

To: Members of the Licensing  
Committee

Date: 17 September 2015

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Dear Councillor

You are invited to attend a meeting of the **LICENSING COMMITTEE** to be held at **9.30 am** on **WEDNESDAY, 23 SEPTEMBER 2015** in the **COUNCIL CHAMBER, RUSSELL HOUSE, RHYL**.

Yours sincerely

G Williams  
Head of Legal and Democratic Services

## **AGENDA**

### **PART 1 - THE PRESS AND PUBLIC ARE INVITED TO ATTEND THIS PART OF THE MEETING**

#### **1 APOLOGIES**

#### **2 DECLARATION OF INTERESTS**

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

#### **3 URGENT MATTERS AS AGREED BY THE CHAIR**

Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act, 1972.

#### **4 MINUTES OF THE LAST MEETING (Pages 9 - 16)**

To receive the minutes of the Licensing Committee held on 10 June 2015 (copy enclosed).

#### **5 PRESENTATION BY FLEET SERVICES ON VEHICLE SAFETY AND LICENSING**

To receive a presentation on vehicle safety and licensing.

**6 REVIEW OF CURRENT PENALTY POINTS POLICY AND PROCEDURE**  
(Pages 17 - 40)

To consider a report by the Head of Planning and Public Protection (copy enclosed) seeking approval of the revised Penalty Point Policy and Procedure for formal consultation.

**7 PROPOSED REVIEW OF STATEMENT OF LICENSING POLICY** (Pages 41 - 84)

To consider a report by the Head of Planning and Public Protection (copy enclosed) seeking approval of the draft Statement of Licensing Policy for formal consultation.

**8 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2015/16**  
(Pages 85 - 86)

To consider a report by the Head of Planning and Public Protection (copy enclosed) presenting the committee's forward work programme for approval.

**PART 2 - CONFIDENTIAL ITEMS**

It is recommended in accordance with Section 100A(4) of the Local Government Act 1972, that the Press and Public be excluded from the meeting during consideration of the following item(s) of business because it is likely that exempt information as defined in paragraph 12 of Part 4 of Schedule 12A of the Act would be disclosed.

**9 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/0896/TXJDR** (Pages 87 - 98)

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' review of a licence to drive hackney carriage and private hire vehicles in respect of Driver No. 15/0896/TXJDR.

**10 REVIEW OF A LICENCE TO DRIVE HACK NEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 14/0892/TXJDR** (Pages 99 - 118)

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' review of a licence to drive hackney carriage and private hire vehicles in respect of Driver No. 14/0892/TXJDR.

**11 REVIEW OF A LICENCE TO DRIVE PRIVATE HIRE VEHICLES - DRIVER NO. 15/0123/TXPHD** (Pages 119 - 136)

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' review of a licence to drive private hire vehicles in respect of Driver No. 15/0123/TXPHD.

**12 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 14/0859/TXJDR (Pages 137 - 168)**

To consider a confidential report by the Head of Planning and Public Protection (copy enclosed) seeking members' review of a licence to drive hackney carriage and private hire vehicles in respect of Driver No. 14/0859/TXJDR .

**13 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 14/0123/TXJDR (Pages 169 - 178)**

To consider a confidential report by the Head of Planning and Public Protection Services (copy enclosed) seeking members' determination of an application from Applicant No. 14/0123/TXJDR.

**MEMBERSHIP**

**Councillors**

Cefyn Williams (Chair)

Barry Mellor (Vice-Chair)

Joan Butterfield

Win Mullen-James

Bill Cowie

Peter Owen

Richard Davies

Pete Prendergast

Stuart Davies

Arwel Roberts

Hugh Irving

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## LICENSING COMMITTEE PROCEDURE FOR THE DETERMINATION OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE APPLICATIONS AND REVIEWS OF EXISTING LICENSED DRIVERS

STEP	DESCRIPTION
1.	The Chair to welcome and introduce the applicant/licence holder to all parties present.
2.	Solicitor to ask the applicant/licence holder to confirm that he/she has received the report and the Committee procedures. If applicant confirms same, move onto step 4.
3.	If it should occur that the applicant/licence holder states that the report has not been received, then such matter will be addressed at this stage. Members may wish to consider adjourning the matter, for a short period, in order for the applicant/licence holder to read the report.
4.	Head of Planning and Public Protection (or representative) briefly introduces the application/review
5.	The applicant/licence holder is requested to present his/her case  The applicant/licence holder can call any witnesses he/she chooses in support of the application, for which advance notice should have been given to the Licensing Officers.
6.	Committee Members can question the applicant/licence holder and or his witnesses
7.	Technical officers are invited to present any findings (Licensing/Community Enforcement, First Contact Team (Social Services), School Transport.)
8.	The Committee Members followed by the applicant/licence holder can ask questions of the technical officers
9.	The applicant/licence holder will be invited to make a final statement, if they so wish
10.	The following will be requested to leave the meeting whilst the application/review is discussed by Members – the applicant/licence holder, all third parties, Head of Planning and Public Protection, technical officers  NB The only people remaining should be – Committee Members, translator, committee’s legal adviser and the minute taker

11.	The committee members will consider the application/review taking into account the evidence heard
12	Should Committee Members prove it necessary to recommence the asking of questions and recall any party to provide further information or clarification, all persons who have withdrawn from the meeting will be invited to return. After the question(s) have been determined all third parties will be asked to withdraw again for Members to consider all evidence.
13.	When the Members have reached their decision, all parties will be recalled and the applicant/licence holder will be informed of the Members decision by the Chairman.
14.	The Chair will inform the applicant/licence holder of the decision reached. This will include any specific conditions or penalties which may have been imposed. If necessary the Council's Solicitor to provide further clarification of the decision and its implications to the applicant/licence holder.
15.	If the decision is to refuse or there is a decision to suspend or revoke, the Council's Solicitor to inform the applicant/licence holder of the right of appeal to the Magistrates' Court (the decision letter will also include these details).
16.	For an existing licensed driver (issued by Denbighshire), and the decision involves a resolution by the Committee to suspend or revoke the existing licence, Members may do so under either: <ul style="list-style-type: none"> <li>1. Section 61 (2A) of the Local Government (Miscellaneous Provisions) Act 1976.</li> <li>2. Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976. This decision will have IMMEDIATE EFFECT and can only be used when the grounds for suspension/revocation are a public safety matter.</li> </ul> <p>The Solicitor will explain to the licence holder the implications of the decision.</p>
17.	The applicant/licence holder will be informed of the decision in writing as soon as practicable.
18.	The applicant/licence holder will be invited to discuss any matter they are unsure of with Licensing Officers after the Committee

## LOCAL GOVERNMENT ACT 2000

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### Code of Conduct for Members

### DISCLOSURE AND REGISTRATION OF INTERESTS

I, *(name)*

a \*member/co-opted member of  
*(\*please delete as appropriate)*

**Denbighshire County Council**

**CONFIRM** that I have declared a \***personal / personal and prejudicial** interest not previously declared in accordance with the provisions of Part III of the Council's Code of Conduct for Members, in respect of the following:-

*(\*please delete as appropriate)*

Date of Disclosure:

Committee *(please specify)*:

Agenda Item No.

Subject Matter:

Nature of Interest:

*(See the note below)\**

Signed

Date

\*Note: Please provide sufficient detail e.g. 'I am the owner of land adjacent to the application for planning permission made by Mr Jones', or 'My husband / wife is an employee of the company which has made an application for financial assistance'.

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## LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 10 June 2015 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Bill Cowie, Richard Davies, Hugh Irving, Barry Mellor, Peter Owen, Pete Prendergast, Arwel Roberts and Cefyn Williams

### ALSO PRESENT

Principal Solicitor (AL), Public Protection Manager (IM), Licensing Officer (NJ), Licensing Enforcement Officer (HB), Senior Community Safety Enforcement Officer (TWE) and Committee Administrator (KEJ)

#### 1 APOLOGIES

Councillor Win Mullen-James

#### 2 APPOINTMENT OF CHAIR

Nominations were sought for the position of Chair of the Licensing Committee for 2015/16. Councillor Hugh Irving proposed, seconded by Councillor Peter Owen that Councillor Cefyn Williams be appointed Chair. Councillor Joan Butterfield proposed, seconded by Councillor Pete Prendergast that Councillor Barry Mellor be appointed Chair. Following a secret ballot it was –

**RESOLVED** that Councillor Cefyn Williams be appointed Chair of the Licensing Committee for the ensuing year.

#### 3 APPOINTMENT OF VICE CHAIR

The Chair invited nominations for Vice Chair of the Licensing Committee for 2015/16. Councillor Joan Butterfield proposed, seconded by Councillor Pete Prendergast that Councillor Barry Mellor be appointed Vice Chair. It was subsequently –

**RESOLVED** that Councillor Barry Mellor be appointed Vice Chair of the Licensing Committee for the ensuing year.

#### 4 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest had been raised.

#### 5 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

## **6 MINUTES OF THE LAST MEETING**

The minutes of the Licensing Committee held on 4 March 2015 were submitted.

***RESOLVED** that the minutes of the meeting held on 4 March 2015 be received and confirmed as a correct record.*

## **7 HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER DRESS CODE UPDATE REPORT**

The Public Protection Manager (IM) submitted a report by the Head of Planning and Public Protection (previously circulated) presenting members with representations received following their decision to prohibit licensed drivers from wearing shorts under the Driver Dress Code approved at the committee's last meeting.

There had been significant media interest in the decision and a petition entitled "Petition for continued Wearing of Shorts by Taxi Drivers in Denbighshire" had been handed to the Council in May 2015. In light of the representations received and given the wording of the draft Dress Code subject of the consultation to allow tailored shorts to the knee, members were asked to consider whether sufficient consultation or discussion had been given to prohibit shorts being worn.

Members debated the merits of the decision to prohibit drivers from wearing shorts and there were mixed views in this regard. Councillors Joan Butterfield, Bill Cowie and Barry Mellor spoke in favour of lifting the ban and allowing tailored shorts to the knee but no denim or sports shorts. Taking into account the views of the taxi trade this amendment was considered reasonable to ensure the comfort of the driver during hot weather whilst still projecting a professional image of the trade. It was noted that the consultation had been based on permitting tailored shorts to the knee and that proposal had been accepted by those licence holders who attended the workshop session. Consequently it was not considered necessary to re-consult on that proposal. Councillor Hugh Irving spoke in favour of retaining a total ban on wearing shorts to promote a professional image of the trade and he made comparisons to the dress code/uniforms of other organisations and referred to taxi professions in other countries. He felt taxi drivers should meet similar standards to ensure a favourable impression on customers and visitors to the area. He also highlighted the difficulty of adjudicating on the diversity of shorts worn. Other members responded that it was unfair to make comparisons with much larger organisations and different professions, particularly given that many drivers were self-employed. It was also noted that the Council's own dress code allowed shorts to be worn provided they were smart and professional.

Councillor Hugh Irving proposed, seconded by Councillor Peter Owen to keep the Dress Code as agreed on 4 March 2015. Councillor Joan Butterfield proposed, seconded by Bill Cowie to amend the Dress Code to allow tailored shorts to the knee but be a bit more prescriptive i.e. no denim or sports shorts. Upon being put to the vote it was –

***RESOLVED** that officers be asked to amend the Hackney Carriage and Private Hire Vehicle Dress Code to allow tailored shorts to the knee but be a bit more prescriptive, i.e. no denim or sports shorts.*

## **EXCLUSION OF PRESS AND PUBLIC**

***RESOLVED** that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 13 of Part 4 of Schedule 12A of the Act.*

### **8 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 15/0269/TXJDR**

[This item was brought forward on the agenda with the consent of the Chair.]

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) the suitability of Driver No. 15/0269/TXJDR to hold a licence to drive hackney carriage and private hire vehicles following accrual of 20 penalty points under the Council's penalty point scheme for smoking in a smoke free vehicle on two separate occasions in January 2015;
- (ii) the Driver having been reported for the two smoking offences together with one offence of littering and issued with three fixed penalty notices (a summary of facts together with associated witness statements and documentation had been attached to the report), and
- (i) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Driver was in attendance at the meeting and confirmed he had received the report and committee procedures. The Enforcement Officer introduced the report and detailed the facts of the case. In cases where 20 or more penalty points had been accrued in a 24 month period the matter was referred to committee for review.

The Driver addressed the committee and accepted he was responsible for the breaches as detailed within the report and apologised for his actions. He referred to his personal circumstances at the time of the incidents by way of explanation but accepted that did not excuse his behaviour. In response to questions the Driver advised that he recognised the seriousness of the situation and gave assurances that he had since given up smoking and there would be no repeat offence. He had been a licensed driver for fifteen years with an unblemished record and provided a good service for customers. In making his final statement the Driver again apologised for his actions and provided assurances as to his future conduct.

The committee adjourned to consider the case and it was –

**RESOLVED** that a warning be issued to Driver No. 15/0269/TXJDR as to his future conduct.

The reasons for the Licensing Committee's decision were as follows –

Members considered the report and responses provided by the Driver to questions. The Committee had found the Driver to be honest about the incident and genuine in his remorse. Assurance had been taken from the Driver's previous good conduct and the fact that he had since given up smoking. The committee accepted the Driver's assurances regarding his future behaviour and considered a formal warning to be appropriate in this case.

The committee's decision and reasons therefore were conveyed to the Driver.

**9 REVIEW OF A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - DRIVER NO. 14/0459/TXJDR**

[This item was brought forward on the agenda with the consent of the Chair.]

A confidential report by the Head of Planning and Public Protection (previously circulated) was submitted upon –

- (i) the suitability of Driver No. 14/0459/TXJDR to hold a licence to drive hackney carriage and private hire vehicles following accrual of 20 penalty points under the Council's penalty point scheme for presenting a licensed vehicle for test in an unsafe and dangerous condition;
- (ii) details of the defects noted following presentation of the vehicle for a Compliance/MOT test had been included within the report together with associated witness statements and documentation, and
- (ii) the Driver having been invited to attend the meeting in support of his licence review and to answer members' questions thereon.

The Driver was in attendance at the meeting and confirmed he had received the report and committee procedures. The Enforcement Officer introduced the report and detailed the facts of the case. In cases where 20 or more penalty points had been accrued in a 24 month period the matter was referred to committee for review.

The Chair read out a written statement submitted by the Driver in support of his licence review in which he acknowledged the vehicle defects and his responsibility in that regard. The Driver explained the issues had arisen out of ignorance and he had since been made fully aware of the necessary requirements. The vehicle had undergone extensive repair and had passed the necessary tests. Further assurance could be taken from the repair and maintenance contract on the vehicle. The Driver responded to questions regarding previous maintenance of the vehicle and measures taken to ensure it was fit for use. He also acknowledged the seriousness of the offence. In his final statement the Driver provided assurances regarding future maintenance of the vehicle.

