

To: Members of the Licensing  
Committee

Date: 5 October 2022

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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, 12 OCTOBER 2022** in the **COUNCIL CHAMBER, COUNTY HALL, RUTHIN AND BY VIDEO CONFERENCE.**

Yours sincerely

G Williams  
Monitoring Officer

## **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 22 June 2022 (copy enclosed).

**5 REVIEW - LICENSING ACT 2033: STATEMENT OF LICENSING POLICY**  
(Pages 17 - 168)

To consider a report by the Head of Planning, Public Protection and Countryside Services (copy enclosed) updating members following the statutory consultation process on the Review of the Council's Statement of Licensing Policy and seeking approval of a final policy for submission to Cabinet for approval.

**6 REVIEW OF VEHICLE AGE FOR THE LICENSING OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES** (Pages 169 - 172)

To consider a report by the Head of Planning, Public Protection and Countryside Services (copy enclosed) seeking members' review of the existing maximum age of vehicles for both new and renewal applications following interim amendments to the existing policy in January 2022.

**7 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2022/23**  
(Pages 173 - 176)

To consider a report by the Head of Planning, Public Protection and Countryside Services (copy enclosed) on the priorities of the Licensing Section together with a revised forward work programme.

**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.

**8 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 559870** (Pages 177 - 188)

To consider a confidential report by the Head of Planning, Public Protection and Countryside Services (copy enclosed) seeking members' determination of an application to drive hackney carriage and private hire vehicles from Applicant No. 559870.

**10.30 am**

**9 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 559747** (Pages 189 - 202)

To consider a confidential report by the Head of Planning, Public Protection and Countryside Services (copy enclosed) seeking members' determination of an application to drive hackney carriage and private hire vehicles from Applicant No. 559747.

**11.00 am**

**10 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 559851 (Pages 203 - 216)**

To consider a confidential report by the Head of Planning, Public Protection and Countryside Services (copy enclosed) seeking members' determination of an application to drive hackney carriage and private hire vehicles from Applicant No. 559851.

**11.30 am**

**MEMBERSHIP**

**Councillors**

Councillor Bobby Feeley (Chair)

Councillor Hugh Irving (Vice-Chair)

Joan Butterfield  
Gwyneth Ellis  
Martyn Hogg  
Alan James  
Delyth Jones

Paul Keddie  
Win Mullen-James  
Andrea Tomlin  
Michelle Walker

**COPIES TO:**

All Councillors for information  
Press and Libraries  
Town and Community Councils

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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:  1. Section 61 (2A) of the Local Government (Miscellaneous Provisions) Act 1976. 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.  The Solicitor will explain to the licence holder the implications of the decision.
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, 22 June 2022 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Gwyneth Ellis, Bobby Feeley, Martyn Hogg, Hugh Irving, Alan James, Delyth Jones, Paul Keddie and Andrea Tomlin

**Observer** – Councillor Barry Mellor

### ALSO PRESENT

Head of Legal, HR and Democratic Services (GW), Public Protection Business Manager (IM), Senior Licensing Officer (NJ), Enforcement Officers (Licensing) (KB & NS) and Committee Officers (KEJ & RTJ [Webcaster])

#### 1 APOLOGIES

Councillor Win Mullen-James

Councillor Michelle Walker had been unable to join the meeting via Zoom due to technical issues with the video conferencing system.

#### 2 APPOINTMENT OF CHAIR

Nominations were sought for Chair of the Licensing Committee for 2021/22. Councillor Andrea Tomlin proposed, seconded by Councillor Hugh Irving, that Councillor Bobby Feeley be appointed Chair. There were no further nominations.

**RESOLVED** that Councillor Bobby Feeley be appointed Chair of the Licensing Committee for the ensuing year.

#### 3 APPOINTMENT OF VICE CHAIR

Nominations were sought for Vice Chair of the Licensing Committee for 2021/22. Councillor Andrea Tomlin proposed, seconded by Councillor Paul Keddie, that Councillor Hugh Irving be appointed Vice Chair. There were no further nominations.

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

#### 4 DECLARATION OF INTERESTS

Councillor Joan Butterfield declared a personal interest in agenda item 10 because she used taxis and knew most of the taxi drivers.

#### 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 2 March 2022 were submitted.

***RESOLVED** that the minutes of the meeting held on 2 March 2022 be received and confirmed as a correct record.*

## **7 PROPOSED CHANGES TO HACKNEY CARRIAGE VEHICLES TABLE OF FEES AND CHARGES**

The Public Protection Business Manager (PPBM) submitted a report (previously circulated) seeking members' further review of the proposed tariff charges for hackney carriage vehicles (taxis) in light of the consultation responses received.

The proposed changes to hackney carriage fares and charges had been approved for consultation by the Licensing Committee in March 2022 and had followed a request from licensed drivers for a review of the tariff charges. Fourteen objections had been received in response to the consultation together with a number of representations received in support of the proposed tariff changes and two petitions signed by 38 licensed drivers. The proposed changes to the current tariff had been highlighted and reference had also been made to the authority's current position in the "league table" of taxi fares in comparison with the proposal. Members were asked to review the proposed tariff charges and consider whether or not to modify the proposed tariff charges, or reject the proposals, in light of the information provided and responses received. Particular areas for consideration included the timing of Tariff 2, the days where Tariff 2 was implemented, and whether the rate per mile was the appropriate measurement for subsequent distance.

The PPBM guided members through the detail of the report and the responses received to the consultation, highlighting the issues raised in those representations. In brief, there were mixed objections to the proposed tariff charges relating to various aspects of the proposals with some objecting to specific elements of the proposal and others to any and all tariff increases. Most objections had been against the timing of Tariff 2 on a Friday and Saturday and the introduction of Tariff 2 on a Sunday. Other objectors supported an increase in the start fare but not per mile and others questioned the rate per mile as an appropriate measure. The main basis of the objections was that the proposed fee increase would deter taxi use and have a detrimental impact on the trade, with valuable trade lost as a result. Those in favour of the increase cited the cost of living increases having a significant impact on the viability of the trade and a shortage of drivers to meet customer demand. The PPBM also referred to an email sent directly to members from a taxi operator in response to representations received in support of the proposed tariff changes.

Councillor Martyn Hogg did not feel sufficient information had been provided to understand the full effects of the rate increase but accepted the need for a tariff rise due to cost increases incurred by the taxi trade. The current proposal was higher

than inflation and taking into account the consultation responses he proposed an amendment (as a compromise) in line with inflation (around 10%) as follows –

- Tariff 1 – Start fare £4.00 (includes first mile), fare per mile thereafter £2.20
- Tariff 2 – Start fare £5.50 (includes first mile), fare per mile thereafter £3.30
- Fare to be charged in one tenth of a mile increments
- No change to timings of Tariff 2

Councillor Hogg explained his reasoning behind the amendment and provided examples of the percentage increases in the cost per journey as a consequence. He felt further work should be undertaken to understand the average taxi journeys in the county and to review the tariff timings as soon as possible. The proposed amendment had been discussed with the PPPM who confirmed that the Tariff 2 proposal needed to be reviewed as did the rate per mile. The practicalities of the amendment were acknowledged but no calculations had been carried out on the revised proposals. Councillor Joan Butterfield seconded the amendment and also called for a review in six months' time. She had been disappointed to note only one consultation response from the public.

The Head of Legal, HR and Democratic Services set out the legislation relating to the review of fares and charges and the processes to be followed in that regard together with the options available to the Committee to approve/amend the proposed tariffs with an implementation date of 1 July 2022, or to reject them. If members were minded to carry out further consultation, then the process would effectively recommence which would delay any implementation of the tariffs.

Members carefully considered the report, including the consultation responses, the proposed tariff and subsequent amendment to that tariff, and took the opportunity to raise questions with the PPBM, and also heard from two members of the taxi trade, one for and one against the proposed tariff increase. Mr. L. Peake spoke against the proposed tariff increase, highlighting the problems for taxi operators advertising discounted fares with some drivers subsequently charging the maximum fee which was difficult for operators to address, particularly in the case of owner-drivers. He argued the proposed tariff increase was too high and customers would be lost. Mr I. Horvath spoke for the proposed tariff increase highlighting the significant cost increases associated with an average vehicle and gave examples of typical journeys and costs incurred in different areas of the county and longer distances.

During debate the following points were raised –

- the start fare in the proposed tariff also included the first mile
- tariff charges set by the Council were the maximum permitted and a lesser fee could be agreed with the customer
- the majority of respondents were in support of the proposed tariff increase
- the majority of the objections related to proposed changes to Tariff 2
- charging an incremental rate per mile rather than a flat rate per mile meant that the customer only paid for the actual mileage incurred rather than a full mile
- there may be unintended consequences of tabling amendments to the proposed tariffs given the detail had not been properly examined beforehand

- the tariff proposals agreed by the Committee for consultation had been based on proposals put forward by a number of licensed drivers, not by officers
- there was no one representative body for taxi drivers in Denbighshire
- the tariff proposals consulted upon in percentage terms rose from 7% for a two-mile journey and increased over additional miles, the further the journey the higher percentage increase. However, the proposed Tariff 2 would potentially double or treble the fare and would be a contentious issue for customers.

The Head of Legal, HR and Democratic Services provided advice in terms of the decision making process and rules of procedure with regard to amendments to motions. At this point the Chair called for a vote on the amendment proposed by Councillor Hogg, seconded by Councillor Joan Butterfield, which was then restated for the benefit of members. Upon being put to the vote the amendment was **LOST**.

Councillor Delyth Jones highlighted the need for an increase in fares to support the taxi industry to move towards environmentally friendly vehicles. She supported an incremental rate per mile from the second mile onwards in the interest of fairness for customers, but felt there should be no change to Tariff 2 timings pending an early review of the consequences of its implementation. Consequently, Councillor Jones proposed a further amendment, seconded by Councillor Paul Keddie, that the tariff be as set out in the original proposals, subject to additional miles being measured in one tenth of a mile increments, and there being no changes to Tariff 2 timings (which would be subject to an early review). Upon being put to the vote the amendment was **CARRIED** thereby taking the place of the original motion and becoming the substantive motion to which any further amendments could be moved.

The PPBM noted at this point that the 20p surcharge per passenger for journeys more than 4 passengers had been omitted from the report. He asked that members consider implementing that element of the proposal as part of their deliberations.

Whilst it was acknowledged that amendments to the proposed tariff could be tabled at the meeting, both Councillors Joan Butterfield and Hugh Irving expressed concern there may be unintended consequences as a result given that the detail had not been properly examined by officers and put before members beforehand with the full effects ascertained. The Head of Legal, HR and Democratic Services set out the legislative requirements and rules of procedure and he was satisfied that the statutory processes had been followed and it was perfectly in order for a decision to be made. However, if members were not happy to make that decision and wished to defer or seek further consultation it was entirely a matter for them. If a decision was deferred, the current fares would remain in place, and the process would be recommenced. Councillor Hogg reiterated his concerns that insufficient information had been provided from the outset to make a fully informed decision and requested a proper process for assessing taxi fares in the future to include inflationary costs and the effects on customers and hospitality.

The Chair called for a vote on the substantive motion, which was restated, with the inclusion of a 20p surcharge per passenger for journeys more than 4 passengers.

Upon being put to the vote it was unanimously –

**RESOLVED** that –

- (a) *the proposed tariff as detailed in Appendix D to the report be approved with an implementation date of 1 July 2022, subject to additional miles being measured in one tenth of a mile increments, there being no change to the tariff timings which would remain as currently set in 2018, and there being a surcharge per passenger of more than 4 passengers of 20p, and*
- (b) *a review of the tariffs, including Tariff 2 timings, be undertaken with a report back to members for further consideration in approximately six months' time.*

At this juncture (11.25 am) the meeting adjourned for a short break.

## **8 UPDATE ON THE WORK OF THE LICENSING SECTION IN 2021/22**

The Public Protection Business Manager (PPBM) submitted a report (previously circulated) updating members on the work of the Licensing Section during 2021/22 which focused on both operational and management matters.

The PPBM took members through the report which provided statistical data of the number of licences issued, complaints and service requests received covering the main functions – Alcohol and Entertainment; Hackney and Private Hire Licensing; Gambling, Gaming and Lotteries; Street Trading; Charity Collections and Scrap Metal together with Covid related work and other ancillary matters including overall workload results and communications. Management matters included policies, fees, complaints against the service together with future workload considerations.

Councillor Hugh Irving highlighted the heavy workload of the Licensing Team as reflected in the report, and congratulated them on their efforts which he had seen first-hand when shadowing officers in the undertaking of their duties.

Officers clarified various aspects of the report in response to questions as follows –

- the three complaints in respect of scrap metal issues related to potential unlicensed activity which involved the collection of scrap metal without the necessary licence or having an unlicensed site
- the Freedom of Information legislation provided that for the vast majority of requests a charge could not be made. However, there were provisions for a charge of £25 per hour to be made if responding to the request would entail more than eighteen hours of officer time. There was an obligation to assist with refining the request to ensure it was easier to respond to in such cases
- underage alcohol sales were dealt with proportionally and reacted to as appropriate based on intelligence received, generally via a test purchase in the first instance with advice given or a warning issued. Further actions could be taken for repeated offences with prosecution being the ultimate step
- tobacco and cigarette sales were generally not a matter for the Licensing Committee but any information received would be followed up and appropriate action taken within the powers available, and people were encouraged to report those matters as the service reacted to intelligence received. Councillor Joan

Butterfield highlighted a particular case in her ward and confirmed she would forward the necessary information directly to the PPBM.

**RESOLVED** that the contents of the report be noted.

## **9 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2022**

The Senior Licensing Officer submitted a report (previously circulated) on the priorities of the Licensing Section together with an update on rescheduled items and the proposed revised forward work programme for 2022.

The priorities of the Licensing Section reflected the duty placed on the authority in relation to its responsibilities for the licensing function and the effective regulation, control and enforcement of licensees together with the authority's commitment to safer communities and the development of the economy. Due to unforeseen priorities the previously approved forward work programme had been amended with items rescheduled and a revised work programme presented for consideration.

An update was provided to members on those rescheduled items which related to –

- Review of Hackney Carriage/Private Hire Statement of Licensing Policy
- Review of Statement of Principles – Gambling Act 2005
- Review of Street Trading Policy
- Statement of Licensing Policy – Licensing Act 2003

Members noted the update and proposed revisions to the forward work programme.

**RESOLVED** that –

- (a) the contents of the report be noted, and
- (b) the revised forward work programme for 2022 as detailed in Appendix A to the report be approved.

## **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 items 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.

## **10 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 557452**

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

- (i) an application having been received from Applicant No. 557452 for a licence to drive hackney carriage and private hire vehicles;

- (ii) the Applicant having previously held a licence to drive hackney carriage and private hire vehicles which had subsequently been revoked in May 2021 following an accumulation of motoring convictions for speeding and resultant disqualification from driving for a period of six months under the totting up of points procedures (TT99);
- (iii) the application having been referred to the Licensing Committee on 2 March 2022 for determination and following consideration of all the evidence presented, including the Applicant's submission and response to questions, the Committee had resolved to grant the application subject to all other necessary checks associated with the application being satisfactory;
- (iv) subsequent checks having revealed that two of the speeding offences had occurred in a licensed taxi, contrary to the Applicant's account the speeding convictions had been obtained solely whilst driving a motorbike through leisure pursuits and not in a professional capacity as a licensed driver;
- (v) the matter having been referred back to the Licensing Committee in light of the new information which called into question the honesty of the Applicant;
- (vi) the Council's policy with regard to the suitability of Applicants and options available to the Committee when considering the application, and
- (vii) the Applicant having been invited to attend the meeting in support of their application and to answer members' questions thereon.

The Applicant confirmed he had received the report and committee procedures.

The Public Protection Business Manager submitted the report and facts of the case.

The Applicant apologised for the incorrect information provided at the last meeting. He had contacted the DLVA to obtain the necessary information but had been advised that it was no longer available and so he had answered to the best of his knowledge. He had been unaware that the information could have been obtained from the Magistrates Court. He had a number of different vehicles and it was difficult to know in which vehicle the convictions had been obtained. Reference was made to the effect of the driving ban on his personal circumstances and he gave assurances as regard to his future driving conduct. He had been a licensed driver for fourteen years without issue and had provided references attesting to his character and good service. In response to questions the Applicant advised that he had incurred no speeding convictions since the reinstatement of his DVLA licence.

In terms of dishonesty in the application process an explanation was sought as to how the wrong information came to be put before the Committee. The Applicant explained he had a number of different vehicles, three of which were licensed, and he had since sold both motorbikes – he had been more worried about the speeding convictions rather than the vehicle they had been obtained in which had only been brought up in March. He had contacted the DVLA with a view to proving that he had not been driving much over the speed limit but could not obtain the information. He had been asked the question off the cuff by the Committee and had answered

as honestly as he could without having the necessary information. He was not a public speaker and had panicked to answer the question. In his final statement the Applicant apologised again to the Committee for his actions and hoped to move on.

The Committee adjourned to consider the application following which it was –

***RESOLVED*** that the application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 557452 be refused.

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

The decision made by the Committee on 2 March 2022 had been based on the fact that the speeding convictions had been obtained by the Applicant solely whilst driving a motorbike through leisure pursuits and not in a professional capacity as a licensed driver. That decision had also imposed a condition that the licence be granted, subject to all the necessary checks associated with the application being satisfactory. Those checks had revealed that the speeding convictions presented to the Committee related to two different licensed vehicles.

The Committee had carefully considered the particular circumstances of the case as set out in the report together with the Applicant's submissions, response to questions, and references provided. Members had also considered the relevant sections of the Council's Statement of Licensing Policy regarding the suitability of applicants and licensees in the hackney carriage and private hire trades. In particular, the Committee had considered section 4.20 which provided that any dishonesty by the applicant which was discovered to have occurred in any part of any application process would result in a licence being refused. Given that policy provision, the Committee then considered section 3.19 of the same policy that provided a policy provision should only be departed from in exceptional circumstances and for justifiable reasons. The Committee had taken into account the explanation provided by the Applicant with regard to the question of dishonesty together with the references provided and previous history as a licensed driver, but did not feel there was sufficient basis to depart from its policy provision in section 4.20. Consequently, the Committee resolved to refuse the application.

The Committee's decision and reasons therefore were conveyed to the Applicant.

The Applicant was also advised that the Committee's decision did not preclude him from making a further application in the future. However, the Committee impressed upon the Applicant the importance of being completely honest and transparent in any information provided in any future application.

The Applicant was further advised of the right of appeal against the decision within 21 days of receipt of the formal decision letter.

The meeting concluded at 1.15 pm.



<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	12 October 2022
<b>LEAD OFFICER:</b>	Head of Planning, Public Protection & Countryside Services
<b>CONTACT OFFICER:</b>	Senior Licensing Officer <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706433
<b>SUBJECT:</b>	Review – Licensing Act 2003 Statement of Licensing Policy

## 1. PURPOSE OF THE REPORT

- 1.2 To update Members of the Licensing Committee following the statutory 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 current Statement of Licensing Policy came into effect on 1<sup>st</sup> April 2017 and at the Licensing Committee of 15th September 2021 Members authorised Officers to commence the statutory consultation to review the existing policy.
- 4.2 Officers have undertaken a thorough review of the current policy, taking into account any relevant changes in legislation, guidance and good practice.

- 4.3 The review was originally undertaken in partnership with other North Wales Local Authorities, as part of an ongoing effort to achieve consistency, where possible, across the region.
- 4.4 The draft Statement of Licensing Policy for the forthcoming five years, is shown at Appendix A.
- 4.5 The summary of proposed changes can be found at Appendix B
- 4.6 The final approval of the draft policy rests with Cabinet as it is an executive function.

## **5. CONSULTATION**

- 5.1 In order to comply with statutory requirements, the following agencies were consulted on the Draft Statement of Licensing Policy:
- i. All responsible authorities (including Police and Fire Service)
  - ii. Representatives of holders of premises licences, club premises certificates and personal licence holders
  - iii. All County Councillors Town and Community Councillors
- 5.2 Details of the consultation were published on Denbighshire's website, and a notice was placed in a conspicuous position so that it could be seen from outside of the Council Offices.
- 5.3 The consultation opened on the 18<sup>th</sup> July 2022 until the 26<sup>th</sup> August 2022.
- 5.4 As a result of the consultation one response were received from an interested party and one from the Local Health Board being a Responsible Authority under the Licensing Act 2003. North Wales Police have supported the proposed changes. The details of the consultation responses and the Licensing Authority's consideration of those responses can be found at Appendix C.
- 5.5 To assist Members, the existing Statement of Licensing Policy (2017-2022) can be found at Appendix D.

## **6. RECOMMENDATION**

- 6.1 That Members consider the attached draft Statement of Licensing Policy along with the responses received as detailed at Appendix C.
- 6.2 Members may resolve to:
- i. Approve the changes made to the Draft Policy as per the consultation document ie. without any changes following the

consultation; or

- ii. Approve the proposed recommended amendments to the draft policy as detailed at appendix C (column 4).

- 6.3 To approve a final draft policy subject to the considerations at 6.2 above and to instruct Officers to move the policy for approval at Cabinet.

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# **Draft Statement of Licensing Policy – Licensing Act 2003 2022 -2027**

# Draft Statement of Licensing Policy – Licensing Act 2003

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# **Draft Statement of Licensing Policy – Licensing Act 2003**

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# Draft Statement of Licensing Policy – Licensing Act 2003

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# **Draft Statement of Licensing Policy – Licensing Act 2003**

Supply of Alcohol

Exhibition of Films

Door Supervision

Alternative Licence Condition

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## 1. Introduction

### 1.1 Background

- 1.1.1 Under the provisions of the Licensing Act 2003, Denbighshire Council is the Licensing Authority (and is referred to in this document as “the licensing authority”) responsible for granting Premises Licences, Club Premises Certificates, and Personal Licences in the county of Denbighshire .
- 1.1.2 The Licensing Act 2003 (“the Act”) requires a licensing authority to determine and publish a statement of licensing policy (“the policy”) at least every five years. This policy is made under Section 5 of the Act and in accordance with the guidance issued by the Secretary of State, under Section 182 of the Act (“the Guidance”), to licensing authorities on the discharge of their functions under the Act.
- 1.1.3 The licensing authority is bound by the Act and any regulations made under the Act. The licensing authority must ‘have regard to’ the Guidance issued by the Secretary of State. If it considers it appropriate, the licensing authority may depart from the Guidance if they have good reason to do so and can provide full reasons.
- 1.1.4 As required by the Act, the draft Licensing Policy was subject to formal consultation with North Wales Police, North Wales Fire & Rescue Service, Betsi Cadwaladr University Health Board, Persons/bodies representative of businesses and residents in the county and Persons/bodies representative of current licence/certificate holders.

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- 1.1.5 In adopting this policy, the licensing authority recognises both the needs of residents for a safe, healthy and sustainable environment in which to live and work and the importance of well-run entertainment and leisure premises to the economy and tourism industry in Denbighshire.
- 1.1.6 The policy was adopted by Denbighshire Council on ..... having considered the comments received from those consulted. The policy becomes effective from this date and will remain in force until a statutory or other review and consultation process is deemed necessary. The licensing authority will keep the policy under review, making any amendments it considers appropriate to support the licensing objectives. Any amendments will be published in the form of a new policy statement or, if appropriate, by publishing the amendment.
- 1.1.7 The policy will normally apply to any licence application determined after the date that the licensing authority resolved to make these policies operational, irrespective of the date on which the application was made.

## 1.2 Authority Profile

- 1.2.1 Denbighshire covers an area of 844 km<sup>2</sup> and has a population of around 94,000
- 1.2.2 The economy of Denbighshire is diverse. In the more urban north of the county, the seaside towns of Rhyl and Prestatyn dominate and the retail, leisure and tourism sectors remain major employers as Denbighshire is one of the most popular destinations for tourists. The late night economy is

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mainly focused along the coastal strip at the towns of Rhyl and Prestatyn with all the other main towns – St Asaph, Denbigh, Ruthin, Corwen and Llangollen – having similar share of licensed premises.

