it is taking action to ensure all aspects of service delivery addresses equality and diversity issues.

3.0 Scope of the Policy

3.1 The Licensing activities specified in the Act, which are covered by this Policy, include:

- The retail sale of alcohol

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- Supply of alcohol to club members
- Supply of hot food or drink from premises between 23:00 hours and 05:00 hours (“late night refreshment”)
- Provision of entertainment listed below (known as “regulated entertainment”) to the public, to club members or with a view to profit:
 - i. Film exhibitions
 - ii. Performances of a play
 - iii. Indoor sporting events
 - iv. A boxing or wrestling entertainment
 - v. Live music performances
 - vi. Playing of recorded music
 - vii. Dance performances
 - viii. Provision of facilities for making music
 - ix. Provision of dancing facilities

4.0 The Licensing Objectives

4.1 The Act requires that the Licensing Authority carries out its various Licensing functions so as to promote the following four Licensing Objectives:

- **The prevention of crime and disorder**
- **Public safety**
- **The prevention of public nuisance**
- **The protection of children from harm**

4.2 Each Objective is of equal importance. There are no other Licensing Objectives. The four Objectives are, therefore, to be of paramount consideration at all times.

4.3 Licensing law is the key means of control and will be part of a holistic approach to the management of the evening and night time economy. It is, however, only one means of securing the delivery of the above Objectives and should not therefore be seen as a means of solving all problems within the community. The Licensing Authority will work in partnership with neighbouring local authorities, the Police, local businesses and local people towards the promotion of the above Objectives. The Policy does not seek to regulate matters which are provided for in other legislation e.g. legislation affecting Planning, Environmental Health, Health and Safety issues etc.

4.4 The Licensing Authority also recognises that there are a number of other mechanisms for addressing issues such as anti-social behaviour and nuisance once customers are away from the vicinity of Licensed premises. These include:

- The provision of CCTV surveillance, together with sufficient taxi ranks and the provision of public conveniences open late at night.
- Powers of the Local Authority to designate parts of its area as places where alcohol may not be consumed in public.
- Police enforcement of crime, disorder and anti-social behaviour, including the issue of fixed penalty notices and the confiscation of alcohol from children and adults in designated areas.
- Police and / or Local Authority powers to immediately close down for up to 24 hours any licensed premises or temporary events on the grounds of disorder,

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the likelihood of disorder or noise emanating from the premises causing a nuisance.

- The Responsible Authorities and interested parties right to seek a review of a Premises Licence.

5.0 The Prevention of Crime and Disorder

5.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment may sometimes, if not properly managed, become a source of public nuisance, generating crime and disorder problems.

5.2 As a matter of Policy the Licensing Authority will require every holder of a Licence, Certificate or Permission to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the vicinity of their premises, including for example on the pavement, in a beer garden or in a smoking shelter. The Licensing Authority suggests that applicants demonstrate in their Operating Schedules that suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business have been identified and will be implemented and maintained with the intention of preventing crime and disorder. Procedures to deal with drunken customers, violence and anti social behaviour in and outside premises and the provision of closed circuit television in certain premises must be considered by applicants and licencees when addressing this issue. The Licensing Authority will also expect that Personal Licence holders will actively participate in established "Pubwatch" schemes where issues relating to crime and disorder can be addressed. The Licensing Authority support involvement in "2Best Bar None" initiative which enables premises to demonstrate good safe operating procedures.

5.3 The Licensing Authority considers the effective and responsible management of the premises through competent and efficient instruction, training and supervision of staff and the adoption of best practice, such as 'Challenge 21', to be among the most important control measures for the achievement of all Licensing Objectives. The Licensing Authority will take a positive view of anyone who invests in appropriate training, and in particular nationally accredited qualifications tailored to the Licensing sector.

5.4 The application for premises selling alcohol must identify a Designated Premises Supervisor (DPS) who must also hold a Personal Licence. The DPS does not have to be present on the premises at all times when alcohol is being sold. However, the DPS and Premises Licence Holder remain responsible for the premises at all times. It is important that there is an accountable, responsible person present when alcohol is being sold or supplied to ensure, for example, that alcohol is not sold to persons who have had too much to drink, or to those under the age of 18 years, and so that the Licensing Authority and Police can discuss any problems / issues arising from the licensable activities offered on the premises. The Licensing Authority considers it to be good practice if the Premises Licence Holder is present in the licensed area of the premises:

- Between 22:00 hours and closing time, when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises.