The committee adjourned to consider the case and it was –

**RESOLVED** that the hackney carriage and private hire vehicle drivers licence issued to Driver No. 14/0459/TXJDR be suspended on the grounds of public safety for a period of two weeks.

The reasons for the Licensing Committee's decision were as follows –

During deliberations members carefully considered the evidence presented and the Driver's submissions in support of his licence review. The committee found that notwithstanding the mechanical defects, the Driver must have known the vehicle had defects since some were clearly visible. Serious concerns were expressed that the Driver had knowingly driven a licensed vehicle with defects and had placed the public at risk. However credit had been given to the Driver for ensuring the defects had been rectified and the vehicle had since passed the necessary tests. Assurance had also been taken from the vehicle maintenance/repair contract secured for the vehicle. Consequently the committee considered a two week suspension on public safety grounds to be reasonable in this case.

The committee's decision and reasons therefore were conveyed to the Driver.

As an aside members expressed concern that responsibility for the condition of licensed vehicles remained solely with the owner/driver and considered taxi companies should also take responsibility when sub-contracting work. The committee asked that officers further investigate this issue and report back thereon.

At this juncture (11.10 a.m.) the meeting adjourned for a refreshment break.

## **OPEN SESSION**

Upon completion of the above business the meeting resumed in open session.

### **10 PROPOSED PRIVATE HIRE PLATE EXEMPTION POLICY**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) recommending approval of the proposed Private Hire Plate Exemption Policy for formal consultation.

Officers reported upon the legalities governing the issue and display of private hire identification plates including the Council's discretion to grant dispensation from displaying licence plates. The proposed policy would enable the Council to make transparent decisions and provide guidance to potential applicants on suitable exemptions. Members supported the policy as a means of providing a consistent approach when dealing with requests for plate exemption and it was –

**RESOLVED** that –

- (a) *the proposed Private Hire Plate Exemption Policy, as detailed in Appendix A to the report, be supported and approved for formal consultation, and*

- (b) *following consultation officers report back any responses to Full Council for consideration and approval of the proposed new policy.*

## **11 HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE POLICY REVIEW**

The Licensing Officer (NJ) submitted a report by the Head of Planning and Public Protection (previously circulated) updating members on the review of the existing Hackney Carriage and Private Hire Vehicle policy and proposed future actions.

The review would examine the suitability of all vehicles and include the existing age policy, upper age policy, whether a vehicle colour policy was appropriate, and vehicle accessibility. In terms of vehicle specification and testing it was suggested that officers from Fleet Services attend a future meeting of the committee to provide advice and guidance on vehicle safety and regulations, in particular the testing of vehicles. An action plan had been prepared to progress the review and members were asked to nominate one or two representatives to attend the planned workshop sessions in order to facilitate that process and provide input at an early stage.

**RESOLVED** that –

- (a) *the contents of the report be noted and Fleet Service be invited to the committee's September meeting to provide a presentation on vehicle specification and testing, and*
- (b) *Councillors Pete Prendergast and Cefyn Williams (Chair) be nominated to attend the scheduled workshop sessions as detailed in the action plan (Appendix B to the work programme report).*

## **12 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2015/16**

A report by the Head of Planning and Public Protection was submitted (previously circulated) on the priorities of the Licensing Section together with the proposed work programme for the Licensing Committee for 2015/16.

Officers elaborated upon the priorities identified which had been included in the work programme together with a series of action plans including a timescale for completion over the next eighteen months. In light of discussions at the recent member training event it was recommended that the regulation of hackney carriage vehicles be removed from the work programme. Whilst accepting the reasons not to pursue a restriction on taxi numbers Councillor Joan Butterfield reiterated her concerns regarding ranks and advised that she would take the matter up directly with the Highways Department together with the impact of the proposal to introduce a programme of dimming street lighting in the county.

**RESOLVED** that –

- (a) *the regulation of Hackney Carriage Vehicles be removed from the Forward Work Programme for 2015/16, and*

*(b) the Licensing Committee's forward work programme and priorities for the Licensing Section for 2015/16 be approved.*

The meeting concluded at 11.45 a.m.

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<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	23 September 2015
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection Services
<b>CONTACT OFFICER:</b>	Enforcement Officer <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706382
<b>SUBJECT:</b>	Review of Current Penalty Points Policy & Procedure

## 1. PURPOSE OF THE REPORT

- 1.1 To provide members with feedback following implementation of the Penalty Points Policy & Procedure and to seek authority to consult with licensees on amendments to the Policy & Procedure.

## 2. EXECUTIVE SUMMARY

- 2.1 The Penalty Points Policy and Procedure is a single document encompassing how the Council will deal with minor breaches in respect of taxi licensing and was approved by Members in September 2014.
- 2.2 The issuing of points has been active since January 2015. A breakdown of the points awarded to date is provided in this report.
- 2.3 Since its introduction issues on the level of awarded points and on clarity have arisen. Amendments to the Penalty Points Policy and Procedure to clarify those issues will require further consultation with those most affected by this Policy and Procedure.

## 3. BACKGROUND INFORMATION

- 3.1 The council's key responsibility under the licensing legislation is to ensure that only fit and proper persons are granted and remain hackney carriage / private hire drivers or operators. This is to ensure the safety of those using hackney carriages and private hire vehicles and general public.
- 3.2 Members will be aware that Officers presented a revised Penalty Point Policy and Procedure at the September 2014 Committee meeting.
- 3.3 Member resolved to adopt the revised Penalty Points Policy and Procedure, following a grace period of one month in which time Officers would provide advice and guidance to licence holders who commit a

breach/infringement under the Policy and Procedure.

- 3.4 In adopting the Policy and Procedure members requested a progress report on the on the anniversary of the introduction of the Policy and Procedure.
- 3.5 The current Penalty Points Policy and Procedure, together with a list of offences and penalty point tariffs for infringements, can be found at Appendix A
- 3.6 Points have been awarded throughout the year to 12 drivers in total, some of whom have had more than one breach and therefore multiple points being issued. Some of these drivers have appeared before the Committee or are due to do so. A report detailing the awarded points to date can be found at Appendix B
- 3.7 A workshop was held on 28<sup>th</sup> July 2015 with was attended by some taxi industry professionals. During the event comments were made on some aspects of the Penalty Point Scheme. These comments, together with comments of operational staff in the Council, have led to amendments to the Policy and Procedure document, including the Scale of Penalty Points. An amended version of the Policy and Procedure document is at Appendix C and a table identifying the proposed amendments to the Scale of Penalty Points is at Appendix D.

#### **4 Consultation**

- 4.1 No formal consultation has taken place although, as stated above, a workshop was convened to which to which all licensed drivers were invited. Focus was on private hire vehicles with some time set aside for Penalty Point matters. A small number of taxi industry representatives attended.

#### **5. Recommendations**

- 5.1 Members acknowledge the information provided on the breakdown of the points issued.
- 5.2 For Members to authorise Officers to start formal consultation. Following consultation, any relevant representations received would be reported back to the next Licensing Committee for Members consideration. Where no relevant representations are received, the revised Policy and Procedure will come into effect one month after the end of the consultation period has expired.

## **PENALTY POINT POLICY AND PROCEDURE**

### **1 INTRODUCTION**

- 1.1 The existing hackney carriage and private hire conditions were approved in March 2011. Officers are reviewing the set of conditions and are making incremental changes to the condition book. The existing conditions makes reference to an existing Penalty Point procedure.
- 1.2 This document details a revised Penalty Point procedure used by the Council to deal with minor breaches or infringements of legislation or unacceptable behaviour committed by those licensed as Drivers and Operators and vehicle proprietors, in much the same way that points can be attached to a DVLA driving licence.

### **2 POLICY STATEMENT**

- 2.1 The aim of this policy is to improve the levels of compliance of licensing regulations and requirements and to help raise standards, safety and the protection of members of the public affected by the actions of licensed drivers and operators and vehicle proprietors.
- 2.2 The Council is committed to ensure that only fit and proper persons become, and remain, as hackney carriage and private hire drivers and Operators and vehicle proprietors.
- 2.3 The procedure also seeks to improve the level of transparency and consistency in which the licensing system is administered and enforced.

### **3. PURPOSE OF THE PROCEDURE**

- 3.1 The penalty point procedure is designed to work in conjunction with other enforcement options, identifying those drivers, operators or vehicle proprietors who repeatedly behave in a manner which, if taken as a whole, indicates that they are not fit and proper persons to hold a licence.
- 3.2 The Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 (the relevant legislation covering such licences), only allows for the suspension or revocation of a licence, or the prosecution of a licence holder where they commit an offence under the above legislation. Therefore there is no system in place to deal with minor breached or infringements, which in isolation are not serious enough to warrant the suspension or revocation of a licence.

### **4. WHO IS COVERED BY THE PROCEDURE**

- 4.1 Penalty Points may be awarded against anyone holding a hackney carriage and private hire driver licence or a Private Hire Operator Licence or Vehicle Proprietor.

## **5. ISSUING OF PENALTY POINTS**

- 5.1** Officers will investigate allegations of offences, by licensed operators, drivers or vehicles owners. When considering what action to take the Council officers will take into account all available and appropriate evidence, such as eye witness accounts and their reliability, the views of the licence holder who may be affected by the outcome of the investigation, etc.. The outcome of investigations may result in a wide range of potential actions. This procedure deals with the option of penalty points. For other enforcement action please refer to the relevant procedures.
- 5.2** Once the conclusion to issue penalty points, letters will be sent to all persons/organisations involved in the allegation(s) detailing the findings and decision of the Council officer. A record of the decision will be kept on the relevant licensed driver's, licensed vehicle owner's, or operator's file, including copies of any "Penalty Points Notice(s)" issued, where applicable.
- 5.3** The points will be issued by an Officer or the Committee will be confirmed in writing within 14 days of their issue.
- 5.4** Any points incurred under the Scheme are completely separate from any points which may be attached by the Police, through fixed penalty notices, or the Courts, through convictions to DVLA driving licences.
- 5.5** Confirmed infringements or breaches will act as an ongoing record of a driver's, licensed vehicle owner's or operator's behaviour and conduct, so as to ascertain whether they are a fit and proper person to hold such a licence.
- 5.6** Where a licence holder accumulates 20 or more penalty points in a 24 month rolling period (a period of 24 consecutive months determined on a rolling basis with a new 24 month period beginning each day) the matter will be referred to the Council's Licensing Committee. The Committee will be required to determine whether the driver or operator is a fit and proper person. The following action can be taken by the Committee:
- i. Take no action
  - ii. Issue a warning
  - iii. Issue additional penalty points
  - iv. Suspend a licence as a punitive sanction
  - v. Suspend a licence to correct a fault, defect, or breach
  - vi. Revoke or refuse to renew a licence
- 5.7** Periods of suspension will be determined by the Licensing Committee and will depend on the nature of the offence, breach, or infringement and the individual's compliance history. A determination will also be made as to whether the suspension or revocation is on the grounds of public safety, thereby having immediate effect.

**5.8** Where a driver, proprietor or operator reaches the 20 points and is referred to the Committee it will not preclude all relevant information being disclosed. This will include any other penalty points, complaints, warnings, and suspensions etc. The 20 points will be a referral trigger.

## **6. A BREACH OR INFRINGEMENT IS DISCOVERED**

**6.1** If there is good evidence that there was a breach or inappropriate behaviour and it is considered appropriate to do so, the licence holder will be issued with a penalty point notice.

**6.2** The penalty point notice will describe the infringement or breach, date and time it took place, and how many points have been issued to the licence holder.

**6.3** The Council reserve the right to not impose penalties points under this scheme where in the opinion of the Officers the allegations are either frivolous, vexatious or repetitious, or made, in the Officers opinion, to further personal grievances or which are not made within a reasonable time period, to be determined by the Council depending on the individual circumstances, of the breach having occurred.

## **7. HOW TO REPORT AN INFRINGEMENT**

**7.1** Complaints from members of the public, residents or businesses concerning any breaches of conduct will be subject to investigation by Officers, and only where there is clear, verifiable evidence of an infringement eg a photograph of an illegally parked vehicle, then the Council may issue a penalty point notice based on that evidence. These investigations may be dealt with by way of issuing penalty points under this scheme or in serious cases automatic referral to the Licensing Committee.

**7.2** A form that guides how to report an infringement is available on the Council's website at [www.denbighshire.gov.uk/licensing/taxis](http://www.denbighshire.gov.uk/licensing/taxis)

## **8. INFRINGEMENTS/BREACHES COVERED BY THE SCHEME**

**8.1** A full list of infringements and breaches covered by this Scheme can be found at Appendix 1.

## **9. APPEALS**

**9.1** If no appeal is lodged within 10 days of receiving the Notice, then the Council will take the view that the licence holder has accepted the penalty points.

**9.2** If a licensee wishes to appeal against the issue of a "penalty points notice" he/she must do so in writing, stating the reasons of the appeal, within 10 working days from the date of issue of such a notice, to the Council's Head of Planning and Public Protection or in his/her absence

the Public Protection Manager, who, in consultation with the Chairman of the Licensing Committee, will have the discretion to:-

- i. uphold the Council Officer's decision – retain the number points on the "penalty points notice"; or
- ii. cancel the issue of the "penalty points notice" to the licensee.

**9.3** There is no appeal beyond the decision made by the Head of Public Protection. However, should a licensee be subsequently reported to the Licensing Committee for accumulating 20 penalty points, he/she has the opportunity to raise the validity of the points issued.

## **10. RE-APPLYING FOR A LICENCE**

**10.1** If a licence holder has had their licence revoked, they may apply for a new licence, but its Council Policy that such an application under the Penalty Point Scheme will not be entertained until a suitable period from the date of revocation has elapsed, as detailed below:

- i. where the penalty points which resulted in the revocation included any infringements that attracted 10 or more points, then this period will be 24 months
- ii. where none of the infringements individually attracted more than 10 points, then this period is reduced to twelve months

**10.2** It should not be assumed that an application for a new licence, following revocation under this Scheme, will automatically be granted. Any application will be subject to the Council's normal application process and consideration of whether the applicant is a fit and proper person to hold a licence.

## **11. DELEGATION OF FUNCTIONS**

**11.1** The Head of Planning and Public Protection Public Protection can delegate authority to the Public Protection Manager to issue penalty points in accordance with this policy. The Public Protection Manager can also delegate this function to an authorised Officer of the Council.

## **12. REVIEW OF THE SCHEME**

**12.1** This Policy will be reviewed every three years. Notwithstanding this, the policy will continue to be evaluated and may be updated at any time, subject to the appropriate consultation.

