

**Gwynedd Council Licensing Policy  
For the purposes of the Licensing Act 2003**

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## 1. Background

1.1 The Licensing Policy Statement is based upon the Licensing Act 2003. This document sets out the policies that the Council will apply when making decisions upon applications for:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of a member of the club;
- The provision of late night refreshment (supply of hot food or drink from a premises between 23.00 and 05.00 hours); and
- The provision of regulated entertainment to the public or club members or with a view to making profit including raising money for charity where the entertainment involves:
  - A theatrical performance or film exhibition
  - An indoor sporting event
  - Boxing or wrestling bouts
  - Performance of live music
  - Playing of recorded music
  - Dance performance
  - Provision of facilities for making music
  - Provision of dancing facilities.

1.2 Guidance on the procedures to be followed by applicants and objectors may be found attached as Appendix 'A' (to be formulated).

1.3 It is the duty of the Council to carry out its functions under the Act with a view to promoting with equal importance the licensing objectives which are:

- **Prevention of Crime and Disorder;**
- **Public Safety;**
- **Prevention of Public Nuisance and,**
- **Protection of children from harm.**

1.4 It is recognised that the licensing function is only one means of securing the delivery of the above objectives. The Council will therefore continue to work in partnership with its Local Communities, the police, local businesses and all other relevant stakeholders and partners.

1.5 In undertaking its licensing function, the licensing authority is also bound by other legislation:

- Section 17 of the Crime and Disorder Act 1998 requires a local authority to do all that it reasonably can to prevent crime and disorder in its locality.
- **The European Convention on Human Rights, which is given effect by the Human Rights Act 1998 places a duty on public authorities to protect the rights of individuals in a variety of circumstances.**
- Health and Safety at Work etc Act 1974, Health Act 2006 and the Smoke Free Premises etc (Wales) Regulations 2007.
- Environmental Protection Act 1990;
- Disability Discrimination Act 1995;
- The Anti-social Behaviour Act 2003

- **Crime and Security Act 2010 and Schedule 7 Policing and Crime Act 2009**
- The Local Authorities (Alcohol Consumption in designated Public Places Regulations) 2001.
- Gambling Act 2005
- Clean Neighbourhood Act 2005
- Violent Crime Reduction Act 2006
- Crime and Security Act 2010 and Schedule 7 Policing & Crime Act 2009
- European Union Service Directive

**Notes: - Where existing law already places statutory obligations on applicants the Council will not impose the same or similar duties by way of condition on the premises licence, holder or club.**

- 1.6 The Licensing Authority will also seek to discharge its responsibilities identified by other Government Strategies, so far as they impact on the objectives of the Licensing Act. Examples of these Strategies are set out below:
- Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance;
  - Safer Clubbing;
  - Local Government Regulation/ Trading Standards Institute (TSI) Code of Best Practice on Test Purchasing
  - Local Authorities Coordinators of Regulatory Services (LACORS)/Trading Standards Institute (TSI) Code of Best Practice on Test Purchasing;
  - Crime and Disorder Reduction Strategy and,
  - Enforcement Concordat.
- 1.7 The Council would also draw attention to existing initiatives that are relevant to licensing, further details of these are at Appendix 'B' (to be confirmed):
- *Night-safe scheme*
  - *Proof of age scheme*
  - *CCTV coverage of town centre*
  - *Exclusion Orders from Town Centre*
  - *Safer Clubbing Guide*
- 1.8 The objective of the licensing process is to allow the carrying on of retail sales of alcohol and the provision of licensable activities in a way which ensures public safety and which is neither to the detriment of residents, nor gives rise to loss of amenity. It is the Council's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 1.9 The Council recognises that the entertainment industry in the County is a contributor to the local economy. It attracts tourists and visitors, makes for vibrant towns and communities and is a major employer. Commercial occupiers of premises also have a legitimate expectation of an environment that is attractive and sustainable for their businesses. But there must be a balance with the needs of the residential population, whose amenity the Council has a duty to protect. The Council, in seeking the four licensing objectives, will also ensure that any licensing conditions are reasonable, proportionate and strictly necessary. We are aware of the need to avoid measures as far as possible that deter live music, theatre and dancing.
- 1.10 The Council will also have regard to wider considerations affecting the amenity of any area. These include littering and fouling, noise, street crime and the capacity of the County's infrastructure, resources and police resources to cope with the influx of visitors, particularly at night.

- 1.11 The Council adopted this policy on 16 December, 2010, which sets out the general approach the Council will take when it considers applications for premises and personal licences. In adopting this policy, the Council recognises that each application will be considered on its merits.
- 1.12 The purpose of the Statement of Licensing Policy is to assist officers and members in reaching a decision on a particular application, setting out those matters that will normally be taken into account. In addition, the Policy document seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move to, remain or invest in the County with some measure of certainty.
- 1.13 The Licensing Act 2003 makes provision for this policy to be consulted on and reviewed at least every three years. Accordingly, this Policy must be reviewed no later than December 2013.

## **2. Introduction**

- 2.1 The policies will normally apply to any licence application determined after the date that the Council resolved to make these policies operational, irrespective of the date on which the application was made.

This Policy applies to;

- Premises Licence
- Club Premises Certificate
- Temporary Event Notice
- Personal Licence

## **Planning**

- 2.2 Any premises for which a licence is required would be expected to have an authorised use under the planning legislation.
- 2.3 Welsh Assembly planning policy is set out in Planning Policy Wales and Technical Advice Notes. The Council's Planning Policies are set out in the Gwynedd Structure Plan, Dwyfor Local Plan, Rural Arfon Local Plan, Menai Straits Local Plan, Dyffryn Ardudwy Local Plan and Porthmadog/Ffestiniog Local Plan. An Unitary Development will eventually replace this.
- 2.4 The Snowdonia National Park is the Local Planning Authority for those parts of the County's area within the National Park. Their planning policies are currently set out in the Eryri Local Plan, adopted in 1999. An Unitary Development Plan will eventually replace this.
- 2.5 In general, planning permissions authorise a broad type of use of a premises, whereas licences are granted for a particular type of activity. A planning permission for an entertainment use, for example may cover activities that can have a wide range of different impacts in the locality. The precise nature of the impacts of the specified activities proposed by an applicant for a premises licence need to be considered when the application is made.
- 2.6. The applicant would be expected to have already gained planning consent in respect of the application. It would be advisable that any details would be included in the Operating Schedule

- 2.7. In any application, the Council will expect the activity to be authorised by the licence to be a lawful planning use and the hours sought would usually, be expected to comply with the conditions of any planning consent.
- 2.8. The Council will encourage licence holders to provide facilities enabling the admission of people with disabilities, having due regard to the Disability Discrimination Act. No conditions will be applied which could be used to justify exclusion on the grounds of public safety.

### **3. Prevention of Crime and Disorder**

- 3.1 The Statement of Licensing Policy and the procedures and conditions that form part of the process should promote the Licensing Objectives (see Para 1.3).
- 3.2 To achieve these objectives the authority will use a full range of measures including its planning controls, transport controls, crime and disorder policies and powers. The Council will enter into partnership arrangements, working closely with the police, the fire authority, local businesses, community representatives and local people in meeting these objectives.
- 3.3 The Council will have regard to the Crime and Disorder Act 1998 under which it has a duty to prevent/reduce crime and disorder in the area.
- 3.4 One of the key priorities of the Council's Crime and Disorder Strategy is to reduce the level of crime in specified areas. The policy will have regard, therefore, to the likely impact of licensing on related crime and disorder in the County's area, particularly when considering the location and impact and the operation and management of all proposed licence applications and variations of conditions.
- 3.5 The Council will have due regard to the representations of North Wales Police Service which is one of the Responsible Authorities that will be consulted regarding premises licence and Club Registration certificate applications.

### **Safer Clubbing**

- 3.6 The Council wishes to promote the principles of "Safer Clubbing". It will recommend the current Home Office guidance on the subject to relevant Premises Licence and Club Premises Certificate holders. Necessary and appropriate licensing conditions may be imposed to control the environment at relevant premises in support of the "Safer Clubbing" objectives. In addition to other conditions, we would expect all clubs to provide ready supplies of free drinking water.

### **Drugs**

- 3.7 Applicants should consider that special conditions may need to be imposed for certain types of venues to reduce the possibility of sale and consumption of drugs and to create a safer environment for those who may have taken them. Possible conditions to be imposed in such cases are set out in the Schedule although further conditions may be imposed from time to time. These conditions take into account the above-mentioned "Safer Clubbing" advice issued by the Home Office. In all cases where these conditions are to be imposed, advice will be taken from the local Drugs Action Teams and the Police.

## **Door Supervisors**

- 3.8 The Council may consider that certain premises require supervision for the purpose of promoting the reduction of crime and disorder, and to generally provide a safer operation of the premises.
- 3.9 In such cases, the Council may impose a condition, if relevant representatives are received, that licensed door supervisors (approved by the Security Industry Authority) must be employed at the premises either at all times or at such times as certain licensable activities are being carried out, and at a number and ratio to be determined by the Council.

## **4. Public Safety**

- 4.1 The Council wishes to promote high standards of public safety in relation to premises and activities within the scope of the Licensing Act 2003 and the non smoking regulations laid down in the Health Act 2006.
- 4.2 The relevant Department of the Council which enforces health and safety requirements in relevant premises will be consulted as a Responsible Authority and its officers may also act as Authorised Persons for enforcement purposes under the Licensing Act 2003.
- 4.3 The Council recognises that general health and safety duties will not always adequately cover specific issues that arise in premises in connection with certain entertainments and therefore conditions may need to be attached to a licence / certificate.
- 4.4 In the case of premises requiring a Premises Licence or Club Premises Certificate the Council may select appropriate and necessary conditions from the pool of conditions provided in Appendix 'C' (in the process of development), adopted by the Council. These conditions will be appropriate to the nature of the activities specified in the operating schedule, and reflect the four licensing objectives set out at Para 1.3.
- 4.5 Where activities are organised by volunteers or a committee of a club or society the Council considers it good practice that the same level of health and safety protection is provided as if an employer / employee relationship existed, irrespective of whether there are strict legal duties applicable under the health and safety legislation.
- 4.6 Where any conditions have been applied to a Premises Licence or Club Premises Certificate an Authorised Officer of the Council may inspect at any reasonable time for the purpose of checking that the conditions are being complied with.
- 4.7 The Council would expect the organizers of any large scale events, where licensable activities are to take place, to prepare an event management plan incorporating appropriate risk assessments.**
- 4.8 Organisers of large scale events where licensable activities are to take place are advised to contact the Gwynedd Safety Advisory Group at the initial planning stage for the event.

