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## Foreword by the chair of Flintshire County Council's Licensing Committee

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This is the fourth of Flintshire's Statements of Licensing Policy.

The Licensing Act 2003 has now been in force for more than ten years, and has seen many changes and amendments during that time.

The experience built up during the past ten years has contributed to ensuring that customers have a wide choice of premises to visit, that licensees have been supported through difficult economic times and that residents living near licensed premises have remedies if they suffer disturbance of any kind.

Licensing in Flintshire is located within the Community Protection Section of the Public Protection Division along with Trading Standards and the Community Safety function.

This means that many of the issues surrounding alcohol, for example under age sales, anti-social behaviour and breach of licence conditions can be dealt with by the same Section thus providing a more effective and consistent approach.

The remit of the Licensing Committee itself covers Private Hire and Hackney Carriage (Taxi) Licensing and the Gambling Act in addition to alcohol and entertainment licensing. These areas again have a natural synergy which provides for a well co-ordinated approach.



*Councillor Tony Sharps  
Chair of the Licensing  
Committee*

## 1.0 | Background

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- 1.1** This Licensing Policy Statement is issued as required by the Licensing Act 2003 ('the Act') and is in line with the Home Office and Department of Culture, Media, and Sport (DCMS) guidance to local authorities. This document sets out the policies that the Council as Licensing Authority will follow when making decisions upon applications for:
- ▶ The sale by retail of alcohol
  - ▶ The supply of alcohol by or on behalf of a club to, or to the order of a member of the club
  - ▶ The provision of late night refreshment (supply of hot food or drink from a premises between 23:00 and 05:00 hours)
  - ▶ The provision of regulated entertainment to the public or club members or with a view to making profit including raising money for charity where the entertainment involves:
    - a) 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 within paragraph e, f or g.

\* Live Music Act – See Appendix D

The entertainment falls within the requirements when it takes place in the presence of an audience and is provided for the purpose or includes the purpose of entertaining that audience.

- 1.2** Incidental live and incidental recorded music will not be regarded as regulated entertainment. The Licensing Authority will give the word "incidental" its ordinary and natural meaning when making judgements about whether activities are licensable.
- 1.3** Spontaneous music, singing and dancing is not included in the definition of regulated entertainment and any occurrences of it will be assessed in accordance with the Act.
- 1.4** Guidance on the procedures to be followed by applicants and objectors is included in Appendix A of this document.

## 2.0 | Scope and Extent of the Licensing Act

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- 2.1** 2.1 It is the duty of the Licensing Authority to carry out its functions under the Act with a view to promoting the licensing objectives which are:
- ▶ the prevention of crime and disorder
  - ▶ public safety
  - ▶ the prevention of public nuisance
  - ▶ the protection of children from harm

The Licensing Authority acknowledges that each objective is of equal importance and that there are no others.

It is recognised that the licensing function cannot operate in isolation in the delivery of the above objectives. The Licensing Authority will therefore continue to work in partnership with its local communities, the police, local businesses, the Community Safety Partnership and all other relevant stakeholders. The Licensing Authority acknowledges that the private sector and local residents and community groups have as equally a vital role as public bodies.

- 2.2** In undertaking its licensing function, any licensing authority is also bound by other legislation, examples of which are set out below:
- ▶ Section 17 of the Crime and Disorder Act 1998 requires a local authority to do all that it reasonably can to prevent crime and disorder in its locality
  - ▶ The European Convention on Human Rights, which is given effect by the Human Rights Act 1998 places a duty on public authorities to protect the rights of individuals in a variety of circumstances
  - ▶ Health and Safety at Work Act 1974
  - ▶ Environmental Protection Act 1990
  - ▶ Disability Discrimination Act 1995
  - ▶ The Anti-social Behaviour Act 2003
  - ▶ The Local Authorities (Alcohol Consumption in designated Public Places Regulations) 2007
  - ▶ The Health Act 2006 and the Smoke-free Premises etc. (Wales) Regulations 2007
  - ▶ The Violent Crime Reduction Act 2006
  - ▶ The Equalities Act 2010
  - ▶ Police Reform and Social Responsibility Act 2011
  - ▶ The Live Music Act 2012
  - ▶ Anti-Social Behaviour, Crime and Policing Act 2014

Where existing law already places statutory obligations on applicants, the Council will not impose the same or similar duties by way of licence conditions.

- 2.3** The Licensing Authority will also seek to discharge its responsibilities identified by other Government Strategies, so far as they impact on the objectives of the Licensing Act. Examples of these strategies are set out below:
- ▶ Action Plan for Tackling Alcohol-related Crime, Disorder and Nuisance
  - ▶ LGR / TSI Code of Best Practice on Test Purchasing
  - ▶ Crime and Disorder Reduction Strategy
  - ▶ Together Tackling Anti-social Behaviour
  - ▶ Enforcement Policy
  - ▶ Unitary Development Plan
  - ▶ Transport Plan
- 2.4** The Licensing Authority would also draw attention to, and is supportive of, existing initiatives that are relevant to licensing, for example:
- ▶ Night-safe schemes
  - ▶ Proof of age schemes
  - ▶ CCTV coverage of town centres
  - ▶ Exclusion Orders from town centres
  - ▶ Pubwatch schemes
  - ▶ Off-watch Schemes
- 2.5** The objective of the licensing process is to allow the carrying on of retail sales of alcohol and the provision of licensable activities in a way which ensures public safety and which is neither to the detriment of residents, nor gives rise to loss of amenity. It is the Licensing Authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 2.6** The Licensing Authority recognises that the entertainment industry in Flintshire is a significant contributor to the local economy. It attracts tourists and visitors, makes for vibrant towns and communities and is a major employer. Commercial occupiers of premises also have a legitimate expectation of an environment that is attractive and sustainable for their businesses. But there must be a balance with the needs of the residential population, whose amenity the Licensing Authority has a duty to protect.
- 2.7** The Licensing Authority will also have regard to wider considerations affecting the amenity of any area. These include littering and fouling, noise, street crime and the capacity of the County's infrastructure, resources and police resources to cope with the influx of visitors, particularly at night.
- 2.8** The Licensing Authority has adopted this policy, which sets out the general approach it will take when it acts as Licensing Authority in considering applications for premises licences. In adopting this policy, the Licensing Authority recognises that each application will be considered on its merits.

