



## Licensing Act 2003 Committee

<b>Date:</b>	Thursday, 25 July 2019
<b>Time:</b>	5.30 p.m.
<b>Venue:</b>	Committee Room 1 - Wallasey Town Hall

**Contact Officer:** Anne Beauchamp  
**Tel:** 0151 691 8608  
**e-mail:** [annebeauchamp@wirral.gov.uk](mailto:annebeauchamp@wirral.gov.uk)  
**Website:** [www.wirral.gov.uk](http://www.wirral.gov.uk)

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## AGENDA

**1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Committee are asked to declare any disclosable pecuniary and non pecuniary interests, in connection with any application on the agenda and state the nature of the interest.

**2. DRAFT STATEMENT OF LICENSING POLICY (Pages 1 - 38)**

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## LICENSING ACT 2003 COMMITTEE

25 JULY 2019

<b>REPORT TITLE</b>	<b>DRAFT STATEMENT OF LICENSING POLICY</b>
<b>REPORT OF</b>	<b>CORPORATE DIRECTOR FOR BUSINESS MANAGEMENT</b>

### REPORT SUMMARY

The purpose of this report is to seek Committee's approval of the Draft Statement of Licensing Policy attached at Appendix 1 in order that it may be circulated for consultation.

### RECOMMENDATION/S

That the Draft Statement of Licensing Policy be approved as a document to be circulated for consultation.

## SUPPORTING INFORMATION

### 1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 It is a statutory requirement under the Licensing Act 2003 to consult on a Statement of Licensing Policy prior to it being published.

### 2.0 OTHER OPTIONS CONSIDERED

- 2.1 There is no provision for other options to be considered.

### 3.0 BACKGROUND INFORMATION

- 3.1 The Council's Statement of Licensing Policy was first published in January 2005. The policy has since been subject to three reviews and the most recent policy was published in December 2014.

- 3.2 On 5 January 2017 Merseyside Police requested the Licensing Authority consider adopting a Special Cumulative Impact Policy, for an area within Birkenhead. The request was made due to the level of crime and disorder, public nuisance, littering, street drinking, under-age drinking and anti-social behaviour believed to be resulting in part from the number of off-licence premises located in the area. The request was supported by Ward Councillors.

- 3.3 A comprehensive consultation process was therefore undertaken about the possibility of introducing a Special Cumulative Impact Policy for Charing Cross, Grange Road West, Grange Mount, Oxton Road and the boundary of the Town Centre.

- 3.4 The consultation period ran from 13 January 2017 to 3 March 2017 and sought views on a Special Cumulative Impact Policy in relation to premises licensed for the sale by retail of alcohol for consumption off the premises only.

- 3.5 The Authority was satisfied from the responses received that the number of premises in Charing Cross, Grange Road West, Grange Mount, Oxton Road and the boundary of the Town Centre licensed under the Licensing Act 2003 for the sale by retail of alcohol for consumption off the premises were cumulatively giving rise to significant problems of public nuisance and crime and disorder.

- 3.6 As a result, the Authority resolved to introduce a Special Cumulative Impact Policy limited to Charing Cross, Grange Road West, Grange Mount, Oxton Road and the boundary of the Town Centre with effect from 10 July 2017 to apply to Premises licensed for the sale by retail of alcohol for consumption off the premises only.

- 3.7 It is a requirement of the Licensing Act 2003 that the Licensing Policy be reviewed at least every five years and that the Cumulative Impact Policy be reviewed within three years of its adoption. It is proposed therefore that the review of the Licensing Policy will also seek views on the cumulative impact policy included therein. In undertaking this review there is a statutory requirement to consult with the following persons / bodies:

- The Chief Officer of Police
- The Fire and Rescue Authority
- The Director of Public Health
- 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

3.8 Notification of the consultation will be published on the Council's Website and published in the Wirral View. The consultation will also be posted on the Council's Social Media platforms.

