



**Leeds**  
CITY COUNCIL

Appendix A

# Statement of Licensing Policy 2023 - 2027

Licensing Act 2003



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**Please note:**

The information contained within this document can be made available in different languages and formats including Braille, large print, and audio cassette.

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## Executive Summary

The Licensing Act 2003 came into effect in 2005.

Under Section 5 of the Licensing Act 2003 the Licensing Authority is required to prepare a statement of principles that they propose to apply in exercising their functions under this Act. This process is to be repeated every five years.

Any decision taken by the Council about determination of licences, certificates and notifications should aim to promote 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 policy covers the licensable activities as specified in the Act which are:

- Sale by retail or supply of alcohol
- Regulated entertainment
- Late night refreshment

The policy also has regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. Additionally the council has regard for several other local strategies such as Vision for Leeds and the Leeds Community Safety Strategy.

The council can grant licences for premises and certificates for club premises. It also grants personal licences and accepts temporary event notices.

Applicants for premises licences should be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. In addition to this policy the council has included guidance specific to certain areas of the city to assist applicants in preparing their applications and operating schedules.

Where relevant the council consults with the responsible authorities as described in the Act.

Local people and Members of the council can have their say and their opinion heard through public consultation on this policy and by making representations about applications for premises licences or requesting reviews of licences for problem premises.

The policy includes information on the areas that the council considers to be suffering from the cumulative impact of licensed premises.

Enforcement of the legislation is a requirement of the Act that is undertaken by the council. This policy describes the council's enforcement principles and the principles underpinning the right of review.

## Section 1 The purpose and scope of the licensing policy

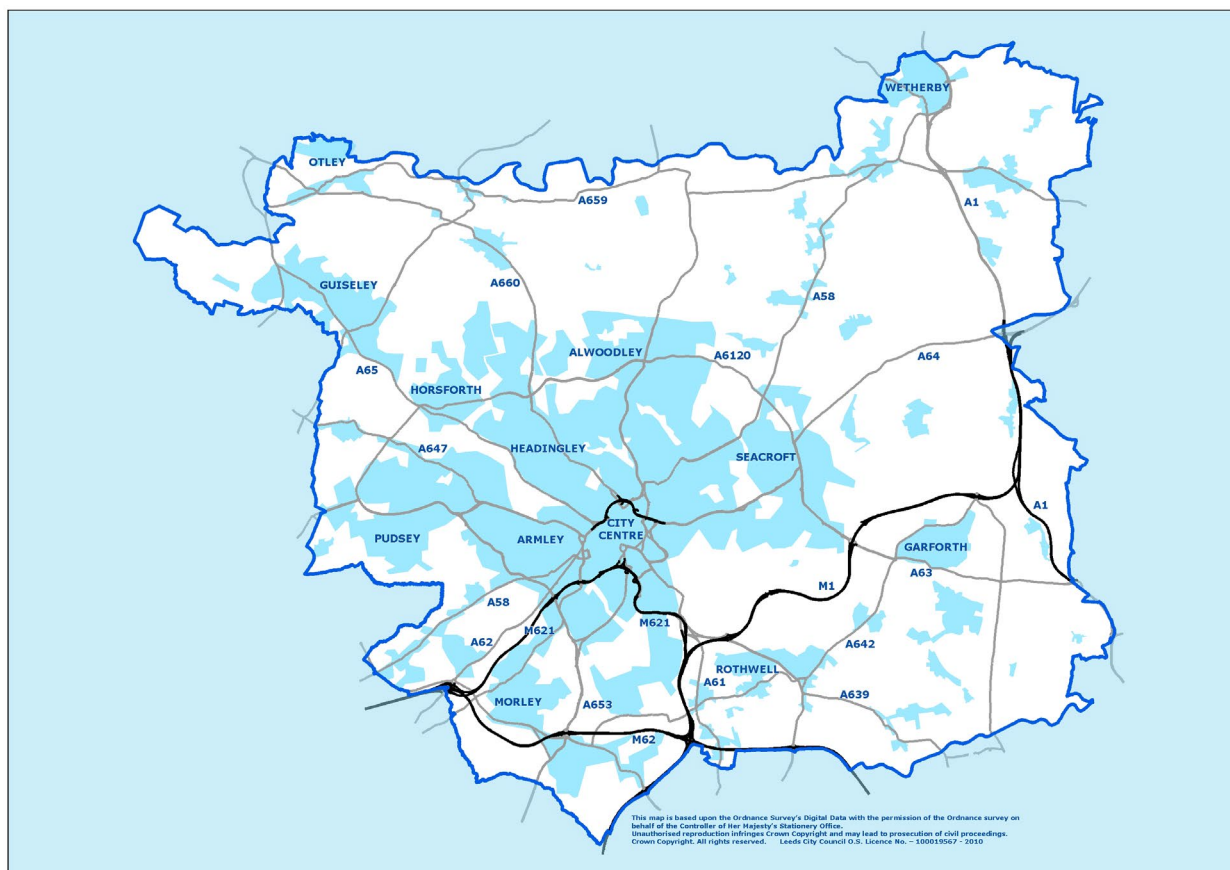
### Purpose of the policy

- 1.1 This policy is prepared under Section 5 of the Licensing Act 2003 and was approved by Leeds City Council as Licensing Authority on **xx January 2023 to come into effect immediately. It will be kept under review and as a minimum will be reviewed no later than 2027, with a new policy in place by 15<sup>th</sup> January 2028** unless statute changes. Unless otherwise stated any references to the council are to the Leeds Licensing Authority.
- 1.2 In preparing this policy the council has consulted with and considered the views of a wide range of people and organisations including:
- Representatives of local business
  - Residents and their representatives
  - Parish and town councils
  - Local members of parliament
  - Representatives of existing licence holders including
    - The British Beer and Pub Association
    - Licensing solicitors
  - The responsible authorities namely:
    - West Yorkshire Police
    - West Yorkshire Fire and Rescue Service
    - Leeds City Council – Health and Environmental Action Service
    - Leeds City Council – Children and Young People Social Care
    - Leeds City Council – City Development
    - Leeds City Council – Director of Public Health
    - West Yorkshire Trading Standards
    - Secretary of State (Immigration Enforcement)
  - Charitable organisations that deal with the social impact of alcohol misuse
  - Other charitable organisations including Mencap and Victim Support Leeds
- 1.3 This policy also has regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- 1.4 The council will carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives namely:
- The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 1.5 The council adopts the overall approach of encouraging the responsible promotion of licensed activities. However, in the interests of all its residents **and visitors**, it will not tolerate irresponsible licensed activity **and failure to protect those visiting licensed premises**. Following relevant representations the council will refuse applications, restrict hours and activities or impose conditions where it is appropriate to do so to promote the licensing objectives and/or use effective enforcement to address premises where there are problems, in partnership with key agencies such as West Yorkshire Police, West Yorkshire Fire and Rescue Service, Health and Safety Executive, Crime and Disorder Reduction Partnerships, Director of Public Health and West Yorkshire Trading Standards.

- 1.6 This policy is concerned with the regulation of licensable activities on licensed premises, by qualifying clubs and at temporary events. The conditions that the council attaches to the various licences will focus on matters that are relevant to the four licensing objectives and will centre upon the premises that are being used for licensable activities.
- 1.7 The council will monitor the effect of this policy throughout the period it covers through licensing liaison meetings with representatives of licence holders such as PubWatch meetings and by way of regular meetings with the responsible authorities.

### Scope of the policy

- 1.8 This policy covers licensable activities within the Leeds district as defined by the Licensing Act 2003. These are:
- The 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
- 1.9 Advice on whether a licence is required for premises, or an event can be obtained from Entertainment Licensing.
- 1.10 Throughout this policy the wording will refer to ‘applicants’ for licences. However it should be noted that the principles set out within this policy apply equally to new applications, applications for variations and consideration of any request to review a licence. **It also applies, where appropriate, to premises users who are notifying the council of a temporary event.**
- 1.11 The scheme of the Licensing Act is that applicants should make applications and assess what matters, if any, need to be included within the operating schedule to address the licensing objectives. If an application is lawfully made and no relevant representations are received, then the council must grant the application. Only if relevant representations are made will the council’s discretion be engaged.
- 1.12 Applicants for premises licences should be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. This policy seeks to provide advice to applicants about the approach they should take to making applications and the view the council is likely to take on certain key issues where representations have been made.