- 2.9** The Licensing Authority recognises the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of communities, and in particular, children. In determining conditions to be attached to licences and certificates the Licensing Authority will avoid measures which deter opportunities for cultural activities by imposing indirect costs.
- 2.10** The Council may seek premises licences in its own name for public spaces such as market squares, pedestrianised streets, etc. in order that community activities can take place easily. In such defined places, performers and entertainers would not need to obtain a licence themselves or issue any temporary event notices. They would simply seek permission from the Council as the premises licence holder. (The Council would not be seeking authority to permit the sale or supply of alcohol for these areas).
- 2.11** The purpose of the Statement of Licensing Policy is to assist Officers and Members in reaching a decision on a particular application, setting out those matters that will normally be taken into account. In addition, the Policy document seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move to, remain or invest in the County with some measure of certainty.
- 2.12** The Licensing Act 2003 makes provision for this policy to be consulted on and reviewed at least every five years. Accordingly, this Policy will be reviewed no later than December 2021. Interim revisions may be made to it, for example, following feedback from the local community on whether the licensing objectives are being met.
- 2.13** The Council will also monitor the impact of licensing on regulated entertainment to ensure that cultural events are not being deterred by unnecessary, disproportionate or unreasonable licensing conditions. The Council's Arts Development Officers will be included in consultation on this.
- 2.14** The policy will normally apply to any licence application determined after the date that the Council resolves to make the policy operational, irrespective of the date on which the application was made. The Licensing Authority will only depart from the policy, if individual circumstances of the case merit it, in the interest of the licensing objectives. Full reasons for such a departure will be given.
- This policy applies to the following categories:
- ▶ Premises Licenses
  - ▶ Club Premises Certificates
  - ▶ Personal Licences
  - ▶ Permitted Temporary Activities (Temporary Event Notices)
- 2.15** In the case of premises requiring a Premises Licence or Club Premises Certificate the Licensing Authority may select appropriate and necessary conditions from the DCMS or Institute of Licensing pool of conditions. These conditions will be appropriate to the nature of the activities specified in the operating schedule, and

reflect the four licensing objectives set out at paragraph 1.5 above.

## 3.0 | Licensing Objectives

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### Crime and Disorder

*The Statement of Licensing Policy and the procedures and conditions that form part of the process should promote the Licensing Objectives*

- 3.1** The Licensing Authority will have regard to the Crime and Disorder Act 1998 under which it has a duty to prevent / reduce crime and disorder in the area. Conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies, e.g. the provision of CCTV cameras in certain premises.
- 3.2** One of the key priorities of the Flintshire Crime and Disorder Reduction Partnership is to reduce the level of crime in specified areas. The policy will have regard, therefore, to the likely impact of licensing on related crime and disorder in the Council's area, particularly when considering the location and impact and the operation and management of all proposed licence applications, renewals and variations of conditions.
- 3.3** The Licensing Authority will have due regard to the representations of North Wales Police which is one of the Responsible Authorities that will be consulted regarding premises licence and club premises certificate applications, and Temporary Event Notices.

### Drugs

- 3.4** Special conditions may need to be imposed for certain types of venues to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. These conditions take into account the above-mentioned "Safer Clubbing" advice issued by the Home Office. In all cases where these conditions are to be imposed, advice will be taken from the local Substance Misuse Action Team.

### Door Supervisors

- 3.5** The Licensing Authority, upon receipt of relevant representations, may consider that certain premises require supervision for the purpose of promoting the reduction of crime and disorder, and to generally contribute to safe operation of the premises. In such cases, the Licensing Authority may impose a condition that licensed door supervisors (Security Industry Authority) must be employed at the premises either at all times or at such times as certain licensable activities are taking place, and at a number and ratio to be determined by the Licensing Authority.



- 3.6** Stewards and other persons whose role is to provide advice about and ensure the safety of those visiting the premises are not deemed to be carrying out a security activity and need not be registered with the Security Industry Authority.

### Late Night Refreshment

- 3.7** Premises selling hot food or drink between 11.00 pm and 5.00 am will need to be licensed. The key licensing objectives in connection with this activity are the prevention of crime and disorder and public nuisance. Where provision of hot food and drink is a secondary activity in licensed premises open for other activities, then the primary licence conditions will adequately cover the activity. The requirements will not normally be applied to convenience stores / garage shops and similar premises unless crime and disorder or public nuisance becomes an issue.

### PubWatch and Off-watch

- 3.8** The Licensing Authority would encourage active participation in such schemes as contributing to the prevention of crime and disorder licensing objective.

### Alcohol in Public Places

- 3.9** Flintshire is a 'designated public place' under the relevant legislation. This means that if a police officer reasonably believes that a person is or has been consuming, or intends to consume, alcohol in a designated public place he/she has the power to require that person not to drink alcohol in that place and to surrender any alcohol or alcohol containers (including sealed containers) in his/her possession.
- 3.10** It is not an offence to drink alcohol in a designated public place but failure to comply with an officer's requirements without reasonable excuse is an arrestable offence.

### Irresponsible Promotions

- 3.11** Banning the irresponsible promotion of alcohol in on-licensed premises was one of five measures brought in by Government in 2010. The others were banning the dispensing of alcohol directly into the mouths of customers; making free tap water available; ensuring age verification policies are in place and offering smaller servings of beer, wine and spirits.
- 3.12** In Flintshire the decision on what is and is not an irresponsible promotion will be made on a case by case basis taking all the circumstances into account and with reference to other Responsible Authorities when necessary.

## Late Night Levy

- 3.13** Changes in primary legislation through the Police Reform & Social Responsibility Act 2011 provided the potential for the Authority to adopt an additional local power to assist in the control of the effect of the Late Night Economy on the local community. Flintshire County Council do not currently charge a Late Night Levy.

## Early Morning Restriction Orders

- 3.14 Early Morning Restriction Orders (EMRO) are seen as a tool for potential use by the Authority to readjust the focus of the night time economy away from problem drinking, if such measures would promote the Licensing Objectives.

## Public Safety

- 3.13** The Licensing Authority wishes to promote high standards of public safety in relation to premises and activities within the scope of the Licensing Act 2003.
- 3.14** The Department of the Council which enforces health and safety in relevant premises may be consulted as a Responsible Authority and may also act as Authorised Persons for enforcement purposes under the Licensing Act 2003.
- 3.15** The Licensing Authority recognises that general health and safety duties will not always adequately cover specific issues that arise in premises in connection with certain entertainments and therefore conditions may need to be attached to a licence/certificate.
- 3.16** Where activities are organised by volunteers or a committee of a club or society, the Licensing Authority considers it good practice that the same level of health and safety protection is provided as if an employer / employee relationship existed, irrespective of whether there are strict legal duties applicable under the health and safety legislation.
- 3.17** The Licensing Authority will encourage licence holders to provide facilities enabling the admission of people with disabilities. No conditions will be applied which could be used to justify exclusion on the grounds of public safety. Any licence condition imposed to prohibit pets for public safety reasons will not apply to guide or assistance dogs.

