



## Licensing Policy

**2015 - 2020**

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## 1.0 **Executive Summary**

- 1.1 Under the provisions of the Licensing Act 2003 (the Act), Kirklees Council (the Council) is the Licensing Authority for the administration and enforcement of the Act and associated orders and regulations within this area.
- 1.2 In exercising its duties and responsibilities under the terms of the Licensing Act 2003, the Council will operate within the statements and procedures mentioned in this policy statement. Notwithstanding this statement, all applications will be treated on their merits and judged accordingly. The council will have regard to any relevant guidance issued by the Secretary of State in exercising its powers under the Act.
- 1.3 Kirklees Council has an overall aim to improve the quality of life in Kirklees. The Council has four main priorities for Kirklees:
- Enhance life chances for young people
  - Support older people to be healthy, active and included
  - Business growth and jobs
  - Provide effective and productive services
- 1.4 This policy sets out how the Licensing Authority will deal with applications made under the Act. It sets out in detail who can make a representation under the Act. The policy contains a clear commitment not to use licensing provisions to duplicate other legislation.
- 1.5 This policy refers to the impact of licensing on cultural strategies. The policy also sets out the Licensing Authority's approach to integrating licensing with respect to other local plans and strategies, and to cumulative impact and special policies.
- 1.6 The Licensing Authority's approach to licensing hours and the presence of children on licensed premises is set out. The policy states that standard conditions will not be applied to licences. The policy considers the process of reviewing a premises licence or club premises certificate, and sets out the approach to enforcement.
- 1.7 The Licensing Act 2003 gives the council additional opportunities to further its four corporate priorities. The powers and duties contained within the Act will complement and reinforce the council priorities. The Council will be able to build on its existing excellent record of working with and consulting with partners to help to achieve the objectives of the Act.

## 2.0 Purpose and Scope of the Licensing Policy

2.1 The Policy is prepared to meet the requirements of the Licensing Act 2003 and is done so in accordance with Section 5 of the same Act.

2.2 The Policy has four main purposes.

- To provide the basis for elected Members to make decisions on applications.
- To inform licence applicants of the basis on which decisions will be taken and therefore give some indication of how they will be able to operate.
- To inform the wider community of the basis on which decisions will be taken and therefore how their needs will be addressed.
- To inform the Courts how decisions have been made and to support those decisions.

2.3 The Policy promotes the four licensing objectives contained in the Act and each has equal weight.

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

2.4 The Policy balances the objective of improving the local economy, tourism, and cultural development against noise, nuisance and crime and disorder.

2.5 The Policy covers the following licensable activities.

- The retail sale of alcohol.
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club.
- The provision of regulated entertainment.
- The provision of late night refreshment.

- 2.6 The Licensing Authority recognises that the 2003 Act is not a mechanism for a general control of nuisance, anti-social behaviour and environmental crime by individuals once they are away from the premises and beyond the direct control of the licence holder. The Licensing Authority will not therefore, attempt to control such through its exercise of licensing functions. The licensing process can only seek to control those measures within the control of the licensee, and in the 'vicinity' of the premises.  
Whether or not incidents can be regarded as being in the 'vicinity' of licensed premises is a question of fact and will depend on the particular circumstances of each individual case. The Licensing Authority will focus primarily on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area.
- 2.7 The Licensing Authority recognises that each licence application must be considered on its own individual merits in the context of the four licensing objectives, and that unless relevant representations are received from responsible authority's or interested parties, there is no provision for a Licensing Authority to impose conditions on a licence other than those proposed within an application. Only conditions which have been volunteered by the applicant or which have been determined at a Licensing Panel hearing can be attached to a licence or certificate. If no relevant representations are made in respect of an application, the Licensing Authority is obliged to issue the licence on the terms sought.
- 2.8 The policy will promote the licensing objectives through the issue of licences and the assessment of notices covered by the Act. These are
- Personal Licences for individuals – necessary where alcohol is to be sold or provided on premises.
  - Premises Licences and Club Premises Certificate – subject to suitability of premises and measures taken by applicant
  - Temporary Event Notice – simplified process for events of a smaller scale.
- 2.9 The Licensing Authority may depart from this policy if the individual circumstances of any case merit such a decision, in the interests of promoting the licensing objectives. Full reasons should be given to justify any departure from this policy.
- 2.11 Advice on whether a licence is required for premises or an event can be obtained by contacting Licensing direct on 01484 456868

### **3.0 Kirklees**

- 3.1 Kirklees is a vibrant multi-cultural district with a population of approximately 423,000. There are around 1698 licensed outlets including pubs, nightclubs, registered clubs, off licences, cinemas, theatres, casinos, bingo halls, community halls, and takeaways etc. These are spread across the district offering a diverse selection of leisure and entertainment to visitors. It is recognised that these businesses provide social and community spaces, facilities for residents and business, and a vital support infrastructure for related sectors such as retail and tourism
- 3.2 The district of Kirklees covers 254 square miles and stretches from the high moor lands of the Pennines (including part of the Peak National Park) in the West to the edges of Bradford, Leeds and Wakefield in the East. The M62 motorway traverses the northern edge of the district. Being at the centre of the country with excellent transport links makes Kirklees easy to get to from all areas of the country.
- 3.3 The main towns are Huddersfield, Dewsbury and Batley with many other smaller towns. The area is essentially split into east and west with the former being mainly industrial and densely populated and the latter rural in nature. Night time activity centres on the towns and the Bradford Road corridor near Batley.
- 3.4 The people of Kirklees represent many cultures, faiths, languages and races. A wide range of minority groups including Pakistani, Indian, Black Caribbean as well as many other smaller communities make up almost 21% of the population.
- 3.5 The Kirklees Partnership brings together public, private and voluntary sector representatives along with community members. It has produced a Sustainable Community Strategy aimed at bringing about significant improvement in Kirklees.

#### **4.0 Other Policies, Objectives and Strategies**

- 4.1 In preparing the Policy the Licensing Authority has had regard to the following strategies.
- 4.2 Kirklees Council Corporate Plan 2014/15
- Joint Health and Wellbeing Strategy for Kirklees
  - Kirklees Partnership Sustainable Community Strategy
  - Kirklees JSNA (Joint Strategic Needs Assessment) Crime and Community Strategy
  - Public Rights of Way Improvement Plan 2010 – 2020

- Creative Kirklees
- The Unitary Development plan and the Emerging Local Development Framework
- Local Area Agreements
- Kirklees Partnership Alcohol Strategy
- Tourism Visitor Strategy
- Equality & Diversity Strategy 2012 – 2016
- Kirklees Safer Communities Strategy
- Place Directorate Enforcement Strategy

4.3 Wherever possible the Policy is intended to promote other policies and strategies for the wider cultural benefit of communities. The Licensing Authority will monitor the impact of the Policy to ensure that it does not unnecessarily deter or prevent cultural or community events, or have a negative impact on other cultural or community activities.

4.4 Protocols will be developed to ensure the Policy will take into account the ongoing needs of local tourism, the cultural strategy and regeneration activities in the area.

4.5 The effects of licensing activity in the area will be fed into local transport plans so that proper regard can be taken of the need to disperse people away from town centres swiftly and safely at all times of the day and night.

4.6 The Licensing Authority is aware of its obligations under equalities legislation and the Local Government Equality Standard. The implementation of the Act will be monitored and its impact on different communities in Kirklees assessed. The Policy aims to ensure that every citizen receives equal opportunity, rights and treatment when applying for licences and making representations.

## 5.0 **Consultation**

5.1 In order that the Policy links effectively with the other initiatives mentioned above and is founded on a sound basis, a wide consultation of stakeholders has taken place in its preparation.

5.2 Some consultees are statutory but the Licensing Authority recognises the need for a wider consensus if the Policy is to be effective. In view of this the following have been consulted:

- Elected Members.
- West Yorkshire Police.
- West Yorkshire Fire Service.

- Representatives of local businesses.
- Representatives of local residents.
- Representatives of existing licence holders.
- Kirklees Community Safety Partnership.
- Kirklees Drugs Action Team.
- Council Services e.g. Planning, Highways, Environmental, Culture and Leisure, etc.

This policy was reviewed between January 2013 and December 2014, and the revised policy will come into force January 2015

5.3 The Policy will be formally reviewed every five years. Notwithstanding this mechanisms will be established to determine whether the licensing objectives are being satisfied on an ongoing basis. Should the ongoing scrutiny reveal the necessity for change, the Policy can be formally reviewed before the end of the five year period.