- 2.1 Leeds City Council has sought to establish Leeds as a major European City and cultural and social centre. It is the second largest metropolitan district in England and has a population of 2.2 million people living within a 30 minute drive of the City Centre.
- 2.2 The Leeds metropolitan district extends over 562 square kilometres (217 square miles) and has a population of **798,786 people living in Leeds (total population estimate, 2020) and the population is projected to grow to 830,506 in 2028**. It includes the city centre and the urban areas that surround it, the more rural outer suburbs, and several towns, all with their very different identities. Two-thirds of the district is greenbelt (open land with restrictive building), and there is beautiful countryside within easy reach of the city.
- 2.3 Over recent years Leeds has experienced significant levels of growth in entertainment use within the city coupled with a significant increase in residential development. The proximity of a range of land uses and the creation of mixed-use schemes has many benefits including the creation of a vibrant 24-hour city.
- 2.4 Leeds is a city with many cultures, languages, races, and faiths. A wide range of minority groups including **Asian/Asian British, Black/African/Caribbean/Black British, mixed/multiple ethnic groups**, as well as many other smaller communities make up 18.9% of the population (2011 Census).



2.5 Each area of the district has its own character and challenges. The council has provided general advice in this policy to assist applicants in preparing applications. Applicants are also expected to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. To assist them the council has provided links to data sources where information specific to localities in Leeds in which there is concern relating to impact of licensed premises on the four licensing objectives can be found. Applicants may also consult with Entertainment Licensing to ensure they have as much information as possible before making their application.

### **Cultural Activities in Leeds**

- 2.6 Leeds has strong artistic and sporting traditions and has the best attended outdoor events in the country. The success of arts and heritage organisations including the Grand Theatre, West Yorkshire Playhouse, Opera North, Northern Ballet, Phoenix Dance, Harewood House and the Henry Moore Institute, has helped to attract other major arts and heritage investments such as the award winning Royal Armouries and the Thackeray Medical Museum. The city also boasts a wealth of community based sports heritage and recreational facilities. There is a vibrant voluntary sector including thousands of groups and societies.
- 2.7 Leeds City Council (in common with other local authorities) is a major provider of facilities for public recreation. The Council has a tradition of promoting a wide range of cultural activity for the benefit of the city and district.
- 2.8 Leeds Town Hall is the dedicated public concert hall/performance area in Leeds and the Carriageworks Theatre is dedicated to amateur performance and public use for Leeds. Millennium Square in the city centre is used for public events and entertainment such as the Christmas market and 'Icecube' (a temporary ice rink). The parks at Roundhay, **Temple Newsam**, Woodhouse Moor, Potternewton and Middleton are in use for community organised gatherings, fairs and carnivals and **occasional major events**. ~~Temple Newsam Park is the venue for council promoted public events attracting upwards of fifty thousand people.~~
- 2.9 Commercially promoted events take place in a variety of locations throughout the district.
- 2.10 Within local communities, groups and associations use church and village halls and community centres for social and fund raising activities. Within the district there are 120 church halls, village halls and schools licensed for regulated entertainment and/or the sale or supply of alcohol.
- 2.11 Leeds has a long established reputation for the encouragement of community and diverse cultural events and public entertainment as an essential aid to community involvement and an increasing sense of common identity.

## Section 3 Integrating other guidance, policies, objectives, and strategies

- 3.1 In preparing this licensing policy the council has had regard to, and sought to integrate the licensing policy with, the following strategies:
- Vision for Leeds 2011 to 2030
  - Best Council Plan 2020 to 2025
  - Equality Improvement Priorities 2021 to 2025
  - Parks and Green Spaces Strategy 2022 to 2032
  - Core Strategy for Leeds
- 3.2 The council (through its Licensing Committee) may, from time to time, receive reports on other policies, strategies and initiatives that may impact on licensing activity within the remit of the committee. Subject to the general principles set out in this policy and the overriding need to promote the four licensing objectives it may have regard to them when making licensing decisions.
- 3.3 The Committee may, after receiving such reports, make recommendations to the council or other bodies about the impact of the licensing policy on such policies, strategies, and initiatives. Equally the Committee may make recommendations relating to the impact of such policies, strategies, and initiatives on the licensing policy. This may include recommendations to amend the licensing policy itself.

### Vision for Leeds

- 3.4 *Best city in the UK that* is the key aim of the Vision for Leeds 2011 to 2030. This means:
- Leeds will be fair, open, and welcoming.
  - Leeds' economy will be prosperous and sustainable.
  - All Leeds' communities will be successful.
- 3.5 Leeds, like other national and international cities, is faced with several key challenges. The city's population is set to rise to around one million, its economy is still recovering from the effects of global recession and the consequences of a changing climate have become all too apparent.
- 3.6 In addressing these challenges, Leeds must continue to be a forward-looking city and have a clear plan, and therefore the Vision for Leeds is important.
- 3.7 This licensing policy seeks to promote the licensing objectives within the overall context of the three aims set out in Vision for Leeds 2011-2030.

### Child Friendly

- 3.8 The council has announced its intention for the city to become 'Child Friendly'. This links back to the council's vision which states:

'Best city... for children

Leeds will be a child-friendly city where the voices, needs and priorities of children and young people are heard and inform the way we make decisions and take action.'



- 3.9 There are over 180,000 children and young people in Leeds. To become a child friendly city, and the best city for children and young people, their voices and views need to be heard and responded to, and that they are active participants in their local community and citywide.

3.10 The UN convention on the rights of the child sets out the basic rights for children worldwide. The UN developed the model for child friendly city model – a place where children rights are known and understood by children and adults alike, and where these rights are reflected in policies and budgets.

3.11 As part of the aim for Leeds to become a child friendly city, the council declared 12 wishes:

In a child friendly Leeds...

1. Children and young people can make safe journeys and can easily travel around the city
2. Children and young people find the city centre welcoming and safe, with friendly places to go, have fun and play
3. There are places and spaces to play and things to do, in all areas and open to all
4. Children and young people can easily find out what they want to know, when they want it and how they want it
5. Children, young people, and adults have a good understanding of children's rights, according to the United Nation Convention on the Rights of the Child
6. Children and young people are treated fairly and feel respected
7. Children and young people have the support and information they need to make healthy lifestyle choices
8. All our learning places identify and address the barriers that prevent children and young people from engaging in and enjoying learning
9. There are a greater number of better quality jobs, work experience opportunities and good quality careers advice for all
10. All children and young people have their basic rights met
11. Children and young people express their views, feel heard and are actively involved in decisions that shape their lives
12. Places and spaces where children and young people spend time and play are free of litter and dog fouling

3.12 This policy is particularly affected by wish 2 – “Children and young people find the city centre welcoming and safe, with friendly places to go, have fun and play” and wish 3 – “There are places and spaces to play and things to do, in all areas and open to all”.

## Section 4 Promotion of the licensing objectives

- 4.1 The council will carry out its functions under the Licensing Act 2003 with a view to promoting four licensing objectives. These are:
- The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 4.2 Each objective is of equal importance, and the four objectives will be a paramount consideration for the council.
- 4.3 It is for the applicant to decide what, if any, measures to suggest in its operating schedule to address any potential concerns that might arise in the promotion of the licensing objectives. Applicants are reminded that measures proposed in the operating schedules will be converted into conditions on their licence.
- 4.4 The council recommends that applicants risk assess their operation against the four licensing objectives to identify potential areas of concern.
- 4.5 Applicants are reminded that responsible authorities or other people may make representations if they feel that the applicant's proposals do not adequately promote the licensing objectives. An applicant who proposes no measures to promote the licensing objectives may therefore face more representations than an applicant who risk assesses their operation and proposes necessary and proportionate measures.
- 4.6 The council recommends early consultation with responsible authorities. Many responsible authorities have produced guidance which applicants can consider when assessing whether they need to include any measures in their application to promote the licensing objectives. In addition, many responsible authorities would be prepared to discuss matters on site with an applicant with a view to reaching agreement on measures to be proposed. Contact details for the responsible authorities are available from Entertainment Licensing. Guidance issued by the responsible authorities can be found on the council's website or by contacting Entertainment Licensing.
- 4.7 The council has devised a risk assessment proforma for applicants to use should they chose, which provides suggestions of measures that responsible authorities would like to see built into the application where appropriate. Further information can be found at paragraph 6.30 of this document.

### Crime and Disorder

- 4.8 Under the Crime and Disorder Act 1998, the council must exercise its functions, having regard to the likely effect on crime and disorder in its area, and must do all it can to prevent crime and disorder.
- 4.9 Where its discretion is engaged, the council will seek to promote the licensing objective of preventing crime and disorder in a manner which supports the Safer Leeds Plan and any local crime reduction strategy.
- 4.10 There are many steps an applicant may take to prevent crime and disorder. The council will look to the Police for the main source of advice on these matters.

