



# Draft Statement of Licensing Policy

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## 1. BACKGROUND

- 1.1 Wirral Borough Council is situated in the County of Merseyside, which contains no district Councils, but 5 metropolitan councils: Knowsley, Liverpool, Sefton, St Helens and Wirral. The Council area has a population of 313,000 (ONS 2004 midyear population estimates) making it the second largest after Liverpool in the County in terms of population. In terms of area it is the largest in Merseyside, covering 60.1 square miles. The Borough is predominantly urban in outlook, with 32.85 square miles (54.66% of the borough) covered in Residential, Industrial or Commercial buildings.

## 2. INTRODUCTION

- 2.1 Wirral Borough Council is the Licensing Authority under the Licensing Act 2003 (the 2003 Act). The 2003 Act requires that the Licensing Authority publish a Statement of Licensing Policy that sets out the principles the Licensing Authority will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act. This Policy aims to ensure a consistent approach to licensing within Wirral and promote fairness, equal treatment and proportionality. In addition the Policy seeks to provide clarity for applicants and residents to enable them to understand the objectives being promoted and the matters that will be considered in determination of licences. This Statement of Licensing Policy has been prepared in accordance with the provisions of the 2003 Act and having regard to the Guidance issued under Section 182.

The Policy relates to all those activities identified as falling within the provisions of the Act, namely:

- Retail sale of alcohol
- Supply of alcohol to club members
- Provision of 'regulated entertainment' - to the public, to club members or with a view to profit
- A performance of a play
- An exhibition of a film
- An indoor sporting event
- Boxing or wrestling entertainment
- A performance of live music
- Any playing of recorded music
- A performance of dance
- Provision of facilities for making music
- Provision of facilities for dancing
- The supply of hot food and/or drink from any premises between 11.00 pm and 5.00 am

- 2.2 In accordance with Section 5(3) of the 2003 Act, the policy has been prepared in consultation with:

- The Chief Officer of Police for the area
- The Fire and Rescue Authority for the area
- Persons/Bodies representative of local holders of premises licences
- Persons/Bodies representative of local holders of club certificates
- Persons/Bodies representative of local holders of personal licences
- Persons/Bodies representative of businesses and residents in its area

2.3 The Licensing Authority recognises that there are a number of groups who have a stake in the Leisure Industry, including providers, customers, residents, Crime and Disorder Reduction Partnerships, Primary Care Trusts, Town Centre Management and those responsible for promoting leisure and tourism. The policy has been developed in consultation with those required under the Act and these other stakeholders.

### 3. LICENSING OBJECTIVES

3.1 In carrying out its various licensing functions the Licensing Authority will promote the Licensing Objectives which are:

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

These objectives will be considered of equal importance and paramount at all times.

3.2 In addition to the Licensing Objectives, this Authority is also bound by Section 17 of the Crime and Disorder Act 1988 which requires the Authority to do all that it reasonably can to prevent crime and disorder within the locality. The Licensing Authority will work in partnership with the Police and other relevant agencies and local residents towards the promotion of the Licensing Objectives.

3.3 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act.

3.4 In determining a licence application the overriding principle adopted by the Licensing Authority will be to determine each application on its individual merits.

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

3.5 The Licensing Authority expects individual licence holders, new applicants and temporary event organisers to regularly review their arrangements in addressing crime and disorder issues pertinent to their particular licensable activities and/or premises. Information and advice can be obtained from regulatory agencies, business network groups and other sources. The Licensing Authority also encourages local residents and other businesses to discuss issues of concern directly with individual businesses or, to contact the Police and Licensing Service if they believe that a particular licensed premises is failing to achieve this objective.

3.6 The Authority will through its Crime and Disorder Reduction Partnerships, devise and help deliver strategies to tackle the misuse of alcohol, identified in the Cabinet Office's Alcohol Harm Reduction Strategy as being a precursor to crime and anti-social behaviour. The Licensing Authority expects existing licence holders, new applicants and the organisers of temporary events, to be able to demonstrate the measures they use, or propose to adopt, to prevent and actively discourage underage retail and hospitality sales/supply of alcohol. In general, conditions will reflect local crime prevention strategies.