## 6.0 **General Principles**

### Human Rights

6.1 The European Convention on Human Rights makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- Article 6 - that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- Article 8 - that everyone has the right to respect for his home and private life.
- Article 1 - of the first protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example a licence.

### Other Regulatory Regimes

6.2 The Policy is not intended to duplicate existing legislation and regulatory regimes that already places obligations on employers and operators e.g. The Health and Safety at Work, etc. Act 1974, The Environmental Protection Act 1990, Equalities Act 2010, the Fire Safety Regulatory Reform Order, Violent Crime Reduction Act 2006, Cleaner Neighbourhoods Act, Smoke free Legislation.



- 6.3 Conditions in respect of public safety will only be attached to licences if they are appropriate for the promotion of that licensing objective.

#### Planning and Building Regulations

- 6.4 The use of premises for sale or provision of alcohol, provision of entertainment or late night refreshment is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation. Planning permission is usually required for the establishment of a new premises or change of use of premises.
- 6.5 In general, all premises that are the subject of an application under the Licensing Act may also need to seek the appropriate planning permission, or be deemed permitted development. The grant of a Premises Licence or Club Premises Certificate does not negate the need to seek and be granted any required planning consent.
- 6.6 In addition, it is also the responsibility of the applicant to ensure that any necessary building control approval has been obtained where structural alterations have taken place.
- 6.7 A hearing on any licence application will not consider whether any decision to grant or refuse planning permission was lawful and correct. The licensing process is not a re-run of the planning process.
- 6.8 In order to ensure proper integration, reports on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder may be taken to the Planning committee.

#### Impact of Licensing Activity

- 6.9 The Licensing Authority will determine any application by considering the Act, the statutory guidance, this Policy and the four licensing objectives including how it may support other key aims, strategies and objectives.
- 6.10 The following factors would normally be considered (although other relevant matters may be considered as the individual case dictates):
- The type of use, the numbers and type of customers likely to attend the premises;
  - The proposed hours of operation;
  - The level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that would be used by the customers;
  - The adequacy and impact of car parking on local residents or businesses;

- The scope for mitigating any impact;
- How often the activity occurs.

and, in considering any application for a variation the Licensing Authority may also take into account

- historical evidence, whether favourable or adverse, relating to activities carried out at the premises, especially on local residents or businesses;
- and where adverse impact has been caused, appropriate measures have been agreed and put into effect by the applicant to mitigate that adverse impact.

#### 6.11 Early Morning Restrictions Orders (EMRO)

The power conferred on licensing authorities to make, vary or revoke an EMRO is set out in section 172A to 172E of the Licensing Act 2003. This power was brought into force on 31<sup>st</sup> October 2012 and the government has provided guidance as part of the S182 Guidance to Licensing Authorities

The power enables a Licensing Authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

EMRO's are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance and other instances of alcohol related anti-social behaviour which is not directly attributable to specific premises.

##### An EMRO

- Applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
- Applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week, and can apply for different time periods on different days of the week;
- Applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
- Applies to the whole or any part of the Licensing Authority's area
- Will not apply to any premises on New Year's Eve (defined as 12am to 6am on 1 January each year);
- Will not apply to the sale of alcohol by those who provide hotel or similar accommodation to their residents between 12am and 6am, provided the alcohol is sold at those times only through mini bars and/or room service; and
- Will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the 2003 Act.

## EMRO Request

It is expected that the need for an EMRO may be identified by a number of different organisations. For example the request for an EMRO may originate at an Area Committee, residents association or the local NPT. It is likely that more than one organisation may be involved in the process.

It is anticipated that the request would be referred to the Licensing Department where a designated procedure will be applied to determine if an EMRO is appropriate. If appropriate, the request would be referred to the Licensing Committee. Members would be supplied with the evidence of the issues being experienced in the area in support of the EMRO. Licensing Committee will decide if, on the strength of the evidence provided, that an EMRO is appropriate for the promotion of the licensing objectives and if further work is to be undertaken to support the case. Members may decide that other measures would be more effective in dealing with the problems.

## EVIDENCE

The Section 182 Guidance to Licensing Authorities states that:

*'The Licensing Authority should be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement should be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premises licences. The Licensing Authority should consider the evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine when an EMRO would be appropriate for the promotion of the licensing objectives.'*

The level of evidence Licensing Committee will consider to support an early morning restriction order is:

- Police evidence of reported alcohol related crime
- Nuisance statistics compiled from complaints made to Environmental Health in relation to noise, odour and litter nuisance
- Data gathered from complaints made to the Licensing Department on matters which affect the licensing objectives.
- Anecdotal evidence from residents organisations, ward members and other representatives of people living in a specific area.
- Evidence obtained during the public consultation and associated public meetings

In addition the S182 guidance suggests that other sources of evidence such as health related statistics such as alcohol related emergency attendances and hospital admissions.

This should, in part be provided by the organisation or group who are proposing an EMRO should be in force.

Once the Licensing Committee is satisfied that an EMRO is required to address the issues in an area, and all other measures have been tried and failed to address these issues, the formal process of implementing an EMRO will begin. The design of the EMRO will include:

- The days (and periods on those days) on which the EMRO would apply
- The area to which the EMRO would apply
- The period for which the EMRO would apply
- The date from which the proposed EMRO would apply

#### Consultation

The proposed EMRO will be advertised for at least 42 days. The proposal will be published on the council's website and in a local newspaper. A notice will be sent to all affected people in the area who hold a premises licence or club premises certificate, or people who use TENs or who hold a provisional statement. A notice will be displayed in the area, and sent to the responsible authorities and adjacent licensing authorities. Anyone affected by the EMRO has 42 days in which to make representation on any aspect of the EMRO design. If relevant representations are received then a hearing will be held to consider them. If there are a number of representations, the Licensing Authority may consider whether to hold the hearing over several days. The hearing will be commenced within 30 working days of the end of the notice period.

As a result of the hearing the Licensing Authority has three options:

- To decide that the proposed EMRO is appropriate for promotion of the licensing objectives
- To decide that the proposed EMRO is not appropriate and therefore that the process should be ended
- To decide that the proposed EMRO should be modified. In this case it may be necessary to advertise again.

#### Formal Decision

Once the Licensing Authority is satisfied that the proposed order is appropriate for the promotion of the licensing objectives, its determination will be put to full Council for its final decision. Once the EMRO is made, the authority will send a notice to all affected persons and make it available for 28 days on the website.

A variation or revocation of an order will follow the same process. However an order could be applied for a specified time and in this case the order ceases to apply on the final day.

Once an EMRO is in place, the Licensing Authority will update this policy as soon as possible to include reference to the EMRO in this section.

There are currently no EMRO's in place in this area.

## 6.12 The Late Night Levy (LNL)

The late night levy is a power, conferred on licensing authorities by provision in Chapter 2 of part 2 of the Police Reform and Social Responsibility Act 2011. This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late night economy, and the reduction or prevention of crime and disorder.

The decision to introduce the levy is an option available to all licensing authorities in the whole of their respective areas. The levy will be payable by the holders of any premises licence or club premises certificate, in relation to premises in the authority's area, which authorises the sale or supply of alcohol on any days during the period beginning at or after midnight and ending at or before 6am (late night supply period).

### Introduction of the Levy

The decision to introduce the levy is for the Licensing Authority to make. The Licensing Authority is expected to consider the need for a levy with the chief officer of police and crime commissioner (PCC). The Licensing Authority will then decide whether to move to the next stage in the process and consult on its proposal to introduce a late night levy.

The Licensing Authority will decide on the design of the levy, which will be contained in the consultation document, and will include details of the late night supply period, any exemptions or reductions that may apply, what proportion of revenue will be paid to the PCC, and what services the Licensing Authority intend to fund with its share of the levy revenue.

The Licensing Authority will assess consultation responses and make a final decision about whether to introduce or vary the levy. The decision to introduce the levy, and its design, will then be put to full council for approval.

### Implementation of the Levy

The Licensing Authority must notify the relevant chief officer of police, the PCC and all holders of a licence or certificate in relation to premises which permit the supply of alcohol within the late night supply period, of the start date for the levy, the late night supply period, any exemptions and reductions, and how the revenue will be shared between the police and Licensing Authority. It is recommended that the levy will commence no less than three months following notification.