- 4.11 If relevant representations are made in relation to a premises licence or club premises certificate, the council will consider whether it is necessary to impose conditions to regulate behaviour on the premises and access to them where this relates to licensable activities, and the licensing objectives. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, their staff, or agents, but may seek to impact on the behaviour of customers on or in the immediate vicinity of premises as they seek to enter or leave.
- 4.12 Conditions will be targeted on deterrence and the prevention of crime and disorder. The council may consider:
- The need for and location of CCTV cameras
  - The need for door supervision
  - The need for a ~~text or radio pager system~~ allowing communication between premises and with the Police
  - Conditions setting capacity limits where this is necessary to prevent overcrowding likely to lead to disorder and violence
  - Membership of a recognised pub watch or similar scheme
  - **Counter terrorism measures, including training staff**
- 4.13 Crime and disorder conditions will not seek to control adult entertainment involving striptease and lap dancing, which will be governed by laws in relation to indecency and obscenity and will be licensed under the Local Government (Miscellaneous Provisions) Act 1982. However, conditions for such adult entertainment may be imposed for reasons of public safety, or the protection of children from harm if they relate to the occasional use of the premises for adult entertainment.

## Public Safety

- 4.14 The public safety objective is concerned with the physical state of people using the premises. Public safety includes safety of performers appearing at any premises.
- 4.15 On 1 October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. The council will not seek to impose fire safety conditions as conditions on licences where the Order applies.
- 4.16 Capacity limits will only be imposed where appropriate for the promotion of public safety or for reasons of crime and disorder. Capacity limits will not be imposed as a condition of the licence on fire safety grounds.
- 4.17 Applicants are advised to consult with the council's Health and Safety team, who can offer advice as to appropriate measures to be included in risk assessments, and potentially in operating schedules. On receipt of relevant representations the council will have regard to the views of the Health and Safety Team. The team can also offer advice in relation to workplace health and safety matters, including compliance with the Health Act 2006 (smokefree).
- 4.18 Conditions requiring possession of certificates on the safety or satisfactory nature of equipment or fixtures on premises will not normally be imposed as those are dealt with by other legislation. However, if it is considered necessary considering the evidence on each individual case, conditions may be imposed requiring checks on the equipment to be conducted at specified intervals, and evidence of the checks to be retained. Conditions may also seek to require equipment of standards to be maintained on premises.
- 4.19 Special events in the open air or temporary structures **require additional attention**. Applicants are referred to other sections of this document where guidance on holding these types of events is given.

## Public Nuisance

- 4.20 In considering the promotion of this licensing objective, applicants need to focus on the effect of licensable activities on people living and working in the area around the premises which may be disproportionate and unreasonable.
- 4.21 The council is aware that the prevention of public nuisance is not narrowly defined in the Act and can include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, the reduction of the living and working amenity and environment of other people living and working in the licensed premises. Public nuisance may also arise because of the adverse effects of artificial light, dust, odour, litter, vermin and insects or where its effect is prejudicial to health.
- 4.22 Where applicants are completing operating schedules the council encourages them to have regard to the location of the proposed or actual premises, and whether proposals may have a disproportionate impact in dense residential areas or near to sensitive premises such as schools, nursing homes, old people's accommodation, hospitals, hospices, or places of worship.
- 4.23 Applicants are recommended to consult Environmental Health Services for advice on measures that may need to be incorporated into an operating schedule.
- 4.24 If relevant representations are made, the council will consider whether it is necessary to impose conditions to regulate behaviour on the premises and access to them where this relates to licensable activities, and the licensing objectives. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, their staff, or agents, but may seek to reduce the impact of the behaviour of customers entering or leaving the premises on people living or working near to the premises. The council considers that patrons who are using external smoking areas or shelters are there as a direct result of the licensed premises and are within the control of the licensee.
- 4.25 The council will consider whether issues relating to public nuisance can be effectively dealt with by necessary and appropriate conditions. These conditions will normally focus on the more sensitive periods, for example, noise from premises in the late evening or early morning when residents may be attempting to sleep.
- 4.26 When considering such matters, the council will have regard to relevant representations made by Environmental Health Services, residents and their representatives, such as elected members.
- 4.27 The council may consider the following matters:
- Whether doors and windows will or can be kept closed after a particular time.
  - Whether other noise control measures such as acoustic curtains speaker mounts or volume limiters are required.
  - The fact that lighting outside the premises may help to prevent crime and disorder but may give rise to light pollution for neighbours.
  - Signs placed at the exit to buildings can encourage patrons to be quiet until they leave the area, and to respect the rights of residents.
  - Placement of door supervisors at key times.
  - The size and location of smoking areas and any facilities provided may encourage patrons to use the external areas more extensively than for just smoking.
  - Curfew times for external areas.
  - Provision of litter bins in the vicinity of premises serving hot food after 11pm.
  - Display of contact details or a direct telephone link to a private hire/taxi firm.

- **Provision of contact details for the duty manager.**

4.28 The council recognises that it is necessary to balance the rights of local residents' businesses and others with those wishing to provide licensable activities, and those who wish to use such facilities.

4.29 Ultimately if it is necessary for the prevention of public nuisance where conditions do not adequately address the issues an application can be refused.

### **Protection of children from harm**

4.30 The council recognises the Leeds Safeguarding Children Partnership as the responsible authority for the protection of children from harm.

4.31 The protection of children from harm includes protection from physical and psychological harm.

4.32 The council notes that the admission of children to premises holding a premises licence or club premises certificate should be freely allowed unless there is good reason to restrict entry or exclude children completely. **However, there is nothing to prevent an applicant from excluding children from their premises, if appropriate to do so, through a specific policy.**

4.33 Issues about access of children to premises may give rise to concern:

- where adult entertainment is provided on an occasional basis and is not already licensed under other legislation.
- where there have been convictions ~~of the current management~~ for serving alcohol to minors **or other child related offences.**
- where the premises have a reputation for allowing under-age drinking.
- where requirements of proof of age is not the norm.
- where the premises, **or any persons associated with the premises** have a known association with drug taking or dealing.
- where there is a strong element of gambling on the premises; and
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided.

~~4.33 Such situations can be identified through a risk assessment of the operation. In these circumstances, applicants are advised to consider offering appropriate conditions through their operating schedule. In addition, licensees may identify that the access of children to parts of the premises pose more risk than others and seek only to exclude children from areas of highest risk.~~

4.34 **Applicants intending to allow access to children while holding licensable activities will need to demonstrate how children will be protected from harm. Measures may include:**

- limitations on the hours when children will be present
- limitation upon the presence of children of certain ages when specified activities are taking place
- limits on the parts of the premises to which children may have access
- age limitations
- limitations or exclusions only when certain activities are taking place
- requirements for an accompanying adult
- full exclusion of people under the age of 18 when any licensable activities are taking place

4.35 In such cases, representations by the Leeds Safeguarding Children Partnership and the Police will be given considerable weight where they address issues regarding the admission of children.

- 4.36 It is mandatory for premises which sell or supply alcohol to have an age verification policy in place, **even if they have a no under 18 policy in place**. The council favours the Challenge 25/Check 25 type scheme and such a scheme volunteered as part of an operating schedule will be given the appropriate weight when the council determines the licence application.
- ~~4.37 No condition will be imposed by the council requiring the admission of children to any licensed premises except in the case of exhibition of film where a mandatory condition is applied to all licences with this activity.~~



## Section 5 General principles

- 5.1 In determining a licensing application the overriding principle will be that each application will be determined on its own merit, having regard to the need to promote the four licensing objectives and considering this licensing policy and the guidance issued under Section 182 by the Secretary of State. Where it is necessary to depart from the guidance or this policy the council will give clear and cogent reasons for doing so.
- 5.2 Nothing in this policy will undermine any person's right to apply for a variety of permissions under the Act.

### Human Rights

- 5.3 The European Convention on Human Rights makes it unlawful for a public authority to act in a way that is incompatible with a Convention right. The council will have 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.

### Equalities

- 5.4 Under the Equality Act 2010 it is against the law to discriminate against anyone because of age, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, disability, race including colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation.
- 5.5 The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.
- 5.6 In the design and layout of premises, applicants and licence holders are encouraged to consider access and facilities for customers with protected characteristics. Assistance in this matter can be obtained from Leeds City Council's Access Officer.
- 5.7 Any person who is concerned that a premises is failing to comply with the Equality Act should make their complaint to the premises, in the first instance and then to the Council's Access Officer.

### Impact of Licensed Activity

- 5.8 Where no representations are made the council must grant a licence subject to conditions consistent with the operating schedule.
- 5.9 When determining any application where relevant representations are made, the council will consider it in the light of the four licensing objectives and to support several other key aims and purposes as set out in this policy. The requirement to promote the licensing objectives will be the paramount consideration. The council will focus upon the impact of the activities taking place on members of the public living, working, or engaged in normal activity near the premises.

- 5.10 Where relevant representations are made in relation to a premises licence, club premises certificate or temporary event notice the following factors will normally be considered when the council is looking at the impact of the activities concerned:
- the style of operation, the numbers of customers and customer profile likely to attend the premises
  - the location of the premises and the proximity of noise sensitive properties
  - the proposed hours of operation
  - any proposed methods for the dispersal of customers
  - the scope for mitigating any impact
  - the extent to which the applicant has offered conditions to mitigate the impact
  - how often the activity occurs
- 5.11 In considering any application for a variation to a premises licence or club premises certificate where a relevant representation has been received, the council may consider, in addition to the above matters, any evidence:
- of past demonstrable adverse impact from the activity **on the promotion of the licensing objectives**
  - that if adverse impact has been caused, appropriate measures have been agreed and put into effect by the applicant to mitigate that adverse impact
- 5.12 Other relevant matters may be considered as the individual case dictates.