- 1.2.3 Denbighshire has around 2000 premises licensed under the Licensing Act 2003 including those licensed for the supply alcohol for consumption on and/or off the premises and those licensed for the provision of late night refreshment. The authority receives over 300 temporary event notices each year to hold temporary events for regulated entertainment and/or sale of alcohol.

## 2. Scope and Extent

- 2.1 The purpose of this statement of licensing policy is to set out the policies the licensing authority will apply when carrying out its licensing function, i.e. when regulating the licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. Reference will be made to the Act for ease of understanding however it is not intended to be a simplified summary of the law. A glossary of the terms used in the Act and in this policy can be found in Appendix 1.
- 2.2 The Act defines **licensable activities** as:-
- 2.3 **Sale by retail of alcohol** - The “sale by retail” of alcohol is defined in Section 192 of the Act. Alcohol means spirits, wine, beer, cider or any fermented, distilled spirituous liquor. A sale by retail is any sale of alcohol except those made to a business or club to be sold on to customers, i.e. wholesale of alcohol.

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- 2.4 **The supply of alcohol by or on behalf of a club, or to the order of, a member of the club** - A club's supply of alcohol is the property of all of the members and a supply to a member is therefore a separate licensable activity.
- 2.5 **The provision of regulated entertainment** - Schedule 1 of the Act sets out what activities are to be regarded as the provision of regulated entertainment and those that are not and are therefore exempt from the regulated entertainment aspects of the licensing regime.
- 2.6 The descriptions of entertainment activities licensable under the Act are:
- i. A performance of a play;
  - ii. An exhibition of a film
  - iii. An indoor sporting event;
  - iv. A boxing or wrestling entertainment;
  - v. A performance of live music;
  - vi. Any playing of recorded music
  - vii. A performance of dance; and
  - viii. Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.
- 2.7 To be licensable, one or more of these activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must either
- i. take place in the presence of a public audience, or
  - ii. where the activity takes place in private, be the subject of a charge made with a view to profit.
- 2.8 The Deregulation Act 2015 made considerable changes to the definition of regulated entertainment. Further information regarding these changes along with the changes made following the Live Music Act 2012 can be found in Appendix 2.

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- 2.9 **The provision of late night refreshment** - Schedule 2 of the Act sets out what activities are to be treated as the provision of late night refreshment and those that are not. The Deregulation Act 2015 provides a licensing authority may exempt the supply of hot food or hot drink if it takes place in a designated area, on or from designated premises and during designated times.
- 2.10 The licensing authority has NOT designated an area within the county of Denbighshire for the exempt supply of late night refreshment.
- 2.11 It is a criminal offence under Section 136 of the Act to carry on any of the above licensable activities other than in accordance with a licence or other authorisation under the Act.
- 2.12 The **types of authorisation or permission** the Act requires the licensing authority to regulate are:-
- i. Premises licence – to use premises for licensable activities.
  - ii. Club premises certificate – to allow a qualifying club to engage in qualifying club activities.
  - iii. Temporary event notice – to carry out licensable activities at a temporary event.
  - iv. Personal licence – to sell or authorise the sale of alcohol from premises which has a premises licence.
- 2.13 When carrying out its functions under the Act the licensing authority must seek to promote, with equal importance, the four **licensing objectives** contained in the Act. The four objectives are:
- i. The prevention of crime and disorder
  - ii. Public safety
  - iii. The prevention of public nuisance
  - iv. The protection of children from harm
- 2.14 The licensing authority will carry out its licensing functions in a way that

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- i. ensures public safety,
- ii. supports well managed premises where licence holders show sensitivity to the potential impact of licensable activities on local residents and other businesses,
- iii. supports premises that promote healthier lifestyles and responsible alcohol consumption, and
- iv. protects residents from detrimental effects.

2.15 The licensing process can only seek to control those measures within the control of the licensee and 'in the vicinity' of a premises. The conditions attached to various authorisations will, therefore, focus on:-

- i. Matters within the control of individual licensees and others who are granted any relevant authorisations.
- ii. The premises and places being used for licensable activities and their vicinity.
- iii. The direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

2.16 Every application considered by the licensing authority under this policy will be considered on its individual merits. Nothing in the policy will undermine the rights of any individual to apply for a variety of permissions under the Act and to have any such application considered on its individual merits.

2.17 Nothing in this policy shall override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the Act. However, this will not include applications or representations which are considered to be frivolous, vexatious or repetitious.

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2.18 If it considers it appropriate, the licensing authority may depart from its statement of licensing policy if the individual circumstances of the case merit such a decision in the interests of the promotion of the licensing objectives.

## 3. Licensing Objectives

3.0.1 When carrying out its functions under the Act the licensing authority must seek to promote, with equal importance, the four **licensing objectives** contained in the Act. The four objectives are:

- i. The prevention of crime and disorder
- ii. Public safety
- iii. The prevention of public nuisance
- iv. The protection of children from harm

3.0.2 The licensing objectives are paramount considerations to be taken into account by the licensing authority in determining an application made under the Act, and any conditions attached will be ones appropriate and proportionate to achieve the licensing objectives.

3.0.3 **Each objective is of equal importance.** They will be considered in relation to matters centred on the premises or within the control of the licensee and the effect which the carrying on of that business has on the vicinity.

3.0.4 In undertaking its licensing functions, the licensing authority will use a full range of measures including its planning controls, transport control and be mindful of legislation, strategies and policies which may impact on the promotion of the licensing objectives. These include:-



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- i. Anti-Social Behaviour, Crime and Policing Act 2014
- ii. Equality Act 2010
- iii. Crime and Security Act 2010
- iv. Policing and Crime Act 2009
- v. Health Act 2006
- vi. Violent Crime Reduction Act 2006
- vii. Gambling Act 2005
- viii. The Environmental Protection Act 1990
- ix. The Noise Act 1996
- x. The Health and Safety at Work etc Act 1974
- xi. European Union Services Directive
- xii. The Regulators' Compliance code
- xiii. Denbighshire Council's Planning & Public Protection Service Enforcement Policy
- xiv. Denbighshire Council's Strategic Equality Scheme

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

- 3.0.5 The licensing authority will continue to work in partnership with the police and fire authorities, local businesses, pub watch schemes, community representatives and local people, in meeting these objectives.
- 3.0.6 The licensing authority recognises that the entertainment industry in Denbighshire is a contributor to the local economy. It attracts tourists and visitors, makes for vibrant towns and communities and is a major employer. Commercial occupiers of premises also have a legitimate expectation of an environment that is attractive and sustainable for their businesses. But there must be a balance with the needs of the residential population, whose amenity the licensing authority has a duty to protect.
- 3.0.7 The Council will also have regard to wider considerations affecting the amenity of any area. These include littering and fouling, noise, street crime

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and the capacity of the county's infrastructure, resources and police resources to cope with the influx of visitors, particularly at night.

- 3.0.8 Within the context of promoting the four licensing objectives, the Licensing Authority expects applicants to propose licensing conditions to mitigate the impact their premises may have on the health and well-being of their customers, the neighbourhood and the wider community.

## 3.1 The Prevention of Crime and Disorder

- 3.1.1 The prevention of crime and disorder is both an objective of the Licensing Act 2003 and an important responsibility of Denbighshire Council under the Crime and Disorder Act 1998.
- 3.1.2 The promotion of the licensing objective to prevent crime and disorder places a responsibility on licence holders to become key partners in achieving this objective. It is therefore important that an applicant for a premises licence or club premises certificate is able to demonstrate to the licensing authority the practical steps which will be taken to promote this objective.
- 3.1.3 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.
- 3.1.4 The licensing authority will consider the representations of North Wales Police Service as the main source of advice on crime and disorder.

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3.1.5 This Licensing Authority expects all premises to adopt an age verification policy such as Challenge 25.

## Drugs

3.1.6 Applicants should consider that special conditions may need to be imposed for certain types of venues to reduce the possibility of sale and consumption of drugs.

3.1.7 Drugs alter the way people behave, so their distribution and possession is controlled by the law. Controlled drugs are usually manufactured and supplied illegally, which attracts criminal involvement in their distribution. Drugs manufactured illegally often vary in quality and strength. This puts people taking such drugs in danger.

3.1.8 The licensing authority recognises that drug use by people in a club environment is not something that is relevant to all licensed premises. However, many entertainment venues such as night clubs and dance venues can be popular both with drug users and suppliers.

3.1.9 The licensing authority will expect licensees to take all reasonable steps to:

- i. prevent the entry of drugs into licensed premises
- ii. prevent the misuse of drugs within the premises
- iii. take practical measures to prevent tragedies as a result of drug misuse.
- iv. Train staff to recognise and understand the signs of drug misuse in people so that practical steps can be taken to deal with instances that occur
- v. Display appropriate drug safety awareness information to customers

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- vi. Provide a first aid room and first aid equipment, including a defibrillator in larger venues
- vii. Deploy staff trained to assist with medical incidents
- viii. Implement an appropriate banning policy

3.1.10 The licensing authority will require the applicant to identify any particular issues (having regard to the particular type of premises and/or activities) relating to the entry of and use of drugs on their premises, and set out in their operating schedule how such issues will be dealt with.

## **Door Supervisors (Licensed Security Personnel)**

3.1.11 The licensing authority considers that certain premises may require supervision for the purpose of promoting the reduction of crime and disorder, and to generally provide a safer operation of the premises.

3.1.12 The licensing authority may impose a condition, if relevant representations are received, that door supervisors (approved by the Security Industry Authority) be employed at the premises either at all times or at such times as certain licensable activities are being carried out, and at a number and ratio to be determined by the licensing authority.

## **Public Space Protection Orders**

3.1.13 The authority supports the use public space protection order (PSPO) as a tool to prevent alcohol related crime and disorder in the streets.

3.1.14 The authority expects premises that operate in areas where DPPO's/PSPO's have been implemented to have measures in place to ensure that their customers do not contribute to drink related anti-social behaviour.

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## Industry Partnership Schemes

- 3.1.15 The licensing authority would encourage active participation in schemes such as Pub Watch, Off-Watch, Best Bar None (if available in the area) as contributing to the prevention of crime and disorder licensing objective

## Irresponsible promotions

- 3.1.16 Banning the irresponsible promotion of alcohol in on-licensed premises was one of five measures brought in by Government in 2010. The others were banning the dispensing of alcohol directly into the mouths of customers; making free tap water available; ensuring age verification policies are in place and offering smaller servings of beer, wine and spirits.

In Denbighshire, the decision on what is and is not an irresponsible promotion will be made on a case by case basis taking all the circumstances into account and with reference to other Responsible Authorities when necessary

## Personal Licences

- 3.1.17 The licensing authority recognises it has very little discretion regarding the granting of personal licences. In general, provided an applicant has a qualification approved by Department for Culture Media and Sport (DCMS) and does not have certain serious criminal convictions; the application has to be granted.
- 3.1.18 If an applicant has a relevant conviction, North Wales Police can oppose the application. If the police lodge an objection, a hearing at the licensing authority's Licensing Sub-committee will be held.

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3.1.19 At any hearing, members will consider carefully whether the grant of the licence will be in the interests of the crime and disorder objective. It will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The sub-committee will only grant the application if it is satisfied that doing so will promote this objective

## **3.2 Public Safety**

3.2.1 The public safety licensing objective is concerned with the physical safety of the people using the relevant premises. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption. For further information regarding effects of alcohol on health in Wales, see Appendix 3.

3.2.2 Licence holders have a responsibility to ensure the safety of those using their premises as part of their duties under the Act. These include but are not restricted to fire safety, access for emergency services, appropriate and frequent waste disposal, use of CCTV etc.

3.2.3 The licensing authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised.

3.2.4 The licensing authority will expect premises to be constructed, maintained and managed to recognised standards of safety, and will expect the applicant to have addressed the requirements of health and safety at work and fire safety legislation.

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- 3.2.5 The licensing authority will have particular regard to representations from North Wales Fire and Rescue Service, North Wales Police and Denbighshire Council’s Environmental Health team, to determine whether measures proposed are suitable to ensure the safety of the public.
- 3.2.6 Where the licensing authority considers that general health and safety duties do not adequately cover licensable activities, it may attach conditions to promote public safety if it is appropriate to do so following representations.
- 3.2.7 Where activities are organised by volunteers or by a committee of a club or society the licensing authority considers it good practice that the same level of health and safety protection is provided as if an employer/employee relationship existed.
- 3.2.8 The licensing authority expects the organisers of any large scale event, where licensable activities are to take place, to prepare an event management plan incorporating appropriate risk assessments. Organisers of large scale events where licensable activities are to take place are advised to contact the Denbighshire Events team at the initial planning stage for the event. A Safety Advisory Group meeting might be appropriate in some circumstances.
- 3.2.9 The licensing authority will include in a Premises Licence/Club Premises Certificate an occupant capacity, where necessary for public safety. This figure will be arrived at in consultation with North Wales Fire and Rescue Service following representations from them.

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## 3.3 The Prevention of Public Nuisance

- 3.3.1 Public nuisance is given a statutory meaning in many pieces of legislation however it is narrowly defined in the Act and retains its broad common law meaning.
- 3.3.2 Public nuisance may include, in appropriate circumstances, the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.
- 3.3.3 Public nuisance concerns include:
- i. Noise from premises
  - ii. Litter
  - iii. Car Parking
  - iv. Light pollution
  - v. Noxious odours
  - vi. Behaviour/Disorder
- 3.3.4 The licensing authority is committed to ensuring that the living and working amenity and environment of other persons living and working in the area of the licensed premises is not compromised.
- 3.3.5 When considering the potential impact of licensed premises on the surrounding locality, the licensing authority will consider
- i. the licensable activities applied for
  - ii. the hours of operation applied for
  - iii. the capacity of the premises
  - iv. the character of the area, and
  - v. proximity to local residents.



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- 3.3.6 The licensing authority will not impose conditions on licensed premises that the licence holder cannot directly control, or on matters not related to the immediate vicinity of the premises.
- 3.3.7 North Wales Police have powers under the Act to control noise from premises. In the event that they have to invoke these powers they shall liaise, where practicable, with the licensing authority in accordance with the protocol regarding shared enforcement attached as Appendix 4.
- 3.3.8 Noise and disturbance arising from the behaviour of patrons entering or leaving the premises are matters for personal responsibility and are subject to Police enforcement of the legislation concerning disorder and anti-social behaviour.
- 3.3.9 The licensing authority will balance the potential for limited disturbance in neighbourhoods with the need to encourage and promote live music, dancing and theatre.

## **3.4 The Protection of Children From Harm**

- 3.4.1 The protection of children from harm objective is concerned with the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also protecting children from sexual exploitation and wider harms such as exposure to strong language and exposure to adult entertainment.

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- 3.4.2 The licensing authority recognises that the Act allows for the free access of children to all licensed premises, subject to the licensee's discretion and any conditions applied to the licence.
- 3.4.3 Access by children to all types of premises will not be restricted unless it is considered necessary to do so in order to protect them from harm.
- 3.4.4 The licensing authority will not wish to impose conditions positively requiring the admission of children to licensed premises, which should remain a matter of discretion for the licensee of those premises, subject to there being no conflict with the licensing objective of protecting children from harm.
- 3.4.5 When considering applications for premises licences, the licensing authority will take into account the history of a particular premises, and the nature of activities proposed to be provided, for example:-
- i. Where there have been convictions for serving alcohol to minors or premises with a reputation for underage drinking;
  - ii. Where premises have a known association with drug dealing or taking;
  - iii. Where there is a strong element of gambling on the premises; (this does not include premises which only contain a small number of cash prize gaming machines);
  - iv. Where entertainment of an adult or sexual nature is provided.
- 3.4.6 In such instances, the licensing authority may attach conditions to any licence to:-
- i. Limit the hours when children may be present
  - ii. Restrict the age of persons allowed on the premises
  - iii. Require an accompanying adult
  - iv. Limiting or prohibiting access when certain activities are taking place

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- 3.4.7 Where equal chance gaming or gaming machines are present at a licensed premises the presence of children will have to be monitored by the licensing authority and the Designated Premises Supervisor (DPS).
- 3.4.8 Where large numbers of children are likely to be present on any licensed premises or where child performers are present in licensed premises, the licensing authority may require the presence of an appropriate number of responsible adults (who will have provided a satisfactory Disclosure and Barring Service certificate) to ensure their safety and protection from harm.
- 3.4.9 Where the exhibition of films is permitted, the licence or certificate must include a condition which will restrict access only to those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification or in specific cases by the local authority.
- 3.4.10 No film shall be exhibited in licensed premises which is likely to:
- i. Lead to disorder;
  - ii. Stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender.
- 3.4.11 Applicants seeking a licence to supply alcohol as part of an alcohol delivery service should include in their operating schedule the procedures they intend to operate to ensure that:
- i. The person they are selling alcohol to is over 18;
  - ii. That alcohol is only delivered to a person over 18; and
  - iii. That a clear document trail of the order process from order to delivery is maintained (with times and signatures) and available for inspection by an authorised officer.

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## Adult Entertainment

- 3.4.12 Where the activities proposed under the licence include those of a sex related nature (e.g. striptease, topless waitresses, and table dancing) the licensing authority will take into account the potential for an increased risk to the licensing objectives.
- 3.4.13 The licensing authority will not normally grant licences which involve a sex related element near schools, nurseries, places of worship, hospitals, youth clubs or other sensitive premises where significant numbers of children are likely to attend.
- 3.4.14 Where such licences are granted, conditions will be imposed if necessary which are designed to ensure that children are not admitted to and cannot witness either these activities or advertisements for them, as well as those conditions necessary to prevent crime and disorder problems.
- 3.4.15 If a premises licence or club certificate application does not specifically refer to adult entertainment of any kind, the licence or certificate will specify that adult entertainment is not authorised.
- 3.4.16 Any premises used for more than 12 occasions within a 12 month period for any relevant sexual entertainment, must also be licensed as a Sexual Entertainment Venue. Relevant sexual entertainment includes: lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows.

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## 3.5 Public Health

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

3.5.2 Public Health data reveals that :

14 Percent of adults in Denbighshire drink above the recommended average weekly consumption of alcohol (National Survey for Wales, 2019)

In 2019-2020 there were 394.3 alcohol-specific hospital admissions and 1919.2 alcohol attributable hospital admissions (Eurpean Age Standardise Rate per 100,000 population) for individuals resident in Denbighshire (Public Health Wales 2020)

## 4. Cumulative Impact, Early Morning Alcohol Restriction Orders and Late Night Levy

### 4.1 Cumulative Impact

4.1.1 The concentration of licensed premises by number, type or density in a particular area and the cumulative impact it has on the promotion of the

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licensing objectives is a matter that the licensing authority will consider when carrying out its licensing function.

- 4.1.2 Where there is evidence that a particular area of the county is already suffering adverse effects arising from the concentration of late night premises, or those residential areas are under stress, consideration will be given to adopting a ‘Saturation Policy’.
- 4.1.3 The effect of such a policy is that the licensing authority could refuse applications for a new Premises Licence or Club Premises Certificate, or variation of an existing licence or certificate, whenever it received relevant representation, unless an applicant could demonstrate why the operation of the premises involved would not add to the cumulative impact already being experienced.
- 4.1.4 The ‘Saturation Policy’ would not be absolute however, and any application would be considered on its own merits and would be given proper consideration. In addition, the policy will not seek to limit the number of licensed premises which will be permitted, simply because the licensing authority considers that there are already enough licensed premises to satisfy the demand.
- 4.1.5 In determining whether to adopt a ‘Saturation Policy’ for a particular area the licensing authority may, among other things-
- i. Gather evidence or identification of serious and chronic concern from a responsible authorities and interested parties about nuisance and disorder.
  - ii. Identify the area from which problems are arising and the boundaries of that area.
  - iii. Make an assessment of the causes.
  - iv. Conduct a consultation exercise

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4.1.6 If a ‘Saturation Policy’ is adopted, it will be reviewed regularly to assess if it is necessary and proportionate.

4.1.7 Before establishing a ‘Saturation Policy’ the licensing authority will consider the number of existing measures available relevant to tackling unlawful and antisocial behaviour associated with licensed premises:

- i. Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly and confiscation of alcohol in these areas.
- ii. Police powers to close down premises or temporary events for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise.
- iii. Powers of the police, responsible authorities, local residents or businesses, or councillors to seek a review of a premises licence or club certificate.
- iv. Prosecution of personal licence holders or members of staff who sell alcohol to people who are drunk.
- v. Police enforcement of the general law concerning disorder and antisocial behaviour.
- vi. Participation in local trade liaison schemes e.g. Pub watch.
- vii. Planning controls.
- viii. Provision of CCTV.
- ix. Use of trained security and other staff.
- x. Drug control policies.

## 4.2 Early Morning Alcohol Restriction Order

4.2.1 The licensing authority has the power under section 119 of the Police Reform and Social Responsibility Act 2011 to prohibit sales of alcohol for a specific time period between the hours of 12am and 6am, if it is deemed appropriate for the promotion of the licensing objectives.

4.2.2 Early Morning Alcohol Restriction Orders (EMROs) are designed to address recurring problems with licensed premises, serious public

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nuisance and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.

4.2.3 An EMRO must specify:

- i. the days on which it is to apply and the time period of those days,
- ii. the area in relation to which it is to apply,
- iii. if it is to apply for a limited or unlimited period, and
- iv. the date from which it is to apply

4.2.4 The effect of an EMRO is that Premises Licences or Club Premises Certificate granted by the licensing authority, and Temporary Event Notices given to the licensing authority do not have effect in the area specified and during the period specified in the order.

4.2.5 Where there is evidence that there are recurring problems with licensed premises, serious public nuisance and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises, consideration will be given to making an EMRO.

4.2.6 Before making an EMRO the licensing authority will consider the number of existing measures available to tackling public nuisance and anti-social behaviour which is not directly attributable to specific premises.

- i. Introducing or widening a Cumulative Impact Policy
- ii. Reviewing the licenses of specific problem premises
- iii. Police enforcement of the law concerning disorder and anti-social behaviour
- iv. Power to designate an area where alcohol may not be consumed publicly (Designated Public Places Order)
- v. Planning controls
- vi. Positive measures to create safe and clean town centres by working in partnership with others



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4.2.7 If the licensing authority proposes to make an EMRO it will follow the procedural requirements specified in the Police Reform and Social Responsibility Act 2011.

## 4.3 Late Night Levy

4.3.1 The licensing authority has the power under section 125 of the Police Reform and Social Responsibility Act 2011 to introduce a levy payable by the holders of premises licences and club premises certificates that supply alcohol between the hours of 12am and 6am, in order to cover the additional costs associated with late night alcohol trading.

4.3.2 The holders of premises licences and club premises certificates that supply alcohol between the hours of 12am and 6am benefit from the existence of a late night economy. However, alcohol-related crime and disorder in that night time economy give rise to costs for the police, local authorities and other bodies.

4.3.3 Where the licensing authority decides under section 125 that the late night levy requirement is to apply in its area, it must also decide—

- i. the date on which the late night levy requirement is first to apply, and
- ii. for the first levy year and each subsequent levy year—
  - the late night supply period;
  - the permitted exemption categories (if any) that are to apply in its area;
  - the permitted reduction categories (if any) that are to apply in its area;
  - the proportion of the net amount of levy payments that is to be paid to the North Wales Police

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- 4.3.4 Any income raised by the levy must be split between the licensing authority and North Wales Police. The police will receive at least 70% of the net levy revenue and the licensing authority will receive up to 30% of the net levy revenue.
- 4.3.5 Where there is evidence that alcohol-related crime and disorder in that night time economy give rise to costs for the police, local authorities and other bodies; the licensing authority will consider whether the late night levy requirement is a desirable means of raising revenue in relation to these costs.
- 4.3.6 If the licensing authority proposes to introduce a late night levy it will follow the procedural requirements specified in the Police Reform and Social Responsibility Act 2011.