Licence holders may apply for a free variation to avoid operating within the late night supply period. The Licensing Authority must publish on their website an estimate of costs it will deduct from the levy revenue each year.

The levy will apply indefinitely until the Licensing Authority decides that the levy will cease to apply in its area, and will review the requirements for the levy at appropriate intervals. Any decision that the levy should cease will be notified to all holders of late night authorisations.

### Design of the Levy

The levy must apply to the whole of the Licensing Authority's area. It will apply to all holders of both on and off late night authorisations. Any holders of such an authorisation will be liable to pay the levy regardless of their actual opening hours. E.g. a supermarket with a 24hour licence will be liable regardless of actual opening hours.

The levy must be for hours, late night supply period, determined by the Licensing Authority, beginning on or after midnight and ending on or before 6am, but must be the same on each day. It will apply to boats and mobile bars but will not apply to Temporary Event Notices (TEN's).

### Exemptions from the Levy

Licensing authorities may consider that there are some types of premises that should not make a contribution towards the cost of policing the late night economy through the levy. This is a local decision based on local knowledge and responses gathered through the consultation process.

Licensing Authority's cannot exempt specific premises and can only exempt a category of premises that is specified in the regulations. The exemption categories are specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012.

- Premises with overnight accommodation – does not apply to premises who serve alcohol to members of the public who are not staying overnight.
- Theatres and cinemas – where consumption of alcohol during the late night supply period is for on the premises and for ticket holders only.
- Bingo Halls – regulated under the Gambling Act 2005
- Community Amateur Sports Clubs – who have relief from business rates, via Section 658 of the Corporation Tax Act 2010
- Community Premises – who have applied for successful removal of the mandatory designated premises supervisor
- Country Village Pubs – the sole pub situated within a rural settlement with a population of less than 3,000, and qualifies for rural rate relief under Part III of the Local Government Finance Act 1988.
- New Year's Eve – for premises whose only late night authorisation for the consumption of alcohol is for New Year's Eve.

- Business Improvement Districts – if determined by the Licensing Authority that successful BID's have a satisfactory crime and disorder focus.

## Reductions from the Levy

Licensing authorities can use the levy to promote and support premises who are participating in business led best practice schemes, by offering a reduction to the levy. Eligible premises may receive a reduction of 30% for participation in a best practice scheme that meets the following benchmarks, specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012.

- A clear rationale as to why the schemes objectives and activities will, or are likely to, result in a reduction of alcohol related crime and disorder
- A requirement for active participation in the scheme by members; and
- A mechanism to identify and remove in a timely manner those members who do not participate appropriately

Licensing authorities may also offer a reduction to licence holder in the on trade who are in receipt of Small Business Rate Relief (as specified in Part III of the local Government Finance Act 1988) and have a rateable value of £12,000 or less.

## Levy Revenue

The net levy revenue must be split between the Licensing Authority and the relevant PCC. The Licensing Authority must pay at least 70% of the net levy revenue to the police. The Licensing Authority can choose to amend the portion given to the PCC in future years but must carry out a consultation exercise as conducted regarding the levy's initial introduction.

Home office guidance suggests that the PCC allocate levy revenue to local commanders to tackle alcohol related crime and disorder in the areas where the levy was raised.

The Licensing Authority can retain up to 30% of the levy revenue to fund services it provides to tackle late night alcohol related crime and disorder and services connected to the management of the night time economy. Particularly services connected to the supply of alcohol during the late night supply period and related to:

- The reduction of crime and disorder
- The promotion of public safety
- The reduction or prevention of public nuisance
- The cleaning of any relevant highway or relevant land in the local authority area

The Licensing Authority may deduct from the levy revenue certain costs that it incurs and these costs may include:

- The preparation and publication of the consultation document, including publishing it online and sending details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol after midnight on any day;

- The collection of levy payments
- The enforcement of levy payments, and
- The cost of processing applications for a variation in relation to the introduction of the levy.

There is no specific restriction on the amount of expenses licensing authorities can claim they will have to account for all expenses claimed.

#### Levy charge and Collection Process

Rateable value bands (based on the existing fee bands)	A No rateable value to £4,300	B £4,301 to £33,000	C £33,001 to £87,000	D £87,001 to £125,000	E £125,001 and above	D x 2 Multiplier applies to premises in category D that primarily or exclusively sell alcohol	E x 3 Multiplier applies to premises in category E that primarily or exclusively sell alcohol
Levy Charge	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

The levy charges are based on the current licence fee system under 2003 Act, and charges are calculated based on the rateable value of each premise. Charges will become due at the same time as the annual licence fee.

Currently Kirklees Licensing Authority area does not have a late night levy.

#### Cumulative Impact

6.13 Cumulative impact means the potential impact on the promotion of the licensing objectives where there are a significant number of licensed premises concentrated in one area.

6.14 The licensing policy is not the only means of addressing such problems. Other controls include:

- Planning and Environmental controls.
- Positive measures to create cleaner greener and safer environment.
- Provision of CCTV.
- Provision of transport facilities including taxi ranks.



- Police enforcement and closure powers.
- Joint agency action to address under age and binge drinking.

- 6.15 The Policy is not intended to be the primary mechanism for the general control of nuisance, anti-social behaviour and environmental crime once consumers are away from the vicinity of the premises.
- 6.16 There are places in the area which on occasion raise concerns in relation to numbers of people congregating in and moving around certain confined locations and the effect of this on crime and disorder, public safety and public nuisance. This is particularly so at night time when large numbers of alcohol fuelled revellers are present. However the Policy does not propose a special policy as to cumulative impact at this time.
- 6.17 The Licensing Authority, in consultation with the police and other relevant parties, will regularly review the issue of cumulative impact in light of the practical experience of the operation of the Licensing Act 2003 and of the demand for premises licences. Such reviews will be conducted as part of regular liaison meetings.
- 6.18 Any imposition of special provisions to combat the effect of cumulative impact will only be introduced after widespread consultation, including those bodies/persons indicated in section 5(3) of the Act, and the establishment of clear evidence of a problem and its links with licensed activities. Any special policy, once adopted, will be the subject of regular reviews.
- 6.19 Should special provisions be introduced they will not be applied universally or override the right of each application to be dealt with on its merits. Where licences are unlikely to add significantly to the cumulative impact, the presumption is that they will be granted.

#### Licensing Hours

- 6.20 The Government states that flexible licensing hours may reduce the level of conflict / anti-social behaviour / disorder caused by concentrations of young drinkers, allowing a more gradual dispersal of customers from premises.
- 6.21 The Council accepts that use of more flexible hours can provide customers and businesses with a greater choice and may help to promote the evening economy in Kirklees, particularly in our town centres. However there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount.
- 6.22 The Licensing Authority will consider supporting longer hours where:

- There is likely to be no significant effect on crime and disorder or public nuisance.
- The operating schedule clearly demonstrates that the applicant is taking appropriate measures to minimise any adverse effects on residents and businesses in the vicinity. Measures to reduce the impact of customers using external facilities in and around premises (E.g. beer gardens, car parks, and pavements) are increasingly important, since the introduction of the Health Act 2006 (smoke free premises).
- Transport facilities are available to take customers away from the venue.

6.23 Shops, stores and supermarkets will normally be permitted to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open unless there are very good reasons for restricting those hours.

#### Children

- 6.24 The licensing authority is committed to protecting children from harm and views this as an important licensing objective. The Council's licensing team works with Children's Services during the development of licensing policy where the protection of children is concerned. Intelligence sharing and the exchange of current strategy developed by the Kirklees Council's Safeguarding Children Board ensure that the protection of children from harm remains key.
- 6.25 The Licensing Authority is aware that alcohol use, misuse and abuse is one of the recurring key 'parental factors' in child protection and safeguarding, often contributing to parental neglect of children and domestic abuse and violence within families.
- 6.26 Alcohol is also often a factor in child sexual exploitation, where young people may be encouraged or coerced to drink, or alcohol may be a factor in risk taking behaviour by young people who drink irresponsibly and then get involved in activities that otherwise they would not. Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises, or licensed premises being used for the purposes of grooming and enticement.
- 6.27 Kirklees Safeguarding Children Board (KSCB) works with other statutory authorities and will engage with the licensing trade to promote risk management in relation to child sexual exploitation. The KSCB can provide advice to assist licensees to identify risk and report concerns at different types of licensed premises so that children remain safe and businesses operate responsibly.