### **Outdoor Events and Temporary Structures**

- 5.13 The promotion and the organisation of live musical and similar entertainment in the open air or in temporary structures like marquees etc. can provide opportunities for community involvement, civic pride and can attract visitors to the district.
- 5.14 However, the success of such events by way of contribution to the council's cultural and tourist strategies depends upon the quality, levels of safety and consideration for the rights of people who live or work in the vicinity and the standard of provision of facilities for those coming to enjoy the event.
- 5.15 In recognition of the **additional factors for hosting outdoor events**, the council has established a multi-agency safety advisory group to assist organisers in co-ordinating such events. This includes council departments who have an interest in, or legislative role relevant to, such events, together with representatives of the emergency services.
- 5.16 **Organisers of outdoor events, irrespective of the capacity, are encouraged to make early contact with the council's safety advisory group.** Members of the forum are notified about all proposals to hold such events and where necessary a special meeting will be organised **to open lines of communication with organisers and provide advice as necessary, which may include matters such as the need for on-site facilities, firefighting teams, road closures etc.**
- 5.17 The Health and Safety Executive provide specialist guidance on event safety through their website at [www.hse.gov.uk](http://www.hse.gov.uk).
- 5.18 Guidance on the planning of such events is available to organisers but it is important that substantial notice is given so that proper preparations and precautions can be put in place for the event. This also applies if the event is proposed under a Temporary Event Notice.

- 5.19 Applicants for outdoor events where the capacity is to exceed 30,000 persons should note that the application will as a matter of course be considered before a meeting of the full Licensing Committee. It will assist the application if before that meeting the members of the safety advisory group have had the opportunity to comment on the draft event management plan.

### **Community Applicants**

- 5.15 Whilst this policy is aimed at all licensable activities under the Licensing Act 2003 it should be noted that the council sees a distinction between large or permanent activities, such as those proposed by commercial operators and small or temporary activities such as those which might be proposed by cultural or community groups.
- 5.16 Where events are proposed by cultural or community groups, it is recognised that those groups may not have the same skill or expertise or access to professional advice. Such groups may seek assistance and guidance from the council by contacting Entertainment Licensing.
- 5.17 Whatever the nature of the applicant and activity proposed, the overriding matter is that the council will consider the individual merits of the application and act to promote the licensing objectives.

### **Other Regulatory Regimes**

- 5.20 The licensing policy is not intended to be the primary mechanism for the general control of nuisance, anti-social behaviour, environmental crime and protection of children but nonetheless is a key aspect of such control and the licensing policy and licensing decisions are intended to be part of a holistic approach to the delivery of the council plan and the management of the evening and night-time economy of the Leeds district.
- 5.21 In preparing this policy the council has sought to avoid unnecessary duplication of existing legislation and regulatory regimes. However on occasions it has been necessary to set out some of the detail in this policy for ease of understanding. Nothing in this policy is intended to revoke or replace the need for applicants to act in accordance with statutory requirements. All applicants are advised to seek proper advice to ensure that the activities they propose are within the boundaries set by existing legislation and regulations.

### **Application Process**

- 5.22 Applications must be made to the council in the form prescribed by Regulations. Guidance is available to applicants setting out the detail of the process on the council website or by contacting Entertainment Licensing.

### **Licensing Committee**

- 5.23 The council has appointed a licensing committee of 15 Councillors. Licensing functions will often be delegated to a licensing subcommittee of 3 Councillors or, in appropriate cases to officers of the council.
- 5.24 Councillors will have regard to the Leeds City Council Code of Conduct for Members. Where a Councillor who is a member of the Licensing Committee or subcommittee has a disclosable pecuniary 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.
- 5.25 A subcommittee may refer an application to another subcommittee or to the Licensing Committee where it is unable to deal with the application because of the number of members unable to vote on the matter in question.

5.26 The Licensing Committee will refer an application to the council where it is unable to deal with the application because of the number of members unable to vote on the matter in question.

## Representations

5.27 Depending on the type of application representations may be made by a responsible authority or other people (as defined by the Licensing Act 2003). The council has agreed protocols with responsible authorities and issued guidance to other people making representations, setting out the detail of the process. Guidance is available on the council website or by contacting Entertainment Licensing.

5.28 Members of the public who wish to submit a representation regarding a premises licence or club premises certificate application need to be aware that their personal details will be made available to the applicant. If this is an issue, they may contact a local representative such as a ward, parish or town councillor or any other locally recognised body such as a resident's association about submitting the representation on their behalf.

5.29 The council is not able to accept anonymous representations. **However where a member of the public fear reprisals from their representation, the council will protect their personal information by anonymising their representation for the public documents. However any member of the licensing committee hearing the application will have access to this personal information to enable them to apply the appropriate weight to the representation.**

5.30 In addition the council cannot accept petitions which do not comply with the adopted guidance which is available on the council's website or by contacting Entertainment Licensing.

5.31 Where a representation is received which is not from a responsible authority the council will in the first instance make a judgement on whether it is relevant, i.e. based upon one or more of the four licensing objectives.

5.32 Relevant representations are representations:

- about the likely effect of the premises licence on the promotion of the licensing objectives.
- which have not been withdrawn and are not, in the opinion of the council, frivolous or vexatious.

5.33 Where relevant representations are received about an application the council will hold a hearing to consider them unless the council, the applicant and everyone who has made representations agree that the hearing is not necessary. Applicants and those making representations should seek, in advance of any hearing, to try to reach agreement or to narrow the areas in dispute, particularly where both are professionally represented.

5.34 Where hearings are required because of relevant representations, the council may extend the time limits involved in calling hearings to allow the parties to negotiate suitable conditions to be added to the operating schedule and avoid the need for a hearing. Such an extension of time is in the public interest.

## Reasons for Decisions

5.35 Every decision made by the Licensing Committee, subcommittee or officers shall be accompanied by clear reasons for the decision.

- 6.1 A premises licence and club premises certificates authorises the sale or supply of alcohol, regulated entertainment, and late night refreshment (sale of hot food and drink after 11pm). Businesses wishing to apply for a licence or certificate must use the prescribed form which includes details of the hours of operation, any hours for licensable activities and an operating schedule.

### Planning

- 6.2 The use of premises for the sale or provision of alcohol, regulated 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 generally required for the establishment of new premises or the change of use of premises.
- 6.3 In line with the S182 Guidance the planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 6.4 Where businesses have indicated, when applying for a licence under the Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers will consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.
- 6.5 Where relevant representations are received, any decision on a licence application will not consider whether any decision to grant or refuse planning permission or building consent was lawful and correct. It will consider what the impact of granting the application will be on the four licensing objectives.
- 6.6 In general, all premises which are the subject of an application, should have the benefit of planning permission, or be deemed permitted development. The onus will be on the applicant to demonstrate that planning permission has been granted or that the premises have the benefit of permitted development rights.
- 6.7 In addition, all new developments and premises which have been subject to structural alterations since 1994 will have building control approval in the form of a Building Regulations Completion Certificate.

### Licensing Hours

- 6.8 The government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The Act gives the Council the power to make decisions regarding licensed opening hours based on local knowledge and in consultation with other responsible authorities.
- 6.9 In some circumstances, staggered licensing hours with regards to the sale of alcohol are important to ensure that the concentration of customers leaving premises simultaneously is reduced. The intention behind this is to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which currently lead to disorder and disturbance.
- 6.10 Providing the customers with greater choice is an important consideration in the development of a thriving and safe evening and night-time economy in Leeds. However any licensable activity has the potential to impact adversely on the surrounding area due to disturbance or crime and disorder. Customers may be noisy when leaving, leave litter or use on-street car parking. The impact of these activities can be particularly intrusive at night when ambient noise levels are much lower.