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## 5. Planning and Building Control

- 5.1 Planning, building control and licensing regimes are properly separated to avoid duplication and inefficiency. They involve consideration of different, although related matters.
- 5.2 The Local Planning Authority with statutory planning responsibilities within the county of Denbighshire is Denbighshire Council
- 5.3 Denbighshire Council's planning policies are set out in the Local Development Plan' and 'Supplementary Planning Guidance'.
- 5.4 The Planning Authority works to:
- i. develop complementary and compatible policies,
  - ii. ensure effective and sustainable long term planning, and
  - iii. optimise economic, social and environmental benefits.
- 5.5 In general, planning permissions authorise a broad type of use of a premises, whereas licences are granted for a particular type of activity. A planning permission for an entertainment use, for example may cover activities that can have a wide range of different impacts in the locality. The precise nature of the impacts of the specified activities proposed by an applicant for a premises licence need to be considered when the application is made.
- 5.6 The licensing authority will normally expect that prior to the submission of a licensing application, the appropriate planning permission will have been granted in respect of any premises. However, applications for licences

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may be made before any relevant planning permission has been sought or granted.

- 5.7 The authority will also normally expect the activity to be authorised by the licence to be a lawful planning use and that any operating hours sought do not exceed those, if any, authorised by the planning permission.
- 5.8 Operating hours granted within the licensing process do not replace any restrictions imposed as a planning condition. Planning conditions will be addressed through the planning process.
- 5.9 It is recognised that in certain circumstances, a provisional statement may be sought alongside planning permission.
- 5.10 The licensing authority will encourage licence holders to provide facilities enabling the admission of people with disabilities, having due regard to the Equality Act 2010. No conditions will be applied which could be used to justify exclusion on the grounds of public safety.

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## 6. Applications

6.0.1 The Act provides for four different types of authorisation or permission, as follows:

- i. Premises licence – to use premises for licensable activities.
- ii. Club premises certificate – to allow a qualifying club to engage in qualifying club activities.
- iii. Temporary event notice – to carry out licensable activities at a temporary event.
- iv. Personal licence – to sell or authorise the sale of alcohol from premises which has a premises licence.

6.0.2 Applicants are advised that the application process for each type of authorisation or permission is set out in detail in the Act, the Regulations and the Guidance.

6.0.3 All applications must be made on the prescribed form and be accompanied by the prescribed fee.

6.0.4 All application forms, in both the Welsh and English language, are available to download from the licensing authority's website ([www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/entertainment-and-alcohol.aspx](http://www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/entertainment-and-alcohol.aspx)) or on request via telephone 01824 706342 Applicants may submit applications to the licensing authority:

- i. Online via the Denbighshire Licensing website - [www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/premises-licence.aspx](http://www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/premises-licence.aspx)
- ii. By email to [licensing@denbighshire.gov.uk](mailto:licensing@denbighshire.gov.uk) for scanned applications
- iii. By post to Denbighshire County Council, Caledfryn, Smithfield Road, Denbigh, LL16 3 for hardcopy applications.

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6.0.5 The licensing authority will issue bilingual premises licences, club premises certificates and personal licences.

## 6.1 Premises Licence

6.1.1 The prescribed application form for a premises licence contains the operating schedule where the applicant is required to specify amongst other information, the proposed licensable activities to take place at the premises, the times when the activities will take place, the time period the licence is required for, whether any alcohol that is to be sold is for consumption on or of the premises or both and critically, the steps they propose to take to promote the four licensing objectives.

6.1.2 A plan of the premises and a form of consent from the designated premises supervisor (for applications where the sale of alcohol will be a licensable activity) must be provided with the application.

6.1.3 Applicants are required to advertise their application in the prescribed way and within the prescribed period in accordance with Section 17 of the Act. An application for a premises licence may only be determined when the licensing authority is satisfied that the applicant has complied with these requirements.

6.1.4 Once a premises licence is granted further applications may be made in its respect, these include:-

- i. Application to vary a premises licence
- ii. Application for a minor variation to a premises licence
- iii. Application to vary a premises licence to specify an individual as a designated premises supervisor
- iv. Application to transfer a premises licence

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- v. Interim authority notice
- vi. Application for the review of a premises licence

## Provisional Statements

6.1.5 The licensing authority recognises that in certain situations, businesses and developers need to have security that a premises licence is likely to be granted following construction of new premises or alteration of existing unlicensed premises. The licensing authority will issue provisional statements in accordance with the Act and Guidance.

## Designated Premises Supervisors

6.1.6 All applications to appoint a person as the premises supervisor must be accompanied by a form of consent from that person. Applicants for new licences that authorise the sale of alcohol should include the prescribed information in respect of the individual who the licensee wishes to have specified in the Premises Licence as the premises supervisor.

6.1.7 Responsible Authorities will typically consider developing constructive working relationships with Designated Premises Supervisors, and the licensing authority expects this to be reciprocated to promote effective partnership working relations with the trade.

6.1.8 In exceptional circumstances, North Wales Police may object to the appointment of an individual as a Designated Premises Supervisor.

6.1.9 Where, following an objection by the police, the licensing authority is satisfied that the appointment of a person as a Designated Premises Supervisor would undermine the prevention of crime and disorder

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licensing objective; the policy is to refuse the appointment or to remove them as the DPS in circumstances where they are already in post.

## Transfer of Premises Licence

- 6.1.10 The Act provides for any person who may apply for a premises licence, to apply for a premises licence to be transferred to them. An application to transfer a premises licence changes the identity of the holder of the licence and does not alter the licence in any other way.
- 6.1.11 North Wales Police must receive notice of the application in accordance with the requirements of the Act. If they believe the transfer may undermine the prevention of crime and disorder licensing objective, they may object to the transfer by giving notice to the licensing authority within 14 days.
- 6.1.12 Where the consent of the holder of the licence to transfer the premises licence is required but has not been obtained, the applicant must provide evidence to satisfy the licensing authority that ALL reasonable steps have been taken to obtain the consent. Reasonable steps includes allowing a reasonable amount of time for the holder of the licence to respond/give consent.



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## 6.2 Club Premises Certificate

- 6.2.1 The prescribed application form for a club premises certificate contains the operating schedule where the applicant is required to specify amongst other information, the proposed licensable activities to take place at the club premises, the times when the activities will take place, the time period the licence is required for, whether alcohol will be supplied to members and most critically, the steps they proposed to take to promote the four licensing objectives.
- 6.2.2 A plan of the premises and a declaration for a club premises certificate must be provided with the application.
- 6.2.3 Applicants are required to advertise their application in the prescribed way and within the prescribed period in accordance with Section 17 of the Act. An application for a club premises certificate may only be determined when the licensing authority is satisfied that the applicant has complied with these requirements.
- 6.2.4 Once a club premises certificate is granted further applications may be made in its respect, these include:-
- i. Application to vary a club premises certificate
  - ii. Application for a minor variation to club premises certificate
  - iii. Application for the review of a club premises certificate

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## 6.3 Requirement to advertise and display applications

6.3.1 When an applicant is required to publish a notice of their application in a local newspaper the licensing authority will require the applicants to provide a copy of that notice to the licensing authority as soon as is reasonably practicable after the notice is published.

6.3.2 When an applicant is required to display a notice in a prominent position at or on the premises where it can be conveniently read from the exterior of the premises; where practicable, the licensing authority will visit the premises during the consultation period to check that a notice is displayed prominently at or on the premises.

6.3.3 The licensing authority encourages all applicants to publish a bilingual notice of their application in the Welsh and English language.

## 6.4 Temporary Event Notices

6.4.1 A Temporary Event Notice, commonly referred to as TENs, is intended as a light touch process for the carrying on of temporary licensable activities. Unlike applications for Premises Licences and Club Premises Certificates, the licensing authority does not grant Temporary Event Notices. Instead, the premises user notifies the licensing authority of their intention to hold an event.

6.4.2 There are two types of TEN; a standard TEN and late TEN. A standard TEN is given no later than 10 working days before the event and a late TEN is given between 5 – 9 working days before the event. **A late TEN given less than 5 working days before the event will be returned as**

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**void and the activities to which the notice relates will not be authorised.**

- 6.4.3 There are a number of limitations imposed on the use of TENs including the number of times a premises user may give a TEN, the number of times a TEN is given for a particular premises, the maximum duration of an event, the maximum number of people that may attend the event at any one time.
- 6.4.4 The role of the licensing authority is to check that the limitations specified in the Act are being observed. When a TEN is not within the defined limits the licensing authority will issue a counter notice to the premises user. Otherwise, the licensing authority will just acknowledge the Notice, which may be done electronically.
- 6.4.5 North Wales Police and Environmental Health may object to a TEN within three working days of their receipt of the TEN. An objection can be made on the grounds of any licensing objective. Where an objection is made to a late TEN, a counter notice will be issued and the TEN will not be valid. Where an objection is made to a standard TEN the objection notice will be considered at a hearing of the Licensing Sub-Committee.
- 6.4.6 Modifications may be made to a standard TEN following consultation and agreement with North Wales Police AND Denbighshire Council's Environmental Health team; however **there is no scope under the Act to modify a late TEN.**

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- 6.4.7 Although temporary events are not subject to the same degree of control as premises which are the subjects of premises licences, premises users are encouraged to organise the event in such a way that supports all the licensing objectives.
- 6.4.8 A TEN does not relieve the premises user from any requirement under planning law for appropriate planning permission where it is required.
- 6.4.9 Ten working days is the minimum notice period for a standard TEN, however in the interest of open consultation, the licensing authority encourage 20 working days' notice to be provided.
- 6.4.10 A copy of a modified standard TEN should be given to the licensing authority by North Wales Police or Environmental Health as proof of the agreement with the premises user, North Wales Police and Environmental Health.
- 6.4.11 The process for applicants is outlined in the flow chart in Appendix 5

## 6.5 Personal Licence

- 6.5.1 A Personal licence allows the holder to sell alcohol on behalf of any business that has a premises licence or a club premises certificate. The personal licence is designed to ensure that anybody running or managing a business that sells or supplies alcohol will do so in a professional manner.

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- 6.5.2 A personal licence holder can act as the designated premises supervisor (DPS) for any business that sells or supplies alcohol.
- 6.5.3 Applications must be sent to the licensing authority for the area where the applicant lives, and not to the authority in which the licensed premise is located.
- 6.5.4 Where an applicant has an unspent conviction for a relevant or foreign offence, the licensing authority will give a notice to North Wales Police. If the police object to the application on crime prevention grounds, the applicant is entitled to a hearing before the licensing authority. If the police do not issue an objection notice and the application otherwise meets the requirements of the Act, the licensing authority must grant it.
- 6.5.5 Personal licences remain valid unless surrendered, suspended, revoked or declared forfeit by the courts.
- 6.5.6 The holder of a premises licence is required by the Act to notify the licensing authority of any changes to their name or address, any convictions for relevant offences and any convictions for a foreign offence.
- 6.5.7 The requirement to renew a personal licence was removed from the Act by the Deregulation Act 2015. While personal licences issued before the Deregulation Act 2015 have expiry dates, these licences will remain valid and such dates no longer have an effect.

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## 7. Operating Schedule

- 7.1 The licensing authority strongly encourages applicants to discuss proposed applications with a licensing officer and responsible authorities at an early stage and prior to the submission of the application itself. This should identify potential problems and help to build good partnership working. It may also reduce the need for a hearing at a later stage.
- 7.2 When considering how to develop their operating schedules applicants are advised to contact the responsible authorities for guidance.
- 7.3 Applicants are encouraged to make themselves aware of any relevant planning and transport policies, tourism and cultural strategies and local crime and disorder strategies, and to take these into account, where appropriate, in the formulation of their operating schedules.
- 7.4 The licensing authority will expect all applicants to specify the methods by which they will promote the four licensing objectives in their operating schedules, having regard to the type of premises, the licensable activities proposed, the operational procedures, the nature of the location and the needs of the local community.
- 7.5 The authority considers that a well-drawn, specific operating schedule indicates that an applicant understands and is prepared to meet the responsibilities of a licence holder under the Act.

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- 7.6 The authority considers that a blank or sparsely completed operating schedule may give the impression that the applicant has given inadequate thought to the responsibilities of a licence holder.

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## 8. Hours of Operation

8.1 The licensing authority recognises that widespread fixed closing times in certain areas can lead to peaks of disturbance and disorder, when large numbers of people come onto the streets at the same time, potentially causing friction at late night food outlets, taxi ranks and other late night services. Therefore, the licensing authority recognises that flexible licensing hours may be an important factor in reducing such problems.

8.2 Each application will be determined on its own merits, but the hours requested by the applicant will normally be approved where the applicant can show to the satisfaction of the licensing authority, that the proposals would not adversely affect the environmental quality, residential amenity and character of any particular area.

8.3 When considering applications, the licensing authority will take into account applicants requests for terminal hours (the close of business) in light of the

- i. Environmental quality
- ii. Residential amenity
- iii. Character or function of a particular area and
- iv. The nature of the proposed activities to be provided.

The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect any of the above.

8.4 Where alcohol is sold, applications should include both the times at which sales of alcohol will cease and the time when the premises will close.



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- 8.5 Shops and supermarkets will generally be permitted to sell alcohol during the normal hours they intend to open, but individual premises, which are a focus for disorder and disturbance may, subject to representations, be subject to limitations.
- 8.6 Where late hours are requested, particularly involving entertainment, earlier terminal hours may be set and the imposition of conditions may be appropriate to achieve the licensing objectives, should relevant representation be received.
- 8.7 No general limitation on hours, in any area, is imposed by this policy.

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## 9. Enforcement, Reviews and Powers

### 9.1 Enforcement

- 9.1.1 The licensing authority has established a joint-enforcement protocol with North Wales Police to ensure efficient and targeted enforcement. Meetings are held to monitor compliance with licensing requirements and to ensure appropriate and proportionate action is taken. See Appendix 4.
- 9.1.2 In general terms, action will only be taken in accordance with agreed enforcement principles and in line with the Planning and Public Protection Service Enforcement Policy. To this end the key principles of consistency, transparency and proportionality will be maintained.
- 9.1.3 An amendment to the Licensing Act 2003 under the terms of the Violent Crime Reduction Act 2006 enables the Licensing Authority, on the application of a Senior Police Officer, to attach interim conditions to licences pending a full review of the licence.
- 9.1.4 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act.
- 9.1.5 The licensing authority will make arrangements to monitor premises, undertake inspections and take appropriate enforcement if it deems necessary to support and promote the licensing objectives.

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9.1.6 Where conditions have been imposed on a licence, an authorised person of the licensing authority may inspect the premises at any reasonable time for the purpose of checking that those conditions are being complied with.

9.1.7 The licensing authority will consider an appropriate level of enforcement action to a licence holder specifying recommended improvement within a particular period of time if it deems necessary to support and promote the licensing objectives.

## 9.2 **Reviews**

9.2.1 At any time following the grant of a premises licence or a club premises certificate, a **responsible authority** or any **other person** may ask the licensing authority to review the premises licence or club premises certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

9.2.2 The review process represents a key protection for the community where problems associated with the licensing objectives occur at a premises or club.

9.2.3 The licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police or if the police have made an application for summary review on the basis that the premises are associated with serious crime and/or disorder.

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9.2.4 In every case, an application for a review must relate to a particular premises or club and must be relevant to the promotion of one or more of the licensing objectives.

9.2.5 The licensing authority will reject an application for a review if the applicant fails to provide evidence that one or more of the licensing objectives are not being met or if the reason for the review does not relate to the licensing objectives.

9.2.6 The licensing authority will also reject an application for a review if it is considered frivolous, vexatious or repetitious.

9.2.7 The licensing authority considers it good practice for all authorised persons that have concerns about problems identified at premises to give licence holders early warning of their concern and the need for improvement, and where possible they should advise the licence holder of the steps they need to take to address those concerns.

## 9.3 Powers

9.3.1 The Act provides a range of statutory powers to the licensing authority which it may exercise on determining applications or following the receipt of a notice.

### **Suspension for non-payment of annual fees for Premises Licences and Club Premises Certificates**

9.3.2 Holders of a premises licence or club premises certificate must pay the licensing authority an annual fee, the amount of which is determined by

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the non-domestic rateable value of the premises. The annual fee becomes due and payable each year on the anniversary of the date of the grant of the licence/certificate.

- 9.3.3 The fee is payable irrespective of whether the holder of the current licence intends to close the business at some point during the coming year or has taken over mid-year.
- 9.3.4 The licensing authority is required to suspend the Premises Licence or Club Premises Certificate if the annual fee has not been paid.
- 9.3.5 If there is a dispute relating to the amount of the fee and/or a genuine administrative error (made by the holder, the licensing authority or anyone else) before or at the time the fee becomes due, a Statutory Grace Period of 21 days will be given for the dispute to be determined.
- 9.3.6 If the dispute or error is not resolved during the 21 day period then the licensing authority MUST suspend the licence and no licensable activities will be able to take place.
- 9.3.7 The licensing authority will notify the holder of the suspension in writing and specify the date on which the suspension will take effect. The effective date of the suspension will be at least 2 working days after the day the notice of suspension is given.
- 9.3.8 Once payment is received the suspension can be lifted. The suspension ceases to have effect on the day the licensing authority receives payment of the outstanding fee.

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- 9.3.9 The licensing authority will share information on suspensions (and their subsequent lifting) with North Wales Police.

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## 10. Licensing Process

10.0.1 Applicants are advised that the application process for each type of authorisation or permission is set out in detail in the Act, the Regulations and the Guidance.

10.0.2 All applications must be made on the prescribed form and be accompanied by the prescribed fee.

10.0.3 All application forms, in both the Welsh and English language, are available to download from the licensing authority's website ([www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/entertainment-and-alcohol.aspx](http://www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/entertainment-and-alcohol.aspx)) or on request via telephone 01824 706342 Applicants may submit applications to the licensing authority:

- iv. Online via the Denbighshire Licensing website - [www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/premises-licence.aspx](http://www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/premises-licence.aspx)
- v. By email to [licensing@denbighshire.gov.uk](mailto:licensing@denbighshire.gov.uk) for scanned applications
- vi. By post to Denbighshire County Council, PO Box 62, Ruthin, LL15 9AZ for hardcopy applications.

### 10.1 Application Pathway

10.1.1 It is considered that the majority of the licensing function will be administrative in nature, i.e. applications and notices will have few areas of contention. In the interests of speed, efficiency and cost effectiveness, these authorisations will, for the most part, be carried out by officers.

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10.1.2 For representations to be relevant they must

- i. relate to the promotion of one of the four licensing objectives;
- ii. be made by a responsible authority or other person within the prescribed period;
- iii. not been withdrawn; and
- iv. in the case of representations made by a other persons, that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

10.1.3 Where there are no relevant representations to an application the licence will be granted provided that the application is made in accordance with the requirements of the Act.

10.1.4 Where **relevant representations** on an application is made and the application has been made in accordance with the requirements of the Act, the application will be determined in accordance with the requirements of the Act.

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



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## 10.2 Mediation

10.2.1 Where a relevant representation concerning the licensing objectives is made by a responsible authorities or other person, the licensing section will decide whether the representation is relevant.

10.2.2 Where the licensing authority find the representation to be relevant a **mediation meeting** between the relevant parties will be arranged to try and find a reasonable compromise.

10.2.3 If this informal process is successful and all parties agree to conditions then the application will still need to be determined by the licensing committee or sub-committee at a dispensed hearing and the details of that decision will be circulated to the parties concerned.

10.2.4 If this informal process is unsuccessful a hearing before the licensing committee will follow. All relevant parties will be notified.

10.2.5 The determination of the application will be made by the licensing committee or sub-committee and the details of that decision will be circulated to the parties concerned.

## 10.3 Conditions

10.3.1 The conditions attached to a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate.

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- 10.3.2 There are three types of condition that may be attached to a licence or certificate; proposed, imposed and mandatory. See Appendix 6 for current Mandatory Conditions to be included in every licence and/or club premises certificate in the circumstances specified.
- 10.3.3 The licensing authority acknowledges that where no representations are made to it by responsible authorities or interested parties about an application, its duty is to grant the licence or certificate subject only to conditions which are consistent with the applicant's operating schedule, and any mandatory conditions prescribed by the Act.
- 10.3.4 With regard to proposed conditions, the licensing authority will not simply replicate the wording from an applicant's operating schedule. The licensing authority will interpret the condition in accordance with the applicant's intention and compose the condition in accordance with the licence conditions principles shown below.
- 10.3.5 The licensing authority will not impose any conditions unless its discretion has been engaged following the making of a relevant representation and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It will then only impose such conditions which are appropriate and proportionate to promote the licensing objectives arising out of the consideration of the representations.
- 10.3.6 When imposing conditions the licensing authority will use wording such as "must", "shall" and "will" and will have regard to the following licence conditions principles.

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## Licence conditions principles:

- i. Must be appropriate for the promotion of the licensing objectives;
- ii. Must be precise and enforceable;
- iii. Must be unambiguous and clear in what they intend to achieve;
- iv. Should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- v. Must be tailored to the individual type, location and characteristics of the premises and events concerned;
- vi. Should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- vii. Should not replicate offences set out in the Act or other legislation;
- viii. Should be proportionate, justifiable and capable of being met;
- ix. Cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- x. Should be written in a prescriptive format.

10.3.7 When imposing conditions to a licence, the licensing authority will be aware of the need to avoid, as far as possible, measures which might deter live music, dancing or theatre through the imposition of substantial indirect costs.

10.3.8 The licensing authority will endeavour to ensure that, if a decision is made which is contrary to the statutory Guidance, the applicant will be given a full explanation of that decision.

10.3.9 The licensing authority acknowledges the Guidance in that the views of local minorities must be balanced with the general interests and wider cultural benefits of the community.

10.3.10 If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the licensing authority's

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consideration will be balanced against the wider benefits to the community.

- 10.3.11 Where amendments or additions are made to the mandatory conditions under the Act they will be treated as if they were included in existing licences or certificates on the date that they come into force. The licensing authority is not obliged to re-issue licences or certificate to include the revised mandatory conditions but will do so where the opportunity arises.

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## 11. Delegation, Licensing Committee and Decision Making

- 11.1 The Act provides that the functions of the licensing authority, including its determinations are to be carried out by its licensing committee (except those relating to the making of a statement of licensing policy). At Denbighshire Council this committee contains 11 members.
- 11.2 The licensing committee may delegate these functions to sub-committees or in appropriate cases, to officials supporting the licensing authority.
- 11.3 The Licensing Committee of Denbighshire Council have appointed a Licensing Sub-Committee to deal with
- i. Applications where there are relevant representations
  - ii. Applications for a personal licence with unspent convictions
  - iii. Applications to review premises licence/club certificate
  - iv. Decision to object when the licensing authority is a consultee and not the relevant authority considering the application
  - v. Determination of an objection to a temporary event notice.
- 11.4 The majority of decisions and functions will be largely administrative in nature with no perceived areas of contention. In the interests of speed, efficiency and cost effectiveness, these will, for the most part, be carried out by officers.
- 11.5 The licensing authority will delegate licensing matters to be dealt with by the Licensing Sub-Committee and to Officers in accordance with the latest recommended Delegation of Functions specified in guidance issued by the Secretary of State, under Section 182 of the Act.