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- At all times in premises classified as vertical drinking establishments where little or no seating is provided.
- 5.5 The Licensing Authority will only impose a maximum number of people that can attend a premises or an event where there is a clear and justifiable need in respect of that particular premises or event based on the nature and style of the operation. The Licensing Authority will consider information provided by the applicant and any other body, in particular the Council's Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service before setting a maximum number. Applicants will be expected to detail the arrangements that would be put in place e.g. provision of door staff to ensure that the permitted number of people attending the premises or event will not be exceeded.
 - 5.6 Whenever security operatives / door supervisors are employed at licensed premises to carry out security functions they must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives he / she will need to be licensed by the SIA as a supervisor / manager.
 - 5.7 The numbers of licensed door supervisors, both male and female, required at any premises will be dependant upon the nature of the activities licensed and the characteristics and capacity of the establishment and hours of trading.
 - 5.8 In addition to the requirement of the Licensing Authority to promote the Licensing Objectives, a Council also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in its area and to consider crime and disorder in its decision making process.
 - 5.9 The Licensing Authority does not support drinks promotions or substantially reduced drinking policies that encourage the irresponsible consumption of alcohol, such as binge drinking.

Cumulative impact of Licences on the amenity of particular areas

- 5.10 The Licensing Authority recognises that the cumulative effect of the number, type and density of premises selling alcohol for consumption on the premises in a given area may cause serious problems of nuisance and disorder outside or some distance from Licensed premises.
- 5.11 Where there is evidence that such a problem exists, the Licensing Authority may decide it is no longer appropriate for any further Licensed premises to be established or variations to existing licences to be made in the area and that a Policy relating to cumulative impact should be adopted.
- 5.12 The effect of a Cumulative Impact Policy would be that applications for new Premises Licences or Club Premises Certificates would normally be refused if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved would not add to the cumulative impact already being experienced.
- 5.13 Applicants would need to address the Cumulative Impact Policy issues in their
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Operating Schedules.

- 5.14 In order to adopt a Cumulative Impact Policy, the Licensing Authority will:
- Identify concern about crime and disorder or public nuisance.
 - Consider whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises. If so, identify the area from which problems are arising or whether risk factors are such that the area is reaching a point when a cumulative impact is imminent.
 - Consult with relevant bodies.
 - Include the Cumulative Impact Policy in the Licensing Policy.
 - Publish the Cumulative Impact Policy.
- 5.15 The absence of a Cumulative Impact Policy does not prevent any responsible authority or interested party making representations on a new application for the grant or variation of a Licence on the grounds that the premises will give rise to a negative or adverse cumulative impact on one or more of the Licensing Objectives.

6.0 Public Safety

- 6.1 The Act covers a wide range of premises that require Licensing. Each of these types of premises presents a mixture of risks, with many common to most premises, and others unique to specific operations. It is essential that applicants acknowledge these risks and that premises are constructed or adapted and operated to safeguard occupants.
- 6.2 Applicants are advised to seek advice from the Council's Health and Safety team, and the Durham and Darlington Fire and Rescue Service, and incorporate any recommendations in their Operating Schedule before submitting their applications.

7.0 Prevention of Public Nuisance

- 7.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 7.2 The concerns relate, amongst other things, to litter, light pollution, noxious odours and noise nuisance resulting from music, human voices, ventilation equipment and vehicles. The Licensing Authority will expect applicants to demonstrate that suitable and sufficient measures have been identified, and will be implemented and maintained, with the intention of preventing public nuisance relevant to the individual style and characteristics of the premises and events.
- 7.3 If an external structure or area is to be used by customers, whether for consumption of alcohol or smoking, the applicant will be expected to offer measures designed to minimise its impact on local residents in respect of both public nuisance and crime and disorder. These measures may include a restriction on hours that areas / structures will be used, appropriate signage requesting customers to consider local residents and monitoring of such areas by staff.