3.9 It is proposed that the period of consultation be six weeks closing on 6 September 2019 and that the outcome of the consultation be reported to a meeting of this Committee in October 2019.

#### **4.0 FINANCIAL IMPLICATIONS**

4.1 There are cost implications to undertaking a consultation exercise which will be funded from licence fees. It is estimated that the cost of the consultation will be no more than £500.00.

#### **5.0 LEGAL IMPLICATIONS**

5.1 It is a Statutory requirement under the Licensing Act 2003 that the Licensing Authority have a Licensing Policy. A decision of this Committee may be subject to legal challenge.

#### **6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

6.1 There are no such implications arising directly from this report.

#### **7.0 RELEVANT RISKS**

7.1 If a policy is not agreed then this could result in a lack of transparency, accountability, certainty and consistency in respect of decision making.

#### **8.0 ENGAGEMENT/CONSULTATION**

8.1 Should Committee approve the Draft Policy, consultation will take place as outlined in 3.7, 3.8 and 3.9 of this report.

#### **9.0 EQUALITY IMPLICATIONS**

9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

- (a) Yes and impact review is attached – <https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments/equality-impact-assessments-2017/business>

**REPORT AUTHOR:** *Margaret O'Donnell*  
*Licensing Manager*  
telephone: (0151) 691 8606  
email: [margaretodonnell@wirral.gov.uk](mailto:margaretodonnell@wirral.gov.uk)

#### **APPENDICES**

None

#### **REFERENCE MATERIAL**

- Appendix 1 - Draft Statement of Licensing Policy

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>

# **Draft**

# **Statement of**

# **Licensing Policy**

July 2019

**Wirral Licensing Authority  
Wallasey Town Hall  
Brighton Street  
Wallasey  
CH44 8ED**

**0151 691 8043**

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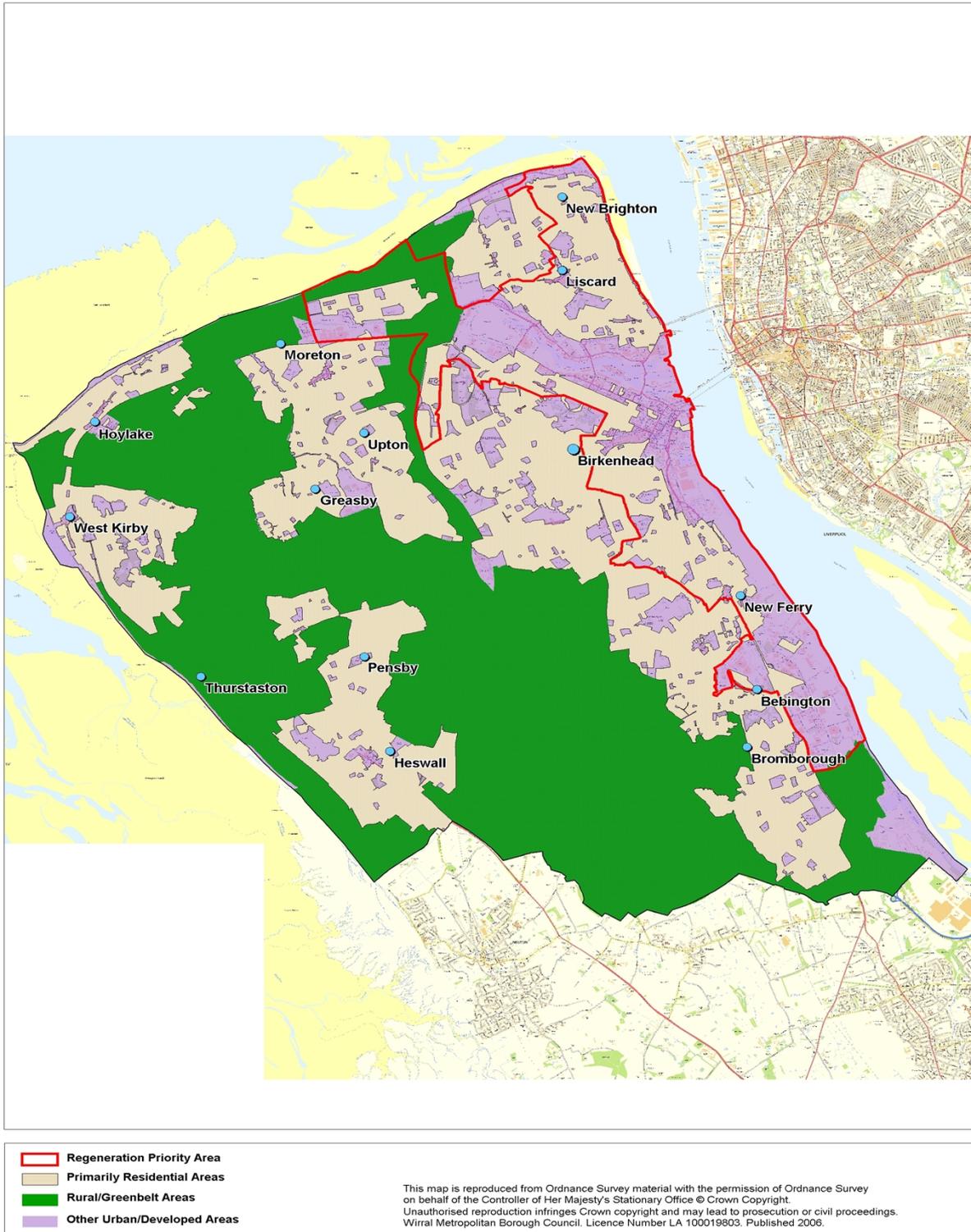
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## 1.0 BACKGROUND