## Fire Safety

- 3.18** The Licensing Authority will have due regard to the representations of North Wales Fire and Rescue Service which is one of the Responsible Authorities that will be

consulted regarding premises licence/ club premises certificate applications, renewals and variations.

- 3.19** North Wales Fire & Rescue Service may select appropriate and necessary conditions in relation to fire safety matters in consultation with North Wales Fire and Rescue Service.
- 3.20** The Licensing Authority, upon receipt of relevant representations will include in a premises licence / club premises certificate an occupant capacity where necessary for public safety. This figure will be arrived at in consultation with North Wales Fire and Rescue Service.
- 3.21** Where applicants wish to avail themselves of the special provisions in Section 177 of the Act (dancing, amplified and un-amplified music in premises with a permitted capacity of not more than 200) North Wales Fire and Rescue Service may be asked to make a confirmation of the capacity of the premises.
- 3.22** Flintshire County Council is a signatory to the protocol between North Wales Fire & Rescue Service and the six North Wales local authorities.

## Public Health

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

## Prevention of Public Nuisance

- 3.23** When considering public nuisance the Licensing Authority will take account of:-
- ▶ Noise from premises - including that caused by patrons smoking outside
  - ▶ Waste
  - ▶ Litter - including smoking related litter
  - ▶ Car Parking
  - ▶ Light pollution
  - ▶ Noxious smells

The Licensing Authority will take the broad common law meaning of public nuisance when making its judgements on applications and reviews of premises licences / certificates.

- 3.24** In considering the potential impact of licensed premises on the surrounding locality the Licensing Authority will take into account the type of entertainment activity, proposed hours of operation, the capacity of the premises and the character of the area and proximity to local residents.
- 3.25** The Licensing Authority will use the recognised pool of licence conditions to control noise from existing premises and to advise developers on the required noise attenuation for new premises. Stricter conditions with regard to noise control may be imposed in areas where the premises are near residential property.
- 3.26** The Pollution Control Section of the Council's Public Protection Division will act as a Responsible Authority and will be consulted with regard to the prevention of public nuisance and reference may be made to the Institute of Acoustics 'Good Practice Guide on the Control of Noise from Pubs and Clubs' (current edition). Reference may also be made to the Department of Environment, Food and Rural Affairs (DEFRA) report entitled "Implications for Noise Disturbance Arising from the Liberalisation of Licensing Laws".
- 3.27** The Licensing Authority will balance the potential for limited disturbance in neighbourhoods with the need to encourage and promote live music, dancing and theatre.
- 3.28** The Licensing Authority acknowledges the powers that the Police hold to issue a Closure Order on individual licensed premises that are causing a nuisance as a result of noise emitted and would encourage the Police to use such powers wherever appropriate and inform the Licensing Authority in the event of such action.
- 3.29** The above powers are also available to Pollution Control Officers by the Anti-Social Behaviour Act 2003. Such powers will be used when deemed necessary and in accordance with the legislation.
- 3.30** The Licensing Authority will not impose conditions on licensed premises that the licensee cannot directly control, or on matters not related to the immediate vicinity of the premises.
- 3.31** When considering applications for licences or reviews of licences, the Licensing Authority will take a common sense view on whether the individual or business making representations is located "in the vicinity" of the premises concerned and therefore likely to be directly affected by disorder and disturbance.
- 3.32** Noise and disturbance arising from the behaviour of patrons that have left the premises are matters for personal responsibility and are subject to Police enforcement of the normal law concerning disorder and anti-social behaviour.
- 3.33** Notwithstanding the previous paragraph, it is the view of the Licensing Authority that the Designated Premises Supervisor holds the responsibility for ensuring that patrons who may be outside their premises for smoking related purposes do not create public nuisance.

## Protection of Children from Harm

- 3.34** The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include, for example, theatres, cinemas, restaurants, pubs, night-clubs, cafes, take-aways, community halls and schools. Access by children to all types of premises will not be restricted in any way apart from as specified in the Licensing Act 2003, unless it is considered necessary to do so in order to protect them from harm in some way (i.e, physical, moral or psychological harm).
- 3.35** When considering applications for premises licences or club premises certificates, the Licensing Authority will take into account the history of a particular premises and the nature of the activities proposed to be provided when considering any options appropriate to prevent harm to children, for example:
- ▶ Where there have been convictions of members of the current staff for serving alcohol to minors or with a reputation for underage drinking
  - ▶ With a known association with drug taking or dealing
  - ▶ Where there is a strong element of gambling on the premises (but not the simple presence of a small number of cash prize gaming machines)
  - ▶ Where entertainment or services of an adult or sexual nature are commonly provided, e.g. topless bar staff, striptease, lap-dancing, table-dancing or pole-dancing, strong and offensive language or imagery. (see also paragraph 20)
  - ▶ Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided.

The Licensing Act 2003 makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on those premises.

The Licensing Authority will give the term “exclusively or primarily” its ordinary and natural meaning in the context of the particular circumstances. The Licensing Authority will consider the individual merits of each application.

- 3.36** Where the circumstances described in 6.2 exist then conditions may be attached to the licence to protect children from harm. Such conditions may include:
- ▶ Requirements for the production of proof of age cards
  - ▶ Limitation on the hours when children may be present
  - ▶ Age limitations (below 18)
  - ▶ Limitations or exclusions when certain activities take place
  - ▶ Restrictions or exclusions in respect of parts of premises
  - ▶ Full exclusion of people under 18 from the premises when any licensable activities are taking place
  - ▶ Requirements for adult supervision

As a general principle the Licensing Authority will not attach conditions to premises licences or certificates requiring the admission of children. This will be left to the discretion of the venue operator.