- 7.4 The placement of tables and chairs outside of licensed premises may give rise to public nuisance including noise and litter. When tables and chairs are situated on the public highway relevant consents will be required. In predominantly commercial areas such as shopping centres the Licensing Authority will normally allow the use of tables and chairs outside but will expect them to be removed before the premises close, and any resulting litter / debris cleared away.
- 7.5 Applicants should give consideration to reducing potential noise nuisance by, for example:
- Assessment of likely noise levels in the premises.
 - Assessment of likely noise levels if outdoor drinking is allowed.
 - The sound insulation the building would provide (e.g. double glazing, openable 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).
 - Dispersal of patrons – where necessary the Licensing Authority 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.
- 7.6 The extent to which the above matters will need to be addressed will be dependant on the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community.

8.0 Protection of Children from Harm

- 8.1 While the Act does not prohibit children from having free access to any licensed premises, the Licensing Authority recognises that limitations may have to be considered where it appears necessary to protect children from physical, moral or psychological harm.
- 8.2 The Act makes it an offence for any child under the age of 16 who is not accompanied by an adult from being present:
- at any time on pub premises, or other premises being used exclusively or primarily for the supply of alcohol for consumption on those premises; or
 - between the hours of midnight and 05:00 hours on restaurant premises or other premises that supply alcohol for consumption on the premises
 - the Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises.
- 8.3 The Licensing Authority may consider the following when dealing with a Licence application where children may have access:
- Limitations on the hours when children may be present.
 - Limitations on ages below 18.
 - Limitations or exclusion when certain activities are taking place.

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- Requirements for an accompanying adult to be present.
 - Full exclusion of people under 18 from the premises when certain licensable activities are taking place (e.g. entertainment of a sexual nature).
 - Limitations on the parts of premises to which children might be given access.
 - Any other limitations appropriate to the application and according with the four Licensing Objectives.
- 8.4 The Licensing Authority will work closely with the Police and the Council's Trading Standards Service to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children. Alcohol must not be served to persons under the age of 18, except in limited circumstances allowed by the law, and then only after verifying a person's proof of age e.g. 16 and 17 year-olds may drink beer, wine or cider with a table meal in relevant premises, where accompanied by an adult aged 18 years or over. The currently accepted verifications for proof of age are a passport, a photo card driving licence or a proof of age scheme such as Challenge 21 (called a "PASS Card").
- 8.5 Recorded staff training programmes, the use of a refusals register, in-store signage and sensible siting of drinks can all reduce the likelihood of illegal sales.
- 8.6 The Licensing Authority commends the use of the 'Portman Group' Code of Practice on the naming, packaging and the promotion of alcoholic drinks in all Licensed premises.

Access to Cinemas

- 8.7 In the case of premises which are used for film exhibitions, applicants should include in the Operating Schedule arrangements for restricting access only to those children who meet the required age limit, in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Local Authority.
- 8.8 The Act provides that it is mandatory for Licensing Authorities to include a condition in all Premises Licences and club certificates authorising the exhibition of film, for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by the British Board of Film Classification or by the Licensing Authority itself.
- 8.9 Should the Licensing Authority need to adopt its own system of film classification the information regarding such classifications will be published on the Local Authority's website.

Children and Public Entertainment

- 8.10 Many children go to see and / or take part in an entertainment arranged especially for them. For example, children's film shows and dance or drama school productions, and additional arrangements may be required to safeguard them while at the premises.

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- 8.11 Where entertainment requiring a Licence is specifically presented for children, the Licensing Authority will normally expect the presence of at least one member of staff from the Licensed premises for every 50 children present to ensure their safety and protection from harm and to control their access and egress from the premises. The Council will require those caring for or supervising children to have undergone an appropriate Criminal Record check with the Criminal Records Bureau.
- 8.12 With regard to this Licensing Objective, the Licensing Authority considers Durham County Council Safeguarding Children Board to be the competent authority for matters relating to the protection of children from harm. A protocol exists between Durham Local Safeguarding Children Board and Durham Constabulary. All safeguarding concerns identified as a result of premises, personal applications and all variations to licences are covered by this protocol.