## **Fire Safety**

4.9 The Council will have due regard to the representations of North Wales Fire and Rescue Service and rescue which is one of the Responsible Authorities that will be consulted regarding licence / premises certificate applications.

4.10 The Council may select appropriate and necessary conditions from Appendix 'C' (pool of conditions) in relation to fire safety matters in consultation with North Wales Fire and Rescue Service, note:- all reference to Fire Service should be North Wales Fire and Rescue Service (NWFRS) following representations made by the Fire and Rescue Service or other relevant authority or interested party.

4.11 In any premises where a work activity takes place the Regulatory Reform (Fire Safety) Order 2005 will also apply. These regulations are enforced by North Wales Fire and Rescue Service and require duty holders to carry out fire risk assessments. The Risk Assessment document should address the occupancy figure for the licensed premises.

4.10. The Council will include in a Premises Licence / Club Premises Certificate an occupant capacity, where necessary for public safety. This figure will be arrived at in consultation with North Wales Fire and Rescue Service following representations from them.

The Risk Assessment document should address the occupancy figures for the licensed premises.

## **5 Prevention of Public Nuisance**

5.1 The Council when making objective judgments about what constitutes a nuisance will focus on impacts of the licensable activities at the relevant premises on people living and working in the vicinity that are unreasonable. The issues will mainly concern;

- Noise from premises;
- Waste;
- Litter;
- Car Parking;
- Light pollution,
- Noxious odours,
- Behaviour/Disorder

5.2 In considering the potential impact of licensed premises on the surrounding locality the Council will initially take into account the type of entertainment activity, proposed hours of operation, the capacity of the premises and the character of the area and proximity to local residents.

5.3 The Public Protection Section of the Council enforce the provisions of the Environmental Protection Act 1990 which relate to noise nuisance and will be consulted in relation to existing premises if a nuisance is caused to residents or the business community. They will also be consulted with regard to the prevention of public nuisance.

5.4 The Council will use the pool of licence conditions at Appendix 'C' to control noise from existing premises and to advise developers on the required noise attenuation for new premises (*reference may be made to the 'Good Practice Guide on the Control of Noise from Pubs and Clubs'*). If relevant representations are received, stricter conditions with regard to noise control may be imposed in areas where the premises are adjacent to residential property.

5.5 The Council will not impose conditions on licensed premises that the licensee cannot directly control, or on matters not related to the immediate vicinity of the premises.

5.6 North Wales Police also have powers under the Licensing Act 2003 to control noise from premises; in the event that they have to invoke these powers they shall liaise, where practicable, with the Council in accordance with the protocol regarding shared enforcement attached as Appendix 'D' (to be agreed).

5.7 Noise and disturbance arising from the behaviour of patrons entering or leaving the premises are matters for personal responsibility and are subject to Police enforcement of the legislation concerning disorder and anti-social behaviour.

5.8 The Council will balance the potential for limited disturbance in neighbourhoods with the need to encourage and promote live music, dancing and theatre.

5.9 The Introduction of the non smoking regulations under the terms of the Health Act 2006 hold implications for potential public nuisance through noxious smells and noise disturbance from crowds gathering outside a licensed premises to smoke. Premises operators must be aware that there is a duty to abide by the four main licensing objectives.

## **6 Protection of Children From Harm**

6.1 The Council recognises the great variety of premises for which licences may be sought. These will include for example; theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-aways, community halls and schools. Access by children to all types of premises will not be restricted unless it is considered necessary to do so in order to protect them from harm in some way.

6.2 When considering applications for premises licences, the Council will take into account the history of a particular premises and the nature of the activities proposed to be provided when considering any options appropriate to prevent harm to children. For example where:

- There have been convictions for serving alcohol to minors or where there is evidence of underage drinking (to include any action undertaken by the Trading Standards Department of the Council regarding test purchases in relation to the supply of alcohol);
- There is a known association with drug taking or dealing;
- There is a strong element of gambling on the premises; or
- Entertainment of an adult or sexual nature is commonly provided.

6.3 Where the circumstances described in 6.2 exist then conditions may be attached to the licence to protect children from harm, if relevant representations are received. Such conditions may include:



- Limit the hours when children may be present;
- Restrict the age of persons on a premises (below 18);
- Limit or exclude when certain activities may take place; or
- Require an accompanying adult;

6.4 Where large numbers of children are likely to be present on any licensed premises, for example a children's show or pantomime, then the Council will require the presence of an appropriate number of responsible adults (who will have provided a satisfactory Criminal Records Bureau Disclosure) to ensure their safety and protection from harm.

6.5 Where the exhibition of films is permitted the authority will expect age restrictions to be complied with in accordance with the British Board of Film Classifications recommendations. *Only in exceptional cases will the authority consider variations of this general rule.*

6.6 No film shall be exhibited at licensed premises which is likely to:

- Lead to disorder;
- Stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender.

6.7 The Council will not impose any condition, which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the individual licensee or club.

6.8 The Gambling Act 2005 allows a degree of equal chance gaming on licensed premises plus a limited number of gaming machines and the presence of children or vulnerable persons will have to be monitored by the Council and the Designated Premises Supervisor.

6.9 **Sexual Entertainment Venues** – With the introduction of Section 27 of the Policing and Crime Act 2009 and where a Council has adopted Schedule 3 of Local Government (Miscellaneous Provisions) Act 1982 any premises used for more than 12 occasions within a 12 month period for any relevant sexual entertainment, the premises must also be licensed as a Sexual Entertainment Venue. Relevant sexual entertainment includes: lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows.

## 7 Cumulative Impact

7.1 The cumulative effect of a proliferation of late night entertainment premises (including night cafes) may result in an increase in numbers of people either walking through or congregating in streets during the night. The consequences of this may lead to;

- An increase in crime;
- An increase in noise causing disturbance to residents;
- A significant increase in the level of pedestrian traffic;
- Traffic congestion and/or parking difficulties;
- Littering and fouling.

7.2 This may result in an unacceptable interference with the amenity of local residents, as it will not always be possible to attribute the cause to patrons of

particular premises. This means that whilst enforcement action to ensure conditions are complied with is taken, this may not resolve all problems in a locality.

7.3 In such circumstances the Council may decide to establish a 'Saturation Policy' and refuse to accept new licences within that area because of the inherent problems associated with the operation of licensed premises. The Saturation Policy would not be absolute however, and any application would be considered on its own merits and would be given proper consideration.

7.4 In determining whether to adopt a "Saturation Policy" for a particular area the Council may, among other things-

- Gather evidence or identification of serious and chronic concern from a responsible authority or local residents about nuisance and disorder
- Identify the area from which problems are arising and the boundaries of that area
- Make an assessment of the causes
- Adopt a policy about future applications for premises within that area (but with the proviso in clause 7.3)

7.5 It should be noted that Licensing is only one means of addressing the problems identified above, and that before establishing a Saturation Policy the following mechanisms should be considered in an attempt to deal with the problem(s)

- Planning controls;
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly and confiscation of alcohol in these areas;
- Police powers to close down premises or temporary events for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise;
- Prosecution of personal licence holders who sell alcohol to people who are drunk;
- Powers of the Police, responsible authorities or a local resident or business to seek a review of a licence or premises certificate.

## **8 Applications for New Grants and Variation of existing Terms and Conditions.**

8.1 In considering all new or variation applications, the Council will assess them in light of the licensing objectives and in particular will consider the following:

8.1.1 The steps the applicant has taken or proposes to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.

8.1.2 The steps the applicant has taken or proposes to prevent disturbance by patrons arriving at or leaving the premises.

8.1.3 The steps the applicant has taken or proposes to take to prevent queuing, or, if queuing is inevitable, to divert queues away from neighbouring premises, or otherwise to manage the queue to prevent disturbance or obstruction.

- 8.1.4 The steps the applicant has taken or proposes to ensure staff leave the premises quietly.
- 8.1.5 The arrangements made or proposed for parking by patrons, and the effect of parking on local residents.
- 8.1.6 Whether there is sufficient provision for public transport for patrons.
- 8.1.7 Whether taxis and private hire vehicles serving the premises are likely to disturb local residents.
- 8.1.8 Whether routes to and from the premises on foot or by car or service or delivery vehicles pass residential premises.
- 8.1.9 Whether other measures to prevent nuisance have been considered, such as the use of CCTV or the employment of registered door supervisors.
- 8.1.10 The measures proposed to prevent the consumption or supply of illegal drugs, including any search procedures.
- 8.1.11 The measures proposed to comply with the Disability Discrimination Act
- 8.1.12 The likelihood of any violence, public disorder or policing problem arising if a licence was to be granted.
- 8.1.13 If the applicant has previously held a licence within the Authority's area, the details of any enforcement action arising from that premises.
- 8.1.14 Whether the premises would result in increased refuse storage or disposal problems, or additional litter in the vicinity of the premises.
- 8.1.15 Representations from responsible authorities\*
- 8.1.16** Representations from interested parties\*\*
- 8.1.17 \*Including North Wales Police, North Wales Fire and Rescue Service, and the Public Protection Section**
- 8.1.18 \*\*Including those who live or have a business interest in the vicinity of premises.**

**In addition in the case of an application for variation:**

8.2 The Council will take account of any non-compliance of other statutory requirements brought to its attention, particularly where these undermine the licensing objectives set out at paragraph 1.3. This is because any non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed; or that the management of the premises is not adequate to protect the public from harm or nuisance.