- 6.11 The council supports the development of a wide ranging and culturally diverse night-time economy. However this must be achieved whilst promoting the four licensing objectives and without compromising local services associated with the night-time economy such as street cleansing.
- 6.12 Under the Act there are no permitted hours for the sale of alcohol. Applicants can suggest in their operating schedule the hours they wish to open and to apply to vary their existing licences if they wish to open beyond their current permitted hours. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives will be the paramount consideration at all times.
- 6.13 If relevant representations are made the council will only grant the hours of use proposed where the operating schedule and any risk assessment adequately demonstrates that:
- the applicant has properly considered what is appropriate for the local area when considering what hours and activities to apply for
  - the potential effect on the licensing objectives is not significant
  - the agreed operating schedule demonstrates that the applicant is taking appropriate steps to minimise any adverse impact on residents and businesses
- 6.14 Restrictions may be made to the proposed hours of use where, after receiving relevant representations, the council considers it appropriate for the promotion of the licensing objectives to do so. The council will consider the existing pattern of licensed premises in an area when considering what is appropriate to promote the objectives. Applications which are significantly out of character for a locality will need to demonstrate that granting the hours sought will not impact on the licensing objectives, given the potential for neighbouring premises to seek the same additional hours to prevent rivals gaining a commercial advantage.
- 6.15 As a general rule shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

#### **Local, national, and international occasions**

- 6.16 It should be possible for applicants for premises licences and club premises certificates to anticipate special occasions which occur regularly each year, for example bank holidays, and to incorporate appropriate opening hours for these occasions in their operating schedules.
- 6.17 Additional occasions for which extensions may be required may be covered by a Temporary Event Notice.

#### **Drinking up time**

- 6.18 The traditional 'drinking up time' was not carried over into the Licensing Act 2003. However the hours during which applicants are licensed to sell or supply alcohol and the opening hours need not be identical and therefore applicants of premises licensed for the on-sale of alcohol are recommended to consider a drinking up/cooling down period during which music volume may be reduced, customers may consume their drinks and plan for transport from the premises. The council considers that a 30 minute drinking up time will assist in the gradual dispersal of customers and consequently reduce impact on the area.
- 6.19 Where relevant representations are made the council will consider imposing a condition on drinking up time where such a condition is appropriate to promote the licensing objectives in any individual case.

## Operating Schedules

- 6.20 Under the Licensing Act 2003 applicants are required to complete an 'operating schedule'. They are expected to have regard to the council's Statement of Licensing Policy. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives and to demonstrate knowledge of their local area when describing the steps, they propose to take to promote the licensing objectives.
- 6.21 Operating schedules are the key to ensuring that the four licensing objectives are promoted. An operating schedule should include enough information to enable any responsible authority or other person to assess whether the steps to be taken to promote the licensing objectives are satisfactory.
- 6.22 Applicants should make their own enquiries and demonstrate how they have considered the following in their operating schedule:
- The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children and young people may congregate.
  - Any risk posed to the local area by the proposed licensable activities; and
  - Any local initiatives (for example, local crime reduction initiatives or voluntary schemes such as local taxi-marshalling schemes, street pastors and other schemes), which may help mitigate potential risks.
- 6.23 Whilst applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. The council encourages co-operation between applicants, responsible authorities and, where relevant, residents and businesses before applications are submitted to minimise the scope for disputes to arise.
- 6.24 Applicants may find contacting their local ward councillor helpful. Leeds councillors provide a voice to the people living in the ward that they represent. They are aware of the needs of their community and are in touch with the issues that local people face. As well as influencing council decisions on funding and development, they work with other organisations, such as the police, local schools, and health services to help bring about improvements to services and the environment for their local community.
- 6.25 Other publicly available sources which may be of use to applicants include:
- the Crime Mapping website.
  - Neighbourhood Statistics websites.
  - websites or publications by local responsible authorities.
  - websites or publications by local voluntary schemes and initiatives; and
  - on-line mapping tools.
- 6.26 In Leeds specific websites are:
- [www.tinyurl.com/LeedsMappingTool](http://www.tinyurl.com/LeedsMappingTool) which shows a searchable map with layers of recent crime and nuisance statistics as well as the deprivation index, locations of licensed premises, schools, and early years centres
- <https://datamillnorth.org/> which provides several useful datasets including licensed premises
- [https://www.police.uk/west-yorkshire/LDT\\_CI/](https://www.police.uk/west-yorkshire/LDT_CI/) which is a crime mapping website run by the Police

<http://observatory.leeds.gov.uk/> Leeds Observatory is a tool for everyone to explore strategic data, information and intelligence about Leeds' communities and geographies. The observatory provides a clear evidence base for communities and professionals to determine the needs of people in Leeds which will shape decision making and services.

- 6.27 The council expects individual applicants to complete the operating schedule in a manner that is specific to the application being made in respect of those premises and the licensable activity to be carried on rather than in general or standard terms. Information should be given to demonstrate how the individual application proposes to address and promote the licensing objectives. Applicants are referred to the paragraphs in this section which contain information on carrying out a risk assessment.
- 6.28 Any application or operating schedule not completed in accordance with the Act and the regulations may be returned to the applicant unprocessed with a request to complete the forms correctly before the application is accepted by council.

### **Risk assessments**

- 6.29 The council recommends that applicants complete a risk assessment of their business to understand what steps are required to complete the operating schedule in a manner which enables the council and responsible authorities to assess how they will seek to promote the licensing objectives.
- 6.30 The council is aware that any risk assessment will vary according to the nature of the business. It is for applicants to decide what is appropriate in each case. To assist applicants in completing their operating schedules the council has devised a risk assessment proforma and suggested wording for volunteered conditions. A copy may be obtained from the Entertainment Licensing Section. A special risk assessment proforma designed for outdoor events is also available.
- 6.31 The risk assessment contains many of the key factors which the responsible authorities will be expecting applicants to meet to fulfil the licensing objectives. The contents are not exhaustive, but the risk assessment approach will reduce the possibilities of adverse representations.
- 6.32 It is recognised that some areas of the risk assessment may duplicate issues which applicants have previously addressed to satisfy other legislation. Where this does occur the operating schedule may cross reference to alternative documents.
- 6.33 The council recognises that it cannot insist on a risk assessment. However an applicant who decides not to complete or provide a risk assessment may face additional representations and the expense of hearings as a result. If a risk assessment is not completed, then applicants will need to demonstrate how these matters have been addressed through the operating schedule provided.

### **Local Concerns**

- 6.34 It is a fact (Joint Strategic Needs Assessment 2012, NHS Leeds) that if you live in some of the more deprived areas of Leeds (Beeston, Holbeck, Gipton, Harehills, Burmantofts, Richmond Hill, Armley) you can expect your life expectancy to be lower than that of residents in other parts of Leeds. The three contributory factors to a reduced life expectancy are alcohol, obesity, and smoking. The Licensing Act 2003 authorises the activities of the sale by retail of alcohol, the provision of late night refreshment and therefore the question is whether reducing people's access to alcohol and high fat content takeaway food will have a positive outcome on life expectancy in these areas.



6.35 In these more deprived areas there is concern about:

#### Sale of alcohol

- The wide and obvious availability of alcohol in convenience stores, newsagents, corner shops and off licences.
- The contributory factor and possible links between violent crime and domestic violence which may be exacerbated by the availability of alcohol sold in these areas.
- The higher proportion of premises licensed for alcohol for consumption off the premises.
- The ability for people with mental health or alcohol problems to easily obtain alcohol.
- The ability for people who are already intoxicated to easily obtain more alcohol.
- The pack size super strength white cider is sold in, which leads to people with alcohol dependency issues to drink more than they need to.
- Illicit and non-duty paid alcohol and tobacco sales

#### Protection of children

- The normalisation of alcohol abuse and the effect this has on children living in the area
- The sale and supply of alcohol to young people and children and the impact this has on the behaviour in the community and impact on their health.

#### Public nuisance

- The accumulation of premises providing takeaway food and off sales of alcohol
- Littering of food wrappers and waste food originating from takeaways
- Harassment of women and girls by groups of men drinking in the streets

6.36 The availability of alcohol is a major concern, as harmful and hazardous drinking is a contributory factor in many of the concerns mentioned in this policy. As such the council would expect anyone wishing to open or extend premises that sell alcohol or sell hot food to provide extra measures to ensure these problems are not exacerbated.

6.37 It is highly likely that any application for premises in deprived areas which includes the sale by retail of alcohol, or the sale of hot food and drink will attract relevant representations from interested people. To mitigate the concerns stated in this policy, applicants are encouraged to contact Entertainment Licensing, West Yorkshire Police, Environmental Health and Public Health to see if there are any specific measures that can be adopted. If applicants do not contact the responsible authorities and do not offer additional measures, they can expect to receive a formal objection to the application.

6.38 Entertainment Licensing provides a risk assessment proforma which is a list of suggested measures applicants may like to include in their operating schedule. Applicants in the deprived areas should carefully consider if the measures relating to the following concerns could be offered as part of their operating schedule:

#### Crime and disorder

- Measures that control the display of alcohol including proximity to the door, display of spirits and high strength alcohol
- The sale of high-strength lager and cider
- CCTV coverage of alcohol displays

#### Prevention of public nuisance

- Hourly checks of the surrounding area and removal of litter

#### Protection of children

- Display of alcohol, name of premises and windows advertising which normalise the availability of alcohol

## **Dispersal**

6.39 There has been concern for many years that a lack of transport provision in the city centre during the early hours of the morning may contribute to an increase in disorder incidents. One of the initiatives to address this problem in the past has been to provide night buses, however these were not well used as they do not provide a door to door service.