- 3.37** Where the exhibition of films is permitted the authority will expect age restrictions to be complied with in accordance with the British Board of Film Classification recommendations. This is a mandatory condition in the Licensing Act 2003 for premises admitting children to the exhibition of any film.
- 3.38** The Licensing Authority recognises the requirement in the Act for children under the age of 16 to be accompanied by an adult. In circumstances where large numbers of unaccompanied children are likely to be present on certain licensed premises, for example at a children's show or pantomime, then to ensure public safety and the protection of children from harm, the ratio of adults required to supervise children will be in accordance with Annex H, Section 182 Guidance to the Licensing Act 2003 or such other ratio that a responsible authority may recommend.
- 3.39** No films shall be exhibited at licensed premises which are likely to:
- ▶ Lead to disorder
  - ▶ Stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or national origin, language, disability, religious beliefs, sexual orientation or gender.
- 3.40** With general reference to the protection of children from harm, the Licensing Authority will regard the Social Services for Children Department of the Community Services Directorate as the Responsible Authority competent to respond on matters relating to children and harm.
- 3.41** It is expected by the Licensing Authority that operating schedules submitted as part of applications shall contain enough detailed information so that a proper view as to what measures may be necessary to protect children from harm can be determined.
- 3.42** Please see paragraph 15 below for more detailed information on control of Sexual Entertainment Venues

## 4.0 | Cumulative Impact

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- 4.1** This relates to the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 4.2** The Licensing Authority does not consider that at the time of publication of this Statement of Licensing Policy there are areas in Flintshire where cumulative impact poses a significant problem.
- 4.3** However, the Licensing Authority wishes to remain alive to the possibility of such impact occurring.
- 4.4** Through liaison with local residents and Responsible Authorities the Licensing Authority may therefore conclude in the future, that a particular part of its area is considered to be causing a cumulative impact on one or more of the licensing objectives.
- 4.5** A special policy of refusing new licences will therefore be adopted when there is an evidential basis for it from Responsible Authorities, interested parties or other bodies such as Crime and Disorder Reduction Partnerships.
- 4.6** The Licensing Authority will follow the steps detailed in the revised Home Office Guidance when adopting a special policy.
- 4.7** This will create a rebuttable presumption that applications for new premises licences, club premises certificates or material variations will normally be refused, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced.
- 4.8** The special policy will not, however, be absolute. Each application will be considered on its merits and licences or certificates that are unlikely to add to the cumulative impact on the licensing objectives may be granted. The different styles and characteristics of premises will be taken into account.
- 4.9** Special policies will not be used as a ground for revoking an existing licence or certificate, nor for rejecting applications to vary an existing licence except where those modifications are directly relevant to the policy and strictly necessary for the promotion of the licensing objectives.
- 4.10** A special policy will not be used to impose fixed closing times in a particular area, or to impose quotas – based on either the number of premises or the capacity of those premises.

- 4.11** Other mechanisms will also be used for controlling cumulative effect, for example:
- ▶ provision of CCTV
  - ▶ prohibitions on consuming alcohol in designated public areas
  - ▶ police enforcement of the general law concerning disorder and anti social behaviour
  - ▶ enforcement of legislation on selling alcohol to people who are drunk
  - ▶ confiscation of alcohol from adults and children in designated areas
  - ▶ use of the police temporary closure powers
  - ▶ ability for the Police, Responsible Authorities, residents and businesses to seek review of premises licences or club premises certificates.



## 5.0 | Planning and Building Control

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- 5.1** The Planning, Building Control and Licensing regimes in Flintshire will be properly separated to avoid duplication and inefficiency.
- 5.2** Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property in question. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.
- 5.3** The Council's most up to date planning policies are currently set out in its Unitary Development Plan, which will constitute the Development Plan following its adoption. Guidance from Planning Policy Wales and the series of Technical Advice Notes will also be relevant.
- 5.4** The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers wider amenity issues. As such licence applications should not be a re-run of the planning application and should not necessarily be influenced by decisions taken by the local authority planning committee or by the Planning Inspectorate on appeal, and vice versa.
- 5.5** The granting by the licensing authority of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission (Listed Building Consent where applicable), or Building Control approval.
- 5.6** There are also circumstances when as a condition of planning permission a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to enforcement action under planning law.
- 5.7** The Planning Authority is a responsible authority under the Licensing Act and as such may make representations on licence applications as long as they relate to the licensing objectives.

## 6.0 | Application for First-time Grant of Licence / Certificate and Variation of existing Terms and Conditions

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In considering all new or variation of condition applications, the Licensing Authority will assess them in light of the licensing objectives, the operating schedule and in particular will consider the following, to the extent that they are under the control of the applicant :

- 6.1** The steps the applicant has taken or proposes to take to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
- 6.2** The steps the applicant has taken or proposes to taken to prevent disturbance by patrons arriving at or leaving the premises.
- 6.3** The steps the applicant has taken or proposes to take to prevent queuing, or, if queuing is inevitable, to divert queues away from neighbouring premises, or otherwise to manage the queue to prevent disturbance or obstruction.
- 6.4** The steps the applicant has taken or proposes to take to ensure patrons leave the premises quietly.
- 6.5** The arrangements made or proposed for parking by patrons, and the effect of parking on local residents.
- 6.6** Whether there is sufficient provision for public transport for patrons.
- 6.7** Whether taxis and private hire vehicles serving the premises are likely to disturb local residents.
- 6.8** Whether routes to and from the premises on foot or by car or service / delivery vehicles pass residential premises.
- 6.9** Whether other measures to reduce nuisance have been considered, such as the use of CCTV or the employment of Licensed Door Supervisors.
- 6.10** The measures proposed to prevent the consumption or supply of illegal drugs, including any search procedures.
- 6.11** The likelihood of any violence, public disorder or policing problem arising if a licence was to be granted.
- 6.12** If the applicant has previously held a licence within the County, the details of any enforcement action arising from the premises.

- 6.13** Whether the premises would result in increased refuse storage or disposal problems, or additional litter in the vicinity of the premises.
- 6.14** Representations from Responsible Authorities.
- 6.15** Representations from interested parties.
- 6.16** In respect of applications for variation of a premises licence or club premises certificate the Licensing Authority will take into account the previous history of the premises and its management. The views of all Responsible Authorities may be taken into account.

## Minor Variations

- 6.17 A premises licence / club premises certificate holder may apply under the 'minor variation' procedure for small variations which may not impact adversely on the licensing objectives. There is no right to a hearing , however if the application is rejected, a full application can be made.
- 6.18 The Licensing Authority must consider the impact of the minor variation, and decide whether to consult with any of the Responsible Authorities.

## Annual Fee

- 6.19 Although premises licenses and club premises certificates are granted indefinitely, licence holders are required to pay an annual fee to the Licensing Authority.