9.0 Licensing Hours

- 9.1 The Licensing Authority recognises that longer licensing hours for the sale of alcohol could avoid large numbers of people leaving premises at the same time, which in turn could reduce the potential for disturbance at late night fast food outlets, taxi ranks, minicab offices and other sources of transport.
- 9.2 The Licensing Authority considers that licensing hours should not inhibit the development of safe and thriving evening and night-time local economies which are important for investment and employment locally, and attractive to tourists and visitors alike. The Licensing Authority considers that providing consumers and the Licensing trade with greater choice and flexibility is an important consideration.
- 9.3 Fixed pre-determined closing times within designated areas otherwise known as 'zoning' will not be set as this could lead to significant movements of people across boundaries at particular times seeking premises opening later, with the potential for concentrations of disturbance and noise. This would treat residents in one area less favourably than those in another, as well as causing the peaks of disorder and disturbance the Act is trying to avoid.
- 9.4 Restrictions on trading hours will only be considered where necessary to meet the Licensing Objectives.
- 9.5 The Licensing Authority will generally deal with the issue of licensing hours having due regard to the individual merits of each application. However, consideration will be given in appropriate circumstances to imposing stricter conditions or limitations in respect of noise control where premises are situated in noise sensitive areas.
- 9.6 Applicants must carefully consider the hours of opening which they consider appropriate for the future operation of their business, and in particular their requirements to accommodate special events and celebrations. Where an applicant wishes to apply to extend their current opening hours beyond midnight, the Licensing Authority will expect their Operating Schedule to detail measures that will ensure the Licensing Objectives are addressed and that there will be no significant disturbance to members of the public, living, working or otherwise engaged in normal activity within the vicinity of the premises concerned.

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- 9.7 The Licensing Authority will generally consider licensing retail premises to sell alcohol for consumption off the premises at any times they are open for trade. But such could be restricted if relevant representations have been made, for example, if premises are known to be the focus of disorder and disturbance.
- 9.8 Applicants for Premises Licences will also be expected to take into consideration any operating hours that are stipulated as part of a Planning Permission.

10.0 Drugs/Knives/Weapons

- 10.1 The Licensing Authority will expect licensees to take all reasonable steps to prevent the entry of drugs, into licensed premises, to take appropriate steps to prevent drugs changing hands within the premises, and to take practical measures to prevent tragedies as a result of drug misuse. The Licensing Authority will expect licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer Clubbing (ISBN 1840827807) or other subsequent editions. The Licensing Authority also expects that licencees will also take steps to prevent the entry into licensed premises of knives and weapons.

11.0 Integrating Strategies and Avoiding Duplication

- 11.1 There are many stakeholders in the leisure industry, covering a wide range of disciplines. Many are involved, directly or indirectly, in the promotion of the Licensing Objectives, particularly those relating to the prevention of crime and disorder and public nuisance.
- 11.2 Many of their strategies deal in part with the licensing function and the Licensing Authority will, wherever appropriate, participate in multi-disciplinary working groups to ensure proper integration of local crime prevention, planning, transport, tourism and cultural strategies and also to obtain information on the effects of this Policy on local regulated entertainment.
- 11.3 The Licensing Authority recognises the need to avoid as far as possible duplication with other regulatory regimes. Whilst having regard to the Planning regime, the Council recognises that there should be a clear separation of the Planning and Licensing regimes, and Licensing applications should not be a re-run of the Planning application. The granting of a Licence under the Licensing Act does not relieve the applicant of the need to apply for Planning Permission or Building Regulation approval where appropriate. Nor does the grant qualify as, or remove the need for, any form of consent or release, for example, from covenants imposed in the title to the property whether or not such were imposed by the Local Authority.

12 Live Music, Dancing and Theatre

- 12.1 The Licensing Authority recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community. The Licensing Authority will not therefore discourage the promotion of such events but will, when considering such applications for such events and the imposition of conditions on

licences or certificates, carefully balance the cultural needs with the necessity of promoting the Licensing Objectives.