3.7 The risk assessment approach remains fundamental. Licence holders and applicants are strongly recommended to work closely with the Police and Licensing Service in

particular, in bringing into effect appropriate control measures to either overcome established or potential problems. A combination of short and longer-term strategies may need to be deployed by the licence holder to sustain and promote the prevention of crime and disorder.

- 3.8 The Licensing Authority encourages relevant businesses to participate in local Pubwatch schemes or similar forums where it is set up, and where this helps secure and/or promotes the Licensing Objective(s).
- 3.9 The Licensing Authority will encourage small businesses to network locally with other businesses and to seek advice from regulatory agencies.
- 3.10 The Council has specific duties under Section 17 of the Crime and Disorder Act 1998 that underpins any control strategy that is employed. The Council will continue to work in partnership with the Police in addressing crime and disorder issue.

### **Promotion of Public Safety**

- 3.11 Public safety is not defined within the Act, but is concerned with the physical safety of people, not specifically with public health matters, which are covered by other legislation such as the Health and Safety at Work etc, Act 1974.
- 3.12 Applicants and event organisers will be expected to assess not only the physical environment of the premises (or site) but also operational practices, in order to protect the safety of members of the public visiting the site, those who are permanently employed in the business, those who are engaged in running an event or anyone else that could be affected by site activities.
- 3.13 Holders of premises licences, and club certificates, or those organising temporary events, should interpret safety widely to include freedom from immediate danger or physical harm, and a sense of personal security e.g., freedom from personal abuse.
- 3.14 For licensed or certificated premises and for temporary events, public safety must be kept under review and where changes to operational practices occur, a review of risk assessment must be undertaken.
- 3.15 Fire safety and means of escape remain an essential consideration to the Licensing Authority when determining applications. The Licensing Service will work in partnership with the Fire Authority and other Council departments (e.g. Building Control and Environmental Health) to ensure that appropriate standards are applied and maintained. Applicants are encouraged and reminded to consult with all relevant parties prior to submission.
- 3.16 In the context of providing safe access to licensed premises for disabled members of the community, the Licensing Authority urges all licensees to familiarise themselves with The Disability Discrimination Act 1995.

### **Prevention of Public Nuisance**

- 3.17 Public nuisance is not narrowly defined within the context of the Act. The Licensing Authority will take a broader approach to its meaning. In effect, any nuisance arising from a licensable activity – ranging from major noise from an outdoor pop concert affecting a wide area, to a low-level nuisance affecting only a few people (e.g.

vibrations from a poorly mounted extraction duct serving a night café), could be included.

- 3.18 The Licensing Authority remains sensitive to the expectations and needs of different parts of the community in respect of leisure and cultural pursuits, and will view applications accordingly. The Licensing Authority will consider the impact of those activities on people who have to live, work and sleep within the local vicinity of a licensed premises.
- 3.19 The Licensing Authority will always consider whether other legislation already provides sufficient protection of the rights of local people. For example, the Environmental Protection Act 1990, the Noise Act 1996 and the Antisocial Behaviour Act 2003 can be utilised to address noise nuisance issues. The Licensing Authority considers that the potential for public nuisance can be prevented or much reduced by good design and planning during new or ancillary construction works, and by the provision of good facilities. This will require appropriate advice at the planning and development stages of new projects. The Licensing Authority's Licensing Service and the Environmental Health Department and other regulatory agencies such as the Police, should be viewed as being instrumental in this respect. Applicants should consider carefully the suitability of the premises for the type of activity to be undertaken, particularly in terms of ventilation, noise breakout and noise/vibration transmission to adjoining premises.
- 3.20 The Licensing Authority expects licence holders to use their risk assessments and Operating Schedules to review and, if need be, to make necessary improvements to the premises, or to operational practices, in order to prevent public nuisance.
- 3.21 Where the provision of existing legislation proves inadequate or inappropriate for control purposes, the Licensing Authority will consider imposing licence conditions. Any condition deemed appropriate and imposed by the Licensing Authority to promote the prevention of public nuisance will focus on measures within the direct control of the licence holder, and designated premises supervisor.