## **Excessive Consumption of Alcohol**

6.40 The council is acutely aware of the link between the supply of alcohol that is subject to certain promotions and the possibility of resultant incidents of alcohol related crime and disorder and implications for public safety, public nuisance, and the risk of harm to children.

6.41 The council also recognises the impact that excessive, or binge drinking can have on public health and that positive action on promoting the licensing objectives is equally likely to have an indirect impact on public health.

6.42 The British Beer and Pub Association states that a promotion is irresponsible where it encourages or incites individuals to drink to excess, behave in an anti-social manner or fuels drunkenness. The council, as the licensing authority, will use the powers contained within the Licensing Act to ensure operators' promotional activities do not undermine the licensing objectives.

6.43 In April 2010 mandatory conditions came into effect which:

- Ban irresponsible promotions.
- Ban the dispensing of alcohol directly into the mouth; and
- Ensure that customers have access to free tap water so that they can space out their drinks and not get too intoxicated too quickly.

6.44 The legislation makes it clear that an irresponsible promotion is one that is "carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carried a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance or harm to children".

6.45 As a consequence any on-trade premises that participates in irresponsible drinks promotions will be breaching licence conditions and will be dealt with in accordance with the council's "Leeds Responsible Authority Liaison and Joint Enforcement Protocol - Licensing Act 2003" which is available from the council's website and may be subject to a review of their licence.

## **Conditions**

6.46 The council may only impose conditions where relevant representations are made following an application to grant or vary a licence or where a review request is being considered.

6.47 The council recognises that the only conditions that should be imposed on a licence are those which are appropriate and proportionate to the promotion of the licensing objectives. There may be circumstances where existing legislation and regulations already effectively promote the licensing objectives, and no additional conditions are required.

6.48 Where conditions are imposed, they will be tailored to the individual style and characteristics of the premises and events concerned.

6.49 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.

## Designated Premises Supervisor

- 6.50 An applicant for a premises licence which includes the sale and supply of alcohol must nominate a Designated Premises Supervisor (DPS). That person will normally have been given day to day responsibility for running the premises. The DPS will also be in possession of a personal licence.
- 6.51 The Act does not require the presence of the DPS at all material times and the authorisation for the sale of alcohol may be made by another personal licence holder. It is the council's preference that this authorisation is made in writing.
- 6.52 If a DPS is not specified on the licence no sale or supply of alcohol may be made. Similarly no sale or supply of alcohol can be made if the DPS does not hold a personal licence.
- 6.53 Conditions may be imposed on a premises licence which require either the DPS and/or a personal licence holder to be always present when alcohol is sold.

## Staff Training

- 6.54 The council recommends that all people who are engaged in the sale and supply of alcohol be encouraged to attend training programmes to raise awareness of their responsibility and particularly of the offences contained within the Act. Similarly they should be encouraged to attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all staff involved in managing or supervising the premises.
- 6.55 It is also recommended that people working on premises providing entertainment for children and youths attend training programmes in basic child protection and safety, and if appropriate have the necessary DBS checks.
- 6.56 All people working on licensed premises should be provided with in-house training on basic public safety, **general housekeeping arrangements and in particular counter terrorism awareness and how to report suspicious activity or respond to an incident.**

## Club Premises Certificate

- 6.57 The Act recognises that premises to which public access is restricted and where alcohol is supplied other than for profit, give rise to different issues for licensing law than those presented by commercial enterprises selling direct to the public. For this reason qualifying clubs may apply for a Club Premises Certificate as an alternative to a premises licence.
- 6.58 A Designated Premises Supervisor and Personal Licence Holders are not required where a Club Premises Certificate is in force. However, an applicant for a Club Premises Certificate is still required to act in a manner which promotes the licensing objectives. An application for a Club Premises Certificate must be in the form prescribed by regulations.
- 6.59 Any qualifying club may choose to obtain a Premises Licence if it decides that it wishes to offer its facilities commercially for use by the public, including the sale of alcohol. Any individual on behalf of the club may also provide Temporary Events Notices. The council has issued guidance to clubs on applying for a Club Premises Certificate.

## **Community Halls**

6.60 The management committees of community premises can apply to remove the requirement of a designated premises supervisor and the authorisation of the sale of alcohol by a personal licence holder. If they do so all sales of alcohol are authorised by the management committee. The council has issued guidance to community premises on this process which is on the council's website.

## **Minor Variations**

6.61 It is now possible to make small changes to premises licences or club premises certificates through the minor variation process, which is cheaper, easier, and quicker than the full variation process. The test for whether a proposed variation is 'minor' is whether it could impact adversely on any of the four licensing objectives. The council has issued guidance on this process which can be accessed on the council's website.

## **Alcohol Deliveries**

6.62 An applicant seeking a licence that will enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures, they intend to operate to ensure that:

- The person they are selling alcohol to is over the age of 18
- That alcohol is only delivered to a person over the age of 18
- That a clear document trail of the order process from order, despatch from the licensed premises and delivery to the customer is maintained (with times and signatures) and available for inspection by an authorised officer
- The time that alcohol is sold on the website/over the phone and the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol.

## Section 7 Cumulative Impact

- 7.1 The concept of “cumulative impact” has been described in the Section 182 guidance issued by the Home Office since the commencement of the Licensing Act 2003. Cumulative impact assessments were introduced at Section 5A in the Licensing Act 2003 by the Policing and Crime Act 2017. Cumulative impact is the potential impact on the promotion of the licensing objectives of several licensed premises concentrated in one area.
- 7.2 In some areas, where the number, type, or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur because of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.
- 7.3 Queuing may lead to conflict, disorder, and anti-social behaviour. Moreover, large concentrations of people may also attract criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic, and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.
- 7.4 Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will be greater than the impact of customers of individual premises. These conditions are more likely to arise in town or city centres but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises.
- 7.5 Once away from the licensed premises, a minority of customers will behave badly. Other mechanisms for addressing such concerns may be more appropriate than cumulative impact or may work alongside licensing policy. For example:
- Planning control
  - Positive measures to create a safe and clean town or city centre environment in partnership with local businesses, transport operators and other departments of the local authority, including best practise schemes such as PubWatch or BIDs
  - Community Protection Orders
  - The provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleansing and litter patrols
  - Public Spaces Protection Orders
  - Police enforcement of the law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
  - Prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale)
  - Late Night Levy
  - Early Morning Restriction Orders
  - Other licensing measures such as fixed closing times, staggered closing times and zoning

## Cumulative Impact Assessments

- 7.6 A cumulative impact assessment (CIA) may be published by a licensing authority to help it limit the number or type of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives.
- 7.7 The council first published a cumulative impact assessment under section 5A of the Licensing Act 2003 in November 2018 which relates to new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in specific areas.
- 7.8 In this assessment the council reviewed the evidence for all existing cumulative impact areas (city centre, Headingley and Hyde Park, Woodhouse, Chapel Allerton, Horsforth and Armley). The council also reviewed the evidence for Harehills.
- 7.9 The review of the Cumulative Impact Assessment was due to take place in 2021, but the Coronavirus pandemic had a severe impact on the nighttime economy with three total lockdowns closing licensed premises. This had a temporary effect on the crime statistics and a decision was made to delay the review of the cumulative impact areas until the long term impact of the pandemic was known.
- 7.10 The assessment was undertaken in 2022 and included a call for evidence from the responsible authorities and crime statistic reports commissioned from West Yorkshire Police and nuisance statistics provided by the council's Entertainment Licensing and Health and Environmental Action Services. Residents have been given the opportunity to comment on the proposals through the relevant elected ward councillors and Community Committees during the development of the cumulative impact assessment.
- 7.11 As required by the law, the council has undergone a formal consultation process on the cumulative impact assessments with:
- the responsible authorities
  - licensees and those representing licensees
  - residents and businesses
  - those representing residents and businesses
- 7.12 Responses from these consultations have been reviewed and reports are available from Entertainment Licensing.
- 7.13 The council will review the cumulative impact policy areas at least every three years, as required by the legislation. Some areas may be reviewed more frequently. Cumulative Impact Assessments are available on the council's website. Applicants should contact Entertainment Licensing to ensure they are in possession of the latest information before making their application.

## Cumulative Impact Areas

- 7.14 The cumulative impact assessment has shown that the number or type of licence applications granted in the following areas are having a cumulative impact and this is leading to problems which are undermining the licensing objectives.

### City centre

- 7.15 The council has assessed crime statistics for the area known as the city centre which is located between the A58M motorway and the river Aire and has determined that there is an area that is suffering from the cumulative impact of licensed premises and consequently this is leading to problems which are undermining the licensing objectives.