- 6.28 The Licensing Authority encourages license holders and operators of licensed premises:
- To ensure that they are fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a crime and
  - To raise the awareness of their staff about child sexual exploitation and provide intelligence to the appropriate authorities about concerns and about perpetrators who may be operating in their areas.

The Kirklees Safeguarding Children Board has a webpage dedicated to providing local information about child safety, child sexual exploitation, policies and procedures including risk factors and signs and symptoms:

<http://www.kirkleessafeguardingchildren.co.uk/>

- 6.29 The licensing authority has though taken account of the view of the Government that the use of licensed premises by children should be encouraged.
- 6.30 The Licensing Authority will not seek to require that access to any premises is given to children at all times. Under normal circumstances this will be left to the discretion of the licensee. However the Licensing Authority strongly recommends that applicants address the access of children in the operating schedule.
- 6.31 The Licensing Authority will also not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.
- 6.32 Areas that will give rise to particular concern in respect of children include the following premises, the list is not exhaustive:
- Where entertainment of a sexual or adult nature is commonly provided.
  - Where there have been convictions of members of staff for serving alcohol to minors or there is a reputation for underage drinking.
  - Where there is a known problem with sales of alcohol for consumption off the premises by underage persons.
  - Where there is a known association with drug taking or dealing.
  - Where there is a strong element of gambling (not the simple presence of a small number of cash prize gaming machines).
  - Where the supply of alcohol for consumption is the exclusive or primary purpose of the services provided.

The Licensing Authority welcomes and supports any campaign aimed at preventing underage consumption of alcohol

- 6.33 In these circumstances the conditions which are likely to be attached to any licence are:
- Limitations on the hours when children will be permitted.
  - Stating a minimum age for access by children.
  - Limiting or prohibiting access when certain activities are taking place.
  - Permitting access only when the child is accompanied by an individual aged 18 years or over.
  - A combination of the above.
  - A full exclusion of all individuals aged under 18 years.
- 6.34 The Licensing Authority commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. Where applicants intend children to be present on licensed premises or where the sale of alcohol takes place the Licensing Authority will expect the Code of Practice to be fully implemented.
- 6.35 In the case of premises giving film exhibitions the Licensing Authority will expect licensees or clubs to include in their operating schedule arrangements for restricting children from viewing age restricted films, classified according to the recommendation of the British Board of Film Classification or the Licensing Authority itself.
- 6.36 The Licensing Authority expects that employers will make careful checks where premises or entertainment is specifically targeted towards children to ensure all persons employed or involved with the supervision or management are deemed appropriate persons to be engaged in the activity. An example of such a check would be the completion of a Criminal Records Bureau check to the appropriate standard.

### Conditions

- 6.37 The Licensing Authority will only impose conditions on a licence (other than the statutory mandatory conditions) which are appropriate for the promotion of the licensing objectives, following scrutiny of the applicants operating plan and any relevant representations.
- 6.38 Where conditions are imposed they will be tailored to the individual style and characteristics of the premises and events concerned.
- 6.39 The Licensing Authority may also impose conditions other than those set out in the

guidance, in circumstances where this is appropriate to properly promote the licensing objectives.

- 6.40 More stringent conditions will usually be considered on new or variation applications or when reviewing a licence where applicants have a previously documented failure to comply with licence conditions.
- 6.41 Applicants are strongly encouraged to make early contact with the appropriate responsible authorities to discuss proposed conditions in advance of the submission of their application to the Council.

#### Live Music, Dancing and Theatre

- 6.42 The Live Music Act 2012 extends the range of live music performances that can take place without a licence under the 2003 Licensing Act. Where live music performances and other regulated entertainment impacted by the Live Music Act 2012 are licensable, the Council, when determining which conditions should be attached to licences and certificates are aware of the need to avoid measures which deter live music and dancing and theatre etc. by imposing indirect costs of a disproportionate nature. The Licensing Authority is aware that the absence of cultural provision can itself lead to young people being diverted into anti-social behaviour

### 7.0 **Licensing Process**

#### Personal Licences

- 7.1 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a Personal Licence. The Act does not require the presence of a Personal Licence holder at all material times but if any sales are made when a Personal Licence Holder is not present, then they must have been authorised by somebody who holds a Personal Licence. Regardless of whether a Personal Licence holder is present or not he will not be able to escape responsibility for the actions of those he authorises to make such sales.
- 7.2 The council recommends that authorisations for the sale of alcohol be made in writing to ensure that those authorised are clear what their legal responsibilities are. Any premises at which alcohol is sold or supplied may employ one or more Personal Licence holders. This paragraph should be read in conjunction with paragraphs 7.6 to 7.8 on the role of the 'Designated Premises Supervisor'.
- 7.3 The Licensing Authority recognises that it has no discretion regarding the granting of personal licenses where the applicant:
- is 18 years or over;
  - possesses a licensing qualification;

- has not been convicted of a relevant offence and
- has not forfeited a licence in the last five years.

7.4 An application must be made in the form specified by regulation and must be accompanied by the requisite fee together with evidence of the relevant licensing qualification.

7.5 Applicants must also produce one of the following:

- from the DBS (Disclosure and Barring Service) a criminal conviction certificate issued under S.112 of the Police Act 1997
- from the DBS, a criminal record certificate issued under S.113 of the Police Act 1997
- the results of a subject access search under the Data Protection Act 1998 of the Police National Computer by the national Identification Service and,

In any case such a certificate or search results shall be issued no earlier than one calendar month before the giving of the application to the relevant licensing authority.

7.6 Where the application discloses relevant unspent convictions the Licensing Authority will notify the police of that application and the convictions. The police may then make objection on the grounds of an unspent relevant or foreign offence. If an objection is lodged a hearing has to be held.

7.7 The Licensing Authority will, at such a hearing, consider carefully whether the grant of the licence will compromise the promotion of the crime prevention objective. It will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances.

7.8 All personal licence holders should note that on their first appearance in any court, when charged with a relevant offence (see Annex C of Guidance under section 182 of the Licensing Act 2003); they must declare their status as a holder of a personal licence to that court. Where subsequently convicted they must declare that conviction to the Licensing Authority.

#### Designated Premises Supervisors

7.9 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment.

- 7.10 The Licensing Authority accepts that not every person retailing alcohol at premises licensed for that purpose needs to hold a personal licence, but every sale or supply of alcohol must be authorised by such a licence holder. The Licensing Authority would normally expect that personal licence holders give specific written authorisation to individuals that they are authorising to sell alcohol on their behalf. This would assist personal licence holders in demonstrating due diligence. Although the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales made.
- 7.11 The requirements relating to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises where a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the Licensing Act 2003.

#### Premises Licences and Club Premises Certificates

- 7.12 When processing applications the Licensing Authority will not be influenced by the question of need. Need for any particular premise is a commercial matter or it may be part of a Planning consideration.
- 7.13 An application for a premises licence or a club premises certificate must be made in the form specified by regulation. The form must be accompanied by the requisite fee and a floor plan indicating the safety features of the premises such as alarm systems, access and egress points, fire doors, fire extinguishers, etc.
- 7.14 The applicant must also send copies of completed application forms and operating schedules to the responsible authorities named in Appendix A and advertise the application on or near the premises in accordance with the relevant regulations.
- 7.15 Applicants must provide an operating plan with the application. The plan must include those matters that are prescribed by the Act.
- 7.16 The plan is crucial as it demonstrates to the Licensing Authority how the applicant will meet the four licensing objectives. It must therefore contain sufficient information to allow the Licensing Authority to determine the licence and ought to include an assessment of the risks associated with the application.
- 7.17 The Licensing Authority strongly recommends that applicants seek advice from the appropriate agencies, for example West Yorkshire Police and West Yorkshire Fire Service prior submitting the operating plans.