8.3 Whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse impacts.

**8.4. Minor Variations – A premises licence/club premises certificate holder may apply under the “minor variation” procedure for small variations that will not impact adversely on the licensing objectives. There is no right to a hearing, however if the application is rejected, a full variation may be made.**

**8.5 Disapplication of Designated Premises Supervisor – Where community premises hold a premises licence allowing the supply/sale of alcohol, the licence holder can apply to have the mandatory condition requiring a Designated Premises Supervisor to be appointed, be removed. This passes the responsibility for the sale/supply of alcohol to the premises Management Committee.**

## **9 Hours of Operation**

9.1 The Council recognises that fixed and artificially early closing times in certain areas can lead to disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time.

9.2 Longer licensing hours for the sale of alcohol may therefore be a factor in reducing problems at late night food outlets, taxi ranks, private hire offices and other sources of transport, which lead to disorder and disturbance.

9.3 Shops, stores and supermarkets will be permitted to sell alcohol for consumption off premises at times when they are normally open in the course of their business. Hours may be restricted when representations are received from the Police or resident(s) in the case of individual shops, which are known to be a focus of disorder and disturbance.

9.4 When considering applications for premises licences, the Council will take into account applicants requests for terminal hours (the close of business) in the light of the:

- Environmental quality;
- Residential amenity;
- Character or function of a particular area and,
- Nature of the proposed activities to be provided at the premises.

9.5 The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect any of the above. The Council may set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area, should relevant representations be received.

9.6 Where premises are situated adjacent to residential areas then stricter conditions with regard to noise control may apply, but this should not limit opening hours provided the required conditions are complied with.

## 10 Enforcement

10.1 Protocols on the implementation of a shared enforcement role between the Council and North Wales Police and the Fire and Rescue Service are attached as Appendix 'D'

10.2 In general terms, action will only be taken in accordance with agreed enforcement principles and in line with the Council's own enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

10.3 An amendment to the Licensing Act 2003 under the terms of the Violent Crime Reduction Act 2006 will enable the Licensing Authority, on the application of a Senior Police Officer, to attach interim conditions to licences pending a full review of the licence.

**10.4 Crime and Security Act 2010 – amends the Licensing Act 2003 to allow local authorities to make early morning alcohol restriction orders effectively overriding any premises licence, club certificate or temporary event notices which authorizes the sale of alcohol between the hours of 0300 hours and 0600 hours.**

## 11 The Licensing Process

### Conditions of Licence

11.1 The Council will, as far as it is reasonably practicable, avoid imposing disproportionate and over burdensome conditions on premises unless it is considered necessary to do so, following relevant representations.

11.2 The Council will draw upon the model pool of conditions issued by the Department of Culture, Media and Sport (DCMS) and attach conditions as appropriate given the circumstances of each individual case. The model conditions will deal with issues surrounding –

- Crime and disorder
- Public safety
- Cinemas and fire safety
- Public nuisance
- Protection of children from harm

11.3 When attaching conditions the Council will also be aware of the need to avoid measures, which might deter live music, dancing or theatre by imposing indirect costs of a substantial nature.

11.4 When determining applications the Council will have regard to any Guidance issued by DCMS. In particular, account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Council's consideration will be balanced against the wider benefits to the community.

**11.5 Mandatory Conditions – The Policing and Crime Act 2009 has introduced a set of additional mandatory licence conditions, affecting the**

way that all premises and clubs that sell/supply alcohol on the premises are allowed to operate. These conditions now form part of the Premises Licence.

Certain “irresponsible” drinks promotions are banned.

Tap Water must be made available free of charge to customers on request.

Alcohol may not be directly dispensed into another person’s mouth (unless that person is disabled)

An age verification policy to be placed to prevent underage sales.

Customers to have the opportunity to choose small measures of beers, ciders, spirits and wine.

There is no obligation for the Council to re-issue licences that include the additional conditions but where the opportunities arise the licences will be re-issued free of charge with the appropriate conditions attached.

### **Administration – Application Pathway**

11.6 It is considered that many of the functions will be largely administrative. Where there are no areas of contention, the responsibility for processing any such application shall be delegated to Officers.

11.7 The Council will expect individual applicants to address the licensing objectives in their Operational Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.

11.8 Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies and local crime prevention initiatives and to have taken these into account where appropriate when formulating their Operational Schedule.

11.9 The Council acknowledges the advice received from DCMS that the views of vocal minorities should not be allowed to predominate over the general interests of the community.

11.10 The powers of the Council under the Act shall be carried out by the Licensing Committee, by a Sub Committee, or by one or more officers acting under delegated authority.

**11.11 The Council’s appointed Licensing Committee will deal with applications where there are relevant representations, or where there is an application for a review of a licence. Relevant Representations are only to be considered relevant if they relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. Representation can be made by a third party or by a Ward Councillor who has been approached to represent the third party. The Council however will need to be satisfied as to the name and address of the interested party and that such a person has been given authority by the third party to act on their behalf.**

**Representations may be positive as well as negative but if only positive representations are received that it is highly unlikely that a hearing will be necessary.**

**Interested Parties – Section 33 of the Policing and Crime Act 2009 amends sections 13 and 69 of the Licensing Act 2003 to allow Elected Members of the Council to act as interested parties in their own right. This allows members of licensing authorities to make representations to object to licence applications or to call for a review, powers which under the Licensing Act 2003 were only exercisable by interested parties or responsible authorities.**

**Provisions of Services Regulation 2009 – transpose the European Services Directive into UK legislation allowing applications, notices and representations to be transmitted by electronic means through Points of Single Contact ([www.eu-go.eu](http://www.eu-go.eu)) . In the UK the point of contact is found under [www.ukwelcomes.businesslink.gov.uk](http://www.ukwelcomes.businesslink.gov.uk) allowing licence applications and payments to be made online.**

### **Integrating Strategies and the avoidance of Duplication**

11.12 Any decision in relation to licensing applications will be entirely separate from any decision in relation to planning. Regular reports should, however, be furnished to the Planning Committee on the situation with regard to licensing for the area, including the general impact of alcohol related crime and disorder.

Local councillors may also make representations in writing or at a hearing on behalf of an interested party, if specifically requested, as well as make representations in their own right if the live, or are involved in a business, in the vicinity of the application.

11.13 The Licensing Committee should receive reports from Gwynedd Community Safety Partnership in relation to Crime and Disorder in the County's area.

11.14 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Council's Licensing Committee should therefore receive reports on;

- Needs of the local tourist economy
- Cultural Strategy for the area
- Employment situation in the area and the need for new investment and employment where appropriate
- Planning considerations, which might affect licensed premises.

11.15 Where any protocols agreed with the police identify a particular need to disperse people from town centres swiftly and safely to avoid concentrations which could lead to disorder and disturbance, the Council will aim to inform those responsible for providing local transportation so that arrangements can be made, where practicable, to reduce the potential for problems to occur.

The Committee would consider receiving reports, where appropriate, on the needs of the local tourism economy for the area to ensure that these are reflected in their considerations.

### **Temporary Event Notices**

11.16 The Council will produce clear and understandable local publicity about temporary permitted activities. Ten working days will be the minimum notice period, however in the interest of open consultation, the Council would encourage 20 working days notice to be provided 10 working days do not include the day the applications is submitted not the day of the event.

11.17 The Council will provide advice about, among other things, public safety and inform the Fire and Rescue Service of any applications received.

11.18 Many local events will be organised by volunteers or a committee of a club or society. The Council considers it good practice that the same level of health and safety protection is provided as if an employer/employee relationship existed, irrespective of whether there are strict legal duties applicable under the health and safety legislation.

11.19 The Council will encourage organizers of temporary events to seek advice/information from their local Safety Advisory Groups.



## 12. Delegation of functions

<b>Matter to be dealt with</b>	<b>Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal Licence		If a representation made	If no representation Made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no representation made
Application to vary designated personal licence holder	If a police representation		All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence	If a police representation		All other cases
Applications for Interim Authorities	If police representation		All other cases
Application to review premises licence/club premises certificate	All cases		
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the lead authority			All cases
Determination of a police representation to a temporary event notice	All cases		

### **13 Additional Information - Personal Licences**

*The Council will issue full and clear guidance regarding personal licences but each premises, which holds an appropriate Premises Licence must have a Designated Premises Supervisor on site. This person must hold a personal licence where alcohol is sold. The main purpose of this individual is to ensure that there is always one specific person among Personal Licence holders who can be readily identified at the premises. A personal Licence holder may authorise members of staff to make sales of alcohol, but need not necessarily be prompt at all times, and may be absent from the premises when a transaction takes place.*

*Before the Council will consider the grant of a licence to an applicant he must be in a position to confirm the following:*

- *They are over 18*
- *They possess a relevant licensing qualification*
- *That no licence held by them has been forfeited in the period of 5 years prior to this application*
- *They have not been convicted of any relevant offence, which remains unspent.*

*Notes: - Relevant offences as referred to above shall include offences such as*

- *Serious violence*
- *Serious dishonesty (including involvement in the sale of smuggled tobacco and alcohol)*
- *The supply of drugs or any person convicted of using drugs*
- *Offences requiring an entry on the sex offences register*
- *Breach of alcohol licensing laws*

*13.2 Personal licences are valid for a period of 10 years and once issued the licensing authority which issues the licence remains the relevant licensing authority for it and its holder even though the holder may move out of the area.*

#### *14 Additional Information*

##### *14.1 Street Trading*

*Attention is drawn that any trader being located on a street or highway needs to comply with the legislation (if relevant) and that any land needs to be licensed.*

##### *14.2 Street Furniture*

*Licence holders must be aware of the Council's street furniture policy and conform to any street furniture policy.*

### **APPENDICES**

*With regard to the appendices, all references for conversation arrangements will be taken out or amended as appropriate. With regard to Appendix D regarding Enforcement, please see the Enforcement Ladder adopted by the Council and the Police, which we suggest, are included in the new Policy.*

### **PROPOSAL**

*That the Committee approve the proposed changes for inclusion in a new Draft Policy, and that we consult with all interested parties.*

## **Appendix A**

### **Guidance on the Procedure for Applicants**

#### **Introduction**

This document is intended to offer guidance to holders of licences or certificates or those who have given notice of temporary events. It provides the basic information for applicants to help make a successful application and general guidance to keep the operations of the business, club, organisation or event within the law.

Gwynedd Council has a duty to supply guidance for applicants. However, by reading the Statement of Licensing Policy, applicants should understand how Gwynedd Council will administer the licences and authorisations and what Gwynedd Council considers as important.