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

## 7.0 | Temporary Events

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- 7.1** The Licensing Authority will produce clear and understandable local publicity about its approach to temporary permitted activities. In brief, these are events that last for less than 168 hours and have less than 500 people attending.
- 7.2** Both the Police and Environmental Health can object to a Temporary Event Notice within a three day window of submission
- 7.3** Many local events will be organised by volunteers or a committee of a club or society. The Licensing Authority considers it good practice that the same level of health and safety protection is provided as if an employer / employee relationship existed, irrespective of whether there are strict legal duties applicable under the health and safety legislation.
- 7.4** The Licensing Authority will encourage organisers of temporary events to seek advice / information from their local Safety Advisory Groups.
- 7.5** Though the Licensing Authority is unable to attach any limitations or restrictions in respect of Temporary Events it expects organisers to have proper respect for local residents and those attending events, for example, in the areas of:
- ▶ health and safety
  - ▶ noise pollution
  - ▶ use of temporary structures
  - ▶ road closures
  - ▶ use of pyrotechnics / fireworks
  - ▶ controlling anti-social behaviour
  - ▶ sale of alcohol

### Standard TENs

- 7.6** A minimum of ten working days notice must be given to the Licensing Authority of temporary events, however the earliest possible notice would be preferred. “Ten working days notice” means ten working days exclusive of the date the notification is received, and the day the event starts. “Working day” excludes Saturday, Sunday, Christmas Day, Good Friday or Bank Holidays.
- 7.7** Where the Police or Environmental Health object to the TEN, the applicant can agree to modify the TEN. If no agreement is reached, a hearing of the Licensing Sub Committee will be arranged. The panel may decide to impose conditions or issue a Counter Notice to prevent the event from going ahead.

## Late TENS

- 7.8** A late TEN may be given up to five working days but no earlier than nine working days before the event is due to take place.
- 7.9** Where the Police or Environmental Health apply for a Late TEN, there is no provision for a hearing and the Authority must serve a Counter Notice to prevent the event from going ahead.

## 8.0 | Personal Licences

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- 8.1** The Licensing Authority will closely follow the Home Office guidance in respect of applications for and granting of Personal Licences.
- 8.2** Applicants will be required to produce a recent basic criminal record disclosure document. Applicants from foreign jurisdictions must make a clear statement as to whether or not they have been convicted outside England and Wales of a relevant offence or an equivalent offence.
- 8.3** The Licensing Authority will liaise closely with the Police when an applicant is found to have an unspent conviction for a relevant offence defined in the Act.
- 8.4** The Licensing Authority will append details of the relevant offences to the application forms for the information of applicants.

## 9.0 | Club Premises Certificates

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- 9.1** Section 62 of the Licensing Act sets out the general conditions which an organisation with at least 25 members who have joined together for particular social, sporting or political purposes must meet to be a qualifying club. Only qualifying clubs may apply for a Club Premises Certificate.
- 9.2** A Club Premises Certificate provides authorisation for the supply of alcohol and provision of regulated entertainment for the benefit of members and their bona-fide guests only. If a premises wishes to provide licensable activities for non-members or the public in general, they will need to do so by means of a Temporary Event Notice or a Premise Licence. The Licensing Authority will liaise closely with the Police when an applicant is found to have an unspent conviction for a relevant offence defined in the Act.
- 9.3** The grant of a Club Premises Certificate affords the qualifying club certain benefits:
- ▶ Supply of alcohol to members without the requirement for a Designated Premises Supervisor
  - ▶ Provision of Late Night Refreshment to members without the need for additional authorisation
  - ▶ Limited rights of entry to the police and authorised persons as the premises will generally be considered to be private and not open to the general public
  - ▶ Exemption from police powers of instant closure on grounds of disorder and noise because they operate under their codes of discipline and rules
  - ▶ Exemption from orders of the magistrates' court for the closure of all licensed premises in an area when disorder is happening or expected

## 10.0 | Operating Schedule

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- 10.1** The Licensing Authority believes that all parties – licensing authorities, licence / certificate holders, authorised persons, the police and responsible authorities – should be working together in partnership to ensure collectively that the licensing objectives are promoted.
- 10.2** In order to minimise disputes and the necessity for hearings, the Licensing Authority believes it would be sensible for applicants to consult with all responsible authorities when operating schedules are being prepared.
- 10.3** Operating Schedules are expected to contain sufficient information to allow any Responsible Authority or interested party to assess whether the steps to be taken to promote the licensing objectives are satisfactory.
- 10.4** Descriptions of activities proposed at the premises should include those that also fall outside the definition of regulated entertainment.
- 10.5** The type of dancing should be described, as should the type of music provided. This type of information is essential so that Responsible Authorities and interested parties can form a proper view as to what measures may be necessary to ensure that the licensing objectives are being met.
- 10.6** The measures put forward in Operating Schedules to promote the licensing objectives will become licence conditions attached to the premises licence or club premises certificate.



## 11.0 | Hours of Operation

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- 11.1** The Licensing Authority recognises that fixed and artificially early closing times in certain areas can lead to disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time.
- 11.2** The Licensing Authority will aim, through the provisions of the licensing objectives, to achieve a slower dispersal of people from licensed premises through longer opening times. The Council will not fix pre-determined closing times for particular areas, nor seek to engineer 'staggered closing times'.
- 11.3** Shops, stores and supermarkets will be permitted to sell alcohol for consumption off the premises at the times when they are normally open in the course of their business. Hours may be restricted when representations are received from the Police in relation to individual shops which are known to be a focus of disorder and disturbance.
- 11.4** When considering applications for premises licences / certificates, the Licensing Authority will take into account applicants' requests for terminal hours in the light of:
- ▶ The potential impact on the amenity of the area
  - ▶ The character or function of a particular area
  - ▶ The nature of the proposed activities to be provided at the premises
- 11.5** The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect the above. The Licensing Authority may set an earlier terminal hour where it considers this is appropriate.
- 11.6** Where premises are situated adjacent to residential areas then stricter conditions with regard to noise control may apply, but this should not limit opening hours provided the required conditions are complied with.
- 11.7** The times when a premises are open to the public are not necessarily identical to the hours during which licensable activities may take place. It will be possible for premises to allow the consumption of previously purchased alcohol outside the hours authorised for the sale or supply of alcohol.
- 11.8** The Licensing Authority will not oblige the holder of a premises or club premises certificate to remain open for the entire period permitted by his / her licence or certificate.