- 7.18 The applicant must conduct an assessment of issues based upon the potential for crime and disorder and it is strongly recommended this is carried out in consultation with local police. Where any crime prevention measures are agreed, they should be implemented in accordance with the West Yorkshire Police Licensing Policy - Crime Prevention Measures. Failure to involve the local police at an early stage may result in them making representations against the application.
- 7.19 Guidance on what the Licensing Authority expects and on the completion of operating plans is provided in Appendix B. Notwithstanding this plans must be completed in a manner specific to an application rather than in general terms.
- 7.20 The Licensing Authority requests that holders of a premises licence are requested to make timely applications for variation of the designated premises supervisors. Applicants should note that the legislation allows West Yorkshire Police to object to the designation in order to promote the crime prevention objective.
- 7.21 Any application not completed in accordance with the Act and the regulations may be returned to the applicant unprocessed with a request to complete the application correctly before it is accepted by the Licensing Authority.
- 7.22 The council may use the information submitted in any application form for any licence and/or permission provided for under the terms of the Act for the purpose of its statutory function(s) in its capacity as the relevant Licensing Authority.

The Council may disclose all such information to its agents or service providers. The Licensing Authority may also share this information with other Council services.

### Temporary Events

- 7.23 The system of permitted temporary activities is intended as a light touch process and as such, the carrying on of licensable activities does not have to be authorised by the Licensing Authority on an application. Instead a person wishing to hold an event at which such activities are proposed to be carried on (the 'premise user') gives notice to the Licensing Authority of the event (a 'temporary event notice' or TEN).
- 7.24 Temporary event notices are subject to various limitations. These are concerned with:



- the number of times a premise user may give a TEN ( 50 times in a calendar year for a personal licence holder and 5 times in a calendar year for other people);
  - The number of times a TEN may be given for any particular premises (12 times in a calendar year);
  - The maximum duration of an event authorised by a TEN is 168 hours (7 days);
  - The maximum total duration of the events authorised by TENs in relation to individual premises (21 days in a calendar year)
  - The maximum number of people attending at any one time (fewer than 500); and
  - The minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user (24 hours).
- 7.25 The most important aspect of the system of temporary event notices is that no permission is required for these events from the Council. In general, only the police or Environmental Health may intervene to prevent such an event or modify the arrangements for such an event. The Council will only intervene itself if the limits on the number of notices that may be given in various circumstances would be exceeded.
- 7.26 Many premise users giving temporary event notices will not have commercial background or ready access to legal advice. They will include, for example, people acting on behalf of charities, community and voluntary groups, all of which may stage public events to raise funds, at which licensable activities will take place. The Council will ensure that local guidance about the temporary permitted activities is clear and understandable and will strive to keep the arrangements manageable and user-friendly for such groups.
- 7.27 There are two types of TEN; a standard TEN and a late TEN. These have different notice periods. A standard TEN is given no later than ten working days before the event to which it relates; a late TEN is given not before nine and not later than five working days before the event. The notice periods do not include the day the authority receives the notice or the day of the event.
- 7.28 The Council encourages notice providers to give the earliest possible notice of events likely to take place. This is particularly relevant to events which are to take place in the open air or in a temporary structure. Assistance with the planning of events can be provided through multi agency forum meetings.
- 7.29 The council will provide local advice about proper respect for the concerns of local residents; of other legislative requirements regarding health and safety, noise pollution, the building of temporary structures, or other necessary permissions, and of the powers to close down events with no notice on grounds of disorder, the likelihood of disorder or noise emanating from the premises.

## **Police or Environmental Health intervention**

- 7.30 The Act provides that in exceptional circumstances, the police or Environmental Health may issue an objection notice because they believe the event would undermine the one or more of the four licensing objectives set out in the Act. The Police or Environmental Health must issue an objection notice within three working days of being notified, but they can subsequently withdraw the notice. The issuing of such an objection notice requires the consideration of the objection by the council at a hearing in the case of a standard TEN. If an objection notice is issued in relation to a late TEN then the TEN is cancelled and licensable activities are not authorised.
- 7.31 The ability of Police and Environmental Health to serve such a notice is a further reason why event organisers are strongly encouraged by the council not to rely on giving the minimum amount of notice and to contact the local Police and Environmental Health at the earliest possible opportunity about their proposals.

## **Additional limitations**

- 7.32 The council, on receiving temporary event notices, will also check that the requirements of the Act as to duration and numbers of notices are met. For these purposes, a notice is treated as being from the same premises user if an associate gives it.

The Act defines an associate as being:

- the spouse or civil partner of that person;
- a child, parent, grandchild, grandparent, brother or sister of that person; or
- an agent or employee of that person;
- the spouse or civil partner of a person listed in either of the two preceding bullet points.

- 7.33 A person living with another person as his or her husband or wife is treated for these purposes as his or her spouse.

## **8.0 Right to make representation**

- 8.1 In relation to premises licences and club premises certificates, the Licensing Authority must consider relevant representations as part of its determination. Relevant representations can only be made by interested parties or responsible authorities within prescribed time periods. Where the Licensing Authority is of the opinion that representations are frivolous or vexatious, the 2003 Act prohibits them being considered as relevant representations.

- 8.2 Relevant representations relate to:

- matters about the likely effect of the grant of a premises licence or club premises certificate on the promotion of the licensing objectives; or
- a proposed designated premises supervisor if made by the Chief Constable.

8.3 Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do.

8.4 Responsible authority means any of the following:

- . The Chief Officer of Police
- . The local Fire & Rescue Authority
- . The local enforcement authority for the Health & Safety at Work etc. Act 1974
- . The local authority with responsibility for environmental health
- . The local planning authority
- . A body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm
- . The local weights & measures authority (trading standards); and
- . The relevant Licensing Authority, and any other Licensing Authority in whose area part of the premises is situated.
- . Each local authority's Director of Public Health (DPH)

In relation to a vessel:

- . A navigation authority having functions in relation to 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 Environment Agency
- . The British Waterways Board
- . The Secretary of State for Transport, acting through the Maritime and Coastguard Agency.

8.5 In promoting the licensing objectives, the Licensing Authority will, for reasons of appropriateness and efficiency, refer complaints about licensed premises/club premises/temporary events or licensed individuals to its own appropriate service

team (e.g. Health & Safety, Pollution & Noise Control) or to another agency (e.g. West Yorkshire Police, West Yorkshire Fire & Rescue Service) for their consideration, in accordance with any enforcement protocols.

- 8.6 As well as responsible authorities mentioned above, any other person can make representations to licensing authorities. A person may also request that a representative makes the representation to the licensing authority on their behalf. For example, a legal representative, a friend, a Member of Parliament, a member of the National Assembly for Wales, or a local ward or parish councillor could all act in such a capacity.
- 8.7 Nothing in this policy will override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.

## **9.0 Delegation**

- 9.1 The Licensing Authority will appoint a Licensing Committee of 15 Councillors. Licensing decisions will generally be delegated to a licensing subcommittee of 3 Councillors or, in appropriate cases to officers of the Licensing Authority.
- 9.2 Many of the decisions will be purely administrative in nature and the Licensing Authority will operate the delegations highlighted in Appendix D to achieve the correct balance between proper consideration of applications and an efficient use of resources.
- 9.3 If no relevant representations are received and the operating plan sufficiently demonstrates steps to promote the licensing objectives, the application will be granted.
- 9.4 During the licensing process where representations are received and the issues raised are relevant and cannot be resolved by mediation, the application will be heard by Elected Members as indicated in Appendix D.
- 9.5 Every decision made whether by the Licensing Committee, the Sub- Committee or by officers shall be accompanied by clear reasons for that decision.
- 9.6 Where a Councillor who is a member of the Licensing Committee or Sub-Committee has a prejudicial interest in the application before them, in the interests of good governance they will disqualify themselves from any involvement in the decision making process in respect of that application.

## **10.00 Review of a Premises Licence or Club Premises Certificate**

- 10.1 The Licensing Authority recognises the importance of its ability to review premises licences. The proceedings set out in the 2003 Act for reviewing premises licences

represent a key protection concerning problems associated with crime and disorder, public safety, public nuisance and the protection of children from harm. Partnership working is important to achieve the promotion of the licensing objectives. Responsible Authorities are encouraged to give licensees early warning of any concerns identified at a premise.

- 10.2 Responsible Authorities and other persons can apply for the review of a premise licence or club premises certificate. At a Licensing Panel hearing, reasons should be given for any decisions, and details recorded of any conditions to be attached to the licence. A copy of the decision notice will be kept on the relevant premises file.
- 10.3 The Licensing Authority must, having regard to the application and any relevant representations, take such steps mentioned below (if any) as it considers necessary for the promotion of the licensing objectives.