#### **Personal Licences**

A personal licence is a licence held by a particular individual to permit that person to authorise the sale of alcohol from a premises that is suitably licensed for the purposes of selling alcohol by retail.

If you are not currently a licensee you can still apply for a personal licence but you must show that you have sufficient knowledge of licensing law and the social consequences to the selling of alcohol. This is proved by successfully completing an appropriate training course. Lists of suitable courses are available from the DCMS ([www.culture.gov.uk/alcohol](http://www.culture.gov.uk/alcohol)). You should submit a basic Criminal Records Bureau check to prove that you have not been convicted of any relevant offences.

If you have no convictions, are suitably trained and are over 18 there is no reason why you should not qualify for a personal licence.

A personal licence lasts for ten years and you should re-apply to Gwynedd Council if we issued your first licence. However, during the transitional period please apply to the local authority for the area in which the licensed premises is located.

A personal licence holder may give consent to become a Designated Premises Supervisor (DPS) for a licensed premises where the activity of supply of alcohol is authorised. Every Premises Licence must have a DPS, who has a legal responsibility for authorising the sale of alcohol and control of the day to day management of that premises under the terms of the licence. Make sure that if the Designated Premises Supervisor is not physically on the premises, there is a clear management structure with which staff are familiar. If the DPS is not usually in attendance, it would be anticipated that other Personal Licence holders are involved in the day to day running. Personal licences are not required in qualifying club situations, permitted temporary events and for premises licences that do not retail alcohol.

#### **Premises Licence/Club Premises Certificate**

A Premises Licence permits licensable activities to take place on or from a defined area, a building, part of building, a vessel, vehicle or temporary structure. A premises licence can be made by an individual, several individuals, a company or organisation, or other prescribed persons such as individuals acting as representatives for a company or individual. The application for a premises licence is normally the responsibility of the owner of the business or the committee responsible for the building. If the premises are leased, the freeholder has a right to inform Gwynedd Council that they own, part own, or occupy the premises and they have a right to know of any applications, notices and request other information.

A club premises certificate permits licensable activities to take place at the premises of a “qualifying club”. A qualifying club applying for a Club Premises Certificate does not need a personal licence holder identified as a Designated Premises Supervisor as there is no supply of alcohol by retail taking place. Alcohol may be bought by the club for the members and the money being passed across the bar is to maintain equity between members. Please make sure that the club rule book makes clear the policy for guests. Clubs should carefully consider whether they should apply for a club premises certificate or a premises licence. As committee members in clubs change from time to time please ensure that the Gwynedd Council Licensing Sections is kept abreast of these changes. Please be aware that it is an offence not to inform the Council when the person who fills the role of Secretary changes.

You may not apply for a premises licence or a club premises certificate if you or any of your committee members are under 18 years of age. The applicant for a premises licence or club premises certificate does not need to be a personal licence holder.

DO BE REALISTIC IN WHAT YOU INTEND TO DO.

TAKE INTO CONSIDERATION:

- YOUR NEIGHBOURS BOTH RESIDENTIAL AND BUSINESS.
- YOUR TRACK RECORD WITH THE POLICE, GWYNEDD COUNCIL ENVIRONMENTAL HEALTH SERVICE AND OTHER ENFORCEMENT AGENCIES.

### **How to apply for a Simple Licence?**

Send:

- A completed application form (premises licence or club premises certificate)
- The correct fee\*
  
- A plan of 1:100 scale (unless otherwise arranged with Gwynedd Council Licensing Officers) of the premises should include the following details:
  - The location and extent of the boundary of the building, if relevant, and any external and internal walls which comprise the premises, or in which the premises is comprised
  - The location of exits from the premises
  - If different from the location of exits, the location of escape routes from the premises
  - The locations on or from the premises is to be used for licensable activity and in the case of an application where the premises is to be used for more than one licensable activity the location for each activity
  - In a case where the application relates to the supply of alcohol, the location or locations on the premises which is or are to be used for the consumption of alcohol
  - Fixed structures (including furniture) or similar object temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment
  - In a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor
  - The location and type of any fire safety and other safety equipment including, if applicable, marine safety equipment
  - The location of a kitchen, if any on the premises

And:

- If the premises licence application is to include the retail of alcohol, the consent of the individual personal licence holder who wishes to be the premises supervisor is required
- If a club premises certificate application, a copy of the club rule book, and a declaration that the club is a “qualifying club”

The application to the Gwynedd Council Licensing Section. The police must be sent a copy of the application (a photocopy). For your own benefit you may wish to get a receipt for the delivery of the application or send the application by registered post and keep the tickets as evidence that the applications have been sent.

You must submit a copy of your application to all “Responsible Authorities”, contact details of the responsible authorities in Gwynedd can be found under contact details at the end of this section. For your own benefit you may wish to get a receipt for the delivery of the application or send the application by registered post and keep the tickets as evidence that the applications have been sent.

### **What happens next?**

The applicant has a duty to advertise their application. This must be in the prescribed form, on pale blue paper, which must be displayed in a prominent position at or on the premises concerned which will detail the changes. In the case where the premise is away from the road etc. the advert must be placed on the perimeter of the premise, eg gatepost so that any passers by can easily read the notice. This notice must be displayed for not less than 28 days. The applicant must also advertise their application in a local newspaper circulating in the relevant part of Gwynedd district such as the Cambrian News, Caernarfon & Denbigh Herald, North Wales Chronicle or a daily paper such as the Daily Post or Western Mail, as long as it extensively circulated in that particular area.. The newspaper notice must be circulated on at least one occasion not more than 10 working days after the giving of the application to Gwynedd Council Licensing Section, both the newspaper notice and the notice for the application will contain the following information:

- The relevant licensable activities proposed to carry on at the premises
- The proposed changes of the application
- The name of the applicant
- The postal address of the premises, or if not applicable a description of the premises concerned
- Details of where the register of Gwynedd Council is held and where it can be inspected (i.e. which local Council office)
- The dates between which an interested party and a responsible authority may make representations to Gwynedd Council Licensing Team (28 days after date of submission of completed application)
- A statement that all representations must be made in writing
- A statement that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence

If there are no representations within the 28 days, a complete application form has been submitted with the appropriate fees and other paperwork, and appropriate notices in the papers and on the premises, the licence will be granted.

However, if representation from any interested parties or responsible authorities has been received, the licensing section will decide whether the representation is relevant. If the licensing section find the representation relevant they will arrange a mediation meeting

between the relevant parties to try and find a reasonable compromise. If this informal process is unsuccessful a hearing before the licensing committee will ensue. All relevant parties will be notified. A decision will be made by the licensing committee or sub-committee and the details of that decision will be circulated to the parties concerned.

The applicant does have a right to appeal and this should be made to the magistrates appropriate to the location of the premises concerned. Professional advice should be sought where it is uncertain what the best course of action should be.

### Need help?

Gwynedd Council is aware that there are concerns about making premises licence applications staff will be available in the 3 Area Offices to deal with your application between 10.00am-12.00pm and 2.00pm-4.00pm every weekday. Please phone to make an appointment so as to ensure that an officer is available. Alternatively you may feel that you wish to pass the job of making your application to a reputable licensing professional such as a solicitor or consultant.

### Fees\*

Fees for all licensing act 2003 permissions have been set by central government. The new fees are based on the non-domestic rateable value of the premises. These are divided into 5 bands:

<b>Band</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
<b>Non-Domestic rateable value</b>	£0 - £4,300	£4,301 - £33,000	£33,001 - £87,000	£87,000 - £125,000	£125,001 and over

Applications for premises licences, club premises certificates, variations (but not changes of name and address or changes of designated premises supervisor), the conversion of existing licences and conversion/variations should be as shown below:

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
£100	£190	£315	£450	£635

Those wishing to make an application which includes a variation involving the sale of alcohol will have to pay an additional fee as follows:

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
£20	£60	£80	£100	£120

An annual fee payable by those holding premises licences and club premises certificates as follows:

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
£70	£180	£295	£320	£350

In addition, a multiplier will be applied to town and city centre pubs (those in bands d and E) where they are exclusively or primarily in the business of selling alcohol.

	<b>Band D(x2)</b>	<b>Band E(x3)</b>
Application fee	£900	£1905
Annual fee	£640	£1050

To find out how much your non-domestic rateable value of your premises is please enter your postcode into the Valuation Office's website, [www.voa.gov.uk](http://www.voa.gov.uk).

There are other occasions that fees and charges must be paid to Gwynedd Council:

<b>Occasion on which a fee may be payable</b>	<b>Who should be sent copies of application other than Gwynedd Licensing Team</b>	<b>All fees are to be paid to Gwynedd Council</b>
Simple Conversion of premises licence or club premises certificate	Police	Please see above as dependent of Non-domestic Rateable Value
Simultaneous Variation during transition period (premises licences, club premises certificates)	<ul style="list-style-type: none"> <li>• Police</li> <li>• North Wales Fire and Rescue</li> <li>• Gwynedd Planning (or Snowdonia National Park if the premise is within the National Park)</li> <li>• Environmental Health Section</li> <li>• Gwynedd Health and Safety or Health and Safety Executive</li> <li>• Gwynedd Child Protection</li> <li>• Advertise in local paper</li> </ul>	Please see above as dependent of Non-domestic Rateable Value
New Premises Licence or Club Premises Certificate	<ul style="list-style-type: none"> <li>• Police</li> <li>• North Wales Fire and Rescue</li> <li>• Gwynedd Planning (or Snowdonia National Park if the premise is within the National Park)</li> <li>• Gwynedd Environmental Health Section</li> <li>• Gwynedd Health and Safety or Health and Safety Executive</li> <li>• Gwynedd Child Protection</li> <li>• Advertise in local paper</li> </ul>	Please see above as dependent of Non-domestic Rateable Value
Personal Licence Application	Police	£37
Variation of premises licence or club premises certificate	<ul style="list-style-type: none"> <li>• Police</li> <li>• North Wales Fire and Rescue</li> <li>• Gwynedd Planning (or Snowdonia National Park if</li> </ul>	Please see above as dependent of Non-domestic Rateable Value