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## 11.6 Wellbeing of Future Generations Act 2015

This Act requires Local Authorities in Wales to think about the long-term impact of their decisions, to work better with people, communities and each other, and to prevent persistent problems, such as poverty, health inequalities and climate change. The Act clearly supports and actively promotes the licensing objectives. This Act links specifically to the prevention of crime and disorder and public nuisance. It recognises that there is a need to create appropriate soundscapes – the right acoustic environment in the right time and place. The Local Authority will consider the management of noise and soundscapes and in particular the five ways of working contained under this Act namely,

i) Long term – the importance of balancing short-term needs with the needs to safeguard the ability to also meet long-term needs,

ii) Integration,

iii) Involvement,

iv) Collaboration and

v) Prevention. Welsh Government has produced a 'Noise and Soundscape Action Plan for 2018-2023' <https://gov.wales/sites/default/files/publications/2019-04/noise-and-soundscape-action-plan.pdf>

11.7 The Licensing Authority will also have cognisance to the following legislation when it decides to discharge its responsibilities under the Licensing Act. This list is not exhaustive:-

i. Environmental Protection Act 1990 which deals with noise and nuisance

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- ii. Regulatory Reform Order 2005 which deals with fire safety
- iii. Highways Act 1980 which deals with pavement café licences.

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## 12. Licensing Register

12.1 Under the Act, every licensing authority is required to keep a licensing register containing

- i. a record of each premises licence, club premises certificate and personal licence issued by it,
- ii. a record of each temporary event notice received by it,
- iii. a record of every other applications made to it, notices given to it and any counter notice given by it, and
- iv. such other information as may be prescribed by regulations.

12.2 The information contained in the licensing register will be made available for inspection by the public during office hours, free of charge, and a copy of that information may be supplied on request (for a fee).

12.3 A summary of the information contained in the licensing register is available to view online at [www.denbighshire.gov.uk](http://www.denbighshire.gov.uk).

12.4 Any person wishing to view the licensing register in person should contact the licensing authority by email [licensing@denbighshire.gov.uk](mailto:licensing@denbighshire.gov.uk) or via telephone 01824 706342 to arrange an appointment.

12.5 To ensure that the information contained in the register is presented in an appropriate format, any person wishing to view the register in person will be requested to clarify which part of the register they wish to have available during the appointment.



# Draft Statement of Licensing Policy – Licensing Act 2003

## Appendix 1: Glossary of Terms

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

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

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

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

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

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

**Dispensed hearing** - Used in the context of applications for a premises licence or club premises certificate that have, following relevant representations, undergone a mediation process and all parties are satisfied with the agreed conditions and authorise the application to be dealt with at the dispensed hearing. A dispensed hearing will not amend or vary the conditions agreed at mediation and if it is proposed to amend any condition then the application must go to a full hearing

# Draft Statement of Licensing Policy – Licensing Act 2003

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

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

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

**Fee bands** – In determining the amount of the licence fee for applications for new **premises licences** and **club premises certificates**, and full variations to licences or certificates, each premises falls into a band based on its non-domestic rateable value. Since the introduction of the 2003 Act until 2012/13, the application fees associated with each band for a new licence or certificate have been as follows: Band A (£100); Band B (£190); Band C (£315); Band D [no **multiplier**] (£450); Band D premises licence with **multiplier** (£900); Band E [no multiplier] (£635); Band E premises licence with multiplier (£1,905). The subsequent annual fees associated with each licence or certificate are as follows: Band A (£70); Band B (£180); Band C (£295); Band D [no multiplier] (£320); Band D premises licence with multiplier (£640); Band E [no multiplier] (£350); Band E premises licence with multiplier (£1,050).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- i. the licensing authority and any other licensing authority in whose area part of the premises is situated,
- ii. the chief officer of police for any police area in which the premises are situated,
- iii. the fire and rescue authority for any area in which the premises are situated,
- iv. the Local Health Board for any area in which the premises are situated,
- v. the enforcing authority for Health and Safety at Work etc Act 1974 for any area in which the premises are situated,
- vi. the local planning authority for any area in which the premises are situated,
- vii. the local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health in any area in which the premises are situated in relation to,
- viii. a body which represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and are competent to advise such matters,
- ix. in relation to a vessel, a navigation authority having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,
- x. the local authority responsible for weights and measures in any area in which the premises are situated.

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

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

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

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

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

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

# Draft Statement of Licensing Policy – Licensing Act 2003

## Appendix 2: Legislative Updates

### The Deregulation Act 2015

The Deregulation Act 2015 provides for the removal or reduction of burdens on businesses, individuals, public sector bodies and individuals.

The measures affecting the Licensing Act 2003 are:

- i. S67 – Sale of alcohol: community events etc and ancillary business sales
- ii. S68 – Temporary event notices: increase in maximum number of events per year
- iii. S69 – Personal licence: no requirement to renew
- iv. S70 – Sale of liqueur confectionery to children under 16: abolition of offence
- v. S71 – Late night refreshment
- vi. S72 – Removal of requirement to report loss or theft of licence etc to police
- vii. S76 – Exhibition of films in community premises

**The Deregulation Act 2015 (Commencement No.1 and Transitional and Savings Provisions) Order 2015** - This order specified which provisions of the Deregulation Act 2015 would come into force on the dates specified. The dates relevant to the measures affecting the Licensing Act 2003 were as follows:-

#### From 1 April 2015

S69 – Personal licence: no requirement to renew

#### From 6 April 2015

S76 – Exhibition of films in community premises

#### From 26 May 2015

S68 - Temporary event notices: increase in maximum number of events per year from 12 to 15. The increased limit will apply for calendar years from 1st January 2016.

S70 – Sale of liqueur confectionery to children under 16: abolition of offence of selling liqueur confectionery to children under the age of 16.

S72 – Removal of requirement to report loss or theft of licence etc. to police

# **Draft Statement of Licensing Policy – Licensing Act 2003**

## **The Deregulation Act 2015 (Commencement No.3 and Transitional and Savings Provisions) Order 2015**

**From 1 October 2015**

S71 – Late night refreshment

### **Community and Ancillary Sellers Notice**

The following sections are yet to come into force.

S67 – Sale of alcohol: community events etc and ancillary business sales

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

Options possibly contained in the legislation may include the following

Alcohol may be sold between 7am and 11pm

Notice will be given to the licensing authority

The prescribed fee will be paid

Police, Environmental Health Authority and licensing authority can object if a CAN will undermine the licensing objectives. Where problems arise, the police and environmental health authority can object, with the result that the CAN may be revoked.

Police and licensing authority officers will have rights of entry to investigate where users are in breach of the CAN conditions.

No right to a hearing or appeal if a CAN is revoked



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Sale of alcohol must be ancillary to provision of goods or services by the business.

Sale of alcohol from single named premises.

Alcohol for consumption on the named premises

Sale of alcohol must be made by or on behalf of a community group that does not trade for profit.

Sale of alcohol must be ancillary to an organised community event.

Sales of alcohol may be made from up to three named premises.

Sales of alcohol for consumption at organised events of up to 300 people

## **The Live Music Act 2012**

The Live Music Act 2012 amended the Licensing Act 2003 by partially deregulating the performance of live music and removing regulation about the provision of entertainment facilities.

It:

- i. removed the licensing requirement for unamplified live music taking place between 8am and 11pm in all venues, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises;
- ii. removed the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons on premises authorised to supply alcohol for consumption on the premises, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence or club premises certificate;
- iii. removed the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment).
- iv. removed the licensing requirement for the provision of entertainment facilities; and widened the licensing exemption for live music integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music.

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## **Immigration Act**

The Immigration Act places additional responsibilities on licensing authorities to take action where licence holders are found to not be entitled to work in the United Kingdom.

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## Appendix 3: Alcohol and Health in Wales

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

- i. The proportion of adults drinking alcohol above the weekly guidelines (average weekly consumption above 14 units) has remained at a similar level since 2016. Data published by Public Health Wales Observatory in 2019 reveals that 19 percent of adults (aged 16 years and over) drink above the weekly guidelines compared to 20 percent in 2016.
- ii. Rates of alcohol consumption by gender show that 25.8 percent of men drink above weekly guidelines compared to 12.7 percent of women and people aged 45 to 65 drink more frequently than any other age group (Public Health Observatory, 2019).
- iii. Since 2009-10, the percentage alcohol specific hospital admissions involving individuals over the age of 50 has risen by almost 23 percent (Public Health Wales, 2020).
- iv. Alcohol hospital admissions are strongly linked to deprivation. The proportion of all patients admitted for alcohol-specific conditions living in the most deprived areas was 2.7 times higher than those from the least deprived areas (Public Health Wales, 2020).
- v. Mortality from alcohol specific conditions has steadily increased since 2013. However, the number of admissions fell by 7 percent in 2019 compared to the year before (Public Health Wales, 2020).

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

### Drinking Levels and Patterns

There's no guaranteed safe level of drinking, but drinking below the recommended daily limits, means the risks of harm to health are low. Even drinking less than lower risk levels is not advisable in some circumstances. It is not only the amount of alcohol consumed that increases the risk of harm.

Binge drinking, which refers to a pattern of drinking in which a person consumes at least twice the daily recommended amount of alcohol in a single drinking session, can cause acute intoxication and lead to problems such as accidents, injury and violence. Most common in younger age groups, binge drinking is often associated with 'pre-loading'. Preloading is a term that relates to people, particularly young people, drinking alcohol at home or in streets before going on to pubs and clubs. It has been associated with higher

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overall alcohol consumption and a greater likelihood of being involved in a violent incident. People pre-load on alcohol because it's much cheaper to buy in the supermarket or other off licence than in a pub or bar.

The Licensing Authority can consider representations from health bodies acting as responsible authorities. The health bodies can provide information that is relevant to the promotion of the licensing objective of public safety, which includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. For example, drunkenness can lead to accidents and injuries from violence resulting in attendances at emergency departments and the use of ambulance services. In some cases, these will also involve breaches of the crime and disorder licensing objective. In respect of the protection of children from harm there is a duty to protect them from moral, physical and psychological harm and therefore there is lots of potential for health bodies to add value. Under 18 alcohol-related A&E attendances may relate to the objective to protect children from harm and underage or proxy sales of alcohol will have implications for both the crime and disorder and protecting children from harm objectives. Health teams can provide supporting evidence, for example in relation to the effects that drinking alcohol has on the adolescent body. In some areas, the main barrier to health bodies acting effectively as a responsible authority is that the evidence that they need to support a representation is not routinely collected or available in their area.

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

# **Draft Statement of Licensing Policy – Licensing Act 2003**

## **Appendix 4: Joint Enforcement protocol with North Wales Police**

A Memorandum of Understanding exists between North Wales Police and all North Wales licensing authorities regarding the operational procedures and a joint enforcement protocol under the Licensing Act 2003.

The purpose of the joint enforcement protocol is to

- i. ensure efficient and targeted enforcement,
- ii. facilitate co-operation between enforcement agencies, and
- iii. underpin the mutual operational support required to tackle problem licensed premises.

This joint enforcement protocol describes how North Wales Police and the licensing authority will deal with problems arising at premises or club in relation to any of the four licensing objectives. It also describes when commencement of the review process may be deemed necessary.

### **Enforcement Ladder**

#### **Stage One**

Incident of disorder/underage drinking/attempts to purchase alcohol by underage person or on behalf of underage person in/from a licensed premise where the person in charge calls the police for assistance and agrees to work with the police.

More serious offences can trigger stage two or three automatically.

**If problems continue on from Stage One :**

#### **Stage Two**

Meeting with Police Inspector/Neighbourhood Sergeant, Western Division, Licensed Premises Manager and representative of the Local Authority. Issues will be formally discussed and formal written warning given.

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**Mutual Action Plan** agreed with time span of three months. If no further incidents occur then exit from enforcement ladder

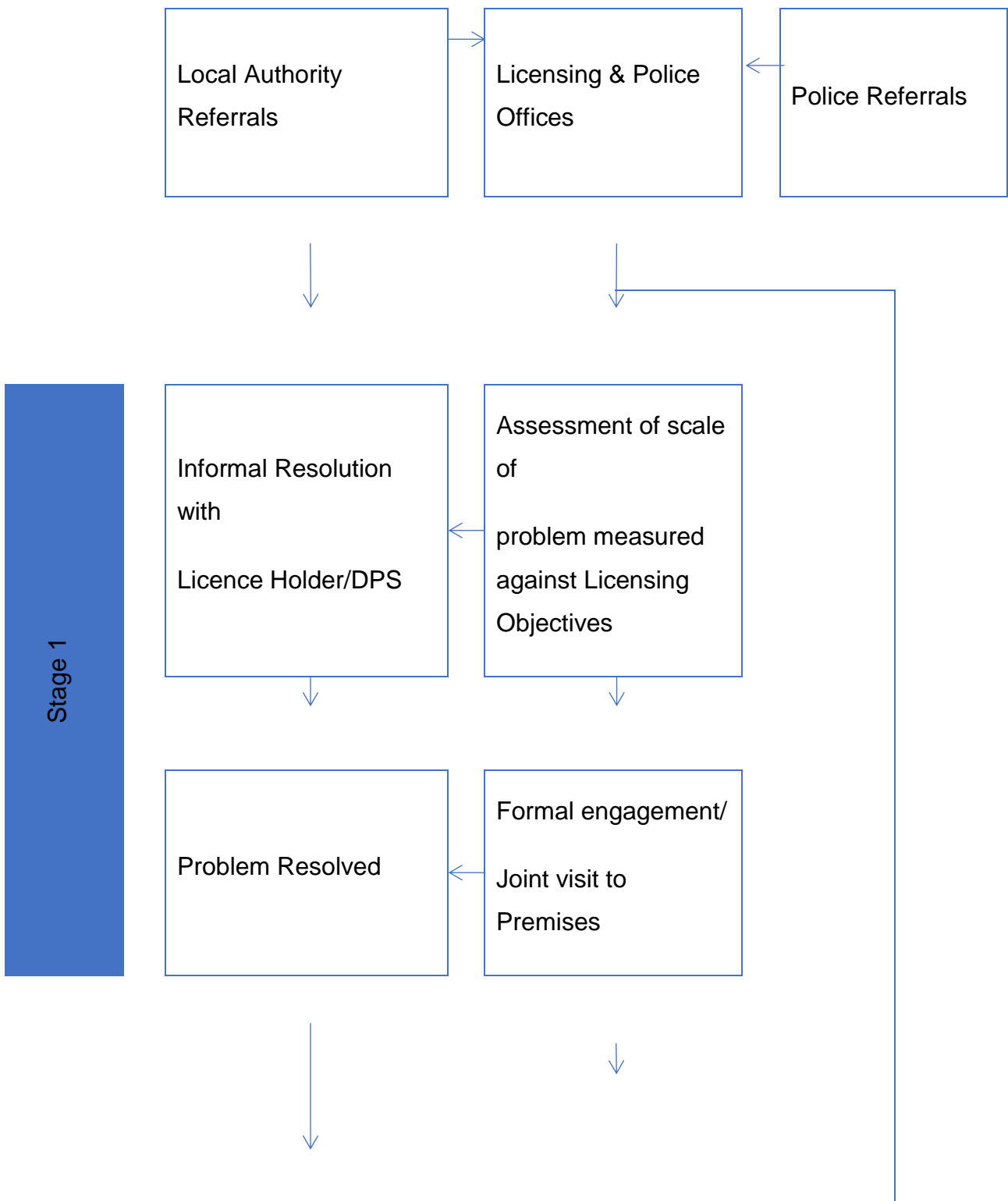
**If problems continue on from Stage Two:**

## **Stage Three**

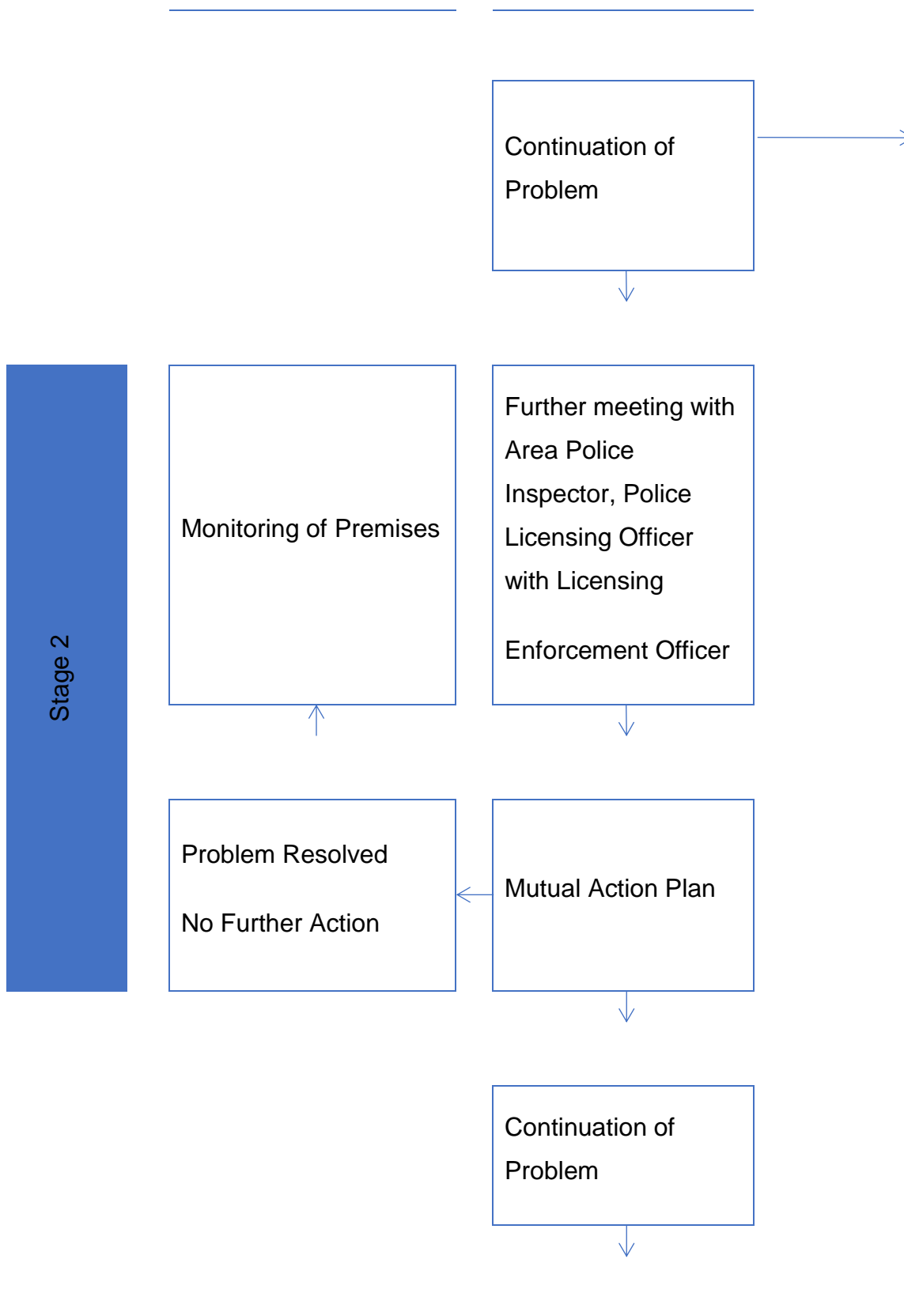
Police Inspector/Neighbourhood Sergeant and Western Division or licensing authority will apply for review of Premises Licence, as appropriate to the circumstances.

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## Licensed Premises Review Procedure incorporating joint problem solving



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# Draft Statement of Licensing Policy – Licensing Act 2003



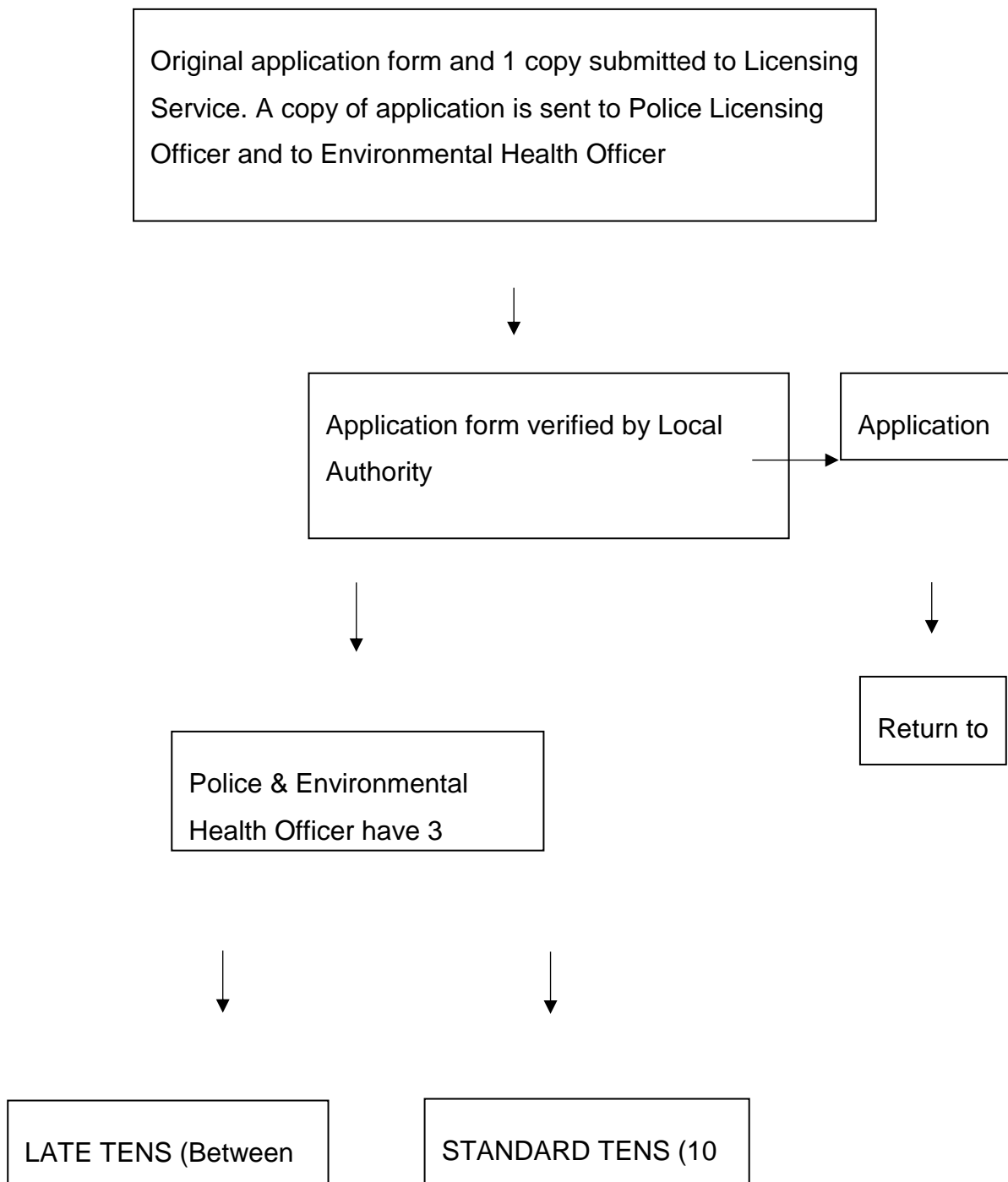
Progression to each level is an optional process and this flowchart is designed as a template for progress and monitoring of problem premises.

Depending on the merits of the case, it can be decided to apply for a review of a premises licence at any time.