- 12.2 Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused.
- 12.3 Durham County Council may consider seeking Premises Licences for public spaces in the community, for example, open spaces and parks in the city, towns and villages which are in their ownership.
- 12.4 In places for which the Council holds a Premises Licence, entertainers will be able to give a performance without the need to serve Temporary Event Notices or to apply for a Premises Licence. This approach will make it more possible for cultural diversity to thrive and will be a far simpler process for many types of entertainment that use numerous venues each year such as street artists. Entertainers will, however, need to obtain approval of the Council (as Premises Licence holder) and comply with any conditions that might be imposed. Any charges related to this approval will be reasonable and proportionate.
- 12.5 Temporary Event Notices (TEN) enable licensable activities to take place outside the scope of a Premises Licence. Although applicants are legally required to give a minimum of 10 working days notice of a temporary event to the Police and the Licensing Authority, a period of notice of at least 28 days notice is recommended to enable any issues e.g. health and safety, to be dealt with in a timely manner. The Licensing Authority will record and monitor the number of TEN's issued.
- 12.6 Persons in control of premises such as church or chapel halls, village or parish halls, community halls and buildings of a similar nature may find the permitted annual number of Temporary Event Notices too restrictive. They should consider whether applying for a Premises Licence would be more beneficial.
- 12.7 Where a Temporary Event Notice is issued which relates to events that the Local Authority consider to be unsafe, unsuitable or inappropriate, applicants need to consider that as well as complying with the Licensing Act there is other legislation they may need to comply with which may cover their event.
- 12.8 In respect of private events to which the public are not admitted, entertainment will be considered by the Licensing Authority to be regulated only if it is provided for consideration and with a view to profit.
- 12.9 The impact of this policy on regulated entertainment, particularly live music and dancing, will be monitored. Where there is any indication that such events are being deterred by Licensing requirements, the Policy will be revisited with a view to investigating how the situation might be reversed.

Sex Related Activities

- 12.10 Where the activities proposed under the licence application include those of a sex-related nature (e.g. topless bar staff and waitresses, striptease, lap dancing, table

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dancing, pole dancing) the Licensing Authority may impose conditions which promote the Licensing Objectives whenever it is able to do so.

- 12.11 Although each application will be considered on its individual merits, the Licensing Authority may have a closer regard with respect to application for licences at premises which involve a sex related element and which are located near to schools, places of worship, hospitals, residential accommodation, community centres, youth clubs and other premises where significant numbers of children are likely to be in attendance. Applicants will also be expected to give consideration to the following matters in their Operating Schedules:
- Measures to ensure that there is no external advertising of the sexual nature of the entertainment either at the premises or in its immediate vicinity.
 - Measures to ensure that no person under 18 years of age enters the Premises (i.e. a clear notice must be displayed at each entrance to the premises in a prominent position, so that it can easily be read by persons entering the premises, in the following terms: "NO PERSON UNDER 18 WILL BE ADMITTED").
 - Measures to ensure that the activities inside the premises will not be seen from outside the premises.
 - Measures to ensure that so far as practicable performers have direct access to the dressing room without passing through or in close proximity to the audience.
 - Measures to ensure that physical contact between performers and customers is prevented and that there is adequate protection for performers.

13 Administration, Exercise and Delegation of Functions

- 13.1 Applicants are strongly advised to consult with Council Officers before preparing and submitting their applications for Licenses and other permissions. Any application not properly made will be returned to the applicant and the timescales contained in the Act will not begin until a properly made application is received.
- 13.2 Nothing in this Policy will prevent the Council from making applications in its own name for the grant of licences. The Council will, before any such licence is granted, be subject to the same considerations and application of the same scrutiny as any other applicant.
- 13.3 All relevant representations, either opposing or supporting an application, will be considered during the decision making process. Guidance relating to the submission of representations will be made available on the Council's website. Any subsequent Licensing Hearings will be conducted in accordance with the Council's Procedure for Licensing Hearings which is also available on the Council website.
- 13.4 The Licensing Authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Decisions and functions will therefore be taken or carried out by the Licensing Committee, Licensing Sub-Committees or officers of the Local Authority in accordance with an approved scheme of delegation. The form of delegations is without prejudice to officers referring an application to a Sub-Committee, or a Sub-Committee to Full Committee, if considered appropriate in the circumstances of any particular case or where required by law.