## APPENDIX 1 – PENALTY POINT SCHEME

**FOR BREACHES OR INFRINGEMENTS BY HACKNEY CARRIAGE AND PRIVATE HIRE OPERATORS, DRIVERS AND VEHICLE PROPRIETORS**

### SCALE OF PENALTY POINTS

REF No	BREACH/OFFENCE OR INFRINGEMENT	PENALTY POINTS	DRIVER	PROPRIETOR OR OPERATOR
1	<p><b>Use/Cause/Permit</b> a vehicle to be driven with a defect contrary to Road Vehicle (Construction &amp; Use) Regs 1986 (as amended) (per defect):</p> <ul style="list-style-type: none"> <li>a) Defective tyres (including spare)</li> <li>b) Defective brakes</li> <li>c) Defective seat belts</li> <li>d) Defective steering</li> <li>e) Defective suspension</li> <li>f) Defective doors ( closing/ locking mechanism)</li> <li>g) Defective windscreen - cracked etc in drivers view</li> <li>h) Defective bodywork- sharp edges, corrosion likely to cause injury to persons</li> <li>i) Defective headlamps, brake lights, sidelights</li> <li>j) Defective windscreen wipers/washers</li> <li>k) Defective exhaust</li> <li>l) Defective horn</li> <li>m) Insecure battery which could be a fire risk.</li> </ul> <p><b>Note</b> – Officers will consider imposing points for the above breaches to either operator/driver or both dependant on the circumstances and evidence. For example, if the defect has been reported by the driver to the operator (evidence of daily checks required) then the operator will have points imposed. In certain circumstances this will not be appropriate ie when a driver has reported defective tyres but still drives</p>	<p><b>3 or 6 as detailed below)</b></p> <ul style="list-style-type: none"> <li>6</li> <li>3</li> <li>3</li> <li>3</li> <li>6</li> </ul>	<ul style="list-style-type: none"> <li>✓</li> </ul>	<ul style="list-style-type: none"> <li>✓</li> </ul>

	the vehicle, then both operator and driver will receive points as there is a serious safety issue.			
2	Failing to produce Certificate of Compliance, MOT certificate, driving licence or insurance certificate, which is valid on the day of request, within 7 days of being requested	3	✓	✓
3.	Obstructing an authorised officer or Police Officer	10	✓	✓
4	Failure to carry an assistance dog without an exemption notice	3	✓	
5	Using or allowing a vehicle to be used subject to a suspension/revocation issued by an Authorised Officer or Police Officer	20		✓
6	Using an unlicensed vehicle or licensed vehicle without Insurance	20	✓	✓
7	Driver using a handheld mobile phone, handheld two way radio, whilst the vehicle is in motion	6	✓	
8	Presenting a licensed vehicle for testing in an unsafe or dangerous Condition	20		✓
9	Providing false or misleading information on licence application form / failing to provide relevant information or the relevant fee (including dishonoured cheques)	10	✓	✓
10	Failure to submit a licensed vehicle that is 5 years old, or more for a 6 monthly MoT and provide documented proof to the Council that it has passed such a test. The Council will expect to see documentary evidence that such a test has been carried out within 4 weeks of the due date of the MoT test.	3		✓
11	Operator failing to keep proper records or keep records in accordance with the licence conditions	3		✓
12	Failing to notify the Council of details of road traffic collision within 72 hours	3	✓	✓
13	Failure to behave in a civil and orderly manner (including rude or aggressive behaviour) to a member of the public, licensed driver or Officer of the Council or Police Officer	10	✓	✓
14	Plying for hire by private hire drivers.	10	✓	
15	Carrying more passengers than the capacity stated on the vehicle licence.	20	✓	
16	Failure to carry an up to date fire extinguisher.	3		✓
17	Failure to wear private hire/hackney carriage driver's badge.	3	✓	
18	Refusal to accept hiring without reasonable cause eg reasonable cause - when	3 or 6	✓	

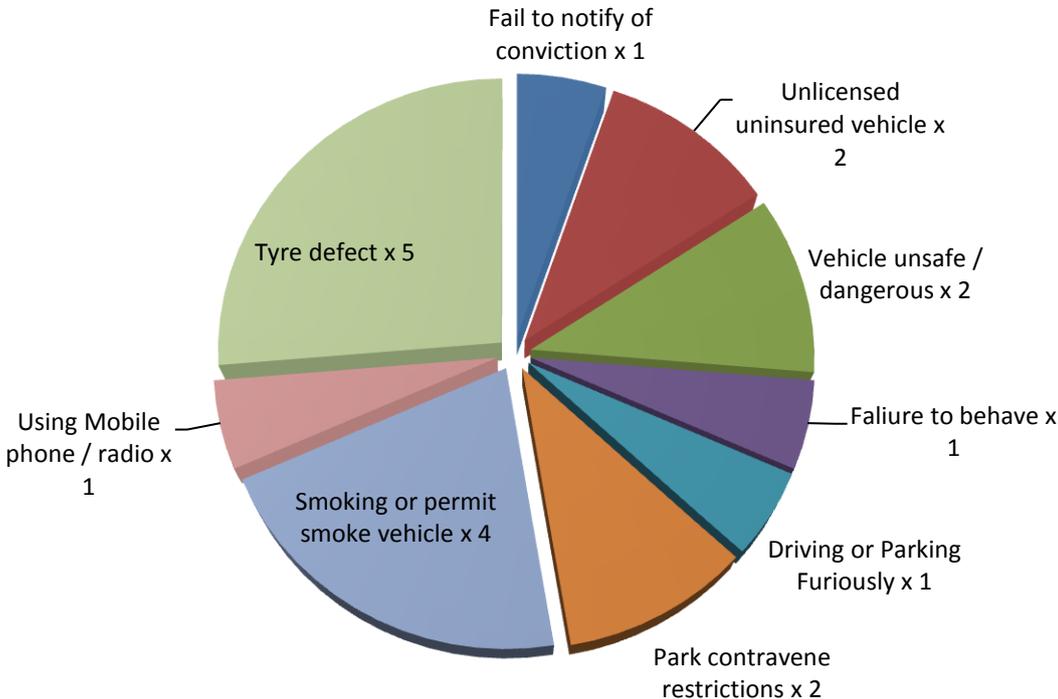
	drunk or rude customer			
19	Failure to observe rank discipline – taxi drivers (e.g. plying for hire outside the markings of one of the County’s taxi ranks – parking in front or behind rank).	5	✓	
20	Failure to give assistance with loading/unloading luggage to or from any building or place, without reasonable cause eg temporary medical condition	3	✓	
21	Failure to attend punctually at appointed time and place without sufficient cause:			
	i.    During daytime	3	✓	
	ii.   During the hours of darkness	6	✓	
22	Leaving a Hackney Carriage unattended whilst on a designated rank, without reasonable cause eg quick toilet break	3	✓	
23	Failure to comply with the Driver Dress Code	3	✓	
24	Failure to comply with the Code of Good Conduct	5	✓	✓
25	Displaying any feature on a private hire vehicle that may suggest that it is a taxi vehicle.	5		✓
26	Failure to carry a legal spare wheel and tools or other method of repair eg foam/run flat tyre	3	✓	✓
27	Failure to display the external/internal licence plate or signs as required.	3		✓
28	Displaying unsuitable or inappropriate sited signs or unauthorised advertisements in or on the vehicle.	3		✓
29	Charging hackney carriage passenger more than the metered or agreed fare	6	✓	
30	Failure to return a vehicle licence plate within 7 days after Request	6		✓
31	Using a non-approved or non-calibrated taximeter	6		✓
32	Unreasonably prolonging a journey or any misconduct regarding the charging of fares	6	✓	
33	Failure to notify the Council, in writing, of any conviction, caution, fixed penalty or similar within 7 working days	6	✓	✓

34	Failure to notify the Council, in writing, of a change of address within 7 working days	3	✓	✓
35	Failure to notify, in writing, a change in medical circumstances	6	✓	
36	Unsatisfactory condition of a vehicle (interior or exterior):			
	i) Dirty exterior	3		✓
	ii) Filthy and stained interior	6		✓
37	Driving or parking in a manner likely to cause inconvenience, distress or danger to members of the public eg tailgating/speeding/overtaking/furious driving	6	✓	
38	Parking in contravention of public highway parking restrictions including occupying/parking in a loading bay	5	✓	
39	Parking/stopping or picking up or dropping off passengers on zigzags of a pedestrian crossing or school entrance	6	✓	
40	Failing to display Hackney Carriage fare card in vehicle	3	✓	✓
41	Failure to present vehicle for inspection by an authorised officer at required time/location.	10		✓
42	Private Hire driver charging or attempting to charge more than the fare agreed with the customer by the operator	6	✓	
43	Private hire vehicle parking/waiting on a taxi rank	6	✓	
44	Smoking in a licensed vehicle, and allowing passengers to smoke in a licensed vehicle	10	✓	

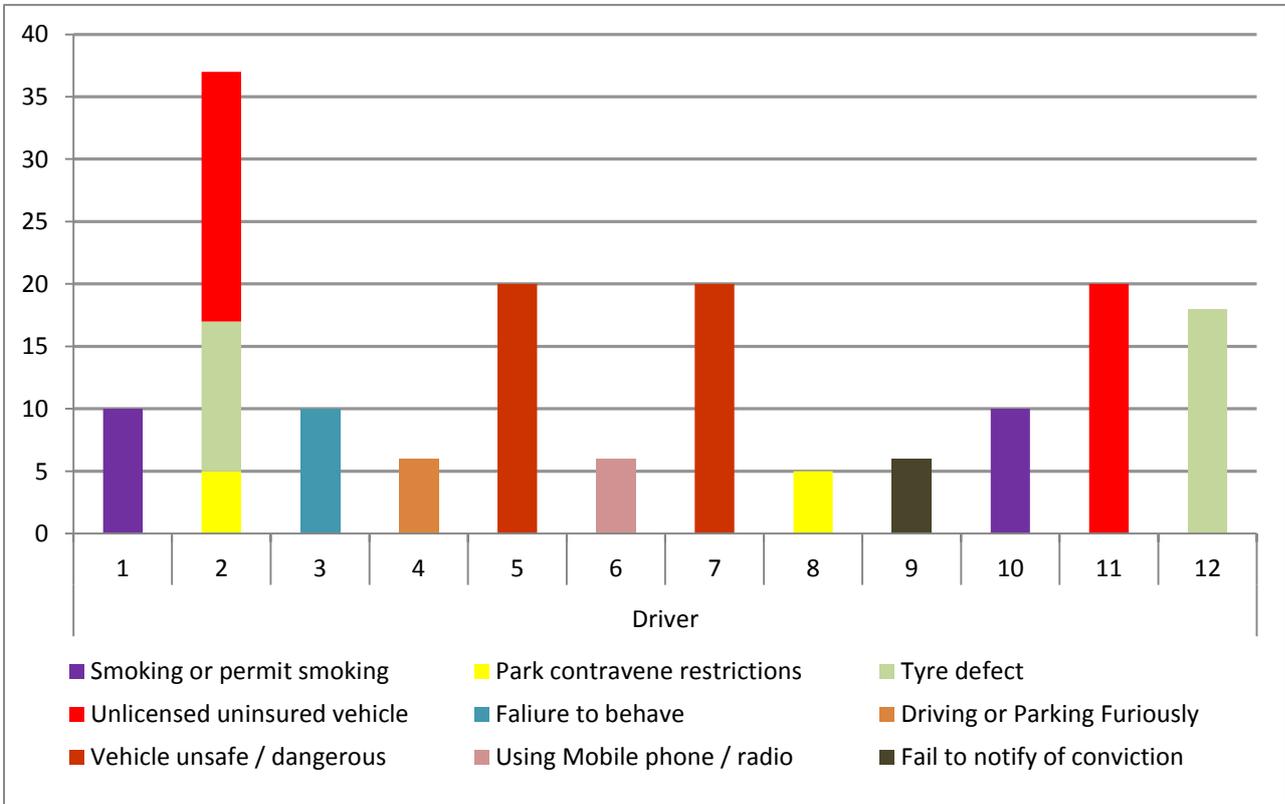


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Breakdown of Penalty Points Issued by Type



Breakdown of Penalty Points Issued by Driver



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# PENALTY POINT POLICY AND PROCEDURE

## 1 INTRODUCTION

- 1.1 The existing hackney carriage and private hire conditions were approved in March 2011. Officers are reviewing the set of conditions and are making incremental changes to the condition book. The existing conditions makes reference to an existing Penalty Point procedure.
- 1.2 This document details a revised Penalty Point procedure used by the Council to deal with minor breaches or infringements of legislation or unacceptable behaviour committed by those licensed as Drivers and Operators and vehicle proprietors, in much the same way that points can be attached to a DVLA driving licence.

## 2 POLICY STATEMENT

- 2.1 The aim of this policy is to improve the levels of compliance of licensing regulations and requirements and to help raise standards, safety and the protection of members of the public affected by the actions of licensed drivers and operators and vehicle proprietors.
- 2.2 The Council is committed to ensure that only fit and proper persons become, and remain, as hackney carriage and private hire drivers and Operators and vehicle proprietors.
- 2.3 The procedure also seeks to improve the level of transparency and consistency in which the licensing system is administered and enforced.

## 3. PURPOSE OF THE PROCEDURE

- 3.1 The penalty point procedure is designed to work in conjunction with other enforcement options, identifying those drivers, operators or vehicle proprietors who repeatedly behave in a manner which, if taken as a whole, indicates that they are not fit and proper persons to hold a licence.
- 3.2 The Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 (the relevant legislation covering such licences), only allows for the suspension or revocation of a licence, or the prosecution of a licence holder where they commit an offence under the above legislation. Therefore there is no system in place to deal with minor **breaches** or infringements, which in isolation are not serious enough to warrant the suspension or revocation of a licence.

## 4. WHO IS COVERED BY THE PROCEDURE

- 4.1 Penalty Points may be awarded against anyone holding a hackney carriage **licence; a private hire driver licence; a Private Hire Operator**

Licence or a Vehicle Proprietor.

## 5. ISSUING OF PENALTY POINTS

5.1 Officers will investigate allegations of offences by licensed operators, drivers or vehicles owners. When considering what action to take the Investigating officer(s) will take into account all available and appropriate evidence, such as eye witness accounts and their reliability, the views of the licence holder who may be affected by the outcome of the investigation, etc.. The outcome of investigations may result in a wide range of potential actions. This procedure deals with the option of penalty points. For other enforcement action please refer to the relevant procedures.

5.2 Once the decision to issue penalty points is made, letters will be sent to all persons/organisations involved in the allegation(s) detailing the findings and decision of the Investigation officer. A record of the decision and any copies of associated documents will be kept on file (usually in secure electronic format) and retained for a period of 6 months following the expiry of the 2 year rolling period referred to at 5.6 below.

5.3 The points will be issued by an Officer, or the Committee, and will be confirmed in writing within 14 days of their issue.

5.4 Any penalty points incurred under this procedure are completely separate from any points which may be attached by the Police, through fixed penalty notices, or the Courts, through convictions to DVLA driving licences.