The steps are:

- To modify the conditions of the licence including imposing new conditions, altering existing conditions or removing conditions (permanently or temporarily)
  - To exclude a licensable activity from the scope of the licence (permanently or temporarily)
  - To remove the Designated Premises Supervisor
  - To suspend the licence for a period not exceeding three months
  - To revoke the licence
- 10.4 In cases where the crime prevention objective is being undermined through the premises being used for criminal activities, it is expected that revocation of the licence, even in the first instance, will be seriously considered.
- 10.5 Where there has been a request for a review, the Licensing Authority must advertise that an application for a review has been made. Further representations may then be made within 28 days from the original application for review. A hearing must be held within 20 working days of the end of the 28 day period. Anyone who has made a representation and who wants to attend the hearing must inform the Licensing Authority at least 5 working days before the day of the hearing.
- 10.6 Appeals against licensing decisions will be heard by Magistrates Courts

## **11.0 Enforcement**

- 11.1 The Licensing Authority has adopted the Place Directorate Enforcement Strategy which establishes enforcement protocols which will target agreed problems and high risk premises. This will allow for greater attention to high risk premises and lighter touch approach to those which are well maintained and managed and represent a lower risk.
- 11.2 Where appropriate the Licensing Authority will work in partnership with other agencies in enforcement around the licensing objectives.
- 11.3 Enforcement activity will be directed using intelligence from many sources including other services, and agencies.
- 11.4 Risk is linked to many issues but one of these will be premises encouraging excessive drinking via aggressive drinks promotions leading to nuisance and disorder.
- 11.6 The Licensing Authority will consider whether other direct powers should be used to address a problem for example Police, Fire and Environmental Services have their own powers.
- 11.7 The Licensing Authority has adopted the Place Directorate Enforcement Strategy. Key principles of consistency, transparency and proportionality will be maintained.
- 11.8 The Licensing Authority will maintain an online register of licences and licence applications which can be accessed via the Council's website.
- 11.9 Where Responsible Authorities or other parties make representations in connection with the licensing objectives, in order to seek a review of a licence, provided the representations are not frivolous, vexatious or repetitious, the Licensing Authority will review the licence.

## Appendix A

### Contact Information – Licensing Authority, responsible authorities/useful contacts

<p>LICENSING AUTHORITY</p> <p>Kirklees Council Licensing Section Flint Street Fartown Huddersfield HD1 6LG</p> <p>TEL: 01484 456868</p> <p><a href="mailto:licensing@kirklees.gov.uk">licensing@kirklees.gov.uk</a></p>	<p>RESPONSIBLE AUTHORITIES</p> <p>Fire Protection Department Oakroyd Hall Birkenshaw BD11 2DY</p> <p>TEL: 0113 3875738 FAX: 0113 3875777</p> <p><a href="mailto:Fire.safety@westyorksfire.gov.uk">Fire.safety@westyorksfire.gov.uk</a></p>
<p>RESPONSIBLE AUTHORITIES</p> <p>Kirklees Environmental Health Pollution and Noise Control/Health and Safety Flint Street Depot Flint Street Fartown Huddersfield HD1 6LG</p> <p>Health and Safety TEL: 01484 226450</p> <p>Pollution and Noise Control TEL: 01484 226436</p> <p>FAX (for both sections): 01484 226409</p> <p><a href="mailto:Environmental.health@kirklees.gov.uk">Environmental.health@kirklees.gov.uk</a></p>	<p>RESPONSIBLE AUTHORITIES</p> <p>Kirklees Safeguarding Children Board FAO Cath Slater 3<sup>rd</sup> Floor Somerset Building Church Street Huddersfield HD1 1DD</p> <p>TEL: 01484 225450</p> <p><a href="mailto:KSCB.Admin@kirklees.gov.uk">KSCB.Admin@kirklees.gov.uk</a></p>
<p>RESPONSIBLE AUTHORITIES</p> <p>West Yorkshire Police Licensing Office Flint Street Fartown Huddersfield HD1 6LG</p> <p>TEL: 01484 456869</p> <p><a href="mailto:Rw913@westyorkshire.pnn.police.uk">Rw913@westyorkshire.pnn.police.uk</a></p>	<p>RESPONSIBLE AUTHORITIES</p> <p>West Yorkshire Trading Standards PO Box 5 Nepshaw Lane South Morley LS27 0QP</p> <p>TEL: 0113 2530241 FAX: 0113 2530311</p> <p><a href="mailto:licensing@wyjs.org.uk">licensing@wyjs.org.uk</a></p>
<p>RESPONSIBLE AUTHORITIES</p> <p>Kirklees Council Planning Services Development Control PO Box B93 Civic Centre III Huddersfield</p>	<p>RESPONSIBLE AUTHORITIES</p> <p>Kirklees Primary Care Trust NHS Kirklees Kirkgate Buildings Byram Street</p>

<p>HD1 2JR</p> <p>Tel: 01484 221000</p> <p><a href="mailto:Planning.contactcentre@kirklees.gov.uk">Planning.contactcentre@kirklees.gov.uk</a></p>	<p>Huddersfield</p> <p>HD1 1BY</p> <p><a href="mailto:Jo.hilton-jones@kirklees.gov.uk">Jo.hilton-jones@kirklees.gov.uk</a></p>
<p>USEFUL CONTACTS</p> <p>British Institute of Innkeeping Wessex House 80 Park Street Camberley Surrey GU15 3PT</p> <p>TEL: 01276 684 449</p>	<p>USEFUL CONTACTS</p> <p>Security Industry Authority (SIA) PO Box 1293 Liverpool L69 1AX</p> <p>TEL: 0844 892 1025</p> <p><a href="http://www.the-sia.org.uk/register">www.the-sia.org.uk/register</a></p>
<p>USEFUL CONTACTS</p> <p>NCFE Q6 Quorum Business Park Benton Lane Newcastle Upon Tyne</p> <p>TEL: 0191 2398000</p>	<p>USEFUL CONTACTS</p> <p>Disclosure and Barring Service PO Box 110 Liverpool L69 3EF</p> <p>TEL: 0870 9090822</p>
<p>USEFUL CONTACTS</p> <p>City and Guilds 1 Giltspur Street London EC1A 9DD</p> <p>TEL: 020 7294 2468</p>	<p>USEFUL CONTACTS</p> <p>Huddersfield Magistrates Court PO Box B37 The Court House Civic Centre Huddersfield</p> <p>TEL: 01484 423552</p>



## **Appendix B - Operating Plan considerations**

The operating plan is a key document in the licensing process. It is one of the primary means by which the Licensing Authority and the consultees can assess whether the licensing objectives have been satisfied within a particular application.

The following is a list of matters to which applicants should give consideration, if relevant to the premises in question. Applicants should note the outcome within the operating plan. Please note the matters are not exhaustive and it is recognised that some may fall outside the remit of the Act. Notwithstanding this, if all the matters have been addressed they are more likely to lead to a successful, safe well managed premise.

The matters are listed under each of the four licensing objectives.

### **Crime and Disorder**

- Within the trading hours requested, consideration of the times within which alcohol is to be sold or supplied, other times at which the premises are to be open to the public, drinking-up time, last entry policies etc.
- Crime prevention through application of ‘secure by design’ principles to the premises e.g. all areas visible from the bar. The use of CCTV systems, both within and outside the premises, installed and operated under West Yorkshire Police guidelines.
- Regular participation in the local ‘Pubwatch’ group run in partnership by a volunteer group of licence holders, and attended by invited representatives of West Yorkshire Police, other local authority services and sister agencies. These informal meetings present an opportunity for two way dialogue on local issues.
- Applicants are encouraged to consider whether the designated premises supervisor is expected to be on the premises at all times when the sale or supply is taking place. Where this will not be the case, then arrangements should be put in place to ensure proper management of the venue and licensable activities.
- Whether door supervisors (licensed under the Security Industry Authority) and other security measures are required in respect of the venue and the licensable activities proposed. Supervision inside and outside the premises by properly trained staff can have a significant impact on crime and disorder, and therefore public safety in and around the premises, by for example: the non-admission of persons who are drunk, screening for weapons and drugs, dealing with disorderly behaviour. Premises may operate an incident book to log events involving crime and disorder.
- Measures to combat drug dealing and the use of drugs in the premises. The Licensing Authority and West Yorkshire Police support the guidance detailed in the Safer Clubbing Guide produced by the Home Office – this guide can be viewed at [www.csdp.org/research/safer\\_clubbing\\_txt.pdf](http://www.csdp.org/research/safer_clubbing_txt.pdf)

- Participating in the retail radio scheme in the town centre areas covered by the Council's CCTV centre and the police can help to minimise disorder occurring within the vicinity of premises.
- Operating 'proof of age checks to combat underage drinking e.g. proof of age card schemes carrying a PASS logo, passport or photo driving licences.
- Methods to discourage the handling and distribution of stolen, counterfeit or other illegal goods.
- Any policies for the use of toughened, shatterproof or polycarbonate/plastic glasses and the refusal to serve drinks in glass bottles. Preventing the removal of glasses and bottles from premises and timely clearing of empties from internal/external drinking areas can also prevent them being used as weapons.
- Measures to exclude known troublemakers and those identified under local banning schemes or anti-social behaviour orders.
- Security in premises seeking to sell alcohol for consumption off the premises. Displayed stock may be sited to be in view of staff at all times and/or covered by CCTV and spirits may be kept behind the counter.
- Level of transport facilities available to aid customers in leaving premises quickly and quietly.