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- 13.5 Participation on the Licensing Committee by elected Council Members will be in accordance with the Local Authority's Code of Conduct for Elected Members.
- 13.6 The Committee and Sub Committees will determine each case before it on its merits. Blanket or standard conditions (other than mandatory conditions) will not be imposed under the Act. Conditions will not be attached to licences unless they have been either volunteered by the applicant or are determined by the Licensing Authority as appropriate following a Licensing Hearing. Although the Licensing Authority is required to have regard to the Department for Culture, Media and Sport (DCMS) guidance it may, if it considers it appropriate, deviate from the guidance where there are good reasons which can be justified.
- 13.7 When considering conditions the Licensing Authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned, but will also have regard to the impact of persons attending Licensed premises on the local community and environment. The Licensing Authority will carefully balance the cultural needs with the necessity of promoting the Licensing Objectives and will take into account any matters outlined in any relevant local planning, transport, tourism, cultural crime prevention or similar strategies and policies in so far as it is permitted to do so. Applicants are therefore recommended to take these matters into account when preparing their applications.

14 Enforcement

- 14.1 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the Licensing Objectives and compliance with the Act. To ensure that licensed activities are carried out in accordance with Licence Conditions and therefore support the Licensing Objectives, Council Officers will carry out appropriate monitoring at licensed premises and activities. They will investigate complaints and allegations of unlicensed activities and ensure that the conditions are complied with. They will seek to work actively with Durham Constabulary and other responsible authorities in enforcing licensing legislation in accordance with any Memorandum of Understanding and Joint Enforcement Protocol that may be created with such bodies.
- 14.2 Inspections of premises will be carried out when and if they are justified with resources being directed towards high risk, poorly run premises as opposed to lower risk, well – run premises.
- 14.3 All enforcement actions taken by the Licensing Authority will be in accordance with Durham County Council's Enforcement Policy.
- 14.4 The Act provides a mechanism for reviewing a Premises Licence where problems associated with achieving the Licensing Objectives occur after the grant or variation of a Premises Licence. The proceedings set out in the Act for reviewing Premises Licences represent a key protection for the community where problems associated with the Licensing Objectives are occurring. An interested party or responsible authority may apply to the Licensing Authority for a licence to be reviewed. Unless

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the application is withdrawn or is deemed to be frivolous, vexatious or repetitious, the Licensing Authority will hold a Hearing and take any necessary steps to promote the Licensing Objectives, such as modification of conditions, exclusion of licensable activities, removal of the designated premises supervisor, suspension of the Licence for up to 3 months or the revocation of the Licence.

- 14.5 The Licensing Authority will not expect a Premises Licence to be reviewed more than once within any 12 month period on similar grounds, except in exceptional circumstances or where it arises following a Closure Order.

15. Definitions

‘Challenge 21’: the ‘Challenge 21’ initiative encourages Licence holders who sell or supply alcohol to require sight of evidence of age from any person appearing to be under the age of 21 and who is attempting to buy alcohol. The Licensing Authority supports the acceptance of all proof of age schemes which carry the PASS (Proof of Age Standards Scheme) hologram logo.

‘Designated Premises Supervisor’ (DPS): means the person (who must be a Personal Licence holder) in the case of premises selling alcohol who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder himself. The DPS does not have to be present on the premises at all times when alcohol is being sold, however the DPS and Premises Licence Holder remain responsible for the premises at all times.

‘Interested Party’: means any of the following:

- A person living in the vicinity of the premises i.e. lives sufficiently close to the premises that they are likely to be affected by the authorised activities.
- A body representing persons who live in that vicinity e.g. a residents association, or a parish or town council.
- A person involved in a business in that vicinity i.e. has business interests that might be affected by the authorised activities. This is not confined to trade and commerce and includes the functions of charities, churches and medical practices and Local Authorities.
- A body representing persons involved in such a business e.g. a trade association.

Interested Parties can make representations relating to licensing applications or apply for a review of an existing Licence. Representations to the Licensing Authority must state the name and address of the Interested Party. Anonymous representations will not be accepted by the Licensing Authority. The Licensing Authority does, however, accept that in exceptional circumstances e.g. fear of reprisals, an Interested Party may not wish for his / her personal details to be disclosed to the applicant. In such circumstances the Licensing Authority will consider withholding the name and address of the interested party from the copy of the representation that is provided to the applicant.