5.5 Confirmed infringements or breaches resulting in the award of penalty points will act as an ongoing record of a licensee's behaviour and conduct and may be used in determining whether they are a fit and proper person to hold a licence.

5.6 Where a licence holder accumulates 20 or more penalty points in a 24 month rolling period (a period of 24 consecutive months determined on a rolling basis with a new 24 month period beginning each day) the matter will be referred to the next available Licensing Committee. The Committee will be required to determine whether the driver or operator is a fit and proper person. The following action can be taken by the Committee:

- i. Take no action
- ii. Issue a warning
- iii. Issue additional penalty points
- iv. Suspend a licence as a punitive sanction
- v. Suspend a licence to correct a fault, defect, or breach
- vi. Revoke or refuse to renew a licence

5.7 Periods of suspension will be determined by the Licensing Committee and will depend on the nature of the offence, breach, or infringement and the individual's compliance history. A determination will also be made as

to whether the suspension or revocation is on the grounds of public safety, thereby having immediate effect.

**5.8** Where a driver, proprietor or operator reaches the 20 points and is referred to the Committee it will not preclude all relevant information being disclosed. This will include any other penalty points, complaints, warnings, and suspensions etc. The 20 points will be a referral trigger.

**5.9** Where an identified breach results in the issue of a single award of 20 penalty points these matters will be considered as soon as is practicable by the Head of Planning & Public Protection or in his/her absence, the Head of Legal and Democratic Services, in consultation with the Chair of the Licensing Committee, or in his / her absence, the vice Chair, for appropriate action.

## **6. A BREACH OR INFRINGEMENT IS DISCOVERED**

**6.1** If there is good evidence that there was a breach or inappropriate behaviour and it is considered appropriate to do so, the licence holder will be issued with a penalty point notice.

**6.2** The penalty point notice will describe the infringement or breach, date and time it took place, and how many points have been issued to the licence holder.

**6.3** The Council reserve the right to not impose penalties points under this scheme where in the opinion of the Officers the allegations are either frivolous, vexatious or repetitious, or made, in the Officers opinion, to further personal grievances or which are not made within a reasonable time period, to be determined by the Council depending on the individual circumstances, of the breach having occurred.

## **7. HOW TO REPORT AN INFRINGEMENT**

**7.1** Complaints from members of the public, residents or businesses concerning any breaches of conduct will be subject to investigation by Officers, and only where there is clear, verifiable evidence of an infringement e.g. a photograph of an illegally parked vehicle, will result in the issue of a penalty point notice

**7.2** A form that guides how to report an infringement is available on the Council's website at [www.denbighshire.gov.uk/licensing/taxis](http://www.denbighshire.gov.uk/licensing/taxis)

## **8. INFRINGEMENTS/BREACHES COVERED BY THE SCHEME**

**8.1** A full list of infringements and breaches covered by this Scheme can be found at Appendix 1.

## **9. APPEALS**

- 9.1** If a licensee wishes to appeal against the issue of a “penalty points notice” he/she must do so in writing, stating the reasons of the appeal, within 10 working days from the date of issue of such a notice, to the Council’s Head of Planning and Public Protection or in his/her absence the Public Protection Manager, who, in consultation with the Chairman of the Licensing Committee, will have the discretion to:-
- i. uphold the Council Officer’s decision – retain the number points on the “penalty points notice”; or
  - ii. cancel the issue of the “penalty points notice” to the licensee.

**9.2** The Head of Planning and Public Protection or, as the case may be, the Public Protection Manager will write to the licensee informing them of the outcome within 10 working days of receiving the appeal.

**9.3** If no appeal is lodged within 10 days from the date of issue of the Notice, then the Council will take the view that the licence holder has accepted the penalty points.

**9.4** There is no appeal beyond the decision made by the Head of Public Protection. However, should a licensee be subsequently reported to the Licensing Committee for accumulating 20 penalty points, he/she has the opportunity to raise the validity of the points issued.

## **10. RE-APPLYING FOR A LICENCE**

**10.1** If a licence holder has had their licence revoked, they may apply for a new licence, but its Council Policy that such an application under the Penalty Point Scheme will not be entertained until a suitable period from the date of revocation has elapsed, as detailed below:

- i. where the penalty points which resulted in the revocation included any infringements that attracted 10 or more points, then this period will be 24 months
- ii. where none of the infringements individually attracted more than 10 points, then this period is reduced to twelve months

**10.2** It should not be assumed that an application for a new licence, following revocation under this Scheme, will automatically be granted. Any application will be subject to the Council’s normal application process and consideration of whether the applicant is a fit and proper person to hold a licence.

## **11. DELEGATION OF FUNCTIONS**

**11.1** The Head of Planning and Public Protection Public Protection can delegate authority to the Public Protection Manager to issue penalty points in accordance with this policy. The Public Protection Manager can

also delegate this function to an authorised Officer of the Council.

**12. REVIEW OF THE SCHEME**

- 12.1** This Policy will be reviewed every three years. Notwithstanding this, the policy will continue to be evaluated and may be updated at any time, subject to the appropriate consultation.

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## Appendix D

### Proposed Amendments to the Scale of Penalty Points

Ref No	Breach/Offence or Infringement	Current Penalty Points	Proposed Penalty Points	Reason for proposed change
7	Driver using a handheld mobile phone, handheld two way radio, whilst the vehicle is in motion	6	10	Such practices can be prejudicial to safety of the public and other road users and the award of 10points would mean a repeat incident triggers a referral to Committee whereas current scoring allows for at least 3 incidents before referral.
10	Failure to submit a licensed vehicle that is 5 years old, or more for a 6 monthly MoT and provide documented proof to the Council that it has passed such a test. The Council will expect to see documentary evidence that such a test has been carried out within 4 weeks of the due date of the MoT test.	3	10	Compliance testing is required for ensuring vehicles are in a safe condition. Failure to meet this requirement could lead to unsafe vehicles being used on the roads. Given the safety aspect it could be more appropriate to award 20 points.
12	Failing to notify the Council of details of road traffic collision within 72 hours	3	6	Accidents may lead to safety concerns for a vehicle early assessment of any licensed vehicle involved in a road traffic accident will enable officers to consider any relevant actions. An increase of points makes the requirement a higher priority than a simple procedural matter.
18	Refusal to accept hiring without reasonable cause e.g. when drunk or rude customer.	3 or 6	6	Current level of points is unclear and can be subjective, which in turn can lead to unnecessary appeals. Refusals could impact on vulnerable persons and the award of 6 points reflects a slightly higher breach than a minor procedural breach.
37	Driving or parking in a manner likely to	6	10	Such practices can be

	cause inconvenience, distress or danger to member of the public, e.g. tailgating / speeding / overtaking / furious driving.			prejudicial to safety of the public and other road users and the award of 10points would mean a repeat incident triggers a referral to Committee whereas current scoring allows for at least 3 incidents before referral.
45	Failure to display in a licensed vehicle, no smoking signage as prescribed in the Health Act 2006	NEW	3	Notices are a legislative requirement for business premises (which include vehicles). Award of 3 points (for the driver and / or vehicle owner) reflects a relatively minor offence. It should be noted however that the offence can be punishable by fixed penalty notice of £200 (for the business).

<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	23 <sup>rd</sup> September, 2015
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection Services
<b>CONTACT OFFICER:</b>	Senior Technical Officer (Licensing) <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706451
<b>SUBJECT:</b>	Proposed Review of Statement of Licensing Policy

## 1. PURPOSE OF THE REPORT

- 1.2 To inform Members of the Licensing Committee of the requirement to commence the consultation process associated with the Review of the Council's Statement of Licensing Policy.

## 2. EXECUTIVE SUMMARY

- 2.1 One of the responsibilities of the Local Authority, when acting in its capacity as Licensing Authority, and in accordance with Section 5 of the Licensing Act, is to determine and publish a Statement of Licensing Policy.
- 2.2 As required by legislation and Guidance issued by the Home Office under Section 182 of the Licensing Act, the Council is required to consult upon and prepare a Statement of Licensing Policy on at least a 5 yearly basis.

## 3. POWER TO MAKE THE DECISION

- 3.1 Section 5 of the Licensing Act 2003.

## 4. BACKGROUND INFORMATION

- 4.1 The first Statement of Licensing Policy adopted by the Council came into effect in January 2005.
- 4.2 The Statement of Licensing Policy establishes a local framework for decision-making when considering applications for relevant permissions or variations to existing terms and conditions. The Policy is of significant importance as the Licensing Committee and Sub-Committee are required

to have due regard to it, along with Guidance issued by the Home Office, when determining an opposed application.

- 4.3 The current Policy is due for Review and it is necessary for the Council to undertake a consultation process. In accordance with the statutory timescales, the revised Policy must be in place to take effect from January 2016.

## **5 CONSIDERATION**

- 5.1 Members will recall that the current Policy was prepared jointly with colleagues in Conwy County Borough Council; as that arrangement has come to an end, there has been a return to a “stand alone” Policy. Officers have, however been working alongside officers from other North Wales authorities in a collaboration project in preparation for this review.
- 5.2 Members will note that much of the content remains the same, however the introduction of the Police Reform and Social Responsibility Act 2011, the Anti-social Behaviour Crime and Policing Act 2014, along with the Deregulation Act 2015 have necessitated some changes.
- 5.3 It is considered that whilst a Statement of Licensing Policy must be individual to each authority, it would be helpful to applicants and responsible authorities alike, if those of neighbouring authorities were compiled in a similar manner. For this reason, Members will also note that, along with the changes mentioned above, the order of contents has been changed to a certain extent.
- 5.4 The draft Policy can be examined at Appendix A to this report, along with an explanatory table (Appendix B) detailing the major changes to the current Policy.
- 5.5 The document itself may still be subject to change as the collaboration project progresses, but officers expect the final draft to be ready for public consultation by October - November 2015.

## **6 CONSULTATION**

- 6.1 In order to comply with statutory requirements, the following agencies will be consulted:
- North Wales Police
  - North Wales Fire & Rescue Service

- Planning Services
- Trading Standards
- Environmental Health
- Children's Services
- Health & Safety
- Representatives of the local licensed trade
- Representatives of local businesses and residents
- All County Councillors
- Town and Community Councillors
- Community Safety Partnership

6.2 A public notice will also be published in an appropriate newspaper.

6.3 It is proposed that the following timescales be applied to allow for the proper consideration of the draft statement of policy:

- Proposed period for consultation – October/November 2015
- Adoption by Council – December/January 2016
- Publication of Policy – Early 2016

## **7 RECOMMENDATION**

That Members consider the attached draft Statement of Licensing Policy and authorise officers to commence consultation.

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## **CONTENTS**

1. Introduction
2. Scope and Extent
3. Licensing and Statutory Objectives
  - 3.1 Prevention of Crime and Disorder
  - 3.2 Public Safety
  - 3.3 Prevention of Public Nuisance
  - 3.4 Protection of Children from Harm
  - 3.5 Statutory Objectives
4. Cumulative Impact, Late Night Levy & Early Morning Restriction Orders
5. Planning and Building Control
6. Applications for New Grants and Variation of existing Terms and Conditions
7. TENs
8. Personal Licences
9. Club Premises Certificates
10. Operating Schedules
11. Hours of Operation
12. Enforcement and Review
13. The Licensing Process
14. The Licensing Committee – Delegation and Decision Making
15. Licensing Register
16. Exclusions
17. Consultation

*Appendix A – Approach to Problems Premises*

*Appendix B – Mandatory Conditions*

1	<b>INTRODUCTION</b>
	<p>Denbighshire is an attractive County in which to live and work which benefits from excellent transport links by road and rail. Our local economy relies upon tourism, in which many premises licensed for the sale of alcohol and entertainment play a prominent and increasingly important part.</p> <p>The mission of Denbighshire County Council - <b>‘We will efficiently deliver fair and flexible services for everyone, while making sure that we meet the priorities set out in our community strategy.’</b></p> <p>There are a number of corporate aims, many of which complement this Statement of Licensing Policy. These include:</p> <ul style="list-style-type: none"> <li>• Regenerate the Economy of the area</li> <li>• Promoting the Late Night Economy</li> <li>• Make the area a Safe, Healthy and Clean place to live</li> <li>• Protecting and Enhancing Conwy and Denbighshire’s Heritage</li> </ul>
1.1	The aim of the Policy is to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment industry. Denbighshire County Council recognises the need of residents for a safe and desirable environment to work and live in, and the importance of well-run, licensed premises in a vibrant and diverse local economy.
1.2	Denbighshire County Council will promote a “Late Night Economy Strategy” which will ensure residents and visitors are safe whilst out at night and on their way home.
1.3	To achieve this, the Council is committed to working in partnership with North Wales Police, North Wales Fire and Rescue Service, local businesses, residents and others towards ensuring the continued success of this Policy in achieving the statutory objectives of the Act.
1.4	The Policy provides information and guidance to applicants and any interested party in the manner in which Denbighshire will approach matters relating to licensing. Although each application will of course be considered on its own merits, the Council in adopting this Policy, is indicating the wider considerations that it will take into account when determining any licence application.
1.5	In preparing this Statement of Licensing Policy, Denbighshire County Council has given due regard to the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
1.6	In accordance with Statutory Procedures, a review of this Policy will take

1.7	<p>place in five years and will take into full account any relevant information received by way of consultation or otherwise and any initiatives relating to alcohol and entertainment.</p> <p><b><u>Tourism</u></b>  The Council recognises that licensed premises are a major contributor to the local economy. Any licence application will be considered by taking certain factors into account. These will include:</p> <ul style="list-style-type: none"> <li>• The general impact in attracting visitors to the area</li> <li>• Any enhancement the proposal might have on the attractiveness of the wider area</li> <li>• Employment opportunities</li> </ul>
1.8	<p><b><u>Live Music, Dancing and Theatre</u></b>  In accordance with the Guidance issued by the Secretary of State, the Licensing Authority recognises the need to encourage and promote live music, dancing and theatre for the wider cultural benefits of our community. A natural concern to prevent disturbance in the neighbourhood will always be balanced with the wider cultural benefits of the community. Any adverse environmental impact that may arise from such applications will always be taken into account when considering such applications. Where adverse environmental impact might arise due to provision of live music between 08:00hrs and 23:00hrs, and an application to review a premises licence has been received, the Licensing Authority will consider removing the exemption from licensing requirements and attach appropriate conditions to that premises licence.</p>
1.9	<p>The Council has granted premises licenses for public spaces, such as Promenades and town centres, in order to encourage community activities to take place.</p>
1.10	<p>The introduction of the Legislative Reform (Entertainment Licensing) Order 2014 and Deregulation Act 2015 means that some activities no longer require a licence under certain circumstances, and will be particularly welcomed by those wishing to organise community activities/events that previously would have required a licence.</p>
1.12	<p><b><u>Amenity</u></b>  The Licensing Authority has a duty to protect the amenity of the residents living in the area. This extends to the business community, who can expect the Council to ensure that the environment is attractive and sustainable for the conduct of their business. In considering any application for a premises licence, the Council will take certain factors into consideration; these will of course focus on the four statutory Licensing Objectives.</p>
1.13	<p>This Policy 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 Denbighshire with some measure of certainty.</p>