	<p>the premise is within the National Park)</p> <ul style="list-style-type: none"> <li>• Gwynedd Environmental Health Section</li> <li>• Gwynedd Health and Safety or Health and Safety Executive</li> <li>• Gwynedd Child Protection</li> <li>• Advertise in local paper</li> </ul>	
Supply of copies of information contained in register	N/A	Set by Gwynedd
Application for copy of licence or summary on theft, loss etc of premises licence or summary	N/A	£10.50 in all cases
Notification of change of name or address (holder of premises licence)	N/A	£10.50 in all cases
Application to vary to specify individual as premises supervisor	Police	£23.00
Interim Authority Notice	Police	£23.00
Application to transfer premises licence	Police	£23.00
Application for making a provisional statement	<ul style="list-style-type: none"> <li>• Police</li> <li>• North Wales Fire and Rescue</li> <li>• Gwynedd Environmental Health Section</li> <li>• Gwynedd Health and Safety or Health and Safety Executive</li> <li>• Gwynedd Child Protection</li> <li>• Advertise in local paper</li> </ul>	£315
Application for copy of certificate or summary on theft, loss etc of certificate summary	N/A	£10.50 in all cases
Notification of change of name or alteration of club rules	N/A	£10.50 in all cases
Change of relevant registered address of club	N/A	£10.50 in all cases
Temporary Event Notices	Police	£21.00
Application for copy of notice on theft, loss	N/A	£10.50



etc of temporary event notice		
Application for copy of licence on theft, loss etc of personal licence	N/A	£10.50
Notification of change of name or address (personal licence)	N/A	£10.50
Notice of interest in any premises	N/A	£21.00

Exceptionally large events of a temporary nature that require premises licences are to be charged as follows:

Number of people	Additional Fees
6,000 – 9,999	£5,000
10,000 – 19,999	£7,500
20,000 – 29,999	£10,000
30,000 – 39,999	£15,000
40,000 – 49,999	£20,000
50,000 – 74,999	£30,000
75,000 and over	£50,000

In relation to exceptionally large events, where a permanent premises licence is obtained for a site rather than one that is time-limited for the event, the annual fee to be paid in relation to such a premises licence may also require an additional element to the fee due to the extra checking requirements. We consider, that such an additional element be charged at a rate of 50% of the additional fee listed above.

For premises under construction which have not been allocated a non-domestic rateable value but will be given such a value as soon as a completion certificate is given. In these cases it is proposed to allocate such premises to band C. Subsequent annual fees will relate to the non-domestic rateable value given to the property.

Premises licences sought for community centres and some schools that permit regulated entertainment but do not permit the supply of alcohol and/or the provision of late night refreshment will not incur a fee. For more information please contact the licensing section.

### **Operating Schedule**

An operating schedule is a required document for all new applications for premises licences and club premises certificates. It is the documentation that outlines what activities are proposed to be permitted, when the activities will take place and how the activities will be managed and the overall opening hours when the public are permitted on the premises.

It is advisable to apply for the maximum amount of hours for any activity. Particular thought should be given to community centres as these premises often have many different users and they change on the fairly frequent basis. It may be prudent to apply for activities that currently do not take place as hirers may request those activities in the future. For example, if dance classes are held during the day, it is not inconceivable that dance classes may be held in the evening or at weekends. In these circumstances it is advised to apply for a general licence that would not limit the hall users in what they may offer.

One of the most critical parts of the operating schedule is the section where the applicant describes the steps they intend to take to promote the four licensing objectives. Careful consideration of what is entered is advised. What is written in this section will become a condition of the licence, subject to representations.

## **General**

Signage – Good signage can operate at many levels. At the door, clear signs can clarify the premises policy regarding any age restriction policies such as “over 18s only”, “over 21s only” or “no unaccompanied children”. Whether signs repeat the law or express the policy of the premises it can act as a deterrent and as a tool for staff enforcing the law or the premises policy in a non-confrontational manner. However, it is certainly not the wish of Gwynedd Council to turn all licensed premises into notice boards. Signs should be used if there are specific problems, or where there is a need to demarcate certain areas for particular activities. Some examples of signs that could be used may include:

“CCTV operates in this area and lawlessness will be reported to the police”

“This premises operates a zero tolerance drugs policy”

“Proof of age for purchase of certain goods may be required”

“Supervised children are welcome in the restaurant area before 8pm”

“No drinks allowed in this area/beyond this point”

Staff training – Well trained staff are a real asset to any business. Critical areas of staff training in licensed premises should include a good knowledge of what is and is not permitted on the premises. The chain of command of a licensed premises is very important and Gwynedd Council would expect applicants, particularly on premises retailing alcohol which must have a designated premises supervisor who is not physically on the premises, an example of best practice would be that the duty manager signs in for duty in a logbook so that it is clear for who is in charge of the premises at any particular time. It would also be considered best practice for all duty managers to be personal licence holders so that the required knowledge level can be assured when the designated premises supervisor is not physically present. Other key areas that should be covered include:

- What to do if they think that a customer behaviour problem occurs or is likely to occur.
- What to do and any special responsibilities in case of fire or any other need to evacuate the premises.
- Where the supply of alcohol is concerned or where any age restriction is applicable training should be given and maintained as to what is acceptable proof of age identification and what is not.
- Where applicable, staff should know what would be expected of them if an incident occurred and potentially that if a court case ensued that they may have to give evidence.
- What is the premises drug policy and what to do if drugs are found on the premises.
- What to do if they feel threatened into making an illegal sale and how best to avoid such situations.

Moreover, if staff members are well trained they may feel more confident to be more proactive in keeping trouble out of the premises. The best way to arrange this is to have a document which details what the staff training consists of and documentation to show that each member of staff is familiar with the material. This document may be referred to in the operating schedule. Where agency staff are used, be sure that they have received a thorough briefing of what their role is and where possible try and re-use the same staff so that they get to know the premises and clientele.

Drinks promotions should never encourage binge drinking. Consideration of the implications on the community should be considered whenever an alcoholic drinks promotion occurs. A statement to clarify the drinks promotion policy of the premises is advisable where relevant.

Special consideration should be made regarding the licensing objectives when special events such as football events or other local or national events and how these events will impact the local community and what can be done to minimise the negative impact.

### **The Prevention of Crime and Disorder**

Details of any off-premises and/or on-premises CCTV and suitable signs associated with the CCTV. If installing a new CCTV system advice from the appropriate department of North Wales Police should be sought in case the material is needed for evidence.

Membership and regular attendance at meeting of a crime reduction group such as Pubwatch can help stop known troublemakers entering your premises. As Pubwatch and the Police can share information between each other, incidents can hopefully be reduced. Pubwatch bans do have serious repercussions on the social lives of the people affected. They may have to travel much greater distances to frequent licensed premises and as such they cannot socialise with their friends in the same way. As such, up to date Pubwatch signage can act as a deterrent. Pubwatch membership would be considered best practice for many premises located in town centres where the supply of alcohol is an authorised activity.

Licensed premises with a restricted entry policy and/or experience shows that queuing for entry which is a feature at certain times should as a minimum identify supervisory arrangements. Any door supervisors must be licensed under the Security Industry Act (SIA). This could be extended for premises such as those licensed for late night food. To get more information about the SIA please visit [www.the-sia.org.uk](http://www.the-sia.org.uk) or call their helpline 08702430100.

Where appropriate, the operating schedule should specify details of when use of plastic or toughened glass will be applied as defined by a risk assessment. Plastic may be preferable for use in outside areas where broken glass could be difficult to clear up or where there may be an increased level of rowdiness such as when national sporting events are televised.

Where the entrance of the premises faces onto a street affected by a bye-law restricting the public consumption of alcohol, open containers may not be taken from the premises. Signs to reinforce that only drinks purchased on the premises may be consumed on the premises could be advisable.

Records kept of any crime or disorder incidents and where sales of alcohol have been refused will help police and local authority co-operation.

Ensuring adequate staffing at busy times so that staff are regularly checking all areas of the licensed premises including toilets and other areas that are not easily visible from the bar.

The development of good relations with local police officers is also beneficial to preventing incidents occurring on your premises. If customers become accustomed to policemen being frequent visitors, problem behaviour can be discouraged.

### **Public Safety**

Risk assessment – this is a requirement under the Health and Safety at Work Act 1974 where there are more than 5 employees. It is also a requirement of the Regulatory Reform (Fire Safety) Order 2005, under which a specific Fire Safety Risk Assessment is required.

In order to assess the promotion of the Public safety objective and to comply with the current Fire Safety legislation the North Wales Fire and Rescue Service (NWF & RS) will require a copy of the Fire Safety Risk Assessment for all premises submitting a New Application or Variation to a licence (as a requirement of Regulatory Reform ( Fire Safety) Order 2005.

Applicants should consider, as a basic requirement, areas such as electrical safety, building integrity, and heating installations as a matter of course and reassess these following any major refurbishments, repairs, and general maintenance.

Indication of capacity – this can be based on a recent assessment completed by a fire officer which was a requirement for a Public Entertainment Licence, however it is the responsibility of the manager to do a risk assessment of the business. North Wales Fire and Rescue Service would assist with guidance in this work. Ease of exit in case of emergency may affect these numbers as does any fixed furniture and or fittings. Please specify if your premises has a capacity of less than 200 people as there is an exemption. Under section 177 of the Licensing Act 2003 where:

- A premises licence or club premises certificate authorises the supply of alcohol for consumption on the premises and the provisions of “music entertainment” (live music or dancing or facilities enabling people to take part in those activities between 8.00 am and midnight).
- The relevant premises are used primarily for the supply of alcohol for consumption on the premises, and
- The premises have a permitted capacity limit of not more than 200 persons (including staff and performers); any conditions relating to the provision of music entertainment imposed on the premises licence or club premises certificate by Gwynedd Council, other than those set out by the licence or certificate being consistent with the operating schedule, will be suspended except where they were imposed as being necessary for public safety or the prevention of crime and disorder or both.

### **The prevention of public nuisance**

Businesses are expected to sweep the areas outside their premises at closing time after each day’s business, if necessary. Do state any policy regarding this issue.