### **Protection of Children from Harm**

- 3.22 The Licensing Authority recognises the Local Safe Guarding Children Board as being competent to advise on matters relating to the protection of children from harm.
- 3.23 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.
- 3.24 The Licensing Authority is committed to tackling the issue of under-age drinking and has developed a comprehensive package of measures in partnership with other stakeholders and will seek support from licence holders to implement these measures.
- 3.25 Licensing conditions will usually only restrict access to children in order to protect those children from harm. Applicants will be expected to pay particular attention to safety issues within their operating schedule where regulated entertainment is specially presented for children.
- 3.26 The Licensing Authority recognises the great variety of premises for which licences may be sought, including theatre, cinemas, public houses, concert halls as well as

'night-clubs'. The Licensing Authority will consider the individual merits of each of these applications. Examples of premises where restrictions on access to children may be imposed include:

- Where there have been convictions of current staff for serving alcohol to minors
- Where there is a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises
- Where entertainment of an adult or sexual nature is commonly provided
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises

3.27 The options available for limiting access to children can include:

- A limit on the hours when children may be present
- Age limitations (below 18)
- Limitation or exclusions when certain activities are taking place
- The requirement to be accompanied by an adult
- Full exclusion of people under 18 from the premises when any licensable activities are taking place

3.28 The Licensing Authority will not impose any condition which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issues of access will remain a matter for the discretion of the individual licensee or club.

3.29 Where children are expected to attend public entertainment, appropriate adult supervision will be required to control the access and egress of children and to protect them from harm.

3.30 The type of entertainment and the nature of the premises will determine the appropriate level of adult supervision. If considered appropriate, the Licensing Authority may require that adult supervisors be subject to a Criminal Records Bureau check.

3.31 Where cinemas are concerned, the Licensing Authority would expect licensees to impose conditions that children will be restricted from viewing age-restricted films according to the recommendations of the British Board of Film Classification. Licensees will be expected to include in their operating schedule arrangements for restricting children from viewing age restricted films.

#### **4. CONDITIONS**

4.1 The Licensing Authority cannot impose conditions unless it has received a relevant representation from a responsible authority, such as the Police or an Environmental Health officer or an interested party, such as a local resident or local business. The Licensing Authority will determine whether or not a representation qualifies as a "relevant representation" and therefore whether or not the representations may be taken into account by the Licensing Authority when it makes its decision. In determining whether or not a representation is a "relevant" representation, the Licensing Authority will have regard to Government guidance. The Licensing Authority then needs to be satisfied that it is necessary to impose conditions or refuse an application in order to promote one or more of the Licensing Objectives.



- 4.2 The Licensing Authority recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premises. Standard conditions, other than mandatory conditions, will therefore be avoided and no condition will be imposed that is disproportionate or cannot be shown to be necessary for the promotion of the Licensing Objectives. However the Licensing Authority may seek to develop a pool of conditions in line with the Department of Culture, Media and Sport (DCMS) Guidance.
- 4.3 Applicants for Premises Licences or Club Premises Certificates or for variations to such licences or certificates are expected to conduct a thorough risk assessment with regard to the Licensing Objectives when preparing their applications. The risk assessment should cover the premises, events, activities and the customers expected to attend and will inform any necessary steps to be set out in the operating schedule to promote the Licensing Objectives. It would be sensible for applicants and clubs to consult with responsible authorities when operating schedules are being prepared. This would allow for proper liaison before representations prove necessary.
- 4.4 If an applicant volunteers a prohibition or restriction in their operating schedule because their own risk assessment has determined it is appropriate, such prohibitions or restrictions will become conditions attached to the licence, or certificate and will be enforceable.
- 4.5 The Guidance issued under Section 182 provides pools of model conditions as annexes D.
- 4.6 Where necessary for the promotion of the Licensing Objectives, the Licensing Authority will attach conditions in accordance with these model pool of conditions.
- 4.7 Conditions deemed necessary to achieve the Licensing Objectives will be applied following Relevant Representations. Terms and conditions attached to licences will be proportionate and will focus on matters that are within the control of individual licensees and others granted relevant permissions. The focus of these conditions will be on the direct impact that activities taking place at the licensed premises could have on persons attending the venue as well as members of the public living, working or engaged in normal activity in the area concerned and will seek to ensure the protection of children from harm.
- 4.8 It is recognised by this policy that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. This policy is able to address such behaviour “in the vicinity” of premises used for licensable activities. Whether or not incidents can be regarded as “in the vicinity” of licensed premises or places is ultimately a matter of fact to be determined by the courts in cases of dispute. The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 4.9 The Licensing Authority will work in partnership with the Police and other relevant agencies to promote the Licensing Objectives and will develop licensing conditions for individual premises in order to meet these objectives.
- 4.10 Other mechanisms available for addressing issues when individuals behave badly away from licensed premises include:

- Planning control
- Town centre initiatives
- Designation of defined areas within this Authority where alcohol may not be consumed publicly
- Police enforcement of the normal law concerning disorder and anti-social behaviour
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk or who are underage
- The confiscation of alcohol from adults and children in designated areas
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- The power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question

## **5. ENFORCEMENT**

- 5.1 It is essential that Licensed premises are maintained and operated to ensure the continued promotion of the Licensing Objectives and compliance with the specific requirements of the Act. The Licensing Authority will monitor premises and take appropriate enforcement action in line with the Licensing Authority's Enforcement Policy. A copy of the Enforcement Policy is available on request.
- 5.2 The Licensing Authority recognises the interests of both citizens and businesses and will work closely with partners to assist licence holders to comply with the law and the Licensing Objectives. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law.
- 5.3 The Licensing Authority will continue to work with Merseyside Police on joint inspections of premises to reduce the level of crime and disorder and ensure the safety of the public. Protocols will continue to be developed to avoid duplication and ensure the best use of resources to promote the Licensing Objectives.
- 5.4 Protocols continue to be developed in accordance with the Licensing Authority's Enforcement Policy and the principles of better regulation. The principles of risk assessment and targeting will prevail and inspections planned accordingly.

## **6. CUMULATIVE IMPACT**

- 6.1 Cumulative impact means the potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area. Cumulative impact of licensed premises on the promotion of the Licensing Objectives is a proper matter for a Licensing Authority to consider and the Licensing Authority may adopt a special policy.
- 6.2 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

- 6.3 However, a special policy does not relieve responsible authorities or interested parties of the need to make a relevant representation, referring to information which had been before the licensing authority when it developed its statement of licensing policy, before a licensing authority may lawfully consider giving effect to its special policy. If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.
- 6.4 The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 6.5 It is for any person making such representations to provide evidence to the Licensing Committee that the addition of the premises concerned would cause the cumulative impact claimed. When considering such representations, the committee will:
- Identify any serious and chronic concern
  - Identify the area from which problems are arising and the boundaries of that area
  - Make an assessment of the causes
  - Consider adopting a policy about future licence applications from that area
- 6.6 The cumulative impact of licensed premises on the promotion of the Licensing Objectives is a matter the Licensing Authority can take into account. This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises e.g. a public house, restaurant or hotel. The issue of 'need' is therefore a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.
- 6.7 The Licensing Authority recognises that public houses, 'night clubs', restaurants, theatres, concert halls and cinemas all provide their services of selling alcohol, serving food and providing entertainment with contrasting styles and characteristics. Proper regard will therefore be given to these differences and the differing impact they will have on the local community and each application will be considered on its individual merits.

## **7. LICENSING HOURS**

- 7.1 The Licensing Authority recognises that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentration of customers leaving premises simultaneously is avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and private hire offices as well as other sources of transport that might be a focus of disorder and disturbance. The Licensing Authority will, however, have regard to the location of the premises in question and the surrounding area, considering each application on its individual merits.
- 7.2 Fixed trading hours within designated areas will not be set as this could lead to significant movements of people across boundaries at particular times seeking premises opening later.
- 7.3 Stricter conditions with regard to noise control will be demanded in certain areas, for example, premises in close proximity to residential accommodation.
- 7.4 The Licensing Authority will usually permit the sale of alcohol for consumption off trade premises at any time the retail outlet is open for shopping unless there are very

good reasons for restricting these hours, for example, following Police representation that a particular shop is known to be the focus of disorder and disturbance.