- 7.16 Specifically and in addition to this, there are two areas of special concern designated as red zones where the impact of the licensed premises is so severe that the council considers that any application for a new licence or the variation of an existing licence should be refused unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this area. Maps showing the exact geographical area included in this area, and specifically the red zones can be found in the cumulative impact assessment.
- 7.17 In this area the nature of the problems is alcohol related violent crime being perpetrated on people visiting and using this area during specific peak hours. More information on the evidence can be found in the cumulative impact assessment.
- 7.18 It would be inconsistent with the council's duty to promote the licensing objectives to grant new and variation application for any premises licence (on sales, off sales and late night takeaways) that seek to operate during the peak hours described in the cumulative impact assessment for the city centre.

### Headingley

- 7.19 The council has assessed crime statistics for the area known as Headingley and has determined that there is an area that is suffering from the cumulative impact of licensed premises and consequently this is leading to problems which are undermining the licensing objectives. Specifically the area is located around North Lane and Otley Road. Maps showing the exact geographical area included in this area can be found in the cumulative impact assessment.
- 7.20 Additionally, Headingley suffers from nuisance and crime related to the large number of visitors participating in the 'Otley Run'. This is a largely unorganised pub crawl which starts in Weetwood early afternoon and progresses along Otley Road towards the city centre. This has been an activity undertaken primarily by students however in the last few years it has become more popular with groups of people travelling from outside of Leeds. This influx of people during the weekends and the associated crime, nuisance and antisocial behaviour, is having a detrimental effect on residents who no longer feel able to use the shops, restaurants, and bars on the Otley Road in Headingley due to large groups of drunk people in fancy dress gathering along the route.
- 7.21 In this area the nature of the problems is alcohol related violent crime and nuisance being perpetrated on people visiting this area during specific peak hours. More information on the evidence can be found in the cumulative impact assessment.
- 7.22 It would be inconsistent with the council's duty to promote the licensing objectives to grant new and variation application for any premises licence (on sales, off sales and late night takeaways) that seek to operate during the peak hours, described in the cumulative impact assessment for Headingley or to any application that may encourage participation in the Otley Run.

### Hyde Park

- 7.23 The council has assessed crime statistics for the area known as Hyde Park and has determined that there is an area that is suffering from the cumulative impact of licensed premises and consequently this is leading to problems which are undermining the licensing objectives. Specifically the area is located between Hyde Park Road, Victoria Road, Cardigan Road and Burley Lodge Road. Maps showing the exact geographical area included in this area can be found in the cumulative impact assessment.
- 7.24 In this area the nature of the problems is alcohol related violent crime and nuisance being suffered by people living in this mainly residential area. More information on the evidence can be found in the cumulative impact assessment.

- 7.25 It would be inconsistent with the council's duty to promote the licensing objectives to grant new and variation application for any premises licence which seeks off sales and/or late night refreshment to operate during the peak hours described in the cumulative impact assessment for Hyde Park.

### Armley

- 7.26 The council has assessed anti-social behaviour and crime statistics for the area known as Armley and has determined that there is an area that is suffering from the cumulative impact of off-licensed premises and consequently this is leading to problems which are undermining the licensing objectives. Specifically Town Street and Branch Road are the areas affected. Maps showing the exact geographical area included in this area can be found in the cumulative impact assessment.
- 7.27 In this area the nature of the problems is predominantly anti-social behaviour perpetrated by people purchasing alcohol on Town Street and Branch Road and then remaining in the area to drink it. More information on the evidence can be found in the cumulative impact assessment.
- 7.28 It would be inconsistent with the council's duty to promote the licensing objectives to grant new and variation application for any premises licence which seeks off sales of alcohol at any time.

### Harehills and Burmantofts

- 7.29 The council has assessed crime statistics for the area known as Harehills and has determined that there is an area that is suffering from the cumulative impact of off-licensed premises and consequently this is leading to problems which are undermining the licensing objectives. Specifically the area around Harehills Road and Harehills Lane is particularly suffering from the cumulative impact of too many off licences. Maps showing the exact geographical area included in this area can be found in the cumulative impact assessment.
- 7.30 In this area the nature of the problems is alcohol related violent crime and nuisance being suffered by people living in this mainly residential area. More information on the evidence can be found in the cumulative impact assessment.
- 7.31 It would be inconsistent with the council's duty to promote the licensing objectives to grant new and variation application for any premises licence which seeks off sales and late night refreshment to operate during the peak hours described in the cumulative impact assessment for Harehills.

### Holbeck

- 7.32 The council has assessed crime statistics, alcohol risk data and licensing statistics for the area known as Holbeck. The evidence of a slow increase of off licensed premises in the cumulative impact area, the output from the alcohol licensing data matrix which shows very high levels of alcohol related crime, disorder and a population of vulnerable adults and children, as well as the conclusions from the Police report, the council considers this to be an area suffering from the cumulative impact of off licensed premises.
- 7.33 The density of convenience stores, newsagents and off licences already selling alcohol in the area is disproportionate to the other retail premises in the area.
- 7.34 It would be inconsistent with the council's duty to promote the licensing objectives to grant new and variation applications for any premises licence which seeks off sales of alcohol at any time.



## Other Areas

- 7.35 In previous policies the areas of Woodhouse, Chapel Allerton and Horsforth have been the subject of cumulative impact. At this point, although these areas remain saturated there is less evidence that the number or density of licensed premises in the area is having a cumulative impact leading to problems which are undermining the licensing objectives.
- 7.36 However should there be an application which, if granted, may increase the cumulative impact of premises in the area on the licensing objectives, and for which representations are received, the council may consider cumulative impact when determining the licence application.
- 7.37 The council is also aware that the police have concerns related to the concentration of premises in the localities of Beeston, Bramley, Pudsey, Otley, and Guiseley. The council, in conjunction with the responsible authorities, will be keeping these areas under review during the life of the policy in case it becomes necessary to instigate a formal cumulative impact assessment. Applicants wishing to apply for new licences or variations in these areas should note this paragraph and tailor their operating schedules accordingly.

### **Applications within a cumulative impact area**

- 7.38 Applications for premises situated within a designated cumulative impact area for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused if relevant representations are received. It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area and so allow the council to depart from its own policy.
- 7.39 An applicant wishing to obtain a new or varied licence for premises falling within any of the cumulative impact areas must identify, through the risk assessment process (if used) and operating schedule, the steps that he or she intends to take so that the council and responsible authorities can be satisfied that granting a new licence will not add to the impact already being experienced.
- 7.40 To assist this process applicants are encouraged to submit a full and thoroughly considered application at the earliest opportunity. The onus is on the applicant to demonstrate to the responsible authorities the suitability and detail for their site. The applicant is encouraged to make early contact with the responsible authorities to discuss their plans, and suggested control measures. Applicants should also have regard to the guidance issued by the Home Office under section 182 of the Act.
- 7.41 The existence of a cumulative impact assessment for a specific area does not relieve the responsible authorities or any other person of the need to make relevant representations where they consider it appropriate to do so for the promotion of the licensing objectives. Anyone making a representation may base it on the evidence published in the cumulative impact assessment, or the fact that a cumulative impact assessment has been published for that area. It remains incumbent on all responsible authorities and other people to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing. As with all licensing applications under the Licensing Act 2003, if there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted as part of the application.
- 7.42 The council recognises that a cumulative impact assessment should not be absolute. The circumstances of each application will be considered properly and applications for licences that are unlikely to add to the cumulative impact on the licensing objectives may be granted.

- 7.43 After receiving representations in relation to a new application or for a variation of a licence, the licensing authority will consider whether it would be justified in departing from its policy and cumulative impact assessment in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. If the council decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.
- 7.44 When considering an application where the subject premises is in a cumulative impact area, the council will need to be satisfied that the grant of the licence or variation will not impact on the cumulative impact of existing licensed premises in the area and as the burden of proof is on the applicant, they will often suggest measures which they assert will demonstrate there will be no impact. Examples of factors the licensing authority may consider as demonstrating there will be no impact may include, though are not limited to:
- Small premises who intend to operate before midnight.
  - Premises which are not alcohol led and only operate during the daytime economy
  - Instances where the applicant is relocating their business to a new premises but retaining the same style of business.
  - Conditions which ensure that the premises will operate in a particular manner such as a minimum number of covers or waiter/waitress service to secure a food led operation.
- 7.45 Examples of factors the licensing authority will not consider as meeting the standard of rebuttal include:
- That the premises will be well managed and run as all licensed premises should meet this standard
  - That the premises will be constructed to a high standard
  - That the applicant operates similar premises elsewhere, such as in another licensing authority area, without complaint
- 7.46 Any relevant representation of support will be taken into consideration by the council when making its determination.