Closure of outside areas after a certain time is encouraged to be included in your operating schedule. It is advisable that no regulated entertainment is carried out in outside areas in the evenings without prior consultation with the licensing authority. Noise can also be contained by keeping windows and doors shut, by installing double-glazing where appropriate and keeping ventilation equipment in good order. Using performers of regulated entertainment to remind customers to respect the premises’ neighbours and leave quietly has proved successful.

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

Do make a statement regarding the child admission policy of the premises detailing any restrictions.

Signage can be very important in the protection of children from harm – it can be helpful to remind parents and guardians that it is illegal to be intoxicated and in charge of children under the age of 7 years of age, particularly where the sale of alcohol is for consumption on the premises. It is also important to have children supervised at all times in these types of premises. It is expected in your operating schedule if children are permitted on the premises to demarcate any areas where children are not allowed, these may be bar areas, in areas with amusements with prizes or a strong element of gambling. Suitable refreshments should also be available at all times when children are permitted. Do make sure that children needing to use the toilets can get there without crossing areas within which they are not permitted.

## **Need help?**

If you are very confused by this section you may wish to simply state the conditions that currently apply to the licence/licences under the appropriate heading, adjusting for any changes for which you are applying. For example, if you have a restriction for the last time of entry under your PEL, you may wish to apply to change this in accordance with your proposed later opening hours under your new application.

## **Offences**

- To carry on or attempt to carry on a licensable activity on or from any premises other than under or in accordance to with the authorisation provided by a premises licence, a club premises certificate or temporary event notice meeting the required conditions.
- To knowingly allow such an activity to be carried on.
- Where an unauthorised activity has taken place, any performer or participant does not commit an offence unless they are involved in the organisation or arrangement of the unauthorised activity.
- It is an offence to expose alcohol for sale when not an authorised activity.
- To keep alcohol with the intention of selling it by retail or supplying it by or on behalf of a club or to the order of a member of a club where the sale or supply would be an unauthorised licensable activity.

Offences concerning children are as follows:

- Unaccompanied children are prohibited from certain premises such as premises at a time open for the purposes of being used for the supply of alcohol for consumption and all relevant premises used for the supply of alcohol for consumption between the hours of midnight and 5am.
- Sale of alcohol by retail to an individual under the age of 18 is illegal.
- Clubs commit an offence if alcohol is supplied to a member or guest who is under the age of 18.
- It is an offence to allow the supply of alcohol to children from your premises.
- It is an offence for an individual aged under the age of 18 to buy or attempt to buy alcohol.
- It is an offence to buy or attempt to buy alcohol on behalf of an individual who is under 18.
- However, no offence is committed if a person over the age of 18 buys beer, wine or cider for an individual aged 16 or 17 if the purchase, or supply, is for consumption at a table meal on relevant premises and that the individual is accompanied at the meal by an individual aged 18 or over.
- An individual under the age of 18 commits an offence if he knowingly consumes alcohol on relevant premises.
- A person who works on relevant premises in any capacity, whether paid or unpaid, commits an offence if he knowingly delivers to an individual aged under 18 alcohol sold on the premise, or alcohol supplied on the premises by or on behalf of a club or to the order of a member of a club.
- A person commits an offence if he knowingly allows anyone else to deliver to an individual aged under 18 alcohol sold on relevant premises.
- Sending a child to obtain alcohol sold.

## **Contact Details**

Applicants should consult with those noted below (taking account of where the premises is located) when submitting their application. During the transition period Gwynedd Council licensing staff will offer time to assist applicants as noted previously.

### **The Licensing Section**

- Arfon Area - Council Offices, Shirehall St., Caernarfon, LL55 1SH  
- 01286 679923/679925/679928
- Dwyfor Area - Council Offices, Embankment Rd., Pwllheli, LL53 5AA  
- 01758 704000/704166
- Meirionnydd Area - Council Offices, Cae Penarlag, Dolgellau, LL40 2YB  
- 01341 424326/424346

### **Planning**

If within the National Park Area – Development Control Manager,  
Snowdonia National Park,  
Penrhyndeudraeth, Gwynedd. LL48 6LF  
01766 772505 / 772209

If **not** within the National Park Area –

- Arfon Area - Council Offices, Penrallt, Caernarfon LL55 1BN  
- 01286 682765
- Dwyfor Area - Council Offices, Embankment Rd., Pwllheli LL53 5AA  
- 01758 704118
- Meirionnydd Area - Council Offices, Cae Penarlag, Dolgellau LL40 2YB  
- 01341 424414

### **Environmental Health/Health and Safety**

#### **Environment Health Officer (Environment)**

- Arfon Area - Council Offices, Penrallt, Caernarfon LL55 1BN  
- 01766 771000
- Dwyfor Area - Council Offices, Embankment Rd., Pwllheli LL53 5AA  
- 01766 771000
- Meirionnydd Area - Council Offices, Cae Penarlag, Dolgellau, LL40 2YB  
- 01766 771000

#### **Health & Safety Officer (Food and Health and Safety Section)**

- Arfon Area - Council Offices, Penrallt, Caernarfon LL55 1BN  
- 01286 682732
- Dwyfor Area - Council Offices, Embankment Rd., Pwllheli LL53 5AA  
- 01758 704136
- Meirionnydd Area - Council Offices, Cae Penarlag, Dolgellau, LL40 2YB  
- 01341 424370

### **Trading Standards**

Public Protection Manager                      Council Offices, Penrallt, Caernarfon, LL54 1BN  
01286 682728 / 682729

### **Child Protection**

Senior Welfare Officer (Education Department)                      Council Offices, Shirehall St, Caernarfon, LL55 1SH  
01286 679607

Children Services (Social Services Department)                      Council Offices, Shirehall St, Caernarfon, LL55 1SH  
01286 673113

### **North Wales Police**

Licensing Officer                      Police Station, Ala Rd., Pwllheli, Gwynedd, LL53 5BU  
01286 670053

### **North Wales Fire and Rescue Service**

If in Arfon/Dwyfor (excluding Porthmadog)                      -                      Area Fire Safety Compliance Manager,  
North Gwynedd Office,  
North Wales Fire and Rescue Service,  
County Safety Office,  
Llanberis Road,  
Caernarfon,  
LL55 2DF  
-                      01286 662999

If in Meirionnydd (including Porthmadog)                      -                      Area Fire Safety Compliance Manager,  
South Gwynedd Office,  
North Wales Fire and Rescue Service,  
Porthmadog,  
LL49 9HR  
-                      01766 515418

### **Community Councils**

For further information regarding your Town/community Council please look at the Council's website [www.gwynedd.gov.uk](http://www.gwynedd.gov.uk) or contact you local Area Office

### **Guidance on the Procedures for Objectors**

Objections can be considered by the Council in respect of any application from any of the 'Responsible Authorities' which the applicant has consulted with, as well as 'Interested Parties', as defined in the Act.

'Interested parties' means any of the following:

- A person living in the vicinity of the premises
- A body representing persons who live in that vicinity
- A person involved in a business in that vicinity
- A body representing persons involved in such businesses

Representations will only be considered if they are made on the grounds of the 4 licensing objectives specified in the act. Any which refer to other reasons or which do not give reasons for the objection will be ignored.

All representations would have to be made, in writing, to Gwynedd Council within 28 days of the application submitted, and if considered valid dependent on the circumstances, would be considered either by the Licensing Committee or a Sub-committee of the Licensing Committee.

## **Appendix B**

### LICENSING STRATEGIES

Noted below those Council strategies which should be considered in making an application :-

- Substance Misuse Action Plan
- Gwynedd Community Safety Strategy
- Health, Social Care and Welfare Strategy
- Gwynedd Children and Young People Framework Strategy
- Gwynedd Leisure Strategy
- Economic Development Strategy
- Gwynedd Tourism Strategy

## **Appendix C1**

### **Conditions relating to the prevention of crime and disorder**

**It should be noted in particular that it is unlawful under the 2003 Act:**

- **knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk**
- **knowingly to allow disorderly conduct on licensed premises**
- **or the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported**
- **to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol**

**Conditions enforcing these arrangements are therefore unnecessary.**

### **General**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, when responsible authorities are considering such applications and when licensing authorities are considering applications following the receipt of any relevant representations from a responsible authority or interested party, the following options should be considered as measures which, if necessary, would promote the prevention of crime and disorder.



Whether or not any risk assessment shows these options to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved. It should also be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance.

Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

### **Text/Radio pagers**

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Such pagers provide two-way communication, enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate and necessary in other areas for the prevention of crime and disorder.

It is recommended that a condition requiring the text/radio pager links to the police should include the following elements:

- a requirement that the text/pager equipment is kept in working order at all times;
- a requirement that the pager link be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- a requirement that any police instructions/directions are complied with whenever given; and
- a requirement that all instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

### **Door supervisors**

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside of venues prone to such queuing.

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety. (See Appendix C 2)

### **Bottle bans**

Glass bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises.

It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption on the premises should be expressed in clear terms and include the following elements:

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place);

In appropriate circumstances, the condition could include exceptions, for example, as follows:

- but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

### **Plastic containers and toughened glass**

Glasses containing drinks may be used as weapons during incidents of disorder and in untoughened form, can cause very serious injuries. Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries where considered necessary. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety.

## **CCTV**

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

## **Open containers not to be taken from the premises**

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises that would be entirely lawful. However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

## **Restrictions on drinking areas**

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

## **Capacity limits**

Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

## **Proof of age cards**

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of “proof of age” before such sales are made. This should not be limited to recognised “proof of age” cards, but allow for the production of other proof, such as photo-driving licences, student cards and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports.

It should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

### **Crime prevention notices**

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

### **Drinks promotions**

Standardised conditions should not be attached to premises licences or club premises certificates which promote fixed prices for alcoholic drinks. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind. This can risk creating cartels. Using conditions to control the prices of alcoholic drinks in an area may also breach competition law. Conditions tailored to the individual circumstances of particular premises which address irresponsible drinks promotions may be permissible provided they are necessary for the promotion of the licensing objectives, but licensing authorities should take their own legal advice before a licence or certificate is granted in that form. Judgements may be subjective, and on occasions, there will be a very fine line between responsible and irresponsible promotions but an even greater distinction to whether the promotion in question can be subject to the imposition of a condition. It is therefore vital that such matters are considered objectively in the context of the licensing objectives and with the benefit of appropriate legal advice.