Where a person or body is acting on behalf of Interested Parties to make representations on their behalf then such person or body must provide details of the

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names and addresses of the persons being represented to ensure that such persons qualify as Interested Parties.

'Late Night Refreshment': means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 23:00 and 05:00.

'Licensing Authority' means:

A Licensing Authority is a Council of a District in England; the Council of a County in England in which there are no District Councils; the Council of a County or County Borough in Wales; the Council of a London Borough; the Common Council of the City of London; the Sub-Treasurer of the Inner Temple; the Under-Treasurer of the Middle Temple; or the Council of the Isles of Scilly. The relevant Licensing Authority is the authority in whose area the premises are situated, subject to Section 12(3) of the Licensing Act 2003.

'Licensed Premises': means premises in respect of which a Premises Licence has effect.

'Licensable Activities': means:

- The sale by retail of alcohol.
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.
- The provision of Regulated Entertainment.
- The provision of Late Night Refreshment i.e. the supply of hot food or drink between 23:00 hours and 05:00 hours.

'Operating Schedule': means a document containing a statement of the following matters (and any others that may be prescribed):

- The relevant Licensable Activities.
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public.
- Information regarding the person who will be specified in the Premises Licence as the Designated Premises Supervisor.
- Where the Licensable Activities involve the supply of alcohol, and whether it is for the supply on and / or off the premises.
- The steps being taken to promote the Licensing Objectives.

'Personal Licence': is a Licence granted to an individual and authorises that person to supply alcohol or authorise the supply of alcohol in accordance with a Premises Licence. The Licence lasts for 10 years and can be renewed. It ceases to have effect when revoked, forfeited, surrendered or suspended. A Personal Licence Holder is not required where the premises concerned does not supply alcohol as one of its licensable activities. A Personal Licence Holder is also not required for the supply of alcohol in a club which holds a Club Certificate. Only the Police can object to the grant of a Personal Licence. Personal Licence Holders are responsible for every supply of alcohol under the Premises Licence. The Licensing Authority will take the following factors into consideration when considering whether

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or not proper authorisation has been given to supply alcohol in accordance with the Premises Licence:

- The person authorised to sell alcohol should be clearly identified.
- The authorisation should specify the acts which may be carried out by the authorised person.
- The authorisation should be in writing. *N.B. written authorisation is not a requirement of the Act and its absence alone could not give rise to enforcement action.*
- The Personal Licence Holder should monitor the activities of the authorised person.

‘Portman Group Code of Practice’: this Group operates, on behalf of the alcohol industry, a Code of Practice on the naming, packaging and promotion of alcoholic drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or over. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel’s decisions are published on the Portman Group’s website, in the trade press and in an annual report. If a product’s packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important weapon in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in Licensed premises in a manner which may appeal to or attract minors. The Code is supported by virtually the whole Industry including producers, importers, wholesalers, retailers and trade associations.

‘Premises Licence’: is a Licence granted by the Licensing Authority which authorises the use of any premises, which includes any place or part of premises, for Licensable activities described in Section 1 (1) and Schedules 1 and 2 of the Act. A Licence holder wishing to amend a Licence will, in most cases, be able to apply for a variation rather than having to make a new application. An application to vary a Premises Licence will be required in the following cases:

- Varying the hours during which a Licensable activity is permitted.
- Adding or removing Licensable activities.
- Amending, adding or removing conditions within a Licence.
- Altering any aspect of the layout of the premises which is shown on the plan. In respect of areas on the plan which are not required to be shown on the plan e.g. beer gardens, the Licensing Authority will take into account the impact on the Licensing Objectives should these areas be utilised for the purposes of accommodating smoking shelters.

‘New Premises Licence’: applications will be required (under Section 17 of the Act) when applications are received to:

- Extend a time limited licence.
- Transfer the Licence from one premises to another.

‘Provisional Statement’: is a procedure by which the Licensing Authority can give a statement approving for Licensing purposes, proposals for a premises being built

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or in the course of being constructed. Where a provisional statement is made, subject to limited exceptions, the full Licence must normally be granted once the premises are completed.