## 12.0 | Enforcement, Reviews and Powers

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- 12.1** A protocol on the implementation of a shared enforcement role between the Licensing Authority and North Wales Police has been established.
- 12.2** In general terms, action will only be taken in accordance with agreed enforcement principles and in line with the Public Protection Division Enforcement Policy which is dated July 2009 and available at [www.flintshire.gov.uk](http://www.flintshire.gov.uk)
- 12.3** The ability to require reviews of premises licences or club premises certificates allows licensing authorities to apply a 'light touch' bureaucracy to the grant and variation of premises licences / club premises certificates.
- 12.4** A review may be initiated by the Responsible Authorities, e.g. North Wales Police, North Wales Fire and Rescue Service, Flintshire County Council's Environmental Health Department or by a resident or business in the vicinity of premises.
- 12.5** In every case sufficient evidence to support the allegations made will need to be presented to the Licensing Authority.
- 12.6** Authorised Persons and Responsible Authorities will be expected to give licence / certificate holders early warning of their concerns about problems identified at the premises concerned and the need for improvement. A failure to respond to such warnings is likely to lead to a decision to request a review.
- 12.7** The Licensing Authority will refer to Home Office guidance when considering whether complaints from interested parties are irrelevant, vexatious, frivolous or repetitious.
- 12.8** Amendments to the Licensing Act by the Police Reform and Social Responsibility Act 2010 afford Councils the power to suspend premises licences and club premises certificates where the required annual fee has not been paid.
- 12.9** When an annual fee has not been paid by the due date, usually the anniversary on which the licence was first granted, the Licensing Authority will notify the licence or certificate holder in writing that:
  - ▶ The licence or certificate will be suspended in 7 days from the date of the notice
  - ▶ The suspension will not become effective should the fee be paid prior to the suspension date

## 13.0 | The Licensing Process

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### Conditions of License

- 13.1** The Licensing Authority will avoid imposing disproportionate and over burdensome conditions on premises licences / club premises certificates.
- 13.2** The Licensing Authority will have regard to model pools of conditions and will attach conditions as appropriate given the circumstances of each individual case. The model conditions will deal with issues surrounding –
- ▶ Crime and disorder
  - ▶ Public safety
  - ▶ Public nuisance
  - ▶ Protection of children from harm
- 13.3** The Licensing Authority will also consider reference documents listed in the Annexes to the Home Office Guidance, though they will not be used as standard conditions.
- 13.4** When attaching conditions the Licensing Authority will also be aware of the need to avoid measures which might deter live music, dancing or theatre by imposing indirect costs of a substantial nature.
- 13.5** When determining applications the Licensing Authority will have regard to guidance issued by the Home Office. In particular, account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community.

### Administration – Application Process

- 13.6** The Licensing Authority accepts that it must not interfere in the decision of who is the most appropriate person to apply for or hold a premises licence / club premises certificate. It will, however, only accept applications made in the prescribed form.
- 13.7** The Licensing Authority will expect individual applicants to address the licensing objectives in their Operating Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 13.8** Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies and local crime

prevention initiatives and to have taken these into account where appropriate when formulating their operating schedule.

- 13.9** The Licensing Authority acknowledges the advice received from the Home Office that the views of vocal minorities should not be allowed to predominate over the general interests of the community.
- 13.10** The powers of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub Committee, or by one or more officers acting under delegated authority. Delegation of functions will be in line with Home Office recommendations.
- 13.11** In the context of applications, inspection, enforcement and reviews of premises licences / certificates the following groups are identified in Flintshire

**Authorised Persons and Officers (inspection and enforcement roles):**

- ▶ North Wales Police
- ▶ North Wales Fire and Rescue Service
- ▶ Flintshire County Council
  - ▶ Health and Safety
  - ▶ Pollution Control
  - ▶ Food Safety
  - ▶ Environmental Control
  - ▶ Licensing
- ▶ Health & Safety Executive
  - ▶ in accordance with Health & Safety (Enforcing Authority) Regulations 1998

**Responsible Authorities (to be notified of applications and entitled to make representations):-**

- ▶ North Wales Police
- ▶ North Wales Fire and Rescue Service
- ▶ Flintshire County Council – Public Protection Division
- ▶ Health and Safety Executive (where applicable)
- ▶ Flintshire County Council - Planning Division
- ▶ Flintshire County Council – Social Services for Children
- ▶ The Licensing Authority
- ▶ Local Health Board

- 13.12** Any person can make representations or comments to the Council about applications for new licenses, variations or reviews.

Comments may be positive or negative but will only be considered relevant by the Council if they relate clearly to the licensing objectives.

- 13.13** Where premises are being constructed or extended or substantially changed structurally, an application for a Premises Licence or Club Premises Certificate will be accepted provided clear plans exist, an operating schedule is submitted together with the name of the designated premises supervisor. If information of sufficient detail is not available then application should be made for a “Provisional Statement” instead.
- 13.14** Flintshire is linked to the Government’s Gov.uk system, which means that we are able to receive applications (including payment) electronically.

## Public Health

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

## 14.0 | The Licensing Committee

### Recommended Delegation of Functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
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 for transfer of premises licence		If a Police objection	All other cases
Applications for interim authorities		If a Police objection	All other cases
Application to review premises licence / club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			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	

Appeals against decisions of the Licensing Authority must be made to the magistrates' court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

## 15.0 | Special Considerations

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### Adult Entertainment

- 15.1** Flintshire County Council has formally adopted controls on Sexual Entertainment Venues.
- 15.2** The effect of this resolution is that sexual entertainment venues will be included in the existing licensing regime which controls other sex establishments, namely sex shops and sex cinemas.
- 15.3** It will be an offence to operate such premises without the necessary Sex Establishment Licence being in force, or to fail to operate in accordance with the terms and conditions subject to which such a licence has been issued.
- 15.4** A sexual entertainment venue is defined as 'any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer' and includes such activities as lap dancing; pole dancing; table dancing; strip shows; peep shows and live sex shows.
- 15.5** If a Licensing Act 2003 Premises Licence is in force that permits regulated entertainment in the form of music or dancing or entertainment of a like kind it will be possible for entertainment of the type outlined in the above paragraph to be held on no more than 11 occasions within a 12 month period. There must be at least a month between each occasion and no such occasion can last more than 24 hours.
- 15.6** The Licensing Authority takes the view that 'stripograms' and similar activities fall within the definition of sexual entertainment if the licensee organises or provides them and in these circumstances therefore they should not take place unless a Sex Establishment Licence is in force. Premises may however avail themselves of the occasional use provision detailed in the above paragraph.
- 15.7** Licensees are requested to provide notification to the Licensing Authority when they provide or allow sexual entertainment under the occasional use provision detailed in paragraph 20.5 above, or when 'stripograms' have performed in their premises. Please make contact via [licensing@flintshire.gov.uk](mailto:licensing@flintshire.gov.uk) or on 01352 703 030

## 16.0 | The Licensing Register

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- 16.1** The Licensing Authority maintains an on-line licensing register which can be viewed at [www.flintshire.gov.uk](http://www.flintshire.gov.uk).
- 16.2** Charges made for copies of applications will not exceed the cost of preparing such copies.