In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or discounting and levels of crime and disorder on or in the vicinity of the premises, it would be appropriate for the licensing authority to consider whether the imposition of a new condition prohibiting irresponsible sales promotions or discounting of prices of alcoholic beverages is necessary at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

### **Signage**

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of

these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

### **Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)**

Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons.

Where necessary and appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations on such grounds) which require adherence to:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

## **Appendix C 2**

### **Conditions relating to public safety (including fire safety)**

**It should be noted that conditions relating to public safety should be those which are necessary, in the particular circumstances of any individual premises or club premises, and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.**

### **General**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote public safety. Additional matters relating to cinemas and theatres are considered in Appendix C 3. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

In addition, to considering the points made in this Appendix, those preparing operating schedules or club operating schedules, licensing authorities and responsible authorities should consider:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 7176 2453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through: [www.streetartsnetwork.org.uk/pages/publications.htm](http://www.streetartsnetwork.org.uk/pages/publications.htm) •
- The London District Surveyors Association’s “Technical Standards for Places of Public Entertainment” ISBN 0 9531229 2 1

The following British Standards should also be considered:

- BS 5839 (fire detection, fire alarm systems and buildings)
- BS 5266 (emergency lighting systems)

However, in consulting these texts, which were prepared prior to the coming into force of the Licensing Act 2003, those creating operating schedules or club operating schedules, licensing authorities and responsible authorities should again note that under no circumstances should any conditions be regarded as standard for all premises.

Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

### **Disabled people**

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and
- disabled people on the premises are made aware of those arrangements.

## **Escape routes**

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- all exits doors are easily openable without the use of a key, card, code or similar means;
- doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;
- all fire doors are maintained effectively self-closing and shall not be held open other than by approved devices (for example, electromagnetic releases operated by smoke detectors);
- fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut; and
- the edges of the treads of steps and stairways are maintained so as to be conspicuous.

## **Safety checks**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- safety checks are carried out before the admission of the public; and
- details of such checks are kept in a Log-book.

## **Curtains, hangings, decorations and upholstery**

Legislation exists, (Regulatory Reform (Fire Safety) Order 2005) which should ensure the safety of the occupants of premises from fire. It is important that overcrowding does not occur and to this end it must be ensured that:-

- hangings, curtains and temporary decorations are maintained in a flame-retardant condition;
- any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1 and crib ignition source 5 when tested in accordance with section 5 of BS 5852:1990;
- curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire-fighting equipment; and
- temporary decorations are not used without prior notification to the licensing authority/fire authority.

### **Accommodation limits**

Legislation exists, (Regulatory Reform (Fire Safety) Order 2005) which should ensure the Safety of the occupants of premises from fire. It is important that overcrowding does not occur and to this end it must be ensured that:-

- arrangements are made to ensure that any capacity limit recommended under the premises licence or club premises certificate are not exceeded; and
- the licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.
- The maximum occupancy limit should be taken into consideration in the Fire Safety Risk Assessment.

### **Fire action notices**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration.

### **Outbreaks of fire**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- the Fire and Rescue Service must be called at once to any outbreak of fire, however slight, and the details recorded in a Fire Log-book.

### **Loss of water**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- the local Fire Control Centre are notified as soon as possible if the water supply to any hydrant, hose reel, sprinkler, drencher or other fire extinguishing installation is cut off or restricted.

### **Access for emergency vehicles**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- access for emergency vehicles is kept clear and free from obstruction.

### **First aid**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:



- adequate and appropriate supply of first aid equipment and materials is available on the premises;
- if necessary, at least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined.

### **Lighting**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;
- fire safety signs are adequately illuminated;
- emergency lighting is not altered;
- emergency lighting batteries are fully charged before the admission of the public, members or guests; and
- in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

### **Temporary electrical installations**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- temporary electrical wiring and distribution systems are not provided without [notification to the licensing authority at least ten days before commencement of the work] [prior inspection by a suitable qualified electrician];
- temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909; and
- where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.

With regard to the first bullet above, it should be recognised that ten days notice may not be possible where performances are supported by outside technical teams. For example, where temporary electrical installations are made in theatres for television show performances. In such circumstances, the key requirement is that conditions where necessary should ensure that temporary electrical installations are only undertaken by competent qualified persons, for example, employed by the television company.

### **Indoor sports entertainments**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- if necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature;
- where a ring is involved, it is constructed and supported by a competent person and inspected by a competent authority and any material used to form the skirt around the ring is flame-retardant;
- at any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring; and
- at water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming Pools issued jointly by the Health and Safety Commission and Sport England).

### **Alterations to the premises**

Premises should not be altered in such a way as to make it impossible to comply with an existing licence condition without first seeking a variation of the premises licence proposing the deletion of the condition relating to public safety in question. The applicant will need to propose in a new operating schedule reflecting the proposed alteration to the premises how he or she intends to take alternative steps to promote the public safety objective. The application for variation will enable the responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

### **Special effects**

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Special effects which should be considered include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] the fire authority.

## **Appendix C 3**

### **Theatres, cinemas, concert halls and similar places (promotion of public safety)**

In addition to the points made in Appendix C2, there are particular matters in the context of public safety and fire safety which should be considered in connection with theatres and cinemas. The principle remains that conditions must be necessary and should be established through risk assessment and standardised conditions should be avoided. The points which follow are for consideration and do not represent a mandatory list.

**Premises used for closely seated audiences****Attendants**

(a) The number of attendants on each floor in a closely seated auditorium should be as set out on the table below:

Number of member of the audience present on a floor	Minimum number of attendants required to be present on that floor
1 – 100	One
101 – 250	Two
251 – 500	Three
501 – 750	Four
751 - 1000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

(b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.

(c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).

(d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.

(e) No article shall be attached to the back of any seat which would reduce the clear width of seat ways or cause a tripping hazard or obstruction.

(f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

**Standing and sitting in gangways etc.**

(a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.

(b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.

(c) In no circumstances shall anyone be permitted to-

- (i) sit in any gangway;
- (ii) stand or sit in front of any exit; or
- (iii) stand or sit on any staircase including any landings.

**Drinks**

Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.

**Balcony Fronts**

Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

### **Special effects**

Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Specials effects include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] fire authority.

### **Scenery**

Any scenery should be maintained flame-retardant.

### **Safety curtain**

Where a safety curtain is provided, it should be arranged so as to protect the audience from the effects of a fire or smoke on stage for sufficient time to enable the safe evacuation of the auditorium.

Where a stage with a proscenium arch is not equipped with a safety curtain, any curtains provided between the stage and the auditorium should be heavyweight and be made of non-combustible material or inherently or durably treated flame-retardant fabric.

### **Ceilings**

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person who will decide when a further inspection would be necessary and a certificate concerning the condition of the ceilings forwarded to the licensing authority.

### **Seating**

Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.

### **Premises used for film exhibitions**

#### **Attendants – premises without a staff alerting system**

Where the premises are not equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty
1 – 250	Two
And one additional attendant for each additional 250 members of the audience present ( or part thereof)	
Where there are more than 150 members of an audience in any auditorium or on any floor	At least one attendant shall be present in any auditorium or on any floor

**Attendants – premises with a staff alerting system**

(a) Where premises are equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of other staff on the premises who are available to assist in the event of an emergency
1 – 500	Two	One
501 – 1000	Three	Two
1001 – 1500	Four	Four
1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises

(b) Staff shall not be considered as being available to assist in the event of an emergency if they are:

- (i) the holder of the premises licence or the manager on duty at the premises; or
- (ii) a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
- (iii) a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.

(c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.

(d) The staff alerting system shall be maintained in working order.

**Minimum lighting**

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

**Flammable films**

No flammable films should be allowed on the premises without the prior notification of the licensing authority/fire authority.

## **Appendix C 4**

### **Conditions relating to the prevention of public nuisance**

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

#### **General**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote the prevention of public nuisance.

Whether or not any risk assessment shows them to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for licences and certificates will also depend on local knowledge of the premises.

#### **Hours**

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003) by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which results from artificially early fixed closing times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

Restrictions might be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

### **Noise and vibration**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises;
- prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted; and
- the placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

### **Noxious smells**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

### **Light pollution**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

## **Appendix C 5**

### **Conditions relating to the protection of children from harm**

It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore, unnecessary.

### **Access for children to licensed premises – in general**

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the licensing authority considers it necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by licensing authorities on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
  - explain their reasons; and
  - outline in detail the steps that they intend to take to protect children from harm on such premises.
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
  - explain their reasons; and
  - outline in detail the steps that they intend to take to protect children from harm on such premises.
- in any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

### **Age Restrictions – specific**

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities following relevant representations made by responsible authorities and interested parties will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary. Licensing authorities are expected to consider:

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;



- types of event or activity in respect of which no age restrictions may be needed, for example;
  - family entertainment; or –
  - non-alcohol events for young age groups, such as under 18s dances,
- Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
  - during “Happy Hours” or on drinks promotion nights;
  - during activities outlined in the first bullet point in the first paragraph above.

### **Age restrictions – cinemas**

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of section 20, requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the licensing authority itself, conditions restricting the admission of children to film exhibitions should include:

- a condition that where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- a condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:
  - U – Universal. Suitable for audiences aged four years and over
  - PG – Parental Guidance. Some scenes may be unsuitable for young children.
  - 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
  - 15 – Passed only for viewing by persons aged 15 years and over.
  - 18 – Passed only for viewing by persons aged 18 years and over.
- that conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- a condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

“Where a programme includes a film recommended by the licensing authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms –

**PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME**

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person's parent or legal guardian has first been obtained."

## **Theatres**

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency

## **Performances especially for children**

Where performances are presented especially for unaccompanied children in theatres and cinemas conditions are anticipated to be needed which require:

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

Licensing authorities are expected, having regard to any representations made by responsible authorities on the issue, to also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

## **Children in performances**

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. Licensing authorities should familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance. •

- **Fire safety** – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children. •
- **Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children. •
- **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

### **The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks**

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

Where appropriate and necessary, consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

### **Proof of Age cards**

Where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm. Any such requirement should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences, student cards and passports. As for conditions relating to crime and disorder, it should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.