	<p><b>Notes</b>  <i>The content of this Policy should not be interpreted as an indication that any requirement of the Licensing Act 2003 or other law may be disregarded or overridden.</i></p> <p><i>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.</i></p> <p><i>The Licensing Act 2003 makes provision for this Policy to be consulted on and reviewed at least every five years. Accordingly, this Policy must be reviewed no later than January 2021.</i></p>
2	<b>Scope and Extent</b>
	<p>The Statement of Licensing Policy has been reviewed in accordance with the Guidance issued by the Secretary of State, and shall be applied by the Licensing Authority when dealing with any application that relates to those licensable activities identified by the Licensing Act 2003, which are:</p> <ul style="list-style-type: none"> <li>• The sale by retail of alcohol</li> <li>• The supply of alcohol by or on behalf of a club to, or to the order of a member of the club</li> <li>• The provision of late night refreshment (supply of hot food or drink from a premises between 23:00 and 05:00 hours)</li> <li>• The provision of regulated entertainment (Regulated entertainment is defined as any of the following which take place in the presence of an audience for the entertainment of that audience and are provided by members of the public or exclusively for the members of a qualifying club and/or their guests or for consideration and with a view to profit, this includes raising money for charity): <ul style="list-style-type: none"> <li>- a performance of a play</li> <li>- an exhibition of a film *</li> <li>- an indoor sporting event</li> <li>- a boxing or wrestling entertainment (indoor and outdoor)</li> <li>- any playing of recorded music *</li> <li>- any performance of live music *</li> <li>- a performance of dance</li> <li>- entertainment of similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance*</li> </ul> </li> </ul>
2.2	<p><b>There are certain exemptions from this definition, which relate to incidental live and recorded music, and spontaneous music, singing and dancing.</b></p> <p><i>*Exemptions brought about by the Legislative Reform (Entertainment Licensing) Order 2014 and Deregulation Act 2015 include the exhibition of</i></p>

	<i>films the performance of live music and playing of recorded music under certain circumstances ; these are set out in full in the Act.</i>
<b>3</b>	<b>Licensing Objectives</b>
3.1	<p>It is the duty of Denbighshire County Council as the Licensing Authority to carry out the functions under the Act with a view to promoting with <b>equal importance</b> the Licensing Objectives as set out in the Act, which are:</p> <ul style="list-style-type: none"> <li>- <b>Prevention of Crime and Disorder</b></li> <li>- <b>Public Safety</b></li> <li>- <b>Prevention of Public Nuisance</b></li> <li>- <b>Protection of children from Harm</b></li> </ul>
3.1.1	It is recognised that the licensing function is only one means of securing the delivery of these objectives. The Licensing Authority will therefore continue to work in partnership with its Local Communities, the Responsible Authorities, local businesses and all other relevant stakeholders and partners.
3.1.2	<p>If its discretion is engaged, when considering the type of activities for which licenses may be sought, the Licensing Authority will have proper regard to amongst other issues:</p> <ul style="list-style-type: none"> <li>- Location of and environmental impact of the proposed activity</li> <li>- Suitability of the applicant</li> <li>- Suitability of the premises application</li> <li>- Operation and management of the premises</li> <li>- Monitoring, review and enforcement</li> </ul>
3.1.3	<p>Whilst these factors will be given due consideration as part of any application, it should be noted that the following principles will apply in all cases:</p> <ul style="list-style-type: none"> <li>• The right of any individual or body to apply for a variety of permissions is not undermined and that each application shall be determined on its own merits.</li> <li>• The statutory right of Responsible Authorities or Interested Parties to make relevant representations or to seek a review of any licence or certificate.</li> </ul>
3.1.4	<p>The licensing regime is primarily concerned with the regulation of persons, premises and temporary events and consequently any conditions will focus on:</p> <ul style="list-style-type: none"> <li>• Matters within the control of individual licensees and others who are</li> </ul>

	<p>granted relevant permissions.</p> <ul style="list-style-type: none"> <li>• The premises and places being used for licensable activities and the immediate vicinity.</li> <li>• The direct impact of the activities taking place at licensed premises, on members of the public, living or engaged in normal day-to-day activity in the vicinity of the licensed premises.</li> </ul>
3.1.5	<p>In undertaking its statutory licensing function, the Licensing Authority may have regard to:</p> <ul style="list-style-type: none"> <li>• Section 17 of the Crime and Disorder Act 1998 and the requirement that a local authority do all that it reasonably can to prevent crime and disorder in its locality.</li> <li>• 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.</li> <li>• Health and Safety at Work Regulations 1999</li> <li>• Health and Safety at Work etc Act 1974</li> <li>• Environmental Protection Act 1990</li> <li>• Disability Discrimination Act 1995</li> <li>• Regulatory Reform (Fire Safety) Order 2005</li> <li>• The Anti-Social Behaviour Act 2003</li> <li>• The Public Spaces Protection Order (PSPO) , Anti-social Behaviour Crime and Policing Act 2014</li> <li>• Equality Act 2010</li> <li>• Violent Crime Reduction Act 2006</li> <li>• The Health Act 2006</li> <li>• The Clean Neighbourhoods and Environmental Act 2005</li> </ul> <p><b><i>Where existing law already places statutory obligations on applicants the Licensing Authority will not impose the same or similar duties by way of condition.</i></b></p>
3.1.6	<p>The Licensing Authority will 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:</p> <ul style="list-style-type: none"> <li>• In accordance with Guidance, the Licensing Authority will seek to establish a Safe Scheme, so that proper liaison and partnership working with all relevant stakeholders will ensure that appropriate Action Plans for Tackling Alcohol Related Crime, Disorder and Nuisance are in place.</li> <li>• Safer Clubbing</li> <li>• Local Authorities Co-ordinators of Regulatory Services and Trading</li> </ul>

	<p>Standards Institute Code of Best Practice on Test Purchasing</p> <ul style="list-style-type: none"> <li>• Alcohol Harm Reduction Strategy</li> <li>• Crime and Disorder Reduction Strategy</li> <li>• Enforcement Concordat</li> </ul>
3.1.7	<p>The Licensing Authority would also draw attention to initiatives that are relevant to licensing, for example:</p> <ul style="list-style-type: none"> <li>• <i>Proof of Age Schemes – 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 established at certain licensed premises requiring the production of “proof of age” before such sales take place. It is expected that where such a policy applies, the premises will request the production of a photo-driving licence, passport or any recognised proof of age document. The Licensing Authority and North Wales Police endorse the current “Challenge 21” and “Challenge 25” policies which have been adopted by many licensed premises, and consider it to be an extremely beneficial approach in dealing with problems of underage drinking.</i></li> <li>• <i>CCTV coverage of town centres</i></li> <li>• <i>Exclusion orders from town centres</i></li> <li>• <i>Safer Clubbing Guide</i></li> <li>• <i>Pub Watch/Off Watch – The Licensing Authority and North Wales Police recognise that in order for such schemes to achieve maximum impact and success that they provide appropriate and relevant support and guidance at all times. Where alcohol is supplied, licence holders are expected to actively participate, support and adhere to any such schemes and decisions borne out of such initiatives.</i></li> <li>• <i>Think Safe/Drink Safe (Co-ordinated by the Licensing Authority in consultation with the Police and other relevant stakeholders)</i></li> <li>• <i>Best Bar None – The Licensing Authority is committed to facilitating this scheme with a view to providing an incentive for licence holders to raise and improve standards.</i></li> </ul>
3.1.8	<p>The objective of the licensing process is to allow the retail sale of alcohol and the provision of licensable activities in a manner that ensures the public’s safety and which is neither to the detriment of residents, nor gives rise to loss of amenity. It is the Licensing Authority’s wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of their premises on local residents.</p>
3.1.9	<p>In accordance with Guidance, the Licensing Authority does not regard this Policy as a mechanism for the general control of anti-social behaviour by individuals once they have left the immediate vicinity of the club, business or licensed premises holding the relevant licence, certificate or permission.</p>
3.1.10	<p>Following Relevant Representations the Licensing Authority will only</p>

3.1.11	<p>depart from this Policy, if the applicant provides satisfactory evidence / information that the Licensing Objectives will be met in full. In cases where a departure occurs, the Licensing Authority shall, as part their decision making process, provide reasons for the departure.</p> <p>The Licensing Authority may select appropriate conditions from the Department of Culture, Media and Sport pool of Conditions, where it is deemed necessary when considering the content of the Operating Schedule in ensuring that it reflects the four Licensing Objectives. This Policy applies to:</p> <ul style="list-style-type: none"> <li>• <b>Premises Licence</b></li> <li>• <b>Club Premises Certificate</b></li> <li>• <b>Temporary Event Notice</b></li> </ul>
3.2	<p><b>Prevention of Crime and Disorder</b></p> <p>3.2.1 The Licensing Authority will have regard to the Crime and Disorder Act 1998, under which it has a duty to prevent/reduce crime and disorder in the area. Any conditions attached to a Premises Licence or Club Premises Certificate should reflect any local crime prevention strategy or initiative. In accordance with Guidance, measures such as the installation of CCTV, utilisation of SIA Registered Door Supervisors and participation in a Pub Watch or Off Watch scheme at certain premises might be necessary in order to meet with and promote the Licensing Objectives.</p> <p>3.2.2 One of the key priorities of the Community Safety Strategy is to reduce the level of crime in specified areas. Therefore, this Policy will have regard to the likely impact of licensing on related crime and disorder in these areas. Particularly when considering the location, impact and the operation and management of all proposed licence applications and variations of conditions.</p> <p>3.2.3 The Licensing Authority will give due regard and apply the appropriate weight to:</p> <ul style="list-style-type: none"> <li>• Relevant Representations</li> <li>• Guidance issued under Section 182 of the Licensing Act 2003</li> <li>• Statement of Licensing Policy</li> <li>• The steps necessary to promote the Licensing Objectives</li> </ul>
3.2.4	<p><u>Safer Clubbing</u></p> <p>The Licensing Authority 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. If its discretion is engaged, appropriate licensing conditions may be imposed to control the environment at relevant premises in support of “Safer Clubbing” objectives.</p>

3.2.5	<p><u>Drugs</u></p> <p>Following Relevant Representations, 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. These conditions will take into account the above-mentioned “Safer Clubbing” advice issued by the Home Office. In all cases where conditions are to be imposed, advice will be sought from the local Substance Misuse Action Team and North Wales Police.</p>
3.2.6	<p>The Licensing Authority, Police and Licensees need to be aware that following its commencement on 20 January 2004, power is available under the Anti- Social Behaviour Act 2003 which allows for the closure of a licensed premises by the Police where there is production, supply or use of Class A drugs and/or serious nuisance or crime and disorder. This provides an extra tool to the Police in enabling instant action with regards to premises where there is a Class A drug problem.</p>
3.2.7	<p><u>Door Supervisors</u></p> <p>The Security Industry Authority (SIA) plays an important role in preventing crime and disorder by ensuring that door supervisors are properly trained and licensed. Specific enquiries or premises visits may occur in order to ascertain that SIA Licenses are being executed in the correct manner and not as a tool for crime and disorder such as fronts for serious and organised criminal activity. Intelligence led operations by the SIA, Licensing Authority, and/or North Wales Police will be conducted without notice.</p>
3.2.8	<p>If its discretion is engaged, the Licensing Authority 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. In such cases, licensed door supervisors (registered by the SIA) must be employed at the premises either at all times or at such times as certain licensable activities are taking place, at a number and ratio to be determined by the Licensing Authority. (This excludes stewards/glass collectors who are not involved in the security of the premises and do not therefore require to be registered by the SIA).</p>
3.2.9	<p><u>CCTV</u></p> <p>Licence holders may wish to install cameras for the protection of staff, customers and for the prevention of crime on or in the vicinity of the premises. If its discretion is engaged, the Licensing Authority may, for the purpose of promoting any of the Licensing Objectives, impose as a condition of licence the installation of a CCTV system. It should be noted that in such cases, the Licensing Authority may take into account the type and quality of recordings, the location of cameras, storage and the availability of recordings to the Licensing Authority and Police.</p>
3.3	<p><b>Public Safety</b></p>
3.3.1	<p>The Licensing Authority wishes to promote high standards of public safety</p>

	in relation to premises and activities within the scope of the Licensing Act 2003.
3.3.2	The Licensing Authority recognises that the Public Safety Objective is concerned with the physical safety of the customers using the relevant premises and not with Public Health – this is dealt with by other legislation.
3.3.3	The relevant officers of the Council who enforce Health and Safety requirements, together with Licensing Officers, may act as Authorised Persons for enforcement purposes under the Licensing Act 2003.
3.3.4	Following Relevant Representations, where the Licensing Authority considers that general health and safety duties do not adequately cover certain licensable activities, conditions may need to be attached to the licence to ensure public safety.
3.3.5	Where activities are organised by volunteers or a committee of a club or a society, the Licensing Authority considers it good practice that the same level of Health and Safety protection is provided as if an employer/employee relationship existed, irrespective of whether there are strict legal duties applicable under Health and Safety legislation.
3.3.6	Where any conditions have been applied to a Premises Licence or a Club Premises Certificate, an Authorised Officer of the Council may inspect the premises at any reasonable time for the purpose of checking that the conditions are being complied with.
3.3.7	<u>Fire Safety</u> The Licensing Authority will have due regard to the representations of North Wales Fire and Rescue Service regarding licensing applications.
3.3.8	Following Relevant Representations, the Licensing Authority may impose necessary and appropriate conditions in relation to fire safety matters in consultation with North Wales Fire and Rescue Service.
3.3.9	The Regulatory Reform (Fire Safety) Order 2005 repealed previous Fire Safety Legislation. The Licensing Authority will not seek to impose fire safety conditions where an Order applies, but would expect all licence holders to comply fully with this legislation.
3.3.10	The Licensing Authority will include on a Premises Licence or Club Premises Certificate an occupant capacity condition where there is a genuine fear or a genuine problem with overcrowding and it is considered necessary for public safety. This figure will be arrived at in consultation with North Wales Fire and Rescue Service. If a Fire Certificate already exists in relation to the premises and specifies an occupant capacity, that figure will be used.
3.3.11	Where the special provisions of Section 177 of the Act (dancing, amplified and unamplified music in the premises with a capacity of no more than