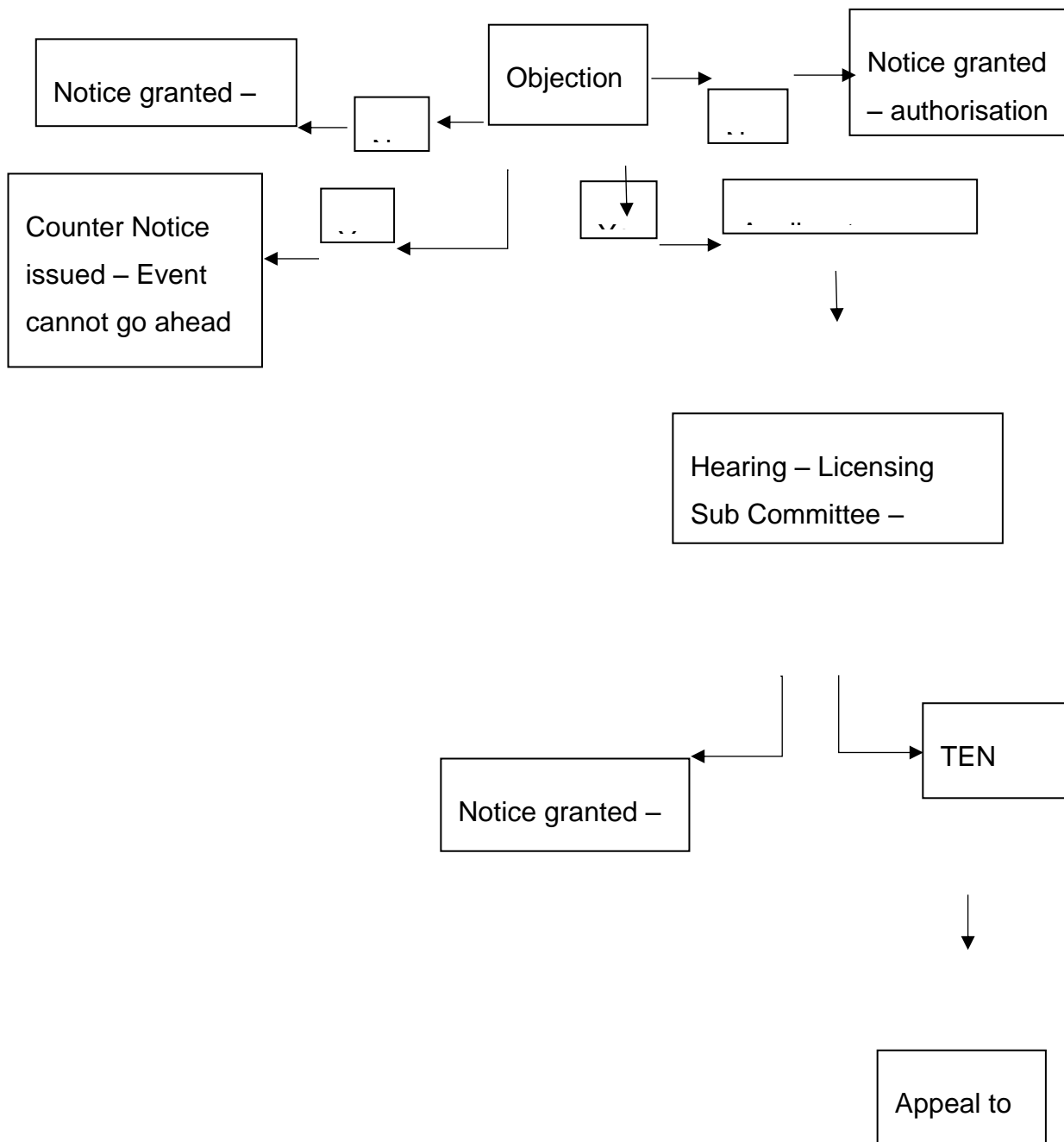
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## Appendix 5: Flowchart for Ten

### Temporary Events Notice



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# Draft Statement of Licensing Policy – Licensing Act 2003

## Appendix 6: Mandatory Conditions

### Supply of Alcohol

#### Section 19(2), Licensing Act 2003

No supply of alcohol may be made under this licence

- (a) At a time when there is no designated premises supervisor in respect of it or,
- (b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

#### Section 19(3), Licensing Act 2003

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

#### Section 19(4), Licensing Act 2003

Other conditions

#### The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 as amended

- 1 (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

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- (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 a disability).
- 2 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 3 (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 licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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(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.

4 The responsible person must 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;

(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.

The Licensing Act 2003 (Mandatory Conditions) Order 2014

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 –

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(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.

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3 Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this 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.

## Exhibition of Films

### Section 20, Licensing Act 2003

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

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

## Door Supervision

### Section 21, Licensing Act 2003

At the specified times when one or more individuals must be at the premises to carry out a security activity, every such individual must



# **Draft Statement of Licensing Policy – Licensing Act 2003**

- (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 Private Security Industry Act 2001.

For the purposes of this condition —

- (a) “security activity” means an activity to which paragraph 2(1)(a) of Schedule 2 of the Private Security Industry Act 2001 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.

## **Alternative Licence Condition – Community Premises**

### **Section 25A (2), Licensing Act 2003**

Every supply of alcohol made under this licence must be made or authorised by the management committee.

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2003**

## **Summary of Proposals – Review of Statement of Licensing Policy – Licensing Act 2003**

### **Proposal 1 - Insert the following paragraph:**

3.0.8 Within the context of promoting the four licensing objectives, the Licensing Authority expects applicants to propose licensing conditions to mitigate the impact their premises may have on the health and well-being of their customers, the neighbourhood and the wider community

### **Proposal 2 - Expand 3.1.9 to include:**

- I. Train staff to recognise and understand the signs of drug misuse in people so that practical steps can be taken to deal with instances that occur
- II. Have appropriately trained staff to deal with drug related incidents
- III. Display appropriate drug safety awareness information to customers
- IV. Provide a first aid room and first aid equipment, including a defibrillator in larger venues
- V. Deploy staff trained to assist with medical incidents
- VI. Implement an appropriate banning policy

### **Proposal 3 - Add 3.1.15 Industry Partnership Schemes:**

The licensing authority would encourage active participation in schemes such as Pub Watch, Off-Watch, Best Bar None (if available in the area) as contributing to the prevention of crime and disorder licensing objective

# Summary of Proposals – Review of Statement of Licensing Policy – Licensing Act 2003

## **Proposal 4 - Add 3.1.16 Irresponsible promotions:**

Banning the irresponsible promotion of alcohol in on-licensed premises was one of five measures brought in by Government in 2010. The others were banning the dispensing of alcohol directly into the mouths of customers; making free tap water available; ensuring age verification policies are in place and offering smaller servings of beer, wine and spirits.

In Denbighshire, the decision on what is and is not an irresponsible promotion will be made on a case by case basis taking all the circumstances into account and with reference to other Responsible Authorities when necessary.

## **Proposal 5 - Add 3.5 Public Health:**

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

Public Health data reveals that:

14 Percent of adults in Denbighshire drink above the recommended average weekly consumption of alcohol (National Survey for Wales, 2019)

In 2019-2020 there were 394.3 alcohol-specific hospital admissions and 1919.2 alcohol attributable hospital admissions (European Age Standardise Rate per 100,000 population) for individuals resident in Denbighshire (Public Health Wales 2020)

# Summary of Proposals – Review of Statement of Licensing Policy – Licensing Act 2003

## Proposal 6 - Add 11.6 - Wellbeing of Future Generations Act 2015:

This Act requires Local Authorities in Wales to think about the long-term impact of their decisions, to work better with people, communities and each other, and to prevent persistent problems, such as poverty, health inequalities and climate change. The Act clearly supports and actively promotes the licensing objectives. This Act links specifically to the prevention of crime and disorder and public nuisance. It recognises that there is a need to create appropriate soundscapes – the right acoustic environment in the right time and place. The Local Authority will consider the management of noise and soundscapes and in particular the five ways of working contained under this Act namely,

- I. Long term – the importance of balancing short-term needs with the needs to safeguard the ability to also meet long-term needs,
- II. Integration,
- III. Involvement,
- IV. Collaboration and
- V. Prevention. Welsh Government has produced a [‘Noise and Soundscape Action Plan for 2018-2023’](#)

The Licensing Authority will also have cognisance to the following legislation when it decides to discharge its responsibilities under the Licensing Act. This list is not exhaustive:-

- I. Environmental Protection Act 1990 which deals with noise and nuisance
- II. Regulatory Reform Order 2005 which deals with fire safety
- III. Highways Act 1980 which deals with pavement café licences.

# Summary of Proposals – Review of Statement of Licensing Policy – Licensing Act 2003

## Proposal 7 - Amend Appendix 3: Alcohol and Health in Wales

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

- I. The proportion of adults drinking alcohol above the weekly guidelines (average weekly consumption above 14 units) has remained at a similar level since 2016. Data published by Public Health Wales Observatory in 2019 reveals that 19 percent of adults (aged 16 years and over) drink above the weekly guidelines compared to 20 percent in 2016.
- II. Rates of alcohol consumption by gender show that 25.8 percent of men drink above weekly guidelines compared to 12.7 percent of women and people aged 45 to 65 drink more frequently than any other age group (Public Health Observatory, 2019).
- III. Since 2009-10, the percentage alcohol specific hospital admissions involving individuals over the age of 50 has risen by almost 23 percent (Public Health Wales, 2020).
- IV. Alcohol hospital admissions are strongly linked to deprivation. The proportion of all patients admitted for alcohol-specific conditions living in the most deprived areas was 2.7 times higher than those from the least deprived areas (Public Health Wales, 2020).
- V. Mortality from alcohol specific conditions has steadily increased since 2013. However, the number of admissions fell by 7 percent in 2019 compared to the year before (Public Health Wales, 2020).

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

# Summary of Proposals – Review of Statement of Licensing Policy – Licensing Act 2003

## Drinking Levels and Patterns

There's no guaranteed safe level of drinking, but drinking below the recommended daily limits, means the risks of harm to health are low. Even drinking less than lower risk levels is not advisable in some circumstances. It is not only the amount of alcohol consumed that increases the risk of harm.

Binge drinking, which refers to a pattern of drinking in which a person consumes at least twice the daily recommended amount of alcohol in a single drinking session, can cause acute intoxication and lead to problems such as accidents, injury and violence. Most common in younger age groups, binge drinking is often associated with 'pre-loading'. Preloading is a term that relates to people, particularly young people, drinking alcohol at home or in streets before going on to pubs and clubs. It has been associated with higher overall alcohol consumption and a greater likelihood of being involved in a violent incident. People pre-load on alcohol because it's much cheaper to buy in the supermarket or other off licence than in a pub or bar.

The Licensing Authority can consider representations from health bodies acting as responsible authorities. The health bodies can provide information that is relevant to the promotion of the licensing objective of public safety, which includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. For example, drunkenness can lead to accidents and injuries from violence resulting in attendances at emergency departments and the use of ambulance services. In some cases, these will also involve breaches of the crime and disorder licensing objective. In respect of the protection of children from harm there is a duty to protect them from moral, physical and psychological harm and therefore there is lots of potential for health bodies to add value. Under 18 alcohol-related A&E attendances may relate to the objective to protect children from harm and underage or proxy sales of alcohol will have implications for both the crime and disorder and protecting children from harm objectives. Health teams can provide supporting evidence, for example in relation to the effects that drinking alcohol has on the adolescent body. In some areas, the main barrier to health bodies acting effectively as a

## **Summary of Proposals – Review of Statement of Licensing Policy – Licensing Act 2003**

responsible authority is that the evidence that they need to support a representation is not routinely collected or available in their area.

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



Appendix C – Proposal comments/representations

PROPOSAL	COMMENTS/REPRESENTATIONS RECEIVED	COUNCIL RESPONSE	FURTHER COMMENTS & RECOMMENDATIONS
<p>Proposal 2 - Expand 3.1.9 to include:</p> <p>I. Train staff to recognise and understand the signs of drug misuse in people so that practical steps can be taken to deal with instances that occur</p> <p>II. Have appropriately trained staff to deal with drug related incidents</p> <p>III. Display appropriate drug safety awareness information to customers</p> <p>IV. Provide a first aid room and first aid equipment, including a defibrillator in larger venues</p> <p>V. Deploy staff trained to assist with medical incidents</p> <p>VI. Implement an appropriate banning policy</p>	<p>I,II &amp; V - are overly onerous and should not be blanket applied to all venues. It is unfair to burden the operator of a small restaurant or pub with this and does not allow for situations where the staff may be new or temporarily drafted in. It is good practice to have dedicated first aiders present on site, but this is beyond the scope of licensing unless a specific need has been detailed at a specific premises. This seems like it may be a knee jerk reaction to a certain style of premises &amp; unfairly generalised across all hospitality/licensed premises.</p> <p>III - is completely inappropriate for the majority of venues and should only be added to an individual premises license if this has been identified as a definite risk.</p> <p>IV. if this is to be included, a certain definition of 'larger venues' needs to be included. We assume that the intention is for night clubs, therefore would encourage this definition is used if the condition is to remain. It may not be practical or possible in a premises e.g. A pub with a function room used for weddings.</p>	<p>3.1.9 of the current policy states the following "The licensing authority will expect licensees to take all reasonable steps to prevent the entry of drugs into licensed premises, to take appropriate steps to prevent the misuse of drugs within the premises and to take practical measures to prevent tragedies as a result of drug misuse".</p> <p>Our proposal was intended to expand on the section "to include such as" points i-iv as detailed. As the policy reads the licensing authority will expect all reasonable steps/take appropriate steps/take practical measures, such steps will all be different for each licensed premises and will form part of any premises risk assessment. This is not a blanket requirement, what is reasonable for one licensed premises will not be the same for another.</p>	<p>As a result of discussions with the objector they have made the following comments:</p> <p><i>"Thank you for clarifying that this is not a blanket requirement &amp; just example measures based on assessment &amp; can accept based on this."</i></p> <p><b>Officer recommendation</b> – no requirement to consider amending this proposal</p>

Appendix C – Proposal comments/representations

<p>Proposal 5 - Add 3.5 Public Health: The Local Health Board is responsible for making representations and observations on licence applications. The Health Board will also use information provided by Public Health Wales in order to inform their decision making. Public Health is not yet a licensing objective by the licensing authority believes that public health has much to add to licensing in relation to the local populations' alcohol related health needs. Health bodies such as Public Health have unique access to data not available to other responsible authorities which ay inform licensing decisions. Public Health is useful in providing evidence of alcohol related harm particularly in relation to cumulative impact policies.</p>	<p>This proposal is vague – is the authority proposing to introduce a new licensing objective? If so this would come into conflict with common law under the licensing act. If the authority is merely suggesting to add the local health board to the list of responsibilities then this would be allowed under the act, however we would be against adding an extra level of bureaucracy to an already bloated licensing process and struggle to think of any tangible benefits that the health board might offer to the licensing decision process that are not already covered.</p>	<p>We have no jurisdiction to introduce a new licensing objective. The Local Health Board is already a Responsible Authority under the Licensing Act 2003.</p>	<p>As a result of discussions with the objector they have made the following comments:  <i>“Comments still stand about the need for the Local Health Board, I struggle to see where they would be able to make recommendations that fall within the licensing objectives – however I accept they are specified as a responsible authority within the licensing act.”</i></p> <p><b>Officer recommendation</b>– This proposal was intended to support the Public Health section of the policy to be consistent with our neighbouring authorities. However, following comments received by The Health Board, it is proposed to amend this proposal in line with their recommendation as detailed below (see Health Board Proposal 5)</p>
<p>Proposal 7 - Amend Appendix 3: Alcohol and Health in Wales Alcohol use and its consequences remain a major public health challenge in Wales, the UK and elsewhere. The harmful use of alcohol ranks among the top five risk factors</p>	<p>We do not understand the relevance of this in that it reads like a statement of facts and statistics with no reference as to how it should be interpreted to inform licensing decisions. Should the Authority be waiting for the results of Wrexham’s pilot study before considering including this type of</p>	<p>Appendix 3 is additional information regarding the effects of alcohol on health in Wales, to support the Public Safety section of our main policy, and is consistent across North Wales authorities. However, since the Health Board have responded to our proposals, which will strengthen the</p>	<p>As a result of discussions with the objector they have made the following comments:  <i>“Still object to this statement being added as it is not written objectively &amp; the way the facts are presented, selected and omitted</i></p>

**Appendix C – Proposal comments/representations**

<p>for disease, disability and death throughout the world. I. The proportion of adults drinking alcohol above the weekly guidelines (average weekly consumption above 14 units) has remained at a similar level since 2016. Data published by Public Health Wales Observatory in 2019 reveals that 19 percent of adults (aged 16 years and over) drink above the weekly guidelines compared to 20 percent in 2016. II. Rates of alcohol consumption by gender show that 25.8 percent of men drink above weekly guidelines compared to 12.7 percent of women and people aged 45 to 65 drink more frequently than any other age group (Public Health Observatory, 2019). III. Since 2009-10, the percentage alcohol specific hospital admissions involving individuals over the age of 50 has risen by almost 23 percent (Public Health Wales, 2020). IV. Alcohol hospital admissions are strongly linked to deprivation. The proportion of all patients admitted for alcohol-specific conditions living in the most deprived areas was 2.7 times higher than those from the least</p>	<p>information in a more prescriptive format?</p>	<p>main public health section of the policy, Appendix 3 may not now be relevant.</p>	<p><i>could very easily be interpreted as misleading. It is not the licensing authority's job to dissuade the public from using alcohol, it is their job to ensure that it is consumed safely &amp; within the 4 licensing objectives. At the very least it should be properly referenced, but suggest that it should be re-written in a neutral way which presents all of the facts rather than a cherry picked few &amp; more balanced with the positive aspects of the licensed &amp; hospitality trade. "</i></p> <p><b>Officer recommendation</b> – to remove Appendix 3 following Health Board response as detailed below (proposal 5).</p>
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**Appendix C – Proposal comments/representations**

<p>deprived areas (Public Health Wales, 2020). V. Mortality from alcohol specific conditions has steadily increased since 2013. However, the number of admissions fell by 7 percent in 2019 compared to the year before (Public Health Wales, 2020). Alcohol plays an important and positive role in social and family life and contributes to employment and economic development locally. However, social traditions and economic benefits should not mask the fact that alcohol is a toxic substance that can have a detrimental effect on physical and mental health and wellbeing.</p>			
<p><b>Health Board have submitted the following comments to proposals:</b></p>			
<p><b>PROPOSAL</b></p>	<p><b>COMMENTS</b></p>	<p><b>OFFICER RESPONSE/COMMENTS</b></p>	<p><b>FURTHER COMMENTS &amp; RECOMMENDATIONS</b></p>
<p>Proposal 5: The Local Health Board is responsible for making representations and observations on licence applications. The Health Board will also use information provided by Public Health Wales in order to inform their decision making. Public Health is not yet a licensing objective but the licensing authority believes that</p>	<p>The below was added to Gwynedd’s consultation document In March 2020, following a major consultation with professional stakeholders, individuals and families affected by alcohol harm, the first alcohol harm reduction strategy for North Wales was launched. Calling time for Change (2020) was produced on behalf of the North Wales Area Planning Board and in</p>	<p>N/A</p>	<p><b>Officer recommendation</b> – to amend the proposal in place of the comments raised by Health Board in column 2</p>

**Appendix C – Proposal comments/representations**

<p>public health has much to add to licensing in relation to the local populations’ alcohol related health needs. Health bodies such as Public Health have unique access to data not available to other responsible authorities which ay inform licensing decisions. Public Health is useful in providing evidence of alcohol related harm particularly in relation to cumulative impact policies</p>	<p>collaboration with partners across North Wales. The strategy demonstrates a commitment to reducing harm from alcohol through collaborative working over the next five years.</p> <p>The North Wales Alcohol Strategy Group, chaired by Betsi Cadwaladr University Health Board Public Health Team was established to implement a supporting action plan that contributes towards the six priorities of the Calling time on change strategy –</p> <ul style="list-style-type: none"> <li>- Safe and supporting environments</li> <li>- Changed attitudes and social norms</li> <li>- Reduced affordability</li> <li>- Reduced availability</li> <li>- Behaviour change</li> <li>- Children, young people and families</li> </ul> <p>Licensed premises are encouraged to work with the Licensing Authority and North Wales Alcohol Strategy Group by supporting local and regional initiatives that prevent and reduce alcohol related harms and contribute towards safe, vibrant and diverse night time economies that can be enjoyed by all parts of society.</p> <p>Calling Time for Change Strategy (2020) : <a href="http://www.bcuhb.nhs.wales/health-">www.bcuhb.nhs.wales/health-</a></p>		
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**Appendix C – Proposal comments/representations**

	<u>advice/north-wales-alcohol-harm-reduction-strategy</u>		
14 percent of adults in Denbighshire drink above the recommended average weekly consumption of alcohol (national Survey for Wales 2019)	There is updated stats from National Survey for Wales for 2020/21	The percentage rate is correct, the reference to 2019 needs updating to 2020/21	<b>Officer recommendation:</b> If Members are minded to remove Appendix C following Health Board response as detailed above this comment is no longer relevant as it relates to Appendix 3
In 2019-2020 there were 394.3 alcohol-specific hospital admissions and 1919.2 alcohol attributable hospital admissions (European Age Standardise Rate per 100,000 population) for individuals resident in Denbighshire (Public Health Wales 2020)	Health Intelligence to up date stats here for hospital admission.	At the time of writing the report, the updated statistics have not been received	<b>Officer recommendation:</b> If Members are minded to remove Appendix C following Health Board response as detailed above this comment is no longer relevant as it relates to Appendix 3

# Statement of Licensing Policy

LICENSING ACT 2003

April 2017 – April 2022

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# 1. INTRODUCTION

## 1.1 BACKGROUND

- 1.1.1 Under the provisions of the Licensing Act 2003, Denbighshire Council is the Licensing Authority (and is referred to in this document as “the licensing authority”) responsible for granting Premises Licences, Club Premises Certificates, and Personal Licences in the county of Denbighshire .
- 1.1.2 The Licensing Act 2003 (“the Act”) requires a licensing authority to determine and publish a statement of licensing policy (“the policy”) at least every five years. This policy is made under Section 5 of the Act and in accordance with the guidance issued by the Secretary of State, under Section 182 of the Act (“the Guidance”), to licensing authorities on the discharge of their functions under the Act.
- 1.1.3 The licensing authority is bound by the Act and any regulations made under the Act. The licensing authority must ‘have regard to’ the Guidance issued by the Secretary of State. If it considers it appropriate, the licensing authority may depart from the Guidance if they have good reason to do so and can provide full reasons.
- 1.1.4 As required by the Act, the draft Licensing Policy was subject to formal consultation with North Wales Police, North Wales Fire & Rescue Service, Betsi Cadwaladr University Health Board, Persons/bodies representative of businesses and residents in the county and Persons/bodies representative of current licence/certificate holders.
- 1.1.5 In adopting this policy, the licensing authority recognises both the needs of residents for a safe, healthy and sustainable environment in which to live and work and the importance of well-run entertainment and leisure premises to the economy and tourism industry in Denbighshire.
- 1.1.6 The policy was adopted by Denbighshire Council on **1<sup>st</sup> April 2017** having considered the comments received from those consulted. The policy becomes effective from this date and will remain in force until a statutory or other review and consultation process is deemed necessary. The licensing authority will keep the policy under review, making any amendments it considers appropriate to support the licensing objectives. Any amendments will be published in the form of a new policy statement or, if appropriate, by publishing the amendment.
- 1.1.7 The policy will normally apply to any licence application determined after the date that the licensing authority resolved to make these policies operational, irrespective of the date on which the application was made.
- 1.1.8 Key policy statements are presented in shaded boxes.

## 1.2 AUTHORITY PROFILE

1.2.1 Denbighshire covers an area of 844 km<sup>2</sup> and has a population of around 94,000

1.2.2 The economy of Denbighshire is diverse. In the more urban north of the county, the seaside towns of Rhyl and Prestatyn dominate and the retail, leisure and tourism sectors remain major employers as Denbighshire is one of the most popular destinations for tourists. The late night economy is mainly focused along the coastal strip at the towns of Rhyl and Prestatyn with all the other main towns – St Asaph, Denbigh, Ruthin, Corwen and Llangollen – having similar share of licensed premises.