## **Appendix C 6**

### **Statutory qualifying conditions for clubs**

The following qualifying conditions for clubs are extracted from the Licensing Act 2003.

#### **62 The general conditions**

(1) The general conditions which a club must satisfy if it is to be a qualifying club in relation to a qualifying club activity are the following.

(2) Condition 1 is that under the rules of the club persons may not —

- (a) be admitted to membership, or
- (b) be admitted, as candidates for membership, to any of the privileges of membership, without an interval of at least two days between their nomination or application for membership and their admission.

(3) Condition 2 is that under the rules of the club persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission.

(4) Condition 3 is that the club is established and conducted in good faith as a club (see section 63).

(5) Condition 4 is that the club has at least 25 members.

(6) Condition 5 is that alcohol is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club.

#### **63 Determining whether a club is established and conducted in good faith**

(1) In determining for the purposes of condition 3 in subsection (4) of section 62 whether a club is established and conducted in good faith as a club, the matters to be taken into account are those specified in subsection (2).

(2) Those matters are —

- (a) any arrangements restricting the club's freedom of purchase of alcohol;
- (b) any provision in the rules, or arrangements, under which —
  - (i) money or property of the club, or
  - (ii) any gain arising from the carrying on of the club, is or may be applied otherwise than for the benefit of the club as a whole or for charitable, benevolent or political purposes;
- (c) the arrangements for giving members information about the finances of the club;

- (d) the books of account and other records kept to ensure the accuracy of that information;
- (e) the nature of the premises occupied by the club.

(3) If a licensing authority decides for any purpose of this Act that a club does not satisfy condition 3 in subsection

(4) of section 62, the authority must give the club notice of the decision and of the reasons for it.

#### **64 The additional conditions for the supply of alcohol**

(1) The additional conditions which a club must satisfy if it is to be a qualifying club in relation to the supply of alcohol to members or guests are the following.

(2) Additional condition 1 is that (so far as not managed by the club in general meeting or otherwise by the general body of members) the purchase of alcohol for the club, and the supply of alcohol by the club, are managed by a committee whose members —

- (a) are members of the club;
- (b) have attained the age of 18 years; and
- (c) are elected by the members of the club. This subsection is subject to section 65 (which makes special provision for industrial and provident societies, friendly societies etc.).

(3) Additional condition 2 is that no arrangements are, or are intended to be, made for any person to receive at the expense of the club any commission, percentage or similar payment on, or with reference to, purchases of alcohol by the club.

(4) Additional condition 3 is that no arrangements are, or are intended to be, made for any person directly or indirectly to derive any pecuniary benefit from the supply of alcohol by or on behalf of the club to members or guests, apart from —

- (a) any benefit accruing to the club as a whole, or
- (b) any benefit which a person derives indirectly by reason of the supply giving rise or contributing to a general gain from the carrying on of the club.

#### **65 Industrial and provident societies, friendly societies etc.**

(1) Subsection (2) applies in relation to any club which is —

- (a) a registered society, within the meaning of the Industrial and Provident Societies Act 1965 (c. 12) (see section 74(1) of that Act),
- (b) a registered society, within the meaning of the Friendly Societies Act 1974 (c. 46) (see section 111(1) of that Act), or
- (c) a registered friendly society, within the meaning of the Friendly Societies Act 1992 (c. 40) (see section 116 of that Act).

(2) Any such club is to be taken for the purposes of this Act to satisfy additional condition 1 in subsection (2) of section 64 if and to the extent that —

- (a) the purchase of alcohol for the club, and
- (b) the supply of alcohol by the club, are under the control of the members or of a committee appointed by the members.

(3) References in this Act, other than this section, to —

- (a) subsection (2) of section 64, or

(b) additional condition 1 in that subsection, are references to it as read with subsection (1) of this section.

(4) Subject to subsection (5), this Act applies in relation to an incorporated friendly society as it applies in relation to a club, and accordingly —

- (a) the premises of the society are to be treated as the premises of a club,
- (b) the members of the society are to be treated as the members of the club, and
- (c) anything done by or on behalf of the society is to be treated as done by or on behalf of the club.

(5) In determining for the purposes of section 61 whether an incorporated friendly society is a qualifying club in relation to a qualifying club activity, the society is to be taken to satisfy the following conditions —

- (a) condition 3 in subsection (4) of section 62,
- (b) condition 5 in subsection (6) of that section,
- (c) the additional conditions in section 64.

(6) In this section “incorporated friendly society” has the same meaning as in the Friendly Societies Act 1992 (see section 116 of that Act).

## **66 Miners’ welfare institutes**

(1) Subject to subsection (2), this Act applies to a relevant miners’ welfare institute as it applies to a club, and accordingly —

- (a) the premises of the institute are to be treated as the premises of a club,
- (b) the persons enrolled as members of the institute are to be treated as the members of the club, and
- (c) anything done by or on behalf of the trustees or managers in carrying on the institute is to be treated as done by or on behalf of the club.

(2) In determining for the purposes of section 61 whether a relevant miners’ welfare institute is a qualifying club in relation to a qualifying club activity, the institute is to be taken to satisfy the following conditions —

- (a) condition 3 in subsection (4) of section 62,
- (b) condition 4 in subsection (5) of that section,
- (c) condition 5 in subsection (6) of that section,
- (d) the additional conditions in section 64.

(3) For the purposes of this section —

- (a) “miners’ welfare institute” means an association organised for the social well-being and recreation of persons employed in or about coal mines (or of such persons in particular), and
- (b) a miners’ welfare institute is “relevant” if it satisfies one of the following conditions.

(4) The first condition is that —

- (a) the institute is managed by a committee or board, and
- (b) at least two thirds of the committee or board consists —
  - (i) partly of persons appointed or nominated, or appointed or elected from among persons nominated, by one or more licensed operators within the meaning of the Coal Industry Act 1994 (c. 21), and
  - (ii) partly of persons appointed or nominated, or appointed or elected from among persons nominated, by one or more organisations representing persons employed in or about coal mines.

(5) The second condition is that —

- (a) the institute is managed by a committee or board, but
- (b) the making of —
  - (i) an appointment or nomination falling within subsection (4) (b) (i), or
  - (ii) an appointment or nomination falling within subsection (4) (b) (ii), is not practicable or would not be appropriate, and
- (c) at least two thirds of the committee or board consists —
  - (i) partly of persons employed, or formerly employed, in or about coal mines, and
  - (ii) partly of persons appointed by the Coal Industry Social Welfare Organisation or a body or person to which the functions of that Organisation have been transferred under section 12(3) of the Miners' Welfare Act 1952 (c. 23).

(6) The third condition is that the premises of the institute are held on trusts to which section 2 of the Recreational Charities Act 1958 (c. 17) applies.

## **Appendix D**

### **The principles of licensing enforcement**

The Licensing authority will take full account of the view of the enforcement agencies in reaching any decision. The principal enforcement agencies are North Wales Police, Environmental Health and Trading Standards Section of the Council and the North Wales Fire and Rescue Authority.

Through its decision-making process the licensing authority will seek to deliver the four licensing objectives. In doing so it recognises that the majority of premises and personal licence-holders are responsible and comply fully with the conditions of their licence and obligations placed upon them. The licensing authority may make a site visit to the premises in order to determine the suitability of the premises for licensing.

The licensing authority intends to apply a focused approach in enforcing its policy, concentrating its attention on premises that create cause for concern, – particularly those that show an irresponsible approach to drunkenness, binge drinking, and underage consumption of alcohol by using intelligence supplied by partners such as the police. Where a responsible authority finds premises selling alcohol without a premises licence the presumption will be that the licensing authority will prosecute. In cases where a premises has a licence but activities other than those in the agreed schedule are taking place, such as a pub undertaking karaoke, then the licensing authority will consider whether any harm has been caused by the offence before deciding whether to take a prosecution or issue a formal warning.

If the applicant for a licence cannot demonstrate that they meet the four licensing objectives, their application may be subject to conditions or may be refused. Through this control the licensing authority will seek to achieve the licensing objectives. Where the licensing objectives are not met, the licensing authority may consider evidence of enforcement agencies and decide whether sanctions or even revocation is necessary in order to ensure that the four objectives are upheld. The licensing authority has a number of sanctions available which include:

- Restricting the hours of opening
- Temporary suspension of the licence
- Requirements to change the designated premises supervisor

In terms of the implementation of the policy the existing enforcement agencies are key. They have a wealth of powers already available to them and the Licensing Act, 2003 gives them even greater powers to rapidly take action where premises are causing problems. When the licensing regime is in place from the Second Appointed Day (anticipated to be November,

2005), the Police and Environmental Health Officers will have the power to close premises immediately for up to 24 hours. When this occurs the licensing authority will consider evidence about premises as a matter of urgency.

When considering evidence about serious crime on premises such as drug dealing, the licensing authority will determine whether these offences relate to the way in which the premises are managed. If this is the case, the licensing authority will take a precautionary approach and will take any action it deems necessary and will not await the decision of the court before reaching a decision. Each case will be considered on its own merits.

A licence review may also be necessary if a person holding a personal licence commits a relevant offence, such as serving underage customers or allowing drunkenness. The licensing authority will seek to ensure that those persons with a personal licence are capable of upholding the four licensing objectives.

Enforcement also includes advice, education and training, information, promotion of good practice and behaviour

The licensing authority will establish protocols with North Wales Police on enforcement. This will provide a more efficient deployment of licensing authority staff and police officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises.

The principles of enforcement for the licensing authority focus on:

- Taking firm action against those who flout the law or act irresponsibly
- Assist businesses and other in meeting their legal obligations
- Promptly acting on issues of concern to local communities

The whole approach can be summarised as a sharp focus on premises where enforcement agencies believe there are either crime and disorder problems, the premises are causing a nuisance, children are at risk, or the public could be harmed.

Enforcement will not be necessary where premises are run responsibly.

**However, the Council intends to take firm action where the licensing objectives are found to be undermined.**

**Failure to comply with any conditions attached to a licence or club certificate is a criminal offence which, on conviction, would be punishable by a fine of up to £20,000 or up to six months imprisonment or both.**