<p><b>3.4</b></p> <p>3.4.1</p>	<p>200 persons) are utilised, the Licensing Authority reserves the right to confirm with North Wales Fire and Rescue Service the safe capacity of the premises.</p> <p><b>Prevention of Public Nuisance</b></p> <p>If its discretion is engaged, the Licensing Authority, when making objective judgements about what constitutes a nuisance in respect of an application or review of a premises licence or certificate, will take a broad common law meaning when considering matters such as:</p> <ul style="list-style-type: none"> <li>• Noise from premises</li> <li>• Waste</li> <li>• Litter</li> <li>• Car Parking</li> <li>• Light Pollution</li> <li>• Noxious odours</li> </ul>
<p>3.4.2</p> <p>3.4.3</p> <p>3.4.4</p> <p>3.4.5</p> <p>3.4.6</p> <p>3.4.7</p>	<p>In considering the potential impact of licensed premises on the surrounding locality the Licensing Authority, when in receipt of any Relevant Representations, will take into account the type of entertainment activity, proposed hours of operation, the capacity of the premises, the character of the area and the proximity to local residents.</p> <p>In order to enforce the provisions of the Environmental Protection Act 1990, which relate to noise nuisance, joint working procedures and protocols between the Police, Environmental Health Officers and Licensing Officers will ensure that adequate control measures are properly used to protect the local environment.</p> <p>If its discretion is engaged, the Licensing Authority will use the Home Office pool of licence conditions to control noise from existing premises and to advise developers on the required noise attenuation for new premises (<i>reference may be made to the “Good Practice Guide on the Control of Noise from Pubs and Clubs”</i>). Stricter conditions with regard to noise control may be required in areas where the premises are adjacent to residential property.</p> <p>The Department of Environment, Food and Rural Affairs (DEFRA) report entitled “Implications for Noise Disturbance Arising from the liberalisation of Licensing Laws” may also be taken into account.</p> <p>The Licensing Authority will not impose conditions on licensed premises that the licensee cannot directly control, or on matters not related to the immediate vicinity of the premises.</p> <p>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 should liaise, where practicable, with a Licensing Enforcement Officer in accordance with the enforcement protocol.</p>

3.4.8	<p>If it is considered that the noise emanating from within the curtilage of a licensed premises is causing a public nuisance, under the provisions of the Anti-Social Behaviour Act 2003, an Authorised Officer can require its immediate closure for a period of up to 24 hours. It should be noted that the “test” is a lesser one than that required to determine a Statutory Noise Nuisance and the statutory defence of “best practicable means” is not available.</p>
<b>3.5</b>	<p><b>Protection of Children from Harm</b></p>
3.5.1	<p>Protection of Children from Harm includes the protection of children from moral, psychological and physical harm. This includes both the protection of children from the harm associated with alcohol consumption (it is fully acknowledged that evidence demonstrates that young people are more vulnerable than adults to the adverse effects of alcohol) and exposure to strong language and sexual expletives.</p>
3.5.2	<p>It is also recognised that the Licensing Authority must consider the need to protect children from sexual exploitation and will liaise with, and seek advice when appropriate, from the Council’s Safeguarding and Regeneration Section when undertaking its licensing functions in relation to child protection matters</p>
3.5.3	<p>Nevertheless, the Licensing Authority recognises the great variety of premises for which licences may be sought and acknowledges that many of these premises are appropriate venues for children to be present. These include theatres, cinemas, restaurants, pubs, cafes, take-aways, community halls and schools. It is therefore recommended that applicants and licensees take a pro-active approach to protecting and ensuring the well-being of children on their premises.</p>
3.5.4	<p>The Licensing Act does not prevent children having free access to premises selling alcohol for consumption on those premises, although the Licensing Authority, when in receipt of Relevant Representations, may impose conditions restricting the access of children to premises where it is considered necessary for the prevention of harm to children. Where there are matters that give rise to serious concerns and the restriction of access may not ensure adequate protection of children from harm, children should be excluded. Examples of what may give rise to these concerns include.</p> <ul style="list-style-type: none"> <li>• Where there have been convictions for serving alcohol to minors or where the premises have a reputation/evidence for underage drinking (to include any action undertaken regarding test purchases in relation to the supply of alcohol).</li> <li>• There is a known association with drug taking or dealing</li> <li>• There is a strong element of gambling on the premises</li> <li>• Entertainment of an adult or sexual nature is provided</li> </ul>
3.5.5	<p>The Police Reform &amp; Social Responsibility Act 2011 affords Licensing</p>

	<p>Authorities and the Police the option of imposing a period of voluntary closure of up to two weeks (48 hours minimum) on a premises persistently selling alcohol to children as an alternative to prosecution. The maximum fine has been increased to £20,000.</p> <p><b><i>The Licensing Act 2003 makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises used exclusively or primarily for the supply of alcohol for consumption on those premises.</i></b></p> <p><b><i>(The Licensing Act 2003 provides an exemption relating to 16 and 17 year olds consuming beer, wine and cider in the company of adults during a table meal).</i></b></p>
3.5.6	<p>Where relevant representations have been received and it is considered necessary that the access of children should be restricted to protect them from harm then conditions may be attached to the licence. These may include:</p> <ul style="list-style-type: none"> <li>• Limitation on the hours when children may be present</li> <li>• Restrictions to the age of persons on a premises (eg to over 18s only)</li> <li>• Restrictions on access to certain parts of the premises</li> <li>• Limitations or exclusions when certain activities may take place</li> <li>• Require an accompanying adult to be present at all times</li> </ul>
3.5.7	<p>Where large numbers of children are likely to be present on any licensed premises, for example a children's show or pantomime, then the Licensing Authority may require the presence of an appropriate number of adult staff (who will have provided a satisfactory disclosure from the Disclosure and Barring Service to ensure their safety and protection from harm). The exact ratio is to be assessed against each particular application and is dependent on the type and size of the premises and the control measures in place as outlined within the operating schedule, and importantly the particular group of children likely to visit the premises in question.</p>
3.5.8	<p>The Licensing Authority will not impose conditions that specifically require that children have access to premises, and where no conditions or restrictions apply, the access of children to any premises still remains a matter of the discretion of the individual premises.</p>
3.5.9	<p><u>Cinema Exhibitions</u></p> <p>Where the exhibition of films is permitted, the Licensing Authority will expect age restrictions to be complied with in accordance with the British Board of Film Classifications recommendations. <i>Only in exceptional cases will the authority consider variations of this general rule.</i></p>
3.5.10	<p>In considering applications, the Licensing Authority will take into account any evidence that age restrictions for cinema exhibitions have not been adhered to.</p>

3.5.11	<p>No film shall be exhibited at a licensed premises which is likely to:</p> <ul style="list-style-type: none"> <li>• Lead to disorder</li> <li>• Incite hatred or violence towards any section of the public on grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender</li> </ul>
4	<p><b>Cumulative Impact, Late Night Levy and Early Morning Restriction Orders</b></p>
4.1	<p><b>Cumulative Impact</b></p> <p>4.1.1 The Licensing Authority does not consider that there are areas where Cumulative Impact occurs presently nor is there a need at this time for the Licensing Authority to adopt a special policy relative to designating “Stress Areas”.</p> <p>4.1.2 Where there is a concentration of licensed premises this can lead to serious problems of nuisance and disorder arising in the area itself and even some distance away from the premises. In such circumstances the impact of those premises when taken as a whole can be far greater than that arising from individual premises and it may not be possible to distinguish individual premises as being the sole cause, or even a major contributing factor, of a particular problem. It is the <i>Cumulative Impact</i> of all of the premises, which causes problems for the wider area.</p> <p>4.1.3 It is clear however, that the vicinity within which licensed premises are or may be located is a major consideration in determining whether a licence should be granted and what conditions should be attached to it should representation be received. Due consideration will be given to the direct impact of the operation of the premises on members of the public living, working or engaged in normal activity in the vicinity of the premises.</p> <p>4.1.4 The Guidance states that the Licensing Act is not a mechanism for the general control of the anti-social behaviour of patrons once they have left licensed premises. Other mechanisms outlined in Section 3 of this Policy should be utilised.</p> <p><i><b>Note:</b> “Cumulative Impact” should not be confused with the issue of “need”, which relates to commercial demand for licensed premises. “Need” is not a matter to be taken into account by the Licensing Authority.</i></p> <p>4.1.5 Where a particular area becomes saturated with licensed premises making it a focal point for large groups of people to congregate, this might create exceptional problems of disorder, noise and other nuisance and in such circumstances, the grant of further Premises Licences or Club Premises Certificates may undermine the Licensing Objectives.</p> <p>4.1.6 Notwithstanding these concerns, each application has to be considered on its own individual merits. Where an objector is seeking to establish that</p>

4.1.7	<p>the grant of a licence or certificate would result in a cumulative impact which undermines one or more of the Licensing Objectives, the following shall apply:</p> <p><u>Objections on the grounds of Cumulative Impact</u></p> <p>In cases where objectors seek to establish that an application should be refused on the grounds that it would result in or further contribute to cumulative impact which would undermine one or more of the Licensing Objectives the objector shall:</p> <ul style="list-style-type: none"> <li>• Identify the boundaries of the area from which it is alleged problems are arising.</li> <li>• Provide full details and evidence as to the seriousness of the nuisance and disorder caused in the area.</li> <li>• Identify the licensing objective(s) which it is alleged will be undermined with specific regard to: <ul style="list-style-type: none"> <li>- The occupancy figure for the proposed premises</li> <li>- The nature of the licensed activity to be carried on at the premises and its patrons.</li> </ul> </li> </ul>
4.1.8	<p><u>Identifying Stress Areas</u></p> <p>Where as a result of an objection under paragraph 9.6 above and the Licensing Authority is satisfied that there is a serious or chronic concern about nuisance and disorder in a particular area and has refused an application on the grounds of Cumulative Impact the area shall be declared as a "Stress Area". In doing so the Licensing Authority shall:</p> <ul style="list-style-type: none"> <li>• Follow the statutory procedures outlined within Guidance issued under Section 182 of the Licensing Act 2003.</li> <li>• Identify the boundaries of the area</li> <li>• Identify the licensable activities causing the nuisance and/or disorder</li> <li>• Monitor and review the "Stress Area"</li> </ul>
4.1.9	<p><u>Applications for a New Premises in a Stress Area</u></p> <p>New premises licenses will not be granted for the activities identified as causing nuisance and/or disturbance in Stress Areas except where:</p> <ul style="list-style-type: none"> <li>• No objections are received to the application, or</li> </ul> <p>The grant of a licence will not undermine the Licensing Objectives</p>
4.1.10	<p>In considering such applications the Licensing Authority will have particular regard to:</p> <ul style="list-style-type: none"> <li>• The occupancy figure for the proposed premises</li> <li>• The proximity of the premises to others in the Area licensed for similar activities and the occupancy figures for those other premises</li> <li>• Whether the proposed premises will act as a replacement for others in the Area that no longer has a licence</li> <li>• The proposed methods of management outlined in the applicants' operational plan</li> </ul>

	<ul style="list-style-type: none"> <li>• The proposed hours of operation</li> <li>• Transport provision for the Area</li> </ul>
4.1.11	<p><u>Existing Premises Licences in Stress Areas</u></p> <p>The above factors cannot be used as a justification for removing an existing licence. If representations are received about existing licensed premises relating to matters other than cumulative impact and which undermine the Licensing Objectives then appropriate action may be taken.</p>
4.1.12	<p><u>Applications for Variations to existing Premises Licences in Stress Areas</u></p> <p>Application for variations to existing Premises Licences in Stress Areas will not be granted unless those modifications directly affect the issue of Cumulative Impact in the Stress Area or otherwise undermine the Licensing Objectives (an example of where a modification may directly affect the issue of cumulative impact would be where an application was received to extend the premises and significantly increase the occupancy level of premises).</p>
<b>4.2</b>	<b>Late Night Levy</b>
4.2.1	<p>The Late Night Levy, introduced by provision of the Police Reform and Social Responsibility Act 2011, is an option that enables licensing authorities to raise a contribution towards the cost of policing the late-night economy by charging a levy to licensed premises authorised to sell alcohol late at night.</p>
4.2.2	<p>On introducing a Late Night Levy, a licensing authority cannot choose which areas would be subject to the levy; if introduced, it would be applicable across the entire area and to all licensed premises, including off-licences (temporary events would not be affected). The authority can, however, determine the period during which the levy would apply each night between the hours of midnight and 6am.</p>
4.2.3	<p>The authority also has discretion to decide which premises qualify for an exemption from the levy from the following categories:</p> <ul style="list-style-type: none"> <li>• Premises with overnight accommodation</li> <li>• Theatres and cinemas</li> <li>• Bingo Halls</li> <li>• Community Amateur Sports Clubs</li> <li>• Community Premises</li> <li>• New Year's Eve</li> <li>• Country/Community village pubs</li> <li>• Business Improvement Districts</li> </ul>
4.2.4	<p>Whilst it is recognised that it would be unfair to penalise premises such as those above which are not part of the wider night-time economy, such premises will need to meet specific criteria to be considered for exemption. The Licensing Authority will also have discretion to exempt premises that</p>

	only open late on New Year's Eve by virtue of their being permitted to supply alcohol for consumption on the premises on 1 <sup>st</sup> January.
4.2.5	Premises licence holders affected by a levy would have the right to submit an application to vary their hours free of charge if they wished to avoid being affected.
4.2.6	The amount payable within a late night levy is set at a national rate and, like the annual licence fee, would be calculated according to rateable value, with the levy fee being collected alongside the annual licence fee.
4.2.7	The police would receive a minimum of 70% of the net levy revenue, whilst the licensing authority may retain up to 30% of the net levy revenue to fund other activities besides policing. However, to ensure that income from the levy is used to tackle alcohol related crime and disorder as well as the provision of services linked to the night-time economy there will be restrictions in place. Licensing authorities will also be able to deduct administration, collection and enforcement costs from the gross levy income.
4.2.8	A levy, when introduced, covers all areas and not just those premises that may be associated with problems, or those premises within any possible cumulative impact stress area. Therefore, the introduction of a levy is subject to public consultation and, if introduced, must be adopted at a Council Meeting.
4.2.9	At their Meeting on 5 <sup>th</sup> December 2012, Members of the Licensing Committee resolved not to adopt a Late Night Levy. Should such a provision be considered necessary in the future, the Licensing Authority will conduct a full consultation before adoption.
4.3	<b>Early Morning Restriction Orders</b>
4.3.1	Amendments to the Police Reform and Social Responsibility Act, give the Licensing Authority discretionary powers to restrict sales of alcohol at a specified time between the hours of midnight and 6am by the introduction of Early Morning Restriction Orders.
4.3.2	Early Morning Restriction Orders are intended to tackle high levels of alcohol-related crime and disorder, anti-social behaviour and nuisance in a specified area. Unlike the Late Night Levy, there are *no exceptions and therefore, the decision to implement one must be evidence-based. Before implementing such an order, the Licensing Authority must be satisfied that it would be appropriate to the promotion of the Licensing Objectives and should also consider the potential impact on premises licence/club certificate holders.
4.3.3	Before considering this approach, the Licensing Authority should consider whether any other measures would be effective in addressing the prevailing situation, including:

	<ul style="list-style-type: none"> <li>• Reviews (of Premises Licences/Club Premises Certificates)</li> <li>• A Cumulative Impact Policy</li> <li>• Joint agency approach to tackle problem premises</li> <li>• Provision of CCTV</li> <li>• Robust Police enforcement of the existing law relating to disorder and anti-social behaviour including Fixed Penalties</li> <li>• Introduction of Late Night Levy</li> <li>• Provision of Taxi Marshalls to assist in premises' dispersion policies</li> <li>• Use of appropriate planning controls/measures</li> </ul>
4.3.4	An Early Morning Restriction Order can apply to a specific area or street, can be applied on specific times or days of the week and can be effective for certain times of the year, or can be applied continually.
4.3.5	The decision to implement an Early Morning Restriction Order must be taken by a Meeting of the Council and must be periodically reviewed to ensure it remains appropriate to the Licensing Objectives. An order can also be varied or revoked, using the same process as adoption.
4.3.6	Early Morning Restriction Orders do not affect the authorised hours for regulated entertainment or late night refreshment and cannot be applied on New Year's Eve or New Year's Day.
4.3.7	At their Meeting on 5 <sup>th</sup> December 2012, Members of the Licensing Committee resolved not to adopt a Late Night Levy. Should such a provision be considered necessary in the future, the Licensing Authority will conduct a full consultation before adoption  <i>*No premises are exempt from an order, other than those that are authorised to supply of alcohol to overnight residents via minibars and room service.</i>
<b>5</b>	<b>Planning and Building Control</b>
5.1	Any premises for which a licence is required should have an authorised use under the planning legislation.
5.2	Welsh Assembly Planning Policy is set out in Planning Policy Wales and associated Technical Advice Notes.
5.3	Denbighshire County Council's planning policies are set out in the adopted Unitary Development Plan UDP. New planning policy issues for the Council will be contained in the emerging Local Development Plan (LDP) as it goes through the various stages towards full adoption, which is unlikely to be before 2011.
5.4	Planning permission, building control approval and the licensing regime will be properly separated to avoid duplication and inefficiency. The

	<p>planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.</p>
5.5	<p>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 is a matter for the Licensing Authority and this will need to be considered when the application is made.</p>
5.6	<p>The Licensing Authority expects each applicant to have already gained planning consent in respect of the application and must submit details (which should include any details of any restrictions that may have been imposed), so as to avoid any unnecessary duplication.</p>
5.7	<p>The Licensing Authority recognises that in certain circumstances it may be necessary to consider and determine an application that does not have authorised use under planning legislation. In such cases, it may be appropriate for the applicant to invite the Licensing Authority to limit the duration of the Premises Licence if, for any reason, planning permission were not forthcoming.</p>
5.8	<p>There may be circumstances when, as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. The Licensing Authority will endorse any licence to this effect, where this might apply.</p>
5.9	<p>Proper integration shall be assured by the Licensing Authority and Committee where appropriate to provide reports to the Planning Committee regarding the situation surrounding Licensed Premises in the area, including the general impact of alcohol related crime and disorder. The Planning Committee having regard to such matters when making any decisions will prevent any unnecessary overlap between the Licensing and Planning functions.</p> <p><u>Building Control</u></p> <p>It should be borne in mind that Building Regulations govern a variety of issues, which directly contribute to the Licensing Objectives, including means of escape, structural integrity, accessibility and public safety. Building Regulation Approval and Completion Certificates may be required prior to the use of the premises for licensable activities.</p>
<b>6</b>	<p align="center"><b>Applications for New Grants and Variations of Existing Terms and Conditions</b></p>
6.1	<p>In the absence of any Relevant Representations in respect of any application made to the Licensing Authority, it is the duty of the Authority</p>

6.2	<p>to grant the licence or certificate subject only to conditions that are consistent with the Operating Schedule, and any Mandatory Conditions prescribed in the Licensing Act 2003. This will also apply to any applications made in respect of premises within an identified Stress Area.</p> <p>In considering all new or variation applications, if not volunteered by the applicant in their Operating Schedule and following Relevant Representations, the Licensing Authority will assess them in light of the Licensing Objectives and may consider any of the following:</p> <ul style="list-style-type: none"> <li>• 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 or sound limitation devices.</li> <li>• The steps the applicant has taken or proposes to prevent disturbance by patrons arriving at or leaving the premises.</li> <li>• 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</li> <li>• The steps the applicant has taken to proposes to ensure staff leave the premises quietly</li> <li>• The arrangements made or proposed for parking by patrons, and the effect of parking on local residents</li> <li>• Whether there is sufficient provision for public transport for patrons</li> <li>• Whether taxis and private hire vehicles serving the premises are likely to disturb local residents</li> <li>• Whether routes to and from the premises on foot or by car or service or delivery vehicles pass residential premises</li> <li>• Whether other measures to prevent nuisance have been considered, such as the use of CCTV or the employment of SIA registered door supervisors</li> <li>• The measures proposed to prevent the consumption or supply of illegal drugs, including any search procedures</li> <li>• Where necessary and appropriate, the measures proposed to comply with Disability Discrimination legislation</li> <li>• The likelihood of any violence public disorder or policing problem</li> </ul>
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	<p>arising if a licence was to be granted</p> <ul style="list-style-type: none"> <li>• If the applicant has previously held a licence within the County, the details of any enforcement action arising from that premises</li> <li>• Whether the premises would result in increased refuse storage or disposal problems, or additional litter in the vicinity of the premises</li> </ul>
6.3	The Licensing Authority will take into account any non-compliance of other statutory requirements brought to its attention. Particularly where these undermine the Licensing Objectives, as 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.
6.4	Whether any appropriate measures have been put into effect by the applicant to mitigate any adverse impacts.
<b>7</b>	<b>Temporary Event Notices</b>
7.1	The Licensing Authority will provide advice about, among other things, public safety. Organisers of temporary/large scale events will be encouraged to seek advice/information from their local Safety Advisory Groups.
7.2	There are two types of Temporary Event Notices (TEN): A Standard TEN and a Late TEN. Legislation states that a minimum of ten working days for a Standard TEN and between 9 and 5 working days for a Late TEN notice should be given to the Licensing Authority of temporary events. "Working Day" excludes Saturday, Sunday and Bank Holidays.
7.3	Under the terms of the Police Reform and Social Responsibility Act 2012, the maximum permitted duration for Temporary Event Notices has been extended from 96 hours to 168 hours. It is envisaged that this will benefit theatres, circuses, voluntary groups and the like by allowing them to hold week-long events without the previously necessary 24 hour break.
7.4	The Licensing Authority acknowledges that in exceptional circumstances, some Temporary Events may and do have an impact upon crime and disorder. Therefore, in cases of large scale events, organisers should consider providing as much notice as is possible. The Licensing Authority considers two months notice to be advisable in relation to such events.
7.5	In relation to Temporary Events, applicants should consider giving at least 28 days notice, as this would, where necessary, enable District Inspectors to re-allocate staff or possibly obtain extra resources to cover the event. Although the Licensing Authority is unable to attach any limitations or restrictions in respect of Temporary Events, it fully expects organisers to give due consideration to local residents and those attending events, in areas such as :

	<ul style="list-style-type: none"> <li>• Health and Safety</li> <li>• Noise Pollution</li> <li>• Use of Temporary Structures</li> <li>• Road Closures</li> <li>• Use of Pyrotechnics or Fireworks</li> <li>• Controlling Anti-Social Behaviour</li> </ul>
7.5	The Licensing Authority may advise applicants to consult with North Wales Fire and Rescue Service and the Ambulance Service for guidance with regards to assessing possible risks.
7.6	Applicants will also be reminded that giving a Temporary Event Notice does not relieve the premises user from any planning law for the appropriate planning permission where it is required.
<b>8</b>	<b>Personal Alcohol Licences</b>
8.1	Anybody wishing to apply for a Personal Alcohol Licence must be over 18 years of age, have an approved qualification and must not have a relevant criminal conviction. Whilst the prevention of crime is the responsibility of the Council in terms of the Crime and Disorder Act 1998 and an objective of the Licensing Act 2003, provided these criteria have been met, the Licensing Authority has little discretion and the application must be granted.
8.2	Should an applicant have a relevant criminal conviction, the police may oppose the application within the prescribed timescale; persons wishing to apply for a Personal Alcohol Licence who have an unspent relevant offence are therefore encouraged to discuss their application with either the Council's Licensing Officers or the Police before submitting an application.
8.3	Once an objection has been raised by the Police, the Licensing Authority is obliged to hold a Hearing to consider the application. Members will consider the seriousness of the offence(s), the number of offence(s) and the time that has elapsed since the offence(s) and will only approve the application if they are satisfied that granting the application in such circumstances would promote the prevention of crime and disorder objective.
8.4	The Deregulation Bill has removed the requirement for Personal Alcohol Licences to be renewed every ten years.
<b>9</b>	<b>Club Premises Certificates</b>
9.1	Section 62 of the Licensing Act sets out the general conditions which an organisation with at least 25 members who have joined together for particular social, sporting or political purposes must meet to be a qualifying club. Only qualifying clubs may apply for a Club Premises Certificate.

9.2	A Club Premises Certificate provides authorisation for the supply of alcohol and provision of regulated entertainment for the benefit of members and their bona-fide guests only. If a premises wishes to provide licensable activities for non-members or the public in general, they will need to do so by means of a Temporary Event Notice or a Premise Licence.
9.3	<p>The grant of a Club Premises Certificate affords the qualifying club certain benefits:</p> <ul style="list-style-type: none"> <li>• Supply of alcohol to members without the requirement for a Designated Premises Supervisor</li> <li>• Provision of Late Night Refreshment to members without the need for additional authorisation</li> <li>• Limited rights of entry to the police and authorised persons as the premises will generally be considered to be private and not open to the general public</li> <li>• Exemption from police powers of instant closure on grounds of disorder and noise because they operate under their codes of discipline and rules</li> <li>• Exemption from orders of the magistrates' court for the closure of all licensed premises in an area when disorder is happening or expected</li> </ul>
9.4	Arrangements for applying for or seeking to vary club premises certificates are extremely similar to those for a premises licence; clubs must include a copy of their rules with their initial submission and thereafter must notify the licensing authority of any subsequent changes to their rules.
<b>10</b>	<b>Operating Schedules</b>
10.1	The Licensing Authority is committed to partnership working with licence/certificate holders, North Wales Police, other Responsible Authorities, and Interested Parties to ensure collectively that the statutory objectives are met and promoted.
10.2	As Operating Schedules must contain sufficient information so that a proper assessment of the application can be made, it would seem sensible that applicants should seek appropriate advice before submitting any application. Thereby reducing the possibility of disputes, Relevant Representations and/or the necessity of a Hearing. Where necessary, the Licensing Authority might request a risk assessment from the Partnership Crime Analyst to ensure any application received promotes the licensing objectives.
10.3	Guidance notes will be provided to all those making applications. This will provide recommendations and suggestions that applicants or licence holders may adopt as part of the Operating Schedule.

10.4	The Licensing Authority will expect individual applicants to address the Licensing Objectives in their Operating Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
10.5	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.
10.6	The steps identified within an Operating Schedule that deal with and promote the Licensing Objectives, will form part of the licence conditions attached to any relevant licence, certificate or notice.
10.7	Where any control measure(s) is/are not relevant in respect of particular premises or activities, there is no particular requirement for them to be mentioned in the Operating Schedule.
<b>11</b>	<b>Hours of Operation</b>
11.1	The Licensing Authority recognises that fixed and artificially early closing times in certain areas can lead to disorder and disturbance on the streets where large numbers of people tend to leave licensed premises at the same time.
11.2	The Licensing Authority, in accordance with Guidance, will aim by means of longer licensing hours, to achieve a gradual dispersal of people leaving licensed premises. Fixed pre-determined closing times for particular areas will not form part of the Policy and restriction on trading hours will only be considered on receipt of relevant representations, in order to meet with and promote the Licensing Objectives.
11.3	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.
11.4	When considering applications for Premise Licences and Club Premises Certificates, the Licensing Authority will take into account applicants' requests for terminal hours (the close of business) in light of the: <ul style="list-style-type: none"> <li>• Residential amenity</li> <li>• Character or function of a particular area</li> <li>• Nature of the proposed activities to be provided at the premises</li> </ul>
11.5	Terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect any of the above. If its

	discretion is engaged, the Licensing Authority may set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area.
11.6	Where premises are situated adjacent to residential areas, stricter conditions with regard to noise control may apply; however this should not limit opening hours, provided the required conditions are complied with. In considering this, it should be borne in mind that the times that the premises are open are not necessarily the times when a licensable activity might take place.
11.7	Although the Licensing Authority will not seek the holder of the Premises Licence or Club Premises Certificate to remain open for the entire period permitted, premises should advertise the core hours that they do intend to operate, so that visitors and tourists to the area have the benefit of this knowledge before arranging a visit.
<b>12</b>	<b>Enforcement and Review</b>
12.1	It is the intention of the Licensing Authority to establish and maintain both proactive and reactive enforcement protocols with North Wales Police and other enforcement agencies. Proportionate targeting of agreed problem and high-risk licensed activities needing greater attention as well as a corresponding lighter touch for well run, lower risk premises in the area will be applied.
12.2.	The Review of Licences or Certificates provides a key protection for the community where the Licensing Objectives are not being met in full. It is the existence of the review system, which should allow the Licensing Authority to apply a light touch bureaucracy to the Grant or Variation of a Licence or Certificate when problems relating to the Licensing Objectives arise later in respect of any premises.
12.3	A Review may be initiated by a Responsible Authority or Interested Party. The Licensing Authority shall refer to Guidance when assessing whether any representations from Interested Parties are irrelevant, vexatious, frivolous or repetitious.
12.4	Authorised Persons and Responsible Authorities will be expected to be able to demonstrate in particular cases, that warnings and advice have been ignored before any decision is made to instigate a Review of the Licence or Certificate.
12.5	Although the 2003 Act does not require premises inspections to be undertaken, they will take place at the discretion of the Licensing Officers charged with this role and will take place, if judged necessary. Premises recognised as “high risk” will be subject to regular inspection. This will ensure that the Licensing Authority manages resources efficiently and that “effective enforcement” is directed at “problem premises”.