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 322,796 (ONS 2017 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 mainly urban in outlook, with 32.85 square miles (54.66% of the borough) covered in Residential, Industrial or Commercial buildings.



The key provided identifies the urban / rural areas as well as regeneration priority areas.

## **2.0 EXECUTIVE SUMMARY**

- 2.1 This policy sets out how the Licensing Authority will carry out its function in respect of individual applications made under the terms of the Licensing Act 2003 (The Act).
- 2.2 The Licensing Authority aims to provide a transparent balanced, consistent, proportionate and fair licensing service for all service users including applicants, licence holders, Responsible Authorities and members of the public.
- 2.3 Holders of authorisations, be that a Premises Licence, Club Premises Certificate, Temporary Event Notice or Personal Licence will be expected to work proactively and positively with the Licensing Authority, Responsible Authorities and members of the public to promote the licensing objectives.
- 2.4 The policy aims to ensure a consistent approach to licensing within Wirral, promoting fairness and proportionality. The policy is to assist Officers and Members of the Licensing Act 2003 Committee in reaching decisions on particular applications, setting out those matters that will normally be taken into account.
- 2.5 The policy seeks to provide clarity for applicants and those who wish to make representations in respect of any applications to enable them to understand the objectives being promoted and matters that will be considered in determination of the applications made under The Licensing Act 2003.
- 2.6 The policy will cover all applications for Premises Licences, Club Premises Certificates, notification of temporary events, together with applications for renewals, transfers and variations. The policy also provides details of the review process that provides a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a Premises Licence or Club Premises Certificate.
- 2.7 Wirral Borough Council is the Licensing Authority under the Licensing Act 2003 (the Act) and works closely with the Responsible Authorities, the licensed trade, local residents, local businesses and Ward Councillors to deliver the licensing objectives.
- 2.8 The Licensing Authority takes its responsibility and the Act seriously and actively works with other bodies including Merseyside Police and Trading Standards to combat alcohol related crime and disorder and tackle the sale of alcohol to underage persons.
- 2.9 The Licensing Authority works closely with residents to listen to their concerns and where appropriate act as a mediator between licence holders and residents to address issues, in particular relating to the prevention of public nuisance