### Public Safety

- Demonstrate that proposed occupancy levels are safe and that sufficient management control exists to prevent the levels being exceeded. Where the premise is split into different parts it would be prudent to identify the occupancy for each individual part.
- Provision of adequate sanitary accommodation – for advice contact Kirklees Environmental Health, Health and Safety Section (see Appendix A)
- Reasonable access and facilities for people with disabilities including the safe evacuation of disabled persons, identifying the staff trained to implement emergency egress plans, sanitary accommodation, etc.
- Details of the management arrangements put in place to ensure adequate installation, testing, maintenance and certification of the following.
  - fire detection and alarm systems
  - firefighting equipment/fire suppression systems
  - emergency lighting system
  - electrical installation to the premises

- portable electrical appliances
- music cut-out systems
- fire retardant treatments for materials used in drapes, furnishings and decorations, include for frequency of treatment
- heating systems and cooking appliances e.g. gas boilers/pressure systems
- hot and cold water systems e.g. certain air con units re: Legionella

And make general fire precautions. Fire safety features should be denoted on the floor plans accompanying the licence application.

- Details of the regime for regular inspection and maintenance of structural elements such as walls, floors, roof members, beams, mezzanine floors, stairs, lintels, ceilings etc. It is similarly important to ensure that the integrity of materials providing fire resistance to these elements of structure is also maintained.
- Written procedures for the inspection and maintenance of items of general housekeeping e.g.
  - escape routes are kept clear with escape doors being easily operable without the use of key, card, code or similar means
  - fire doors and the door operating furniture
  - fire safety signs are adequately illuminated
  - removable security fastenings are removed from exit doors whenever the premises are open to the public or occupied by staff
  - damage to furnishings and fabrics
  - guarding to stairs, balconies, landings and ramps
  - general condition of floor surfaces (e.g. trip hazards, non-slip surfaces)
  - provision of safety glazing and manifestation in critical locations
  - suspended decorations, lights and amplification systems
  - guarding to fires, candles and open flames
  - edges of treads to steps and stairways are kept conspicuous
  - systems for the collection of glass and bottles
- Controls exercised by management of premises, regarding any drinks promotions
- Safety measures when hot food and drink is prepared in close proximity to the public
- Number of first aid trained staff with suitable equipment to provide first aid on the premises. Training may include treatment to those persons affected by drugs or alcohol, including the policy of providing free drinking water.
- Transport facilities serving premises do not provide a safety hazard at points where customers leave the premises.
- Means for controlling noise levels to prevent damage to the hearing of employees and to the public visiting premises.

- A number of the above issues may be contained within Health and Safety Policies, which will form any part of any Operating Plan (for guidance on H & S Policies contact Kirklees Environmental Health, Health and Safety Section – see Appendix A)

### Public Nuisance

- With reference to the proposed hours of operation and audibility at noise sensitive premises in the vicinity, the measures taken to prevent noise and vibration emanating from within premises and from external sources (under the control of the applicant) causing nuisance or disturbance, such as:-
  - amplified and non-amplified music levels
  - singing and speech
  - disposal to waste and bottle bins
  - plant and machinery (including extract systems)
  - food preparation, the cleaning of premises and equipment
  - noise associated with vehicles arriving at and departing from the premises e.g. car doors, horns, stereos, engine noise etc
  - firework displays etc

Measures may include:-

- the installation/adoption of soundproofing
- air conditioning to allow windows to be kept closed
- sound limitation devices
- use of lobby doors
- cooling down period with reduced music levels at the end of the night
- adopting hours of operation appropriate to the activities in question and the location
- adopting a schedule for the delivery of goods and collection of waste at times appropriate for the locality
- advice notices and announcements requesting customers and staff to behave with 'good conduct' to neighbouring premises.
- controls exercised by management over excessive drinking encouraged by drinks promotions
- arrangements to prevent disturbance by customers leaving the premises or congregating or queuing outside premises, this being of most importance between the hours of 11pm to 7am
- identifying good transport facilities that serve the venue

In considering applications from pubs, clubs, concert venues and similar premises and activities, the Licensing Authority expects licensees to have regard to any guidance published, such as Good Practice Guide on the Control of Noise from Pubs and Clubs published by the Institute of Acoustics, the Code of Practice on Environmental Noise Control at Concerts published by the Noise Council, and to other local, regional or national standards.

Particular care must be taken where the noise source is in the open air, e.g. beer garden, car park, access roads, or queues.

Other potential causes of nuisance to which consideration should be given:-

- Light is a category of statutory nuisance. Exterior lighting should be carefully sited, directed and operated so as not to cause disturbance to occupiers of nearby premises.
- Arrangements to prevent the release of noxious odours affecting the occupiers of adjacent premises.
- Steps taken to prevent any impact of inadequate refuse storage or littering on the surrounding area, including the responsible use of flyers or promotional materials.

Fly posting should not be used to promote events

For further information relating to public nuisance please contact Kirklees Environmental Health, Pollution and Noise Control Section – see Appendix A

#### Protection of Children from Harm

- Times within which children, whether accompanied or not, will be allowed access to whole or any part of the premises – will restrictions be specified by a notice at the entrance
- At premises or events where entertainment is specifically targeted towards children employers take steps to ensure all persons employed or involved with the supervision or management are deemed appropriate persons to be engaged in the activity e.g. Disclosure and Barring Services check to the appropriate standard.
- In the case of 'children only' events, for example, an under 18 disco, production of a play, a pantomime or similar event, provision of a suitable number of adult supervisors to children on the premises
- The normal minimum ratio will be one supervisor per 50 children plus one supervisor for each floor and supervisor for each exit e.g. this would mean at an event where 300 children are expected, which take place on premises which have 2 floors and 4 exits there would need to be 6 supervisors for the capacity of the premises, plus 2 for the two floors, plus 4 for the number of exits giving a total of 12 supervisors on duty throughout the duration of the event
- Supervisors should receive instruction on fire procedures and be made aware of all dangerous equipment particularly 'backstage' to ensure supervision of children performing at such premises.

- Arrangements for safe entry and departure from the premises
- Precautions to avoid unsupervised children being seated in the front row of a balcony or box
- Arrangements for restricting children from viewing age restricted films, classified according to the recommendation of the British Board of Film Classification or the Licensing Authority itself. NB licensees should note that this is a mandatory condition required by s20 Licensing Act 2003
- Limiting use of special effects which can trigger adverse reactions, especially with regard to children
- Operating 'proof of age' checks to combat underage drinking e.g. proof of age card schemes carrying a PASS logo, passport or phot driving licences.
- Compliance with the Portman Group Code of Practice on the naming packaging and promotion of alcoholic drinks to be fully implemented
- Steps taken to ensure the safety of play areas and equipment
- Any arrangements to supply children's drinks in safety glasses or bottles
- Provision of safe child seating for young children in premises selling meals
- Any provision of smoke free areas
- Provision of child friendly lavatories, family toilet and nappy changing facilities

## Appendix C – Other reading

[www.culture.gov.uk](http://www.culture.gov.uk) – Government website showing full versions of Licensing Act 2003 and Secretary of State’s Guidance issued under Section 182 of Licensing Act

The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999), (The Purple Book), ISBN 0 7176 2453

Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X

5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 0 7176 15804

The Guide to safety at Sports Grounds (the Stationary Office 1997) (The Green Guide) ISBN 0 11 300095 2

Safety for Street Arts, Carnivals, Processions and Large Scale Performances published by the Independent Streets Arts Network, copies which may be obtained through [www.streetartsnetwork.org.uk/pages/publications.htm](http://www.streetartsnetwork.org.uk/pages/publications.htm)

Good Practice Guide on the Control of Noise from Pubs and Clubs – published by the Institute of Acoustics, 77A St. Peter’s Street, St. Albans, Hertfordshire AL1 3BN (tel. 01727 848195)- March 2003.