## **8. INTEGRATING STRATEGIES**

8.1 The Licensing Authority will seek to ensure proper integration with the local Crime and Disorder Reduction Partnership, Planning, Tourism and Cultural Strategies when dealing with licence applications and through partnership working. The Licensing Authority will work with other partners such as the Police and the Primary Care Trust to develop initiatives that support the Licensing Objectives. The following strategies are examples of such strategies:

- Alcohol Harm Reduction Strategy
- Tourism Strategy
- Crime and Disorder Reduction Partnership Strategy
- Local Area Agreement

8.2 The Licensing Authorities recognises that there are many stakeholders in the leisure industry covering a wide range of disciplines.

8.3 The Licensing Authority shall secure the proper integration of this policy with local crime prevention, planning, transport, tourism and cultural strategies by:

- Liaising and consulting with the Police, Community Safety
- Liaising and consulting with the Local Strategic Partnership
- Liaising and consulting with the Planning authority
- Liaising and consulting with the Trading Standards Team, for example, with regard to test purchasing codes of practice
- Having regard to the Home Office Safer Clubbing Guide

8.4 The Statement of Licensing Policy will support the aims of the tourism strategy recognising the benefits for the tourism economy by creating a safer and more attractive Town Centre.

8.5 Licences issued to premises shall reflect local crime prevention strategies. Certificates issued to club premises shall reflect local crime prevention strategies and may include any or all of the requirements listed above.

8.6 The Licensing Authority shall have regard to the need to disperse people quickly and safely from the town centre to avoid concentrations that may produce disorder and disturbance. The policy shall reflect any protocols agreed between the local police and other licensing enforcement officers and the need to report to other Council committees.

8.7 Arrangements will be made for the Licensing Authority to receive reports on the following matters to ensure these are reflected in their decisions:

- The needs of the local tourist economy for the Borough
- The employment situation in the Borough and the need for investment and employment where appropriate

## **Relationship with Planning**

- 8.8 The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. Similarly, the granting by the Licensing Authority of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building consent.
- 8.9 The Council's Licensing Committee will report at regular intervals to the Council's Planning Committee. This will enable the Planning Committee to have regard to the licensing situation when taking its decisions and avoid any overlap between planning and licensing functions.

## **9. LIVE MUSIC, DANCING AND THEATRE**

- 9.1 Where possible, the Licensing Authority will encourage and promote live music, dancing and theatre for the wider cultural benefit of the Borough and its communities. The Licensing Authority will balance carefully the potential for limited disturbance in particular neighbourhoods against the benefit for a wider area.

## **10. ADMINISTRATION EXERCISE AND DELEGATION OF FUNCTIONS**

- 10.1 The powers of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee or, instead, by one or more officers acting under delegated authority.
- 10.2 The Licensing Authority recognises its responsibilities under the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000 in the exercise of its functions under the 2003 Act.
- 10.3 It is considered that many of the functions will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.
- 10.4 Where there are relevant representations applications will be dealt with by a Sub-Committee of the Licensing Authority, as will any application for the Review of a licence.
- 10.5 The Licensing Authority will expect individual applicants to address the Licensing Objectives in their operational plan having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 10.6 Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate when formulating their operating plan. The Licensing Authority also expects applicants to have regard to other national strategies and guidance, such as the Safer Clubbing Guide and the Alcohol Harm Reduction Strategy, again where these are relevant.
- 10.7 When determining applications the Licensing Authority will have regard to any guidance issued by the Department of Culture, Media and Sport (DCMS). 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.

10.8 In the interests of speed, efficiency and cost effectiveness, the Licensing Authority have determined which decisions and functions should be carried out by the full Licensing Committee, or delegated to a Sub-Committee or Council officer. Appendix 1 to this statement of policy sets out how the Council will approach and carry out its different functions.

**DELEGATION OF FUNCTIONS**

<b>Matters to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representative made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	

<b>Matters to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Decision on whether a complaint is irrelevant frivolous vexatious, etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	