12.6	Where necessary, enforcement action will be taken in accordance with the Regulatory Services Enforcement Policy and any Memorandum of Understanding. The Licensing Authority has also established protocols with the North Wales Police and other Responsible Authorities on enforcement issues to provide for an efficient deployment of Local Authority staff and Police Officers who are commonly engaged in the enforcement of licensing laws and the inspection of licensed premises.
12.7	A Clear and concise flowchart (attached at Appendix A ) have been developed by the Licensing Authority and Responsible Authorities which will be followed in the event of a complaint being made or a problem premises being identified. This will be followed in all circumstances to ensure continuity and fairness to all Licence holders.
12.8	Amendments to the Licensing Act by the Police Reform and Social Responsibility Act 2010 afford Councils the power to suspend premises licences and club premises certificates where the required annual fee has not been paid.
12.9	<p>When an annual fee has not been paid by the due date, usually the anniversary on which the licence was first granted, the Licensing Authority will notify the licence or certificate holder in writing that:</p> <ul style="list-style-type: none"> <li>• the licence or certificate will be suspended in 7 – 14? days from the date of the notice</li> <li>• the suspension will not become effective should the fee be paid prior to the suspension date</li> <li>• if an administration error is claimed, the suspension date may be 21 days from the due date, or the date of suspension on the 7/14 day notice – whichever is later</li> <li>• a copy of the notice will also be served on the designated premises supervisor/premises manager if they are not the licence holder.</li> </ul>
<b>13</b>	<b>The Licensing Process</b>
13.1	<p><u>Conditions of Licence</u> The Licensing Act, provides for a number of Mandatory Conditions to be imposed upon licences (see Appendix). In addition, the Licensing Authority has the power to impose additional conditions if they consider them appropriate to the promotion of the Licensing Objectives.</p>
13.2	The Licensing Authority will, as far as is reasonably practical, avoid imposing disproportionate and over burdensome conditions on premises unless it is considered necessary to do so.
13.3	If its discretion is engaged, the Licensing Authority may refer to the Model Pool of Conditions issued by the Home Office and attach conditions as appropriate, given the circumstances of each individual case. The model conditions will deal with issues surrounding:

	<ul style="list-style-type: none"> <li>• Crime and Disorder</li> <li>• Public Safety</li> <li>• Fire Safety</li> <li>• Public Nuisance</li> <li>• Protection of Children from Harm</li> </ul>
13.4	When attaching conditions the Licensing Authority will also be aware of the need to avoid measures, which might deter live music, dancing or theatre by imposing indirect costs of a substantial nature.
13.5	The Licensing Authority acknowledges the advice received from Home Office that the views of vocal minorities should not be allowed to predominate over general interests of the community.
<b>14</b>	<b>Delegation and Decision Making</b>
14.1	One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated at an appropriate level to ensure an efficient and cost effective service.
14.2	The Licensing Authority is committed to the principle of delegating its powers to ensure that these objectives are met and has arranged for its licensing functions to be discharged in accordance with the Guidance issued by the Secretary of State.
14.3	The Act itself creates a presumption that applications will be granted unless a Relevant Representation (objection) is raised. Where a function is delegated to an officer that officer will be responsible for liaising between the Applicant(s), Interested Parties, and the Responsible Authorities to ensure that any licence granted is subject to any agreed or mandatory conditions.
14.4	Where objections are made then an officer of the Licensing Authority may liaise with the Applicant, Interested Parties and the Responsible Authorities to see if a “settlement” is possible to overcome any objections, without the need for the matter to go before a formal Licensing Sub-Committee. Should this be the case, Members will meet to consider the proposed agreed conditions and if they are considered to be relevant and appropriate, will agree to their being appended to the Licence. Only where objections are raised which cannot be reconciled, will matters be referred to the Licensing Sub-Committee for determination.
14.5	Whilst contested Licensing Applications and Review Hearings are Quasi-Judicial in nature, the Sub-Committee will try to keep the proceedings as informal as possible. Some degree of formality is needed to ensure that all parties receive a fair hearing. Procedural requirements will be established to ensure that all parties are able to express their views openly and fairly. The Sub-Committee procedure is inquisitorial rather than

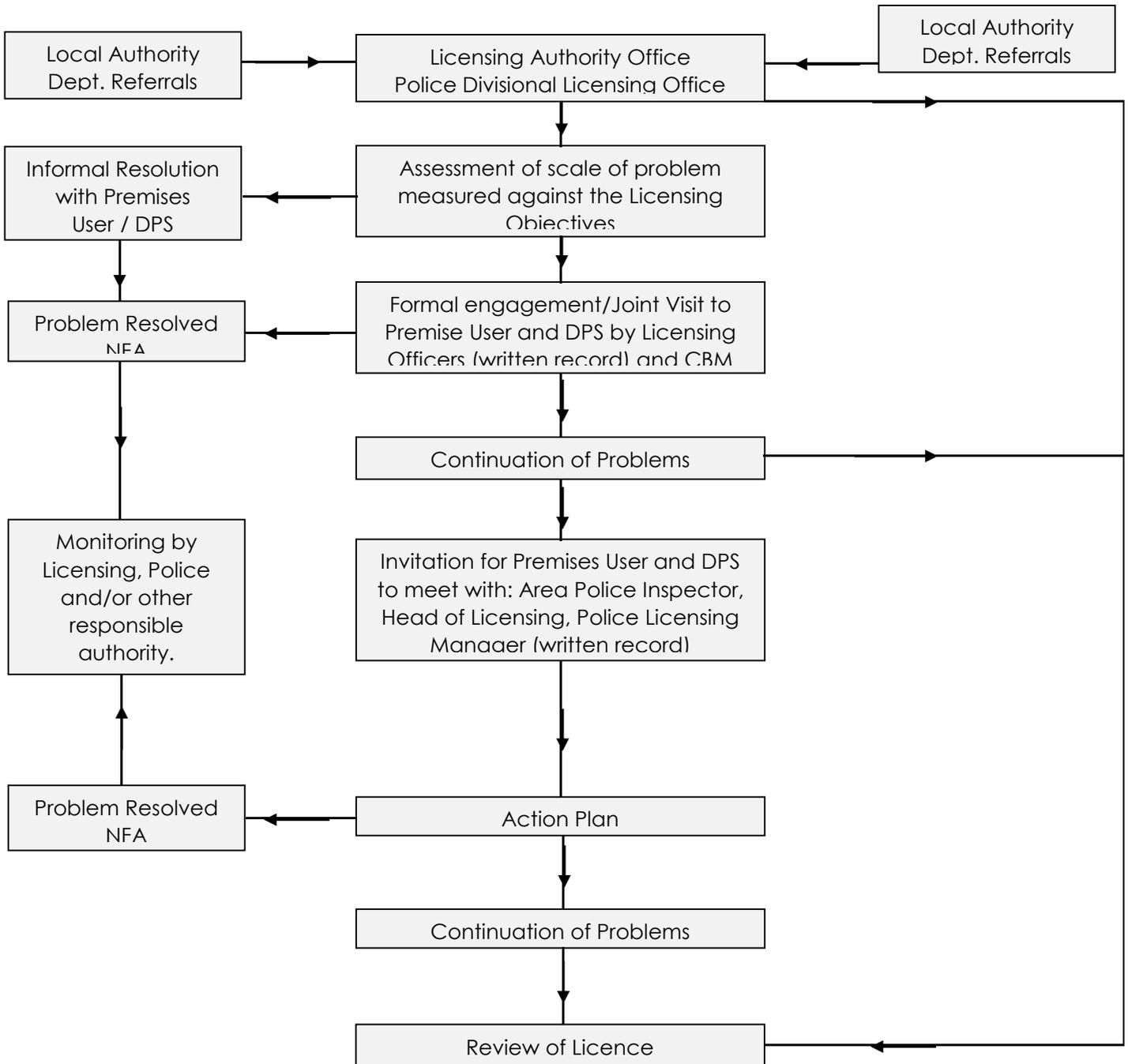
14.6	<p>adversarial and, whilst Applicants, Interested Parties and Responsible Authorities are entitled to bring legal representation with them if they wish, this is by no means a requirement or a necessity.</p> <p>Whilst the Sub-Committee usually meets in public, it does have power to hear certain applications in private. The Sub-Committee, however, will always reach its decision in private. A public announcement of the decision is normally made at the end of the Hearing, together with an outline for the reasons for that decision.</p>
<b>15</b>	<b>Licensing Register</b>
<b>16</b>	<b>Exclusions</b>
16.1	<p>In formulating the Statement of licensing Policy in accordance with Guidance and recognising the need to treat each application on its individual merits, the Licensing Authority makes specific exclusions, which are detailed below:</p>
16.2	<p><u>Commercial Demand</u> The commercial demand for additional premises licences (as distinct from Cumulative Impact) will not be a matter for the Licensing Authority, such matters being a specific consideration for the Planning Authority.</p>
16.3	<p><u>Zoning and Licensing Hours</u> Fixed pre-determined closing times for particular areas will not form part of the Policy and restriction on trading hours will be considered only where necessary to meet the Licensing Objectives.</p>
16.4	<p>Any individual body or business has equal rights to make representations concerning applications for premises licences (and hours of trading) and to receive appropriate consideration to their representations. Irrelevant, frivolous and vexatious representations will be disregarded.</p>
16.5	<p><u>Children</u> Nothing in this Statement of Licensing Policy shall limit or require access of children to premises unless there is an overriding necessity to prevent harm to children. Areas that will give rise to particular concern are highlighted elsewhere in this Policy.</p>
16.6	<p><u>Standardised Conditions</u> The Policy does not provide for “Standard Conditions” to be imposed so as to avoid the imposition of disproportionate and burdensome requirements. Conditions attached to licences or certificates if deemed necessary in particular circumstances will be tailored to reflect the individual operation of the premises in question. Conditions will not be imposed which are beyond the responsibility or control of the licence holder.</p>
<b>17</b>	<b>Consultation</b>

16.1	<p>In reviewing this Policy, the Licensing Authority has consulted widely to ascertain an appropriate licensing framework for its area. Various bodies have been consulted, including:</p> <ul style="list-style-type: none"><li>• North Wales Police</li><li>• North Wales Fire &amp; Rescue Service</li><li>• Current licence holders</li><li>• Representatives of the local licensed trade</li><li>• Representatives of local businesses and residents</li></ul>
16.2	<p>In addition, the Licensing Authority has also consulted:</p> <ul style="list-style-type: none"><li>• Community Safety Partnership</li><li>• County Councillors</li><li>• Town and Community Councils</li><li>• Council Officers</li></ul>

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LICENSED PREMISES REVIEW PROCEDURE  
INCORPORATING PROBLEM SOLVING GROUP APPROACH



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

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## **Mandatory Conditions**

### **All Premises Licence authorising supply of alcohol**

The licence is granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and Order 2014.

1. No supply of alcohol may be made under the Premises Licence –
  - (a) At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
  - (b) At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
  
2. Every supply of alcohol under the Premises Licence must be made, or authorised by a person who holds a Personal Licence.
  
3. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.
    - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to –
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

- b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
  - e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
- (a) a holographic mark or
  - (b) an ultraviolet feature.
6. The responsible person shall ensure that –
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied

having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

- (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml; and
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

## **Minimum Drinks Pricing**

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1 –
  - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
  - (b) “permitted price” is the price found by applying the formula –
$$P = D + (D \times V)$$
Where –
    - (i) P is the permitted price
    - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
    - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
  - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –
    - (i) The holder of the premises licence

- (ii) The designated premises supervisor (if any) in respect of such a licence, or
  - (iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **If the Premises Licence allows Exhibition of Films**

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.
3. Where
  - (a) The film classification body is not specified in the licence, or

- (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

4. In this section “children” means any person aged under 18; and

“film classification body” means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984(c39) (authority to determine suitability of video works for classification).

### **If the Premises Licence has conditions in respect of Door Supervision**

**except theatres, cinemas, bingo halls and casinos**

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) be entitled to carry out that activity by virtue of section 4 of the Act.

2. But nothing in subsection (1) requires such a condition to be imposed:

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or

(b) in respect of premises in relation to:

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3. For the purposes of this section:

(a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act, (see Section 3(2) of that Act) and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

## Appendix B

The Licensing Authority is currently undertaking a Review of its Statement of Licensing Policy which was last published in January, 2011. The main changes in content reflect the Secretary of State's Guidance document. In particular, the following changes have been made:

Paragraph 1.8	Additional sentence relating to licence reviews to remove live and recorded music exemptions
Paragraph 1.10	Additional paragraph relating to the Legislative Reform (Entertainment Licensing) Order 2014 and Deregulation Act 2015
Paragraph 2.2	Additional note as above
Paragraph 3.1.5	Reference to The Public Spaces Protection Order (PSPO), Anti-social Behaviour Crime and Policing Act 2014 and Equality Act 2010
Paragraphs 3.5.1 - 3.5.3	Additional paragraphs to reflect latest Guidance In relation to child protection matters
Paragraph 3.5.5	Additional paragraph relating to The Police Reform & Social Responsibility Act 2011 in relation to Voluntary Closures
Paragraph 4.2	Additional section relating to Late Night Levy
Paragraph 4.3	Additional section relating to Early Morning Restriction Orders
Paragraph 5.4	Additional paragraph to reflect the latest version of Guidance in relation to planning issues
Paragraph 7.2 – 7.3	Additional paragraph relating to changes to procedure for Temporary Event Notices
Section 8	Additional section to include Personal Alcohol Licences
Section 9	Additional section to include Club Premises Certificates
Paragraphs 12.8 – 12.9	Additional paragraphs relating to suspension of premises licences/club premises certificates for non-payment of fees
Paragraph 13.1	Additional paragraph relating to Mandatory Conditions
Paragraph 14.4	Additional paragraph relating to procedure for Dispensed Hearings
Paragraph 15.4	Change of wording to remove reference to “vicinity”

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# Agenda Item 8

**REPORT TO:** LICENSING COMMITTEE

**DATE:** 23<sup>rd</sup> September 2015

**REPORT BY:** THE HEAD OF PLANNING AND PUBLIC PROTECTION

**SUBJECT:** LICENSING COMMITTEE WORK PROGRAMME 2015/16

<b>DATE</b>	<b>REPORT</b>	<b>COMMENT</b>
2 <sup>nd</sup> December 2015	<b>Proposed revised Hackney Carriage and Private Hire Vehicle Policy</b>	Report for Members to consider a revised Policy
	<b>RESERVED</b>	
9 <sup>th</sup> March 2016	<b>Proposed Sex Establishment Policy</b>	Report for Members to consider a revised policy
	<b>Proposed Scrap Metal Dealers Policy</b>	Report for Members consideration to support an all Wales Policy for approval by Full Council
8 <sup>th</sup> June 2016	<b>Proposed revised Hackney Carriage and Private Hire Driver Policy</b>	Report for Members to consider a revised Policy
	<b>Proposed revised Private Hire Operator Policy</b>	Report for Members to consider a revised Policy
22 <sup>nd</sup> September 2016	<b>Proposed Street Trading Policy</b>	Report for Members to consider a revised Street Trading Policy
	<b>Forward Work Programme 2016/17</b>	Report for Members to consider approving the FWP for 2016/17
7 <sup>th</sup> December 2016	<b>Update and Review of Penalty Point Policy and Procedure</b>	Report for Members to consider along with approval of reviewed policy

	<b>RESERVED</b>	
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