1.2.3 Denbighshire has around 2000 premises licensed under the Licensing Act 2003 including those licensed for the supply alcohol for consumption on and/or off the premises and those licensed for the provision of late night refreshment. The authority receives over 300 temporary event notices each year to hold temporary events for regulated entertainment and/or sale of alcohol.

## 2. SCOPE AND EXTENT

- 2.1 The purpose of this statement of licensing policy is to set out the policies the licensing authority will apply when carrying out its licensing function, i.e. when regulating the licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. Reference will be made to the Act for ease of understanding however it is not intended to be a simplified summary of the law. A glossary of the terms used in the Act and in this policy can be found in Appendix 1.
- 2.2 The Act defines **licensable activities** as:-
- 2.3 **Sale by retail of alcohol** - The “sale by retail” of alcohol is defined in Section 192 of the Act. Alcohol means spirits, wine, beer, cider or any fermented, distilled spirituous liquor. A sale by retail is any sale of alcohol except those made to a business or club to be sold on to customers, i.e. wholesale of alcohol.
- 2.4 **The supply of alcohol by or on behalf of a club, or to the order of, a member of the club** - A club’s supply of alcohol is the property of all of the members and a supply to a member is therefore a separate licensable activity.
- 2.5 **The provision of regulated entertainment** - Schedule 1 of the Act sets out what activities are to be regarded as the provision of regulated entertainment and those that are not and are therefore exempt from the regulated entertainment aspects of the licensing regime.
- 2.6 The descriptions of entertainment activities licensable under the Act are:
- A performance of a play;
  - An exhibition of a film
  - An indoor sporting event;
  - A boxing or wrestling entertainment;
  - A performance of live music;
  - Any playing of recorded music
  - A performance of dance; and
  - Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.
- 2.7 To be licensable, one or more of these activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must either
- take place in the presence of a public audience, or
  - where the activity takes place in private, be the subject of a charge made with a view to profit.
- 2.8 The Deregulation Act 2015 made considerable changes to the definition of regulated entertainment. Further information regarding these changes along

with the changes made following the Live Music Act 2012 can be found in Appendix 2.

2.9 **The provision of late night refreshment** - Schedule 2 of the Act sets out what activities are to be treated as the provision of late night refreshment and those that are not. The Deregulation Act 2015 provides a licensing authority may exempt the supply of hot food or hot drink if it takes place in a designated area, on or from designated premises and during designated times.

2.10 The licensing authority has NOT designated an area within the county of Denbighshire for the exempt supply of late night refreshment.

2.11 It is a criminal offence under Section 136 of the Act to carry on any of the above licensable activities other than in accordance with a licence or other authorisation under the Act.

2.12 The **types of authorisation or permission** the Act requires the licensing authority to regulate are:-

- Premises licence – to use premises for licensable activities.
- Club premises certificate – to allow a qualifying club to engage in qualifying club activities.
- Temporary event notice – to carry out licensable activities at a temporary event.
- Personal licence – to sell or authorise the sale of alcohol from premises which has a premises licence.

2.13 When carrying out its functions under the Act the licensing authority must seek to promote, with equal importance, the four **licensing objectives** contained in the Act. The four objectives are:

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

2.14 The licensing authority will carry out its licensing functions in a way that

- ensures public safety,
- supports well managed premises where licence holders show sensitivity to the potential impact of licensable activities on local residents and other businesses,
- supports premises that promote healthier lifestyles and responsible alcohol consumption, and
- protects residents from detrimental effects.

- 2.15 The licensing process can only seek to control those measures within the control of the licensee and 'in the vicinity' of a premises. The conditions attached to various authorisations will, therefore, focus on:-
- Matters within the control of individual licensees and others who are granted any relevant authorisations.
  - The premises and places being used for licensable activities and their vicinity.
  - The direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 2.16 Every application considered by the licensing authority under this policy will be considered on its individual merits. Nothing in the policy will undermine the rights of any individual to apply for a variety of permissions under the Act and to have any such application considered on its individual merits.
- 2.17 Nothing in this policy shall override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the Act. However, this will not include applications or representations which are considered to be frivolous, vexatious or repetitious.
- 2.18 If it considers it appropriate, the licensing authority may depart from its statement of licensing policy if the individual circumstances of the case merit such a decision in the interests of the promotion of the licensing objectives.

### 3. LICENSING OBJECTIVES

3.0.1 When carrying out its functions under the Act the licensing authority must seek to promote, with equal importance, the four **licensing objectives** contained in the Act. The four objectives are:

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

3.0.2 The licensing objectives are paramount considerations to be taken into account by the licensing authority in determining an application made under the Act, and any conditions attached will be ones appropriate and proportionate to achieve the licensing objectives.

3.0.3 **Each objective is of equal importance.** They will be considered in relation to matters centred on the premises or within the control of the licensee and the effect which the carrying on of that business has on the vicinity.

3.0.4 In undertaking its licensing functions, the licensing authority will use a full range of measures including its planning controls, transport control and be mindful of legislation, strategies and policies which may impact on the promotion of the licensing objectives. These include:-

- Anti-Social Behaviour, Crime and Policing Act 2014
- Equality Act 2010
- Crime and Security Act 2010
- Policing and Crime Act 2009
- Health Act 2006
- Violent Crime Reduction Act 2006
- Gambling Act 2005
- The Environmental Protection Act 1990
- The Noise Act 1996
- The Health and Safety at Work etc Act 1874
- European Union Services Directive
- The Regulators' Compliance code
- Denbighshire Council's Planning & Public Protection Service Enforcement Policy
- Denbighshire Council's Strategic Equality Scheme

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

3.0.5 The licensing authority will continue to work in partnership with the police and fire authorities, local businesses, pub watch schemes, community representatives and local people, in meeting these objectives.

- 3.0.6 The licensing authority recognises that the entertainment industry in Denbighshire is a contributor to the local economy. It attracts tourists and visitors, makes for vibrant towns and communities and is a major employer. Commercial occupiers of premises also have a legitimate expectation of an environment that is attractive and sustainable for their businesses. But there must be a balance with the needs of the residential population, whose amenity the licensing authority has a duty to protect.
- 3.0.7 The Council will also have regard to wider considerations affecting the amenity of any area. These include littering and fouling, noise, street crime and the capacity of the county's infrastructure, resources and police resources to cope with the influx of visitors, particularly at night.

## 3.1 THE PREVENTION OF CRIME AND DISORDER

- 3.1.1 The prevention of crime and disorder is both an objective of the Licensing Act 2003 and an important responsibility of Denbighshire Council under the Crime and Disorder Act 1998.
- 3.1.2 The promotion of the licensing objective to prevent crime and disorder places a responsibility on licence holders to become key partners in achieving this objective. It is therefore important that an applicant for a premises licence or club premises certificate is able to demonstrate to the licensing authority the practical steps which will be taken to promote this objective.
- 3.1.3 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.
- 3.1.4 The licensing authority will consider the representations of North Wales Police Service as the main source of advice on crime and disorder.
- 3.1.5 This Licensing Authority expects all premises to adopt an age verification policy such as Challenge 25.

### DRUGS

- 3.1.6 Applicants should consider that special conditions may need to be imposed for certain types of venues to reduce the possibility of sale and consumption of drugs.
- 3.1.7 Drugs alter the way people behave, so their distribution and possession is controlled by the law. Controlled drugs are usually manufactured and supplied illegally, which attracts criminal involvement in their distribution. Drugs manufactured illegally often vary in quality and strength. This puts people taking such drugs in danger.
- 3.1.8 The licensing authority recognises that drug use by people in a club environment is not something that is relevant to all licensed premises. However, many entertainment venues such as night clubs and dance venues can be popular both with drug users and suppliers.
- 3.1.9 The licensing authority will expect licensees to take all reasonable steps to prevent the entry of drugs into licensed premises, to take appropriate steps to prevent the misuse of drugs within the premises and to take practical measures to prevent tragedies as a result of drug misuse.
- 3.1.10 The licensing authority will require the applicant to identify any particular issues (having regard to the particular type of premises and/or activities) relating to the entry of and use of drugs on their premises, and set out in their operating schedule how such issues will be dealt with.



#### DOOR SUPERVISORS (LICENSED SECURITY PERSONNEL)

3.1.11 The licensing authority considers that certain premises may require supervision for the purpose of promoting the reduction of crime and disorder, and to generally provide a safer operation of the premises.

3.1.12 The licensing authority may impose a condition, if relevant representations are received, that door supervisors (approved by the Security Industry Authority) be employed at the premises either at all times or at such times as certain licensable activities are being carried out, and at a number and ratio to be determined by the licensing authority.

#### PUBLIC SPACE PROTECTION ORDERS

3.1.13 The authority supports the use public space protection order (PSPO) as a tool to prevent alcohol related crime and disorder in the streets.

3.1.14 The authority expects premises that operate in areas where DPPO's/PSPO's have been implemented to have measures in place to ensure that their customers do not contribute to drink related anti-social behaviour.

#### PERSONAL LICENCES

3.1.15 The licensing authority recognises it has very little discretion regarding the granting of personal licences. In general, provided an applicant has a qualification approved by Department for Culture Media and Sport (DCMS) and does not have certain serious criminal convictions; the application has to be granted.

3.1.16 If an applicant has a relevant conviction, North Wales Police can oppose the application. If the police lodge an objection, a hearing at the licensing authority's Licensing Sub-committee will be held.

3.1.17 At any hearing, members will consider carefully whether the grant of the licence will be in the interests of the crime and disorder objective. It will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The sub-committee will only grant the application if it is satisfied that doing so will promote this objective.

## 3.2 PUBLIC SAFETY

- 3.2.1 The public safety licensing objective is concerned with the physical safety of the people using the relevant premises. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption. For further information regarding effects of alcohol on health in Wales, see Appendix 3.
- 3.2.2 Licence holders have a responsibility to ensure the safety of those using their premises as part of their duties under the Act. These include but are not restricted to fire safety, access for emergency services, appropriate and frequent waste disposal, use of CCTV etc.
- 3.2.3 The licensing authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised.
- 3.2.4 The licensing authority will expect premises to be constructed, maintained and managed to recognised standards of safety, and will expect the applicant to have addressed the requirements of health and safety at work and fire safety legislation.
- 3.2.5 The licensing authority will have particular regard to representations from North Wales Fire and Rescue Service, North Wales Police and Denbighshire Council's Environmental Health team, to determine whether measures proposed are suitable to ensure the safety of the public.
- 3.2.6 Where the licensing authority considers that general health and safety duties do not adequately cover licensable activities, it may attach conditions to promote public safety if it is appropriate to do so following representations.
- 3.2.7 Where activities are organised by volunteers or by a committee of a club or society the licensing authority considers it good practice that the same level of health and safety protection is provided as if an employer/employee relationship existed.
- 3.2.8 The licensing authority expects the organisers of any large scale event, where licensable activities are to take place, to prepare an event management plan incorporating appropriate risk assessments. Organisers of large scale events where licensable activities are to take place are advised to contact the Denbighshire Events team at the initial planning stage for the event. A Safety Advisory Group meeting might be appropriate in some circumstances.
- 3.2.9 The licensing authority will include in a Premises Licence/Club Premises Certificate an occupant capacity, where necessary for public safety. This figure will be arrived at in consultation with North Wales Fire and Rescue Service following representations from them.

### 3.3 THE PREVENTION OF PUBLIC NUISANCE

3.3.1 Public nuisance is given a statutory meaning in many pieces of legislation however it is narrowly defined in the Act and retains its broad common law meaning.

3.3.2 Public nuisance may include, in appropriate circumstances, the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.

3.3.3 Public nuisance concerns include:

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

3.3.4 The licensing authority is committed to ensuring that the living and working amenity and environment of other persons living and working in the area of the licensed premises is not compromised.

3.3.5 When considering the potential impact of licensed premises on the surrounding locality, the licensing authority will consider

- the licensable activities applied for
- the hours of operation applied for
- the capacity of the premises
- the character of the area, and
- proximity to local residents.

3.3.6 The licensing authority will not impose conditions on licensed premises that the licence holder cannot directly control, or on matters not related to the immediate vicinity of the premises.

3.3.7 North Wales Police have powers under the Act to control noise from premises. In the event that they have to invoke these powers they shall liaise, where practicable, with the licensing authority in accordance with the protocol regarding shared enforcement attached as Appendix 4.

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

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

### **3.4 THE PROTECTION OF CHILDREN FROM HARM**

3.4.1 The protection of children from harm objective is concerned with the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also protecting children from sexual exploitation and wider harms such as exposure to strong language and exposure to adult entertainment.

3.4.2 The licensing authority recognises that the Act allows for the free access of children to all licensed premises, subject to the licensee's discretion and any conditions applied to the licence.

3.4.3 Access by children to all types of premises will not be restricted unless it is considered necessary to do so in order to protect them from harm.

3.4.4 The licensing authority will not wish to impose conditions positively requiring the admission of children to licensed premises, which should remain a matter of discretion for the licensee of those premises, subject to there being no conflict with the licensing objective of protecting children from harm.

3.4.5 When considering applications for premises licences, the licensing authority will take into account the history of a particular premises, and the nature of activities proposed to be provided, for example:-

- Where there have been convictions for serving alcohol to minors or premises with a reputation for underage drinking;
- Where premises have a known association with drug dealing or taking;
- Where there is a strong element of gambling on the premises; (this does not include premises which only contain a small number of cash prize gaming machines);
- Where entertainment of an adult or sexual nature is provided.

3.4.6 In such instances, the licensing authority may attach conditions to any licence to:-

- Limit the hours when children may be present
- Restrict the age of persons allowed on the premises
- Require an accompanying adult
- Limiting or prohibiting access when certain activities are taking place

3.4.7 Where equal chance gaming or gaming machines are present at a licensed premises the presence of children will have to be monitored by the licensing authority and the Designated Premises Supervisor (DPS).

3.4.8 Where large numbers of children are likely to be present on any licensed premises or where child performers are present in licensed premises, the licensing authority may require the presence of an appropriate number of responsible adults (who will have provided a satisfactory Disclosure and Barring Service certificate) to ensure their safety and protection from harm.

- 3.4.9 Where the exhibition of films is permitted, the licence or certificate must include a condition which will restrict access only to those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification or in specific cases by the local authority.
- 3.4.10 No film shall be exhibited in licensed premises which is likely to:
- Lead to disorder;
  - Stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender.
- 3.4.11 Applicants seeking a licence to supply alcohol as part of an alcohol delivery service should include in their operating schedule the procedures they intend to operate to ensure that:
- The person they are selling alcohol to is over 18;
  - That alcohol is only delivered to a person over 18; and
  - That a clear document trail of the order process from order to delivery is maintained (with times and signatures) and available for inspection by an authorised officer.

#### ADULT ENTERTAINMENT

- 3.4.12 Where the activities proposed under the licence include those of a sex related nature (e.g. striptease, topless waitresses, and table dancing) the licensing authority will take into account the potential for an increased risk to the licensing objectives.
- 3.4.13 The licensing authority will not normally grant licences which involve a sex related element near schools, nurseries, places of worship, hospitals, youth clubs or other sensitive premises where significant numbers of children are likely to attend.
- 3.4.14 Where such licences are granted, conditions will be imposed if necessary which are designed to ensure that children are not admitted to and cannot witness either these activities or advertisements for them, as well as those conditions necessary to prevent crime and disorder problems.
- 3.4.15 If a premises licence or club certificate application does not specifically refer to adult entertainment of any kind, the licence or certificate will specify that adult entertainment is not authorised.
- 3.4.16 Any premises used for more than 12 occasions within a 12 month period for any relevant sexual entertainment, must also be licensed as a Sexual Entertainment Venue. Relevant sexual entertainment includes: lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows.

## 4. CUMULATIVE IMPACT, EARLY MORNING ALCOHOL RESTRICTION ORDERS AND LATE NIGHT LEVY

### 4.1 CUMULATIVE IMPACT

4.1.1 The concentration of licensed premises by number, type or density in a particular area and the cumulative impact it has on the promotion of the licensing objectives is a matter that the licensing authority will consider when carrying out its licensing function.

4.1.2 Where there is evidence that a particular area of the county is already suffering adverse effects arising from the concentration of late night premises, or those residential areas are under stress, consideration will be given to adopting a 'Saturation Policy'.

4.1.3 The effect of such a policy is that the licensing authority could refuse applications for a new Premises Licence or Club Premises Certificate, or variation of an existing licence or certificate, whenever it received relevant representation, unless an applicant could demonstrate why the operation of the premises involved would not add to the cumulative impact already being experienced.

4.1.4 The 'Saturation Policy' would not be absolute however, and any application would be considered on its own merits and would be given proper consideration. In addition, the policy will not seek to limit the number of licensed premises which will be permitted, simply because the licensing authority considers that there are already enough licensed premises to satisfy the demand.

4.1.5 In determining whether to adopt a 'Saturation Policy' for a particular area the licensing authority may, among other things-

- Gather evidence or identification of serious and chronic concern from a responsible authorities and interested parties about nuisance and disorder
- Identify the area from which problems are arising and the boundaries of that area
- Make an assessment of the causes
- Conduct a consultation exercise

4.1.6 If a 'Saturation Policy' is adopted, it will be reviewed regularly to assess if it is necessary and proportionate.

4.1.7 Before establishing a 'Saturation Policy' the licensing authority will consider the number of existing measures available relevant to tackling unlawful and antisocial behaviour associated with licensed premises.

Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly and confiscation of alcohol in these areas.	Police powers to close down premises or temporary events for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise.	Powers of the police, responsible authorities, local residents or businesses, or councillors to seek a review of a premises licence or club certificate.
Prosecution of personal licence holders or members of staff who sell alcohol to people who are drunk.	Police enforcement of the general law concerning disorder and antisocial behaviour.	Participation in local trade liaison schemes e.g. Pub watch.
Planning controls.	Provision of CCTV.	Use of trained security and other staff.
Drug control policies.		

## 4.2 EARLY MORNING ALCOHOL RESTRICTION ORDER

4.2.1 The licensing authority has the power under section 119 of the Police Reform and Social Responsibility Act 2011 to prohibit sales of alcohol for a specific time period between the hours of 12am and 6am, if it is deemed appropriate for the promotion of the licensing objectives.

4.2.2 Early Morning Alcohol Restriction Orders (EMROs) are designed to address recurring problems with licensed premises, serious public nuisance and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.

4.2.3 An EMRO must specify:

- the days on which it is to apply and the time period of those days,
- the area in relation to which it is to apply,
- if it is to apply for a limited or unlimited period, and
- the date from which it is to apply

4.2.4 The effect of an EMRO is that Premises Licences or Club Premises Certificate granted by the licensing authority, and Temporary Event Notices given to the licensing authority do not have effect in the area specified and during the period specified in the order.

4.2.5 Where there is evidence that there are recurring problems with licensed premises, serious public nuisance and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises, consideration will be given to making an EMRO.

4.2.6 Before making an EMRO the licensing authority will consider the number of existing measures available to tackling public nuisance and anti-social behaviour which is not directly attributable to specific premises.

Introducing or widening a Cumulative Impact Policy	Reviewing the licenses of specific problem premises	Police enforcement of the law concerning disorder and anti-social behaviour
Power to designate an area where alcohol may not be consumed publicly (Designated Public Places Order)	Planning controls	Positive measures to create safe and clean town centres by working in partnership with others

4.2.7 If the licensing authority proposes to make an EMRO it will follow the procedural requirements specified in the Police Reform and Social Responsibility Act 2011.



### 4.3 LATE NIGHT LEVY

4.3.1 The licensing authority has the power under section 125 of the Police Reform and Social Responsibility Act 2011 to introduce a levy payable by the holders of premises licences and club premises certificates that supply alcohol between the hours of 12am and 6am, in order to cover the additional costs associated with late night alcohol trading.

4.3.2 The holders of premises licences and club premises certificates that supply alcohol between the hours of 12am and 6am benefit from the existence of a late night economy. However, alcohol-related crime and disorder in that night time economy give rise to costs for the police, local authorities and other bodies.

4.3.3 Where the licensing authority decides under section 125 that the late night levy requirement is to apply in its area, it must also decide—

- the date on which the late night levy requirement is first to apply, and
- for the first levy year and each subsequent levy year—
  - the late night supply period;
  - the permitted exemption categories (if any) that are to apply in its area;
  - the permitted reduction categories (if any) that are to apply in its area;
  - the proportion of the net amount of levy payments that is to be paid to the North Wales Police

4.3.4 Any income raised by the levy must be split between the licensing authority and North Wales Police. The police will receive at least 70% of the net levy revenue and the licensing authority will receive up to 30% of the net levy revenue.

4.3.5 Where there is evidence that alcohol-related crime and disorder in that night time economy give rise to costs for the police, local authorities and other bodies; the licensing authority will consider whether the late night levy requirement is a desirable means of raising revenue in relation to these costs.

4.3.6 If the licensing authority proposes to introduce a late night levy it will follow the procedural requirements specified in the Police Reform and Social Responsibility Act 2011.

## 5. PLANNING AND BUILDING CONTROL

- 5.1 Planning, building control and licensing regimes are properly separated to avoid duplication and inefficiency. They involve consideration of different, although related matters.
- 5.2 The Local Planning Authority with statutory planning responsibilities within the county of Denbighshire is Denbighshire Council
- 5.3 Denbighshire Council's planning policies are set out in the Local Development Plan' and 'Supplementary Planning Guidance'.
- 5.4 The Planning Authority works to:
- develop complementary and compatible policies,
  - ensure effective and sustainable long term planning, and
  - optimise economic, social and environmental benefits.
- 5.5 In general, planning permissions authorise a broad type of use of a premises, whereas licences are granted for a particular type of activity. A planning permission for an entertainment use, for example may cover activities that can have a wide range of different impacts in the locality. The precise nature of the impacts of the specified activities proposed by an applicant for a premises licence need to be considered when the application is made.
- 5.6 The licensing authority will normally expect that prior to the submission of a licensing application, the appropriate planning permission will have been granted in respect of any premises. However, applications for licences may be made before any relevant planning permission has been sought or granted.
- 5.7 The authority will also normally expect the activity to be authorised by the licence to be a lawful planning use and that any operating hours sought do not exceed those, if any, authorised by the planning permission.
- 5.8 Operating hours granted within the licensing process do not replace any restrictions imposed as a planning condition. Planning conditions will be addressed through the planning process.
- 5.9 It is recognised that in certain circumstances, a provisional statement may be sought alongside planning permission.
- 5.10 The licensing authority will encourage licence holders to provide facilities enabling the admission of people with disabilities, having due regard to the Equality Act 2010. No conditions will be applied which could be used to justify exclusion on the grounds of public safety.

## 6. APPLICATIONS

6.0.1 The Act provides for four different types of authorisation or permission, as follows:

- Premises licence – to use premises for licensable activities.
- Club premises certificate – to allow a qualifying club to engage in qualifying club activities.
- Temporary event notice – to carry out licensable activities at a temporary event.
- Personal licence – to sell or authorise the sale of alcohol from premises which has a premises licence.

6.0.2 Applicants are advised that the application process for each type of authorisation or permission is set out in detail in the Act, the Regulations and the Guidance.

6.0.3 All applications must be made on the prescribed form and be accompanied by the prescribed fee.

6.0.4 All application forms, in both the Welsh and English language, are available to download from the licensing authority's website ([www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/entertainment-and-alcohol.aspx](http://www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/entertainment-and-alcohol.aspx)) or on request via telephone 01824 706342 Applicants may submit applications to the licensing authority:

- Online via the Denbighshire Licensing website - [www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/premises-licence.aspx](http://www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/premises-licence.aspx)
- By email to [licensing@denbighshire.gov.uk](mailto:licensing@denbighshire.gov.uk) for scanned applications
- By post to Denbighshire County Council, PO Box 62, Ruthin, LL15 9AZ for hardcopy applications.