## Contact

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Contact with Flintshire County Council regarding the Licensing Act 2003 and associated matters can be made via:

Telephone: 01352 703030

Fax: 01352 703341

E-mail: [licensing@flintshire.gov.uk](mailto:licensing@flintshire.gov.uk)

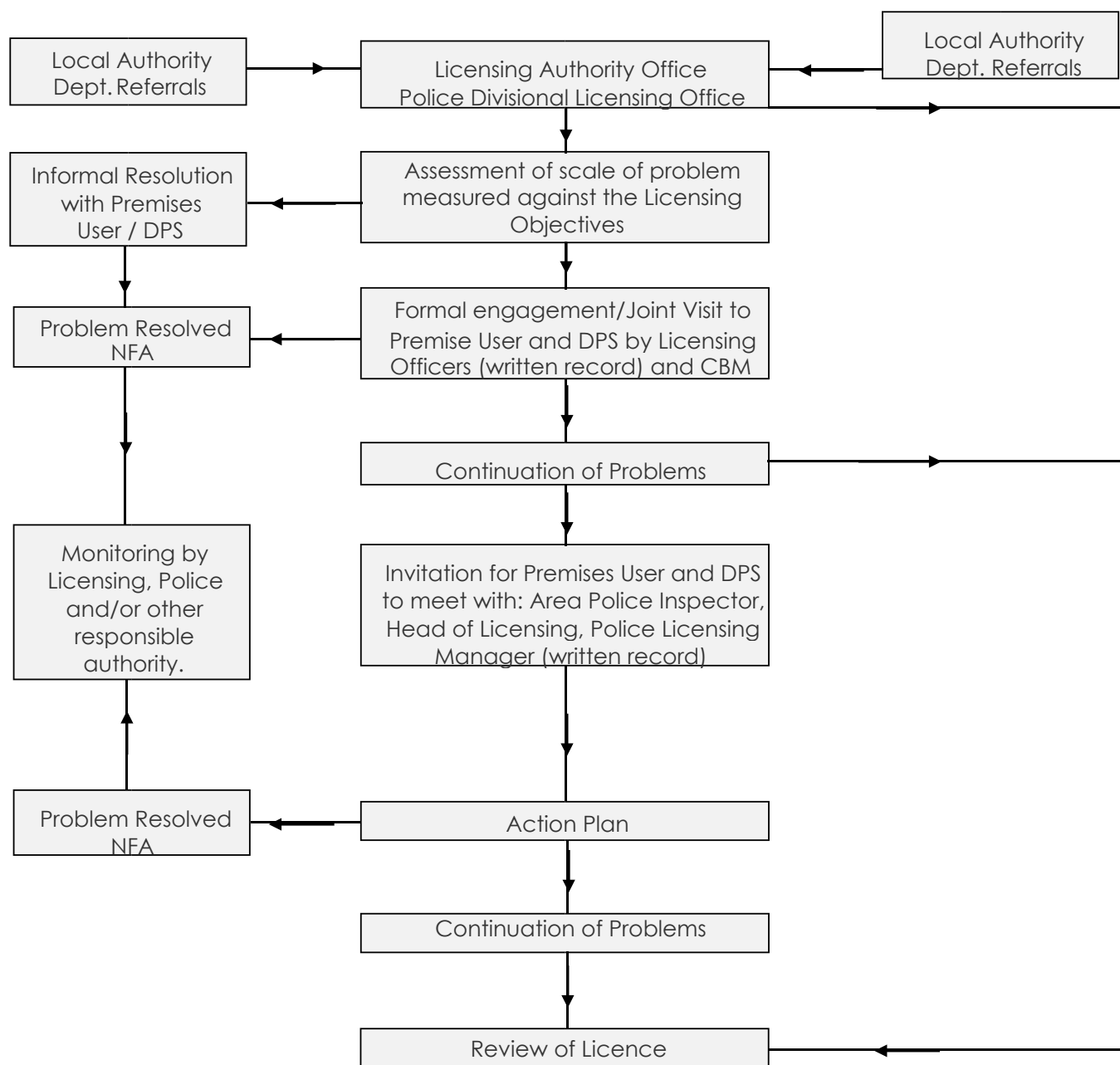
Website: [www.flintshire.gov.uk](http://www.flintshire.gov.uk)





## Appendix A

## LICENSED PREMISES REVIEW PROCEDURE INCORPORATING PROBLEM SOLVING GROUP APPROACH



At any level it can be decided depending on the merits of the case to apply for a review of a premises licence. Progression to each level is an optional process and this flowchart is designed as a template for progress and monitoring of troublesome Licenced Premises culmination of the licence.

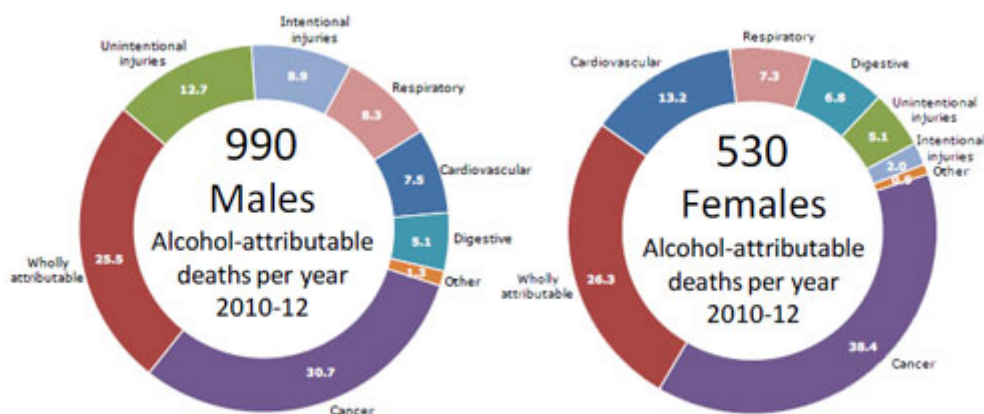
## Appendix B

### ALCOHOL AND HEALTH IN WALES

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

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

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



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

### DRINKING LEVELS AND PATTERNS

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

It is not only the amount of alcohol consumed that increases the risk of harm. Binge drinking, which refers to a pattern of drinking in which a person consumes at least twice the daily recommended amount of alcohol in a single drinking session, can cause acute

intoxication and lead to problems such as accidents, injury and violence. Most common in younger age groups, binge drinking is often associated with 'pre-loading'.