Code of Practice on Environmental Noise Control at Concerts (1995) – published by The Noise Council (ISBN 0 900103515). Available from the Chartered Institute of Environmental Health Library (0207 8275821) or from [information@cieh.org](mailto:information@cieh.org)

Alcohol Harm Reduction Strategy for England – Prime Minister’s Strategy Unit, Admiralty Arch, The Mall, London SW1A 2WH ([www.strategy.gov.uk](http://www.strategy.gov.uk))

Kirklees Drug and Alcohol Strategies - available from Kirklees Safe and Cohesive Communities, Civic Centre I, High Street, Huddersfield (tel. 01484 224291)

Safer Clubbing Guide (reducing harm from drug use in club environments) – available from Drug Prevention Advisory Service ISBN 1840827807 ([www.drugs.gov.uk](http://www.drugs.gov.uk))

Responsible Retailing of Alcohol: Guidance for the Off-Trade – available from the Association of Convenience Stores ([www.thelocalshop.com](http://www.thelocalshop.com)) tel. 01252 515001

West Yorkshire Police Licensing Policy – available from the Licensing Officer, Flint Street Depot, Fartown, Huddersfield, HD1 6LG. Tel: 01484 456868

Kirklees Planning Services – ‘Going Smokefree’ – A planning advice note on smoking shelters and related features [www.kirklees.gov.uk/planning](http://www.kirklees.gov.uk/planning)

Home Office „Practical Guide for Preventing and Dealing with Alcohol Related Problems [www.alcoholpolicy.net](http://www.alcoholpolicy.net)

Home Office Designated Public Place Order (DPPO) Guidance [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

LACORS/TSI Code of Practice on Test Purchasing [www.lacors.gov.uk](http://www.lacors.gov.uk)

### Related Legislation

The Live Music Act 2012

Police and Social Responsibility Act 2011

Policing and Crime Act 2009

Anti-Social Behavior Act 2003 / Crime and Disorder Act 1998 / Crime and Security Act 2010

Criminal Justice and Police Act 2001 / Private Security Industry Act 2001

Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000

The Clean Neighbourhoods and Environment Act 2005 / The Health Act 2006

Violent Crime Reduction Act 2006

Relevant case law regarding policy statements

Limits of Licensing policy: BBPA& Others v Canterbury City council (2005) EWHC 1318 (Admin)

'Strict' licensing policies and exceptions to policy: R (Westminster City Council) v Middlesex Crown court and Chorion plc (2002) LLR 538

Cumulative impact policies and hours: R (JD Wetherspoon plc) v Guildford Borough council (2006) EWHC 625(admin)

Duplication and conditions: R (on the application of Bristol Council) v Bristol Magistrates Court (2009) EWHC 625 (Admin)

Extra Statutory notification by the Licensing Authority: R (on the application of Albert court Residents Association and others) v Westminster City Council (2010) EWHC 393 (Admin)

The prevention of crime and disorder: ambit of the objective: Blackpool Council, R (on the application of) v Howitt (2008)



## Appendix D - Delegation

Sub-committee is comprised of 3 members of the full licensing committee.

<b>Matter to be dealt with</b>	<b>Full Licensing Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection made	If no objection made
Application for personal licence with unspent convictions		If a police objection made	If no objection made
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 personal licence holder			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 responsible authority objection to a temporary event notice (police/Environmental Services)		All cases	
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## **Appendix E – Glossary of terms**

### **Licensable Activities**

- a) the sale by retail of alcohol,
- b) the supply of alcohol by or on behalf of a club to, or to the Order of, a member of the club,
- c) the provision of regulated entertainment,
- d) the provision of late night refreshment.

### **Qualifying Club Activities**

- a) the supply of alcohol by or on behalf of a club to, or to the Order of, a member of the club,
- b) the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place, and
- c) the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests.

### **Regulated Entertainment**

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

As a result of the amendments to the Licensing Act 2003 by the 2012 Live Music and 2013 Order, no licence is required for the following activities to the extent that they take place between 08:00 and 23:00 on any day

- Performance of a play in the presence of any audience of no more than 500 people.
- An indoor sporting event in the presence of any audience of no more than 1000 people
- The performance of dance in the presence of an audience of no more than 500 people.
- Live music where the live music comprises :-
  - a performance of unamplified live music
  - a performance of live amplified music in a work place with an audience of no more than 200 people or;
  - a performance of live music on licensed premises which takes place in the presence of an audience of no more than 200 people.

Exemptions for the provision of entertainment and entertainment facilities – note if alcohol is to be supplied, or late night refreshment provided, a licence will be required for those activities

- i) for the purposes of or purposes incidental to religious services or meetings or at places of public religious worship
- j) morris dancing or dancing of a similar nature
- k) incidental music
- l) garden fetes
- m) film exhibitions for the purposes of advertisement, information, education, etc.
- n) use of television or radio receivers
- o) vehicles in motion

**Interested Party**

- a) a person living in the vicinity of the premises,
- b) a body representing persons who live in that vicinity,
- c) a person involved in a business in that vicinity,
- d) a body representing persons involved in such businesses.

## **Responsible Authority**

- a) the chief officer of police for any police area in which the premises are situated,
- b) the fire authority for any area in which the premises are situated,
- c) the enforcing authority within the meaning given by Section 18 of the Health and Safety at Work etc. Act 1974 for any area in which the premises are situated,
- a) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (C.8) for any area in which the premises are situated,
- b) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimizing or preventing the risk of pollution of the environment or of harm to human health,
- c) a body which:-
  - i. 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
  - ii. is recognized by the Licensing Authority for that area for the purposes of this section as being competent to advise it or such matters.
- d) any Licensing Authority (other than the relevant Licensing Authority) in whose area part of the premises is situated,
- e) Primary Care Trusts (PCTs)<sup>3</sup> and Local Health Boards (in Wales); and
- f) the local weights and measures authority (trading standards).
- g) in relation to a vessel;
  - i. a navigation authority (within the meaning of Section 221(1) of the Water Resources Act 1991 (C.57) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities.
  - ii. the Environment Agency;
  - iii. the British Waterways Board, or
  - iv. the Secretary of State;
  - v. a person prescribed for the purposes of this subsection.

### **Temporary Event**

The use of the premises for one or more of the licensable activities during a period not exceeding 168 hours usually where a premises licence covering the licensable activity is not in place – see ‘limitations’ in paragraph 7.21.

### **Late Night Refreshment**

A person “provides late night refreshment” if:-

- a) at any time between the hours of 11.00 p.m. and 5.00 a.m., he supplies hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises, or
- b) at any time between those hours when members of the public, or a section of the public, are admitted to any premises, he supplies, or holds himself out as willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises,

unless the supply is an exempt supply by virtue of paragraph 3, 4 or 5 of Schedule 2 to the Act.

### **Hot Food or Hot Drink**

Food or drink supplied on or from any premises is “hot” for the purposes of this schedule if the food or drink, or any part of it:-

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

### **Personal Licence**

A licence which:-

- a) is granted by a Licensing Authority to an individual, and
- b) authorises that individual to supply alcohol, or authorise the supply of alcohol, in accordance with a premises licence.

### **Premises Licence**

A licence which authorises the premises to be used for one or more licensable activities.

### **Representations**

Relevant - If it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives

Frivolous - Frivolous representations would essentially be categorised by a lack of seriousness. A trivial complaint may not always be frivolous, but it would have to be pertinent in order to be relevant.

Vexatious - Vexation may arise because of disputes between rival businesses or persons.

Repetitious - A repetitious representation would be categorised by its similarity to a previous representation which has already been decided upon.

### **Disclosure of Convictions – Disclosure and Barring Service (DBS)**

A disclosure showing all convictions held at national level which are not spent – for contact details see appendix A

### **Licensing Authority**

Reference to the Licensing Authority in this policy indicates Kirklees Council operating in its role specified under the Licensing Act 2003, and not in any other role.