6.0.5 The licensing authority will issue bilingual premises licences, club premises certificates and personal licences.

### 6.1 PREMISES LICENCE

6.1.1 The prescribed application form for a premises licence contains the operating schedule where the applicant is required to specify amongst other information, the proposed licensable activities to take place at the premises, the times when the activities will take place, the time period the licence is required for, whether any alcohol that is to be sold is for consumption on or of the premises or both and critically, the steps they propose to take to promote the four licensing objectives.

- 6.1.2 A plan of the premises and a form of consent from the designated premises supervisor (for applications where the sale of alcohol will be a licensable activity) must be provided with the application.
- 6.1.3 Applicants are required to advertise their application in the prescribed way and within the prescribed period in accordance with Section 17 of the Act. An application for a premises licence may only be determined when the licensing authority is satisfied that the applicant has complied with these requirements.
- 6.1.4 Once a premises licence is granted further applications may be made in its respect, these include:-
- Application to vary a premises licence
  - Application for a minor variation to a premises licence
  - Application to vary a premises licence to specify an individual as a designated premises supervisor
  - Application to transfer a premises licence
  - Interim authority notice
  - Application for the review of a premises licence

#### PROVISIONAL STATEMENTS

- 6.1.5 The licensing authority recognises that in certain situations, businesses and developers need to have security that a premises licence is likely to be granted following construction of new premises or alteration of existing unlicensed premises. The licensing authority will issue provisional statements in accordance with the Act and Guidance.

#### DESIGNATED PREMISES SUPERVISORS

- 6.1.6 All applications to appoint a person as the premises supervisor must be accompanied by a form of consent from that person. Applicants for new licences that authorise the sale of alcohol should include the prescribed information in respect of the individual who the licensee wishes to have specified in the Premises Licence as the premises supervisor.
- 6.1.7 Responsible Authorities will typically consider developing constructive working relationships with Designated Premises Supervisors, and the licensing authority expects this to be reciprocated to promote effective partnership working relations with the trade.
- 6.1.8 In exceptional circumstances, North Wales Police may object to the appointment of an individual as a Designated Premises Supervisor.
- 6.1.9 Where, following an objection by the police, the licensing authority is satisfied that the appointment of a person as a Designated Premises Supervisor would undermine the prevention of crime and disorder licensing objective; the policy is to refuse the appointment or to remove them as the DPS in circumstances where they are already in post.

## TRANSFER of PREMISES LICENCE

6.1.10 The Act provides for any person who may apply for a premises licence, to apply for a premises licence to be transferred to them. An application to transfer a premises licence changes the identity of the holder of the licence and does not alter the licence in any other way.

6.1.11 North Wales Police must receive notice of the application in accordance with the requirements of the Act. If they believe the transfer may undermine the prevention of crime and disorder licensing objective, they may object to the transfer by giving notice to the licensing authority within 14 days.

6.1.12 Where the consent of the holder of the licence to transfer the premises licence is required but has not been obtained, the applicant must provide evidence to satisfy the licensing authority that ALL reasonable steps have been taken to obtain the consent. Reasonable steps includes allowing a reasonable amount of time for the holder of the licence to respond/give consent.

## 6.2 CLUB PREMISES CERTIFICATE

- 6.2.1 The prescribed application form for a club premises certificate contains the operating schedule where the applicant is required to specify amongst other information, the proposed licensable activities to take place at the club premises, the times when the activities will take place, the time period the licence is required for, whether alcohol will be supplied to members and most critically, the steps they proposed to take to promote the four licensing objectives.
- 6.2.2 A plan of the premises and a declaration for a club premises certificate must be provided with the application.
- 6.2.3 Applicants are required to advertise their application in the prescribed way and within the prescribed period in accordance with Section 17 of the Act. An application for a club premises certificate may only be determined when the licensing authority is satisfied that the applicant has complied with these requirements.
- 6.2.4 Once a club premises certificate is granted further applications may be made in its respect, these include:-
- Application to vary a club premises certificate
  - Application for a minor variation to club premises certificate
  - Application for the review of a club premises certificate

## 6.3 REQUIREMENT TO ADVERTISE AND DISPLAY APPLICATIONS

- 6.3.1 When an applicant is required to publish a notice of their application in a local newspaper the licensing authority will require the applicants to provide a copy of that notice to the licensing authority as soon as is reasonably practicable after the notice is published.
- 6.3.2 When an applicant is required to display a notice in a prominent position at or on the premises where it can be conveniently read from the exterior of the premises; where practicable, the licensing authority will visit the premises during the consultation period to check that a notice is displayed prominently at or on the premises.
- 6.3.3 The licensing authority encourages all applicants to publish a bilingual notice of their application in the Welsh and English language.

## 6.4 TEMPORARY EVENT NOTICES

6.4.1 A Temporary Event Notice, commonly referred to as TENs, is intended as a light touch process for the carrying on of temporary licensable activities. Unlike applications for Premises Licences and Club Premises Certificates, the licensing authority does not grant Temporary Event Notices. Instead, the premises user notifies the licensing authority of their intention to hold an event.

6.4.2 There are two types of TEN; a standard TEN and late TEN. A standard TEN is given no later than 10 working days before the event and a late TEN is given between 5 – 9 working days before the event. **A late TEN given less than 5 working days before the event will be returned as void and the activities to which the notice relates will not be authorised.**

6.4.3 There are a number of limitations imposed on the use of TENs including the number of times a premises user may give a TEN, the number of times a TEN is given for a particular premises, the maximum duration of an event, the maximum number of people that may attend the event at any one time.

6.4.4 The role of the licensing authority is to check that the limitations specified in the Act are being observed. When a TEN is not within the defined limits the licensing authority will issue a counter notice to the premises user. Otherwise, the licensing authority will just acknowledge the Notice, which may be done electronically.

6.4.5 North Wales Police and Environmental Health may object to a TEN within three working days of their receipt of the TEN. An objection can be made on the grounds of any licensing objective. Where an objection is made to a late TEN, a counter notice will be issued and the TEN will not be valid. Where an objection is made to a standard TEN the objection notice will be considered at a hearing of the Licensing Sub-Committee.

6.4.6 Modifications may be made to a standard TEN following consultation and agreement with North Wales Police AND Denbighshire Council's Environmental Health team; however **there is no scope under the Act to modify a late TEN.**

6.4.7 Although temporary events are not subject to the same degree of control as premises which are the subjects of premises licences, premises users are encouraged to organise the event in such a way that supports all the licensing objectives.

6.4.8 A TEN does not relieve the premises user from any requirement under planning law for appropriate planning permission where it is required.

6.4.9 Ten working days is the minimum notice period for a standard TEN, however in the interest of open consultation, the licensing authority encourage 20 working days' notice to be provided.

6.4.10 A copy of a modified standard TEN should be given to the licensing authority by North Wales Police or Environmental Health as proof of the agreement with the premises user, North Wales Police and Environmental Health.

6.4.11 The process for applicants is outlined in the flow chart in Appendix 5

## 6.5 PERSONAL LICENCE

6.5.1 A Personal licence allows the holder to sell alcohol on behalf of any business that has a premises licence or a club premises certificate. The personal licence is designed to ensure that anybody running or managing a business that sells or supplies alcohol will do so in a professional manner.

6.5.2 A personal licence holder can act as the designated premises supervisor (DPS) for any business that sells or supplies alcohol.

6.5.3 Applications must be sent to the licensing authority for the area where the applicant lives, and not to the authority in which the licensed premise is located.

6.5.4 Where an applicant has an unspent conviction for a relevant or foreign offence, the licensing authority will give a notice to North Wales Police. If the police object to the application on crime prevention grounds, the applicant is entitled to a hearing before the licensing authority. If the police do not issue an objection notice and the application otherwise meets the requirements of the Act, the licensing authority must grant it.

6.5.5 Personal licences remain valid unless surrendered, suspended, revoked or declared forfeit by the courts.

6.5.6 The holder of a premises licence is required by the Act to notify the licensing authority of any changes to their name or address, any convictions for relevant offences and any convictions for a foreign offence.

6.5.7 The requirement to renew a personal licence was removed from the Act by the Deregulation Act 2015. While personal licences issued before the Deregulation Act 2015 have expiry dates, these licences will remain valid and such dates no longer have an effect.



## 7. OPERATING SCHEDULE

- 7.1 The licensing authority strongly encourages applicants to discuss proposed applications with a licensing officer and responsible authorities at an early stage and prior to the submission of the application itself. This should identify potential problems and help to build good partnership working. It may also reduce the need for a hearing at a later stage.
- 7.2 When considering how to develop their operating schedules applicants are advised to contact the responsible authorities for guidance.
- 7.3 Applicants are encouraged to make themselves aware of any relevant planning and transport policies, tourism and cultural strategies and local crime and disorder strategies, and to take these into account, where appropriate, in the formulation of their operating schedules.
- 7.4 The licensing authority will expect all applicants to specify the methods by which they will promote the four licensing objectives in their operating schedules, having regard to the type of premises, the licensable activities proposed, the operational procedures, the nature of the location and the needs of the local community.
- 7.5 The authority considers that a well-drawn, specific operating schedule indicates that an applicant understands and is prepared to meet the responsibilities of a licence holder under the Act.
- 7.6 The authority considers that a blank or sparsely completed operating schedule may give the impression that the applicant has given inadequate thought to the responsibilities of a licence holder.

## 8. HOURS OF OPERATION

8.1 The licensing authority recognises that widespread fixed closing times in certain areas can lead to peaks of disturbance and disorder, when large numbers of people come onto the streets at the same time, potentially causing friction at late night food outlets, taxi ranks and other late night services. Therefore, the licensing authority recognises that flexible licensing hours may be an important factor in reducing such problems.

8.2 Each application will be determined on its own merits, but the hours requested by the applicant will normally be approved where the applicant can show to the satisfaction of the licensing authority, that the proposals would not adversely affect the environmental quality, residential amenity and character of any particular area.

8.3 When considering applications, the licensing authority will take into account applicants requests for terminal hours (the close of business) in light of the

- Environmental quality
- Residential amenity
- Character or function of a particular area and
- The nature of the proposed activities to be provided.

The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect any of the above.

8.4 Where alcohol is sold, applications should include both the times at which sales of alcohol will cease and the time when the premises will close.

8.5 Shops and supermarkets will generally be permitted to sell alcohol during the normal hours they intend to open, but individual premises, which are a focus for disorder and disturbance may, subject to representations, be subject to limitations.

8.6 Where late hours are requested, particularly involving entertainment, earlier terminal hours may be set and the imposition of conditions may be appropriate to achieve the licensing objectives, should relevant representation be received.

8.7 No general limitation on hours, in any area, is imposed by this policy.

## 9. ENFORCEMENT, REVIEWS AND POWERS

### 9.1 ENFORCEMENT

9.1.1 The licensing authority has established a joint-enforcement protocol with North Wales Police to ensure efficient and targeted enforcement. Meetings are held to monitor compliance with licensing requirements and to ensure appropriate and proportionate action is taken. See Appendix 4.

9.1.2 In general terms, action will only be taken in accordance with agreed enforcement principles and in line with the Planning and Public Protection Service Enforcement Policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

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

9.1.4 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act.

9.1.5 The licensing authority will make arrangements to monitor premises, undertake inspections and take appropriate enforcement if it deems necessary to support and promote the licensing objectives.

9.1.6 Where conditions have been imposed on a licence, an authorised person of the licensing authority may inspect the premises at any reasonable time for the purpose of checking that those conditions are being complied with.

9.1.7 The licensing authority will consider an appropriate level of enforcement action to a licence holder specifying recommended improvement within a particular period of time if it deems necessary to support and promote the licensing objectives.

### 9.2 REVIEWS

9.2.1 At any time following the grant of a premises licence or a club premises certificate, a **responsible authority** or any **other person** may ask the licensing authority to review the premises licence or club premises certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

9.2.2 The review process represents a key protection for the community where problems associated with the licensing objectives occur at a premises or club.

9.2.3 The licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police or if the police have made an application for summary review on the basis that the premises are associated with serious crime and/or disorder.

9.2.4 In every case, an application for a review must relate to a particular premises or club and must be relevant to the promotion of one or more of the licensing objectives.

9.2.5 The licensing authority will reject an application for a review if the applicant fails to provide evidence that one or more of the licensing objectives are not being met or if the reason for the review does not relate to the licensing objectives.

9.2.6 The licensing authority will also reject an application for a review if it is considered frivolous, vexatious or repetitious.

9.2.7 The licensing authority considers it good practice for all authorised persons that have concerns about problems identified at premises to give licence holders early warning of their concern and the need for improvement, and where possible they should advise the licence holder of the steps they need to take to address those concerns.

### 9.3 POWERS

9.3.1 The Act provides a range of statutory powers to the licensing authority which it may exercise on determining applications or following the receipt of a notice.

#### SUSPENSION FOR NON-PAYMENT OF ANNUAL FEES FOR PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

9.3.2 Holders of a premises licence or club premises certificate must pay the licensing authority an annual fee, the amount of which is determined by the non-domestic rateable value of the premises. The annual fee becomes due and payable each year on the anniversary of the date of the grant of the licence/certificate.

9.3.3 The fee is payable irrespective of whether the holder of the current licence intends to close the business at some point during the coming year or has taken over mid-year.

9.3.4 The licensing authority is required to suspend the Premises Licence or Club Premises Certificate if the annual fee has not been paid.

9.3.5 If there is a dispute relating to the amount of the fee and/or a genuine administrative error (made by the holder, the licensing authority or anyone else) before or at the time the fee becomes due, a Statutory Grace Period of 21 days will be given for the dispute to be determined.

- 9.3.6 If the dispute or error is not resolved during the 21 day period then the licensing authority MUST suspend the licence and no licensable activities will be able to take place.
- 9.3.7 The licensing authority will notify the holder of the suspension in writing and specify the date on which the suspension will take effect. The effective date of the suspension will be at least 2 working days after the day the notice of suspension is given.
- 9.3.8 Once payment is received the suspension can be lifted. The suspension ceases to have effect on the day the licensing authority receives payment of the outstanding fee.
- 9.3.9 The licensing authority will share information on suspensions (and their subsequent lifting) with North Wales Police.

## 10. LICENSING PROCESS

10.0.1 Applicants are advised that the application process for each type of authorisation or permission is set out in detail in the Act, the Regulations and the Guidance.

10.0.2 All applications must be made on the prescribed form and be accompanied by the prescribed fee.

10.0.3 All application forms, in both the Welsh and English language, are available to download from the licensing authority's website ([www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/entertainment-and-alcohol.aspx](http://www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/entertainment-and-alcohol.aspx)) or on request via telephone 01824 706342 Applicants may submit applications to the licensing authority:

- Online via the Denbighshire Licensing website - [www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/premises-licence.aspx](http://www.denbighshire.gov.uk/en/business/licences-and-permits/entertainment-and-alcohol/premises-licence.aspx)
- By email to [licensing@denbighshire.gov.uk](mailto:licensing@denbighshire.gov.uk) for scanned applications
- By post to Denbighshire County Council, PO Box 62, Ruthin, LL15 9AZ for hardcopy applications.

### 10.1 APPLICATION PATHWAY

10.1.1 It is considered that the majority of the licensing function will be administrative in nature, i.e. applications and notices will have few areas of contention. In the interests of speed, efficiency and cost effectiveness, these authorisations will, for the most part, be carried out by officers.

10.1.2 For representations to be relevant they must

- relate to the promotion of one of the four licensing objectives;
- be made by a responsible authority or other person within the prescribed period;
- not been withdrawn; and
- in the case of representations made by a other persons, that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

10.1.3 Where there are no relevant representations to an application the licence will be granted provided that the application is made in accordance with the requirements of the Act.

10.1.4 Where **relevant representations** on an application is made and the application has been made in accordance with the requirements of the Act, the application will be determined in accordance with the requirements of the Act.

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

## 10.2 MEDIATION

10.2.1 Where a relevant representation concerning the licensing objectives is made by a responsible authorities or other person, the licensing section will decide whether the representation is relevant.

10.2.2 Where the licensing authority find the representation to be relevant a **mediation meeting** between the relevant parties will be arranged to try and find a reasonable compromise.

10.2.3 If this informal process is successful and all parties agree to conditions then the application will still need to be determined by the licensing committee or sub-committee at a dispensed hearing and the details of that decision will be circulated to the parties concerned.

10.2.4 If this informal process is unsuccessful a hearing before the licensing committee will follow. All relevant parties will be notified.

10.2.5 The determination of the application will be made by the licensing committee or sub-committee and the details of that decision will be circulated to the parties concerned.

## 10.3 CONDITIONS

10.3.1 The conditions attached to a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate.

10.3.2 There are three types of condition that may be attached to a licence or certificate; proposed, imposed and mandatory. See Appendix 6 for current Mandatory Conditions to be included in every licence and/or club premises certificate in the circumstances specified.

10.3.3 The licensing authority acknowledges that where no representations are made to it by responsible authorities or interested parties about an application, its duty is to grant the licence or certificate subject only to conditions which are consistent with the applicant's operating schedule, and any mandatory conditions prescribed by the Act.

10.3.4 With regard to proposed conditions, the licensing authority will not simply replicate the wording from an applicant's operating schedule. The licensing authority will interpret the condition in accordance with the applicant's intention and compose the condition in accordance with the licence conditions principles shown below.

10.3.5 The licensing authority will not impose any conditions unless its discretion has been engaged following the making of a relevant representation and it has been satisfied at a hearing of the necessity to impose conditions due to the

representations raised. It will then only impose such conditions which are appropriate and proportionate to promote the licensing objectives arising out of the consideration of the representations.

10.3.6 When imposing conditions the licensing authority will use wording such as “must”, “shall” and “will” and will have regard to the following licence conditions principles.

**Licence conditions principles:**

- Must be appropriate for the promotion of the licensing objectives;
- Must be precise and enforceable;
- Must be unambiguous and clear in what they intend to achieve;
- Should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- Must be tailored to the individual type, location and characteristics of the premises and events concerned;
- Should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- Should not replicate offences set out in the Act or other legislation;
- Should be proportionate, justifiable and capable of being met;
- Cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- Should be written in a prescriptive format.

10.3.7 When imposing conditions to a licence, the licensing authority will be aware of the need to avoid, as far as possible, measures which might deter live music, dancing or theatre through the imposition of substantial indirect costs.

10.3.8 The licensing authority will endeavour to ensure that, if a decision is made which is contrary to the statutory Guidance, the applicant will be given a full explanation of that decision.

10.3.9 The licensing authority acknowledges the Guidance in that the views of local minorities must be balanced with the general interests and wider cultural benefits of the community.

10.3.10 If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the licensing authority’s consideration will be balanced against the wider benefits to the community.

10.3.11 Where amendments or additions are made to the mandatory conditions under the Act they will be treated as if they were included in existing licences or certificates on the date that they come into force. The licensing authority is not obliged to re-issue licences or certificate to include the revised mandatory conditions but will do so where the opportunity arises.



## 11. DELEGATION, LICENSING COMMITTEE AND DECISION MAKING

- 11.1 The Act provides that the functions of the licensing authority, including its determinations are to be carried out by its licensing committee (except those relating to the making of a statement of licensing policy). At Denbighshire Council this committee contains 11 members.
- 11.2 The licensing committee may delegate these functions to sub-committees or in appropriate cases, to officials supporting the licensing authority.
- 11.3 The Licensing Committee of Denbighshire Council have appointed a Licensing Sub-Committee to deal with
- Applications where there are relevant representations
  - Applications for a personal licence with unspent convictions
  - Applications to review premises licence/club certificate
  - Decision to object when the licensing authority is a consultee and not the relevant authority considering the application
  - Determination of an objection to a temporary event notice.
- 11.4 The majority of decisions and functions will be largely administrative in nature with no perceived areas of contention. In the interests of speed, efficiency and cost effectiveness, these will, for the most part, be carried out by officers.
- 11.5 The licensing authority will delegate licensing matters to be dealt with by the Licensing Sub-Committee and to Officers in accordance with the latest recommended Delegation of Functions specified in guidance issued by the Secretary of State, under Section 182 of the Act.

## 12. LICENSING REGISTER

- 12.1 Under the Act, every licensing authority is required to keep a licensing register containing
- a record of each premises licence, club premises certificate and personal licence issued by it,
  - a record of each temporary event notice received by it,
  - a record of every other applications made to it, notices given to it and any counter notice given by it, and
  - such other information as may be prescribed by regulations.
- 12.2 The information contained in the licensing register will be made available for inspection by the public during office hours, free of charge, and a copy of that information may be supplied on request (for a fee).
- 12.3 A summary of the information contained in the licensing register is available to view online at [www.denbighshire.gov.uk](http://www.denbighshire.gov.uk).

12.4 Any person wishing to view the licensing register in person should contact the licensing authority by email [licensing@denbighshire.gov.uk](mailto:licensing@denbighshire.gov.uk) or via telephone 01824 706342 to arrange an appointment.

12.5 To ensure that the information contained in the register is presented in an appropriate format, any person wishing to view the register in person will be requested to clarify which part of the register they wish to have available during the appointment.

## APPENDIX 1: GLOSSARY OF TERMS

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

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

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

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

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

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

**Dispensed hearing** - Used in the context of applications for a premises licence or club premises certificate that have, following relevant representations, undergone a mediation process and all parties are satisfied with the agreed conditions and authorise the application to be dealt with at the dispensed hearing. A dispensed hearing will not amend or vary the conditions agreed at mediation and if it is proposed to amend any condition then the application must go to a full hearing

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

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

**Fee bands** – In determining the amount of the licence fee for applications for new **premises licences** and **club premises** certificates, and full variations to licences or certificates, each

premises falls into a band based on its non-domestic rateable value. Since the introduction of the 2003 Act until 2012/13, the application fees and annual fees associated with each band for a new licence or certificate have been as follows:

	Application Fee	Annual Fee
Band A	£100	£70
Band B	£190	£180
Band C	£315	£295
Band D (no multiplier)	£450	£320
Band D premises licence with multiplier	£900	£640
Band E (no multiplier)	£635	£350
Band E premises licence with multiplier	£1,905	£1,050

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- the licensing authority and any other licensing authority in whose area part of the premises is situated,

- the chief officer of police for any police area in which the premises are situated,
- the fire and rescue authority for any area in which the premises are situated,
- the Local Health Board for any area in which the premises are situated,
- the enforcing authority for Health and Safety at Work etc Act 1974 for any area in which the premises are situated,
- the local planning authority for any area in which the premises are situated,
- the local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health in any area in which the premises are situated in relation to,
- a body which represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and are competent to advise such matters,
- in relation to a vessel, a navigation authority having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,
- the local authority responsible for weights and measures in any area in which the premises are situated.

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

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

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

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

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

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

## APPENDIX 2: LEGISLATIVE UPDATES

### THE DEREGULATION ACT 2015

The Deregulation Act 2015 provides for the removal or reduction of burdens on businesses, individuals, public sector bodies and individuals.

The measures affecting the Licensing Act 2003 are:

- S67 – Sale of alcohol: community events etc and ancillary business sales
- S68 – Temporary event notices: increase in maximum number of events per year
- S69 – Personal licence: no requirement to renew
- S70 – Sale of liqueur confectionery to children under 16: abolition of offence
- S71 – Late night refreshment
- S72 – Removal of requirement to report loss or theft of licence etc to police
- S76 – Exhibition of films in community premises

THE DEREGULATION ACT 2015 (COMMENCEMENT NO.1 AND TRANSITIONAL AND SAVINGS PROVISIONS) ORDER 2015 - This order specified which provisions of the Deregulation Act 2015 would come into force on the dates specified. The dates relevant to the measures affecting the Licensing Act 2003 were as follows:-

#### **From 1 April 2015**

- S69 – Personal licence: no requirement to renew

#### **From 6 April 2015**

- S76 – Exhibition of films in community premises

#### **From 26 May 2015**

- S68 - Temporary event notices: increase in maximum number of events per year
- from 12 to 15. The increased limit will apply for calendar years from 1st January 2016.
- S70 – Sale of liqueur confectionery to children under 16: abolition of offence
- of selling liqueur confectionery to children under the age of 16.
- S72 – Removal of requirement to report loss or theft of licence etc. to police

THE DEREGULATION ACT 2015 (COMMENCEMENT NO.3 AND TRANSITIONAL AND SAVINGS PROVISIONS) ORDER 2015

#### **From 1 October 2015**

- S71 – Late night refreshment

The following section are yet to come into force.