‘Regulated Entertainment’: means:

- A performance of a play.
- An exhibition of a film.
- An indoor sporting event.
- A boxing or wrestling entertainment.
- A performance of live music.
- Any playing of recorded music.
- A performance of dance.
- Entertainment of a similar description falling within the last three of the categories listed above, but only where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

‘Licensing Exemptions’:

- Advertising and Educational Films.
- Films at Museums and Art Galleries.
- Incidental Live and Recorded Music.
- Television or Radio Broadcasts.
- Religious meetings or services.
- Secular entertainment in places of public religious worship.
- Garden Fetes.
- Morris Dancing.
- Vehicles in motion – but not vessels.
- Small events in licensed premises (Section 177).

‘Responsible Authority’: means any of the following:

- The Chief Officer of Police.
- The Fire Authority.
- The enforcing authority for Health and Safety at Work.
- The local Planning authority.
- The local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health.
- The body representing matters relating to the protection of children from harm
- In relation to a vessel, Navigation Authority, the Environment Agency or the British Waterways Board.
- The Local Weights and Measures Authority.

‘Temporary Event Notice’: means a permitted temporary activity involving one or more Licensable Activities, subject to the following various conditions and limitations:

- Duration – they are limited to events lasting for up to 96 hours.
- Scale – they cannot involve the presence of more than 499 people at any one time.

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- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used.
- The number of notices given by an individual within a given period of time is limited. A Personal Licence Holder is limited to 50 notices in one year, and any other person to five notices in a similar period.

(If these conditions are not fulfilled, the Temporary Event would require a Premises Licence if it were currently unlicensed for the activity involved.)

'Vicinity': means being sufficiently close enough to be affected by the activities associated with a Licence or other permission e.g. Premises Licence, temporary event.

'Vertical Drinking Establishment': means premises used primarily or exclusively for the sale and consumption of alcohol where the majority of customers are forced to stand while drinking because of the lack of or absence of seating.

Contact Information

Responsible Authority	Name	Contact Details
Licensing Authority		Neighbourhood Services Department Licensing Section Durham County Council Telephone: 0191 3834567
Durham Constabulary	Chief Constable	Durham Constabulary Police Headquarters Aykley Heads Durham Co. Durham
County Durham and Darlington Fire and Rescue Service	Chief Fire Officer	Fire and Rescue Service Headquarters Framwellgate Moor Durham DH1 5JR Telephone: 0191 3324303 e-mail: firesafety@ddfir.gov.uk
Durham County Council Local Safeguarding Children's Board		Durham County Council County Hall Durham DH1 5UL Telephone: 0191 3834567
Responsible Authority	Name	Contact Details
Planning Services Durham County Council	XXXXXXXXXX	Durham County Council County Hall Durham DH1 5UL Telephone: 0191 3834567
Preventing risk of pollution of environment or harm to human health Durham County Council	XXXXXXXXXX	Durham County Council County Hall Durham DH1 5UL Telephone: 0191 3834567
Enforcing Authority for the Health & Safety at Work etc Act 1974 Durham County Council		Durham County Council County Hall Durham DH1 5UL Telephone: 0191 3834567
Except for applications in respect of premises operated by the Local Authority, Government Agencies, or Statutory Bodies. Health and Safety Executive		Arden House Regent Centre Regent Farm Road Gosforth Newcastle upon Tyne NE3 3JN

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<p>In relation to vessels</p> <p>Maritime and Coastguard Agency / Environment Agency</p>	<p>XXXXXXXXXX</p>	<p>Maritime and Coastguard Agency Newcastle Marine Office, Compass House, Unit 1 Tyne Dock, South Shields Tyne & Wear NE34 9PY</p> <p>Tel: 0191 496 9900</p> <p>Environment Agency, Tyneside House, Skinnerburn Road, Newcastle Business Park Newcastle upon Tyne NE4 7AR</p>
<p>Local Weights and Measures Authority Head of Trading Standards</p>		<p>Durham County Council County Hall Durham DH1 5UL Telephone: 0191 3834567</p>

The Authority's Licensing section has a number of freely available advisory leaflets relating to applications for the various licenses and permissions; information on how to make representations as well as the Hearing and Review processes. The Authority encourages informal discussion prior to submitting applications or representations, and can provide general advice and guidance on all Licensing matters. For further information please contact:

Durham County Council
County Hall Durham DH1 5UL
Telephone: 0191 3834567

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