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

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

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

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

In some areas, the main barrier to health bodies acting effectively as a responsible authority is that the evidence that they need to support a representation is not routinely collected or available in their area. Wrexham Council and its partners, Wrexham Maelor Hospital, North

Wales police, Welsh Ambulance Service and Betsi Cadwaladr University Health Board are currently working on a pilot project to improve data collection and sharing. It is intended to implement this across the whole of North Wales. The data collected should assist greatly in targeting enforcement where it is needed, informing licensing policy and contributing to the licensing decision making process.

## Appendix C

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### Mandatory Conditions

**1. Door supervisors**

Only individuals licensed by the Security Industry Authority shall be used at the premises to undertake security activities, which include guarding against:

- a) Unauthorised access or occupation (eg. through door supervision)
- b) Outbreaks of disorder
- c) Damage

**2. Community premises alternative mandatory condition**

Every supply of alcohol under the Premises Licence must be made or authorised by the management committee.

**3. Exhibition of films**

The admission of children under the age of 18 to film exhibitions permitted under the terms of this certificate shall be restricted in accordance with any recommendations made :

- a) By the British Board of Film Classification (BBFC) where the film has been classified by that Board, or
- b) By the licensing authority where no classification certificate has been granted by the BBFC, or
- c) where the licensing authority has notified the club which holds the certificate that section 20(3) (b) (74(3) (b) for clubs) of the Licensing Act 2003 applies to the film.

**4. Supply of alcohol**

1 No supply of alcohol may be made under this Premises Licence:

- At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
- At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

2 Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a Personal Licence.

3 The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner that carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:

- Games or other activities that require or encourage, or are designed to require or encourage, individuals to:

- Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol); or
  - Drink as much alcohol as possible (whether within a time limit or otherwise)
  - Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the act)
  - Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less
  - Provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on:
    - The outcome of a race, competition or other event or process; or
    - The likelihood of anything occurring or not occurring
  - Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise antisocial behaviour or to refer to the effects of drunkenness in any favourable manner.
- 4 The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- 5 The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
- 6 (1) The Premises Licence holder or Club Premises Certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
- 7 The responsible person shall ensure that:
- Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
    - beer or cider: ½ pint
    - gin, rum, vodka or whisky: 25ml or 35ml; and
    - still wine in a glass: 125ml;
  - customers are made aware of the availability of these measures

## Appendix D

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### Recent Legislative Changes

#### Live Music Act

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

- Film exhibitions for the purposes of advertisement, information, education etc
- Film exhibitions that form part of an exhibit put on show for any purposes of a museum or art gallery
- Music whether live or recorded, which is incidental to other activities that do not require a licence
- Live music as follows:
  - Amplified live music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises
  - Amplified live music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
  - Unamplified music between 8am and 11pm in all venues
- Use of television or radio receivers for the simultaneous reception and playing of a programme
- Any entertainment or entertainment facilities at a place of public religious worship
- Entertainment at garden fetes or similar functions unless there is an element of private gain.
- Morris dancing or dancing of a similar nature or a performance of unamplified live music as part of such a performance
- Entertainment on road vehicles in motion
- Performance or play in front of an audience of 500 persons or less between 8am and 11pm
- Performance of dance in front of an audience of 500 persons or less (unless it is relevant entertainment within the meaning of Schedule 3 para 2a Local Government (Miscellaneous Provisions) Act 1982 i.e certain forms of sexual entertainment) between 8am and 11pm
- Indoor sporting events in front of an audience of 1000 persons or less between 8am and 11pm.

#### Immigration Bill

The new Immigration Bill currently going through Parliament places additional responsibilities on licensing authorities to take action where licence holders are

found to not be entitled to work in the United Kingdom. The Bill will also place implications on applicants and the following notes are general guidance at this stage.

## Premises Licenses

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

## Personal Licenses

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



(i.e. has relevant immigration related offences/convicted of a foreign offence etc.).

Where the Secretary of State is satisfied that granting the licence would be prejudicial to the prevention of illegal working in licensed premises, the Secretary of State must, within the period of 14 days beginning with the day the Secretary of State received the notice under subsection (5A), give the authority a notice stating the reasons for being so satisfied (an “immigration objection notice”).

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

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

## **Deregulation Act**

### **Late Night Refreshment Exemptions**

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

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

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

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

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

- motorway service areas;
- petrol stations;

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

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

## **Community and Ancillary Sellers Notice**

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

Options possibly contained in the legislation may include the following

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

## Appendix E

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### Glossary of Terms

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

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

**Conditions** – there are three types of conditions

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

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

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

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

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

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

**multiplier** (£900); Band E [no multiplier] (£635); Band E premises licence with multiplier (£1,905). The subsequent annual fees associated with each licence or certificate are as follows: Band A (£70); Band B (£180); Band C (£295); Band D [no multiplier] (£320); Band D premises licence with multiplier (£640); Band E [no multiplier] (£350); Band E premises licence with multiplier (£1,050).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Premises licence** – Authorising premises to be used for the sale or supply of alcohol, the provision of regulated entertainment or the provision of **late night refreshment**, under the **Licensing Act 2003**. This includes time-limited premises licences. A premises licence fee is based on its non-domestic rateable value. Application fees vary from £100 (Band A) to £1,905 (Band E with multiplier); annual fees vary from £70 to £1,050.

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

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

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

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

- the licensing authority and any other licensing authority in whose area part of the premises is situated,
- the chief officer of police for any police area in which the premises are situated,
- the fire and rescue authority for any area in which the premises are situated,
- the Local Health Board for any area in which the premises are situated,
- the enforcing authority for Health and Safety at Work etc. Act 1974 for any area in which the premises are situated,
- the local planning authority for any area in which the premises are situated,
- the local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health in any area in which the premises are situated in relation to,
- a body which represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and are competent to advise such matters,

- in relation to a vessel, a navigation authority having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,
- the local authority responsible for weights and measures in any area in which the premises are situated.

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

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

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

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

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

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