S67 – Sale of alcohol: community events etc and ancillary business sales

## THE LIVE MUSIC ACT 2012

The Live Music Act 2012 amended the Licensing Act 2003 by partially deregulating the performance of live music and removing regulation about the provision of entertainment facilities.

It:

- removed the licensing requirement for unamplified live music taking place between 8am and 11pm in all venues, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises;
- removed the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons on premises authorised to supply alcohol for consumption on the premises, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence or club premises certificate;
- removed the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment).
- removed the licensing requirement for the provision of entertainment facilities; and widened the licensing exemption for live music integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music.



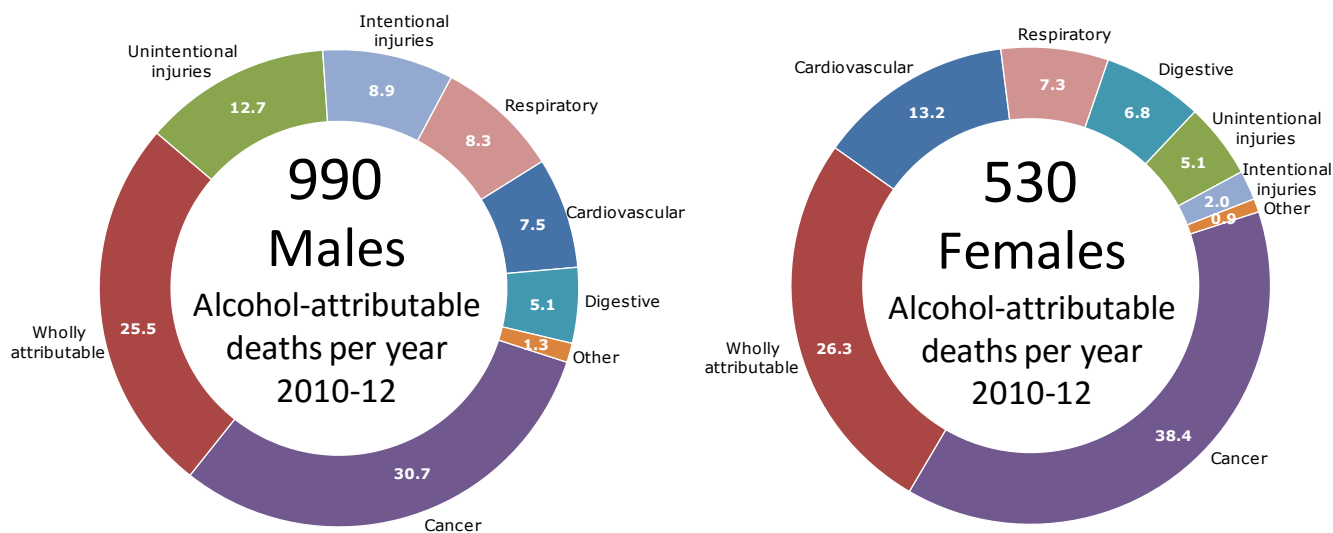
## APPENDIX 3: ALCOHOL AND HEALTH IN WALES

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

Alcohol is implicated heavily in crime and anti-social behaviour and issues such as domestic violence and hate crime. Alcohol abuse is a significant drain on the NHS in terms of both immediate accident and emergency care and the long term treatment of alcohol related illness and addiction.

The Public Health Wales Observatory has published Alcohol and Health in Wales 2014. These are some of the key messages:

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



## **APPENDIX 4: JOINT ENFORCEMENT PROTOCOL WITH NORTH WALES POLICE**

A Memorandum of Understanding exists between North Wales Police and all North Wales licensing authorities regarding the operational procedures and a joint enforcement protocol under the Licensing Act 2003.

The purpose of the joint enforcement protocol is to

- ensure efficient and targeted enforcement,
- facilitate co-operation between enforcement agencies, and
- underpin the mutual operational support required to tackle problem licensed premises.

This joint enforcement protocol describes how North Wales Police and the licensing authority will deal with problems arising at premises or club in relation to any of the four licensing objectives. It also describes when commencement of the review process may be deemed necessary.

### **ENFORCEMENT LADDER**

#### **STAGE ONE**

Incident of disorder/underage drinking/attempts to purchase alcohol by underage person or on behalf of underage person in/from a licensed premise where the person in charge calls the police for assistance and agrees to work with the police.

More serious offences can trigger stage two or three automatically.

#### **If problems continue on from Stage One**

#### **STAGE TWO**

Meeting with Police Inspector/Neighbourhood Sergeant, Western Division, Licensed Premises Manager and representative of the Local Authority. Issues will be formally discussed and formal written warning given.

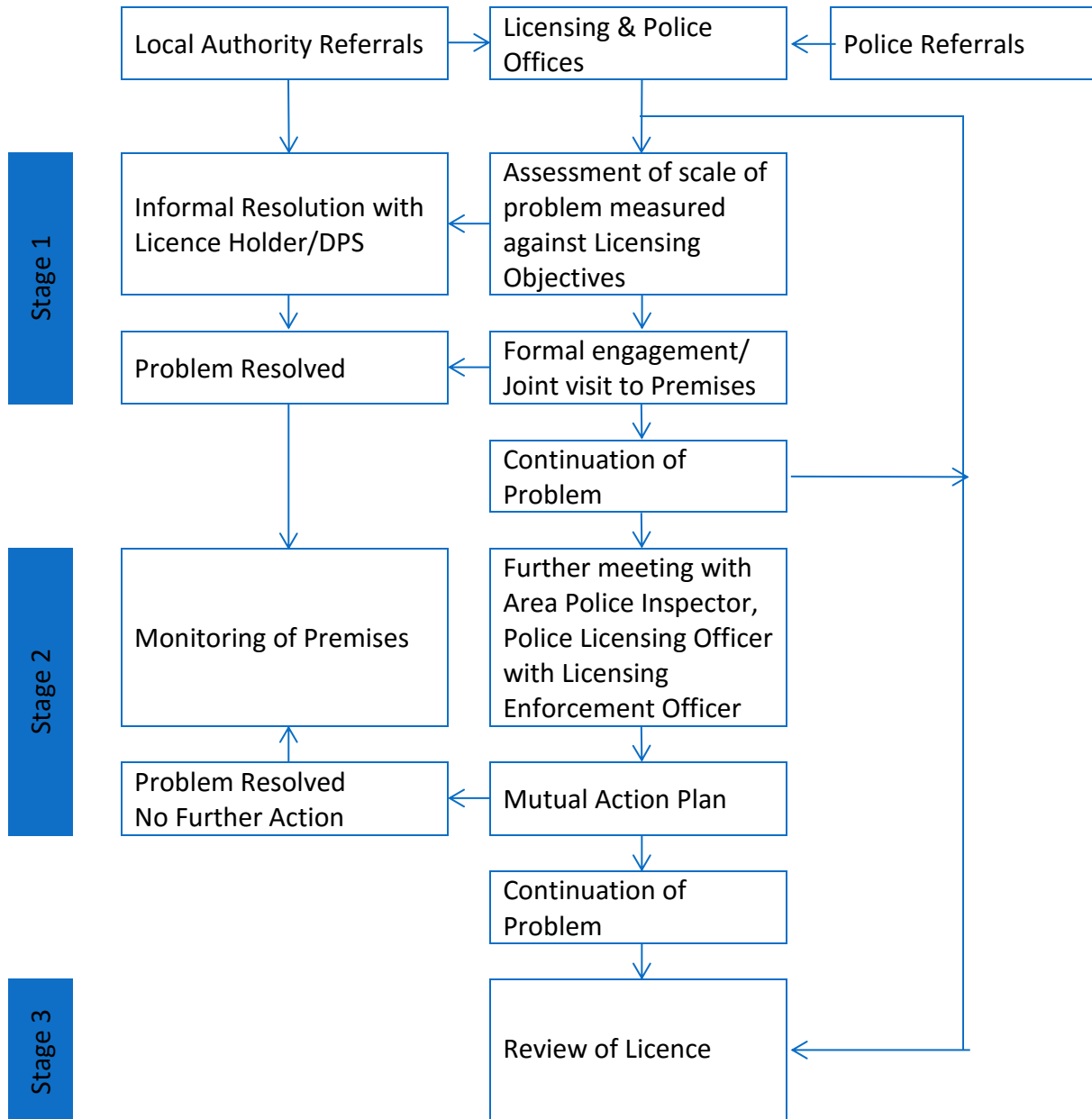
**Mutual Action Plan** agreed with time span of three months. If no further incidents occur then exit from enforcement ladder

#### **If problems continue on from Stage Two**

#### **STAGE THREE**

Police Inspector/Neighbourhood Sergeant and Western Division or licensing authority will apply for review of Premises Licence, as appropriate to the circumstances.

## LICENSED PREMISES REVIEW PROCEDURE INCORPORATING JOINT PROBLEM SOLVING

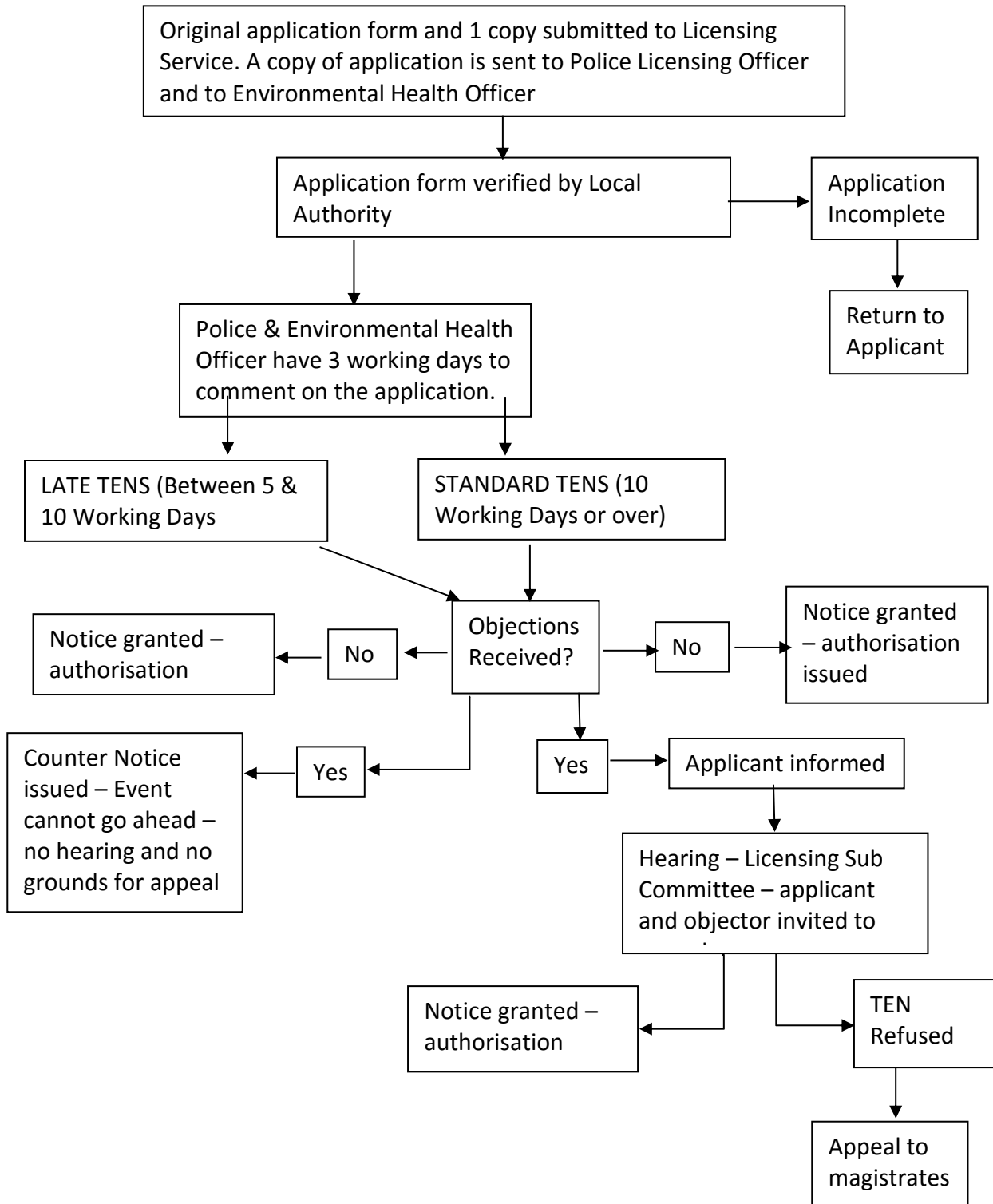


Progression to each level is an optional process and this flowchart is designed as a template for progress and monitoring of problem premises.

Depending on the merits of the case, it can be decided to apply for a review of a premises licence at any time.

# APPENDIX 5: FLOWCHART FOR TEN

## Temporary Events Notice



## **APPENDIX 6: MANDATORY CONDITIONS**

### **SUPPLY OF ALCOHOL**

#### **SECTION 19 (2), LICENSING ACT 2003**

No supply of alcohol may be made under this licence

- (a) At a time when there is no designated premises supervisor in respect of it or,
- (b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

#### **SECTION 19 (3), LICENSING ACT 2003**

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

#### **SECTION 19 (4), LICENSING ACT 2003 –**

Other conditions

#### **The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 as amended**

- 1 (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 a disability).

- 2 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 3
  - (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 licence 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.
- 4 The responsible person must 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;
  - (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.

The Licensing Act 2003 (Mandatory Conditions) Order 2014

- 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 this 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.

## EXHIBITION OF FILMS

### **SECTION 20, LICENSING ACT 2003**

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

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

## DOOR SUPERVISION

### **SECTION 21, LICENSING ACT 2003**

At the specified times when one or more individuals must be at the premises to carry out a security activity, every 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 Private Security Industry Act 2001.

For the purposes of this condition —

- (a) “security activity” means an activity to which paragraph 2(1)(a) of Schedule 2 of the Private Security Industry Act 2001 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.

## ALTERNATIVE LICENCE CONDITION

### **SECTION 25A (2), LICENSING ACT 2003**

Every supply of alcohol made under this licence must be made or authorised by the management committee.



<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	12 October 2022
<b>LEAD OFFICER:</b>	Head of Planning, Public Protection and Countryside Services
<b>CONTACT OFFICER:</b>	Senior Licensing Officer <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706433
<b>SUBJECT:</b>	Review of vehicle age for the licensing of Hackney Carriage and Private Hire Vehicles

## 1. PURPOSE OF THE REPORT

- 1.1 For Members to consider reviewing the existing maximum age of vehicles for both new and renewal applications following interim amendments to the existing policy in January of this year by Members of the Licensing Committee.

## 2. EXECUTIVE SUMMARY

- 2.1 Members approved to defer the implementation date to only licence vehicles up to the age of 12 years old from the date of first registration, until July 2023 with a further review to take place.

## 3. POWER TO MAKE THE DECISION

- 3.1 Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847.

## 4. BACKGROUND INFORMATION

- 4.1 The existing Hackney Carriage and Private Hire Vehicle Policy, together with vehicle specification and conditions, was approved at the December 2016 committee meeting, following extensive consultation, and came into effect on the 1<sup>st</sup> of July 2017. There have been a number of small amendments since this date.
- 4.2 The conditions, at paragraphs 2.4.3 and 5.4.3, place an age restriction on vehicles whether new or for renewal, namely that all new to fleet vehicles must be a maximum of 5 years old and any vehicle reaching the age of 12 years old must be removed. At the time of implementation, a period of

grace was given for 5 years for vehicles which had “grandfather rights” i.e. they were already licensed vehicles and remained continually licensed. This grace period was to cease in July 2022, and reads as follows:

- 4.3 *“All existing licensed vehicles will have “grandfather rights” for 5 years after the implementation of this policy, by which time all existing licensed vehicles must be able to comply with 2.4.2 above e.g. all licensed vehicles aged 12 years or over, from the date of first registration, must have been replaced with one of a maximum age of up to 5 years from the date of first registration. This will only be relevant to licensed vehicles that have had a continuous licence. Vehicles that are not renewed before the expiry date of the existing licence will be treated as a new vehicle and 2.4.2 above will apply.”*
- 4.4 In January of this year, Officers and Licensing Committee Members (at that time) received a request from a licensed taxi proprietor to urgently consider reviewing the vehicle age policy for new and renewal applications in light of the coronavirus pandemic having an impact on the automotive industry as a result of the shortage of semiconductors (chips) for new vehicles. This shortage was having a knock on effect on used car trade as the demand for used cars increased.
- 4.5 Members of the Committee approved a delay for a period of 12 months, to the implementation of the part of the Policy and Conditions relating to age of vehicles. The decision enabled proprietors to retain older vehicles and allow some valuable time to recover from the effects of the global pandemic.
- 4.6 Whilst agreeing to the deferment Members also requested the position is reviewed by January 2023.
- 4.7 Members were further requested by the same licensed taxi proprietor to relax the requirement for new vehicle applications to be no more than 5 years old and instead require vehicles to be no more than 8 years old. Additionally, officers have received a request from a different operator to consider relaxation of the age requirement for wheelchair accessible vehicles, particularly those with power tail lifts. Unlike the deferral of the implementation date this aspect is a policy change which would need consideration by the Members and wider consultation and as such would be considered as part of the review before January 2023.

## **5. CONSIDERATION**

- 5.1 As minuted at the Licensing Committee meeting in December 2016, the introduction of a vehicle age policy in 2017 was intended to modernise the existing fleet of licensed vehicles, thereby ensuring high standards for users and the introduction of the five-year grandfather rights at the time

would provide sufficient time for vehicles to be replaced. An extract of the minutes are detailed below:

*“Members felt the changes brought consistency across hackney carriage and private hire vehicles and would result in improved vehicle standards whilst also giving sufficient time for the older vehicles to be replaced and upgraded. It was also noted that there had been general support for introducing an age limit for vehicles from the trade during the consultation process .....* “

- 5.2 Significant interruption to that 5-year period has been encountered by the pandemic and industry comment generally indicates car prices remain higher than previous years, as shown, for example, in the press release from a recognised online retailer <https://plc.autotrader.co.uk/press-centre/news-hub/retail-price-index-august-2022/>
- 5.3 If the current decision remains the new date for the expiry of grandfather rights would be July 2023.
- 5.4 There are 287 vehicles licensed, 21 of those are currently affected by the upper age limit, rising to 23 in July 2023, and will require removing.
- 5.5 Since the introduction of the policy the number of new to fleet vehicles stands at 2017 – 64; 2018 – 21; 2019 – 26; 2020 – 10; 2021 – 35; 2022 – 31. These will have had to be a maximum of 5 years of age.
- 5.6 The information below shows the vehicle age requirements for other north Wales authorities:
  - 5.6.1 Wheelchair Accessible Vehicle (“WAV”)
    - Anglesey: New to fleet – Under 6 years / Renewal Maximum Age – None
    - Conwy: New to fleet (all new hackney carriages must be WAV) – Under 5 years / Renewal Maximum Age – None
    - Flintshire: New to fleet – None / Renewal Maximum Age – None
    - Gwynedd: New to fleet – Under 3 years (currently deviation from policy is permitted) / Renewal Maximum Age – 12 years (under review)
    - Wrexham: New to fleet (all new hackney carriages must be WAV) – Under 10 years for hackney carriage (none for private hire) / Renewal Maximum Age – None
  - 5.6.2 Not Wheelchair Accessible Vehicle (“WAV”)
    - Anglesey: New to fleet – Under 6 years / Renewal Maximum Age – None

- Conwy: New to fleet (applies to private hire only) – Under 5 years / Renewal Maximum Age – None
- Flintshire: New to fleet – Under 5 years / Renewal Maximum Age – None
- Gwynedd: New to fleet – Under 6 years / Renewal Maximum Age – 12 years (under review)
- Wrexham: New to fleet (applies to private hire only) – None / Renewal Maximum Age – None

5.7 Members are therefore asked to consider whether it is appropriate to relax the maximum age limit for new and renewal vehicle applications.

## **6. RECOMMENDATION**

- 6.1 For Members to consider all the information contained in this report and firstly determine whether to retain the current vehicle age restrictions along with the deferred implementation date of July 2023.
- 6.2 Should Members be minded to amend the vehicle age requirements only in relation to wheelchair accessible vehicles they may agree to
- Increase the maximum age limit for new wheelchair accessible vehicle applications with or without additional conditional requirements, and / or
  - Increase the upper age limit for renewal wheelchair accessible vehicles with or without further conditional requirements.
- 6.3 Should Members be minded to amend the vehicle age requirements for all vehicles then they may agree to: -
- Increase the maximum age limit for new vehicle applications to 8 years, or some other age they determine, with or without additional conditional requirements, and / or
  - Increase the upper age limit for renewal vehicles to 8 years, or some other age they determine, with or without further conditional requirements,
- 6.4 If Members are minded to support any of the proposals at 6.2 or 6.3 above, that they authorise Officers to instigate consultation with all licence holders and key partners.

<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	12 October 2022
<b>LEAD OFFICER:</b>	Head of Planning, Public Protection and Countryside Service
<b>CONTACT OFFICER:</b>	Senior Licensing Officer <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706433
<b>SUBJECT:</b>	Forward Work Programme 2022/3

## 1. PURPOSE OF THE REPORT

- 1.2 To advise Members of the priorities of the Licensing Section, together with an update on the agreed work programme for the Licensing Committee for the remainder of year 2022 through to 2023.

## 2. EXECUTIVE SUMMARY

- 2.1 The priorities of the Licensing Section reflect the duty placed on the Authority in relation to its responsibilities in relation to its licensing function, and the effective regulation, control and enforcement of Licensees, and the Authority's commitment to safer communities and the development of the economy.
- 2.2 Due to unforeseen priorities, the Forward Work Programme approved by Members at a previous meeting has unfortunately had to be amended slightly and matters have been re-scheduled for consideration.

## 3. BACKGROUND INFORMATION

- 3.1 Members will recall that at the last meeting in June 2022, Officers presented an updated work programme which was approved. Officers were scheduled to present a number of updated matters for your consideration to this meeting, however due to a number of factors, some matters will be present to you at a future meeting. A revised Forward Work Programme can be found at Appendix A.

## 4. RECOMMENDATION

- 4.1 It is recommended that Members note the contents of the report, and

- 4.2 It is further recommended that Members consider and approve the revised Forward Work Programme detailed at Appendix A for the remainder of year 2022 through to 2023.

**Licensing Committee****Forward Work Programme 2023**

<b>Committee Date</b>	<b>Report</b>	<b>Comment</b>
<b>7<sup>th</sup> December 2022</b>	Review of Hackney Carriage and Private Statement of Licensing Policy	Update following consultation for approval
	Review of Statement of Principles – Gambling Act 2005	To review existing policy as required by legislation
	Review of Hackney Carriage table of fares	Members requested a full review within 6 months of the June 2022 meeting.
	Member Training	For new Committee Members should no formal training have taken place beforehand
<b>20<sup>th</sup> March 2023</b>	Review of Statement of Principles – Gambling Act 2005	Update following consultation if representations are received
<b>19<sup>th</sup> June 2023</b>	Review Private Hire vehicle plate exemption policy	To review the exiting policy
	Review of Intended Use Policy	To review the existing policy

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