### **Representations based on cumulative impact outside cumulative impact areas**

- 7.47 In cases where either responsible authorities or other people seek to establish that an application should be refused on the grounds that it would result in or further contribute to a cumulative impact in an area not designated as a cumulative impact area, which would undermine one or more of the licensing objectives, they shall:
- Identify the boundaries of the area from which it is alleged problems are arising
  - Identify the licensing objective which it is alleged will be undermined
  - Identify the type of licensable activity alleged to be causing the problem (e.g. sale of alcohol, late night refreshment)
  - Provide full details and evidence to show the manner and extent to which it is alleged that the licensing objectives are being, or at risk of being, undermined in the area
  - Provide evidence to show that the undermining of the objective is caused by the patrons of licensed premises in the area.
- 7.48 The reason for this is to ensure that objections are neither frivolous nor vexatious and that there is an evidential basis for the licensing subcommittee to reach a decision.

## Section 8 Early Morning Restriction Orders

- 8.1 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.
- 8.2 An EMRO enables a licensing authority to prohibit the sale of alcohol for a specified time 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.
- 8.3 EMROs 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.
- 8.4 It is the council's intention to support businesses rather than hinder them whilst ensuring promotion of the licensing objectives. However where this has deemed to fail then an EMRO could be considered as a possible solution.
- 8.5 An EMRO:
- Applies to the supply of alcohol authorised by premises licences, club premises certificate 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 every year).
  - Will not apply to the supply of alcohol to residents by accommodation providers between 12am and 6am, provided the alcohol is sold through mini-bars/room service; and
  - Will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the Licensing Act 2003.

### EMRO Request

- 8.6 It is expected that the need for an EMRO may be identified by several different organisations. For example the request for an EMRO may originate at an Communities Committee, Health and Environmental Action Service, residents' association, or the local NPT. ~~It may come via the Licensing Enforcement Group which is a group of partner agencies who meet regularly to discuss issues relating to the sale of alcohol and the provision of entertainment.~~ It is likely that more than one organisation may be involved in the process.
- 8.7 It is anticipated that the request would be referred to Entertainment Licensing 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 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, or that licence holders should engage with the authorities to rectify matters before the request is considered further.

## Evidence

8.8 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 premise 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.”*

8.9 The level of evidence Licensing Committee will consider supporting 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 the Entertainment Licensing 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

8.10 In addition the S182 guidance suggests other sources of evidence such as

- Health related statistics such as alcohol-related emergency attendances and hospital admissions

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

8.12 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

8.13 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 responsible authorities and adjacent licensing authorities.

8.14 Anyone affected by the EMRO has 42 days in which to make a 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 several 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.

8.15 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 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**

8.16 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 people and make it available for 28 days on the website.

8.17 A variation or a 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.

8.18 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.

8.19 There are currently no EMROs in place in this area.

- 9.1 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.
- 9.2 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.
- 9.3 The council recognises it has no discretion regarding the granting of personal licences where
- the applicant is 18 or over,
  - possesses a licensing qualification,
  - has not had a licence forfeited in the last five years and
  - has not been convicted of a relevant offence.
- 9.4 An application for a personal licence to sell alcohol must be made in the form specified in government guidance or regulations. The application form must be accompanied by the requisite fee. The applicant should also produce evidence of the relevant qualifications and their right to work in the UK.
- 9.5 Applicants should produce a Criminal Record Bureau certificate along with the application form. The certificate must be current and comply with the regulations on personal licence applications. Applicants are also expected to make a clear statement as to whether they have been convicted outside England and Wales of a relevant offence or a similar offence.
- 9.6 Where the application discloses relevant unspent convictions the council will notify the police of that application and the convictions. The police may make objection on the grounds of crime and disorder. If an objection is lodged a hearing must be held.
- 9.7 The council 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. The council will normally refuse the application unless there are exceptional and compelling circumstances which justify granting it.

## Section 10 Temporary event notices

- 10.1 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 “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or TEN).
- 10.2 Temporary event notices are subject to various limitations. These are concerned with:
- the number of times a premises user may give a TEN – 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people).
  - the number of times a TERN may be given for any premises (15 times in a calendar year).
  - the maximum duration of an event authorised by a TEN is 168 hours (seven 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).
- 10.3 **The Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2021, amended Section 107 of the Licensing Act 2003 so as to increase for the calendar years 2022 and 2023, the number (from 15 to 20) of TENs which may be given in relation to the same premises in the calendar year and to increase the number of days in the calendar year (from 21 to 26 days) on which a single premises can be used to carry on licensable activities. These changes apply to Temporary Event periods occurring wholly or partly in 2022 and 2023.**
- 10.4 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 and Action Service (HEAS) 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.
- 10.5 Many premises users giving temporary event notices will not have a 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.
- 10.6 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. In both instances this does not include the date of the event or the date the council receives the notice.
- 10.7 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. **For outdoor events, including those within structures, please refer to paragraph 5.9 to 5.15.**

- 10.8 The council is able to provide advice on the local area and suggested measures to avoid nuisance, or other legislative requirements regarding health and safety, noise pollution, the building of temporary structures, or other necessary permissions.

#### **Police or Health and Environmental Action Service intervention**

- 10.9 The Act provides that in exceptional circumstances, the police or HEAS 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 HEAS 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.
- 10.10 The ability of police and HEAS 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 HEAS at the earliest possible opportunity about their proposals.

#### **Additional limitations**

- 10.11 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.
- 10.12 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.
- 10.13 A person living with another person as his or her husband or wife is treated for these purposes as his or her spouse.



## Section 11 Enforcement and reviews

- 11.1 The Licensing Act contains measures to ensure that the council, and responsible authorities, can deal with premises that wilfully and persistently undermine the licensing objectives. The council and responsible authorities are committed to encouraging a thriving day time and evening licensed economy but will not tolerate those premises whose activities infringe upon the quality of life or safety of residents, businesses and visitors.
- 11.2 The council has established a multi agency enforcement protocol which sets out the framework for the risk based enforcement of the Licensing Act 2003 following the principles of better regulation advocated by the Better Regulation Executive. The protocol allows for carrying out of joint inspections with the police, the fire authority, and other relevant agencies.
- 11.3 The enforcement protocol's mission statement is to protect the public, interested parties and the environment from harm caused because of activities made licensable by virtue of the Licensing Act 2003.

### Prosecution of breaches

- 11.4 In accordance with the enforcement protocol, the council adopts a multi-agency approach to the prosecution of offences under the Licensing Act.
- 11.5 Consideration will be given to the appropriate powers that should be used to address a problem where other agencies such as the police, fire authority, environmental protection and trading standards also have their own powers.
- 11.6 The council has adopted the principles of the Hampton Report in its enforcement concordat. Formal enforcement will be a last resort and proportionate to the degree of risk. To this end the key principles of consistency, transparency and proportionality will be maintained.
- 11.7 The council has a zero tolerance to antisocial behaviour, environmental crime and risk to public safety.

### Reviews of Licences

- 11.8 The council recognises that the ability of the police, other responsible authorities, and other people to apply for a review of a premises licence, is an incentive to effective self regulation.
- 11.9 On receipt of a relevant request to carry out a review the council has a range of options available to it under the Act. These include:
- 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
- 11.10 The council will seek to establish the cause or causes of the concern and remedial action will be targeted at such causes. Any action will be proportionate to the problems involved.
- 11.11 The council has agreed protocols with responsible authorities and published guidance on the review process which is available from Entertainment Licensing or on the council's website.

- 11.12 Where a Magistrates Court makes a Closure Order under part 8 of the Licensing Act 2003 (on grounds of disorder) the council must carry out a review of the licence.
- 11.13 Where a Magistrates Court makes a Closure Order under the Anti-Social Behaviour, Crime and Policing Act 2014 (on grounds of the use, supply or production of Class A drugs associated with disorder or serious nuisance) the police will usually ask the council to carry out a review of the licence.
- 11.14 Where a closure order has been made under the Anti-Social Behaviour, Crime and Policing Act 2014 (on grounds of noise) the council's Environmental Health section will normally request a review of the licence.
- 11.15 Where any agency provides evidence of the keeping of smuggled goods, such as counterfeit alcohol or tobacco, or the employment of persons who do not possess the right to work in the UK, the relevant agency may request a review of the premises licence.

### **Matters to be considered**

- 11.16 When considering a review request or the possibility of enforcement action the council will consider all relevant circumstances but will view the following matters particularly seriously:
- use of the premises for criminal activities such as the supply of drugs, money laundering **or the keeping and supply of illicit goods**
  - **immigration offences**
  - failure to promptly respond to a warning properly given by a responsible authority
  - failure to engage with the RAs in an effective manner
  - previous convictions for licensing offences
  - previous failure to comply with licence conditions

### **The Violent Crime Reduction Act 2006**

- 11.17 The Violent Crime Reduction Act 2006 has amended parts of the Licensing Act 2003 and now expands police and council powers to deal with problem premises in a more expedient manner.
- 11.18 A power to carry out summary reviews in serious cases of crime and disorder is brought in at section 53A of the Licensing Act 2003. Where a review application is accompanied by a certificate issued by a senior police officer, the Licensing Authority is required within 48 hours to consider whether it is necessary to take any interim steps pending the completion of the review process. This may include the immediate suspension of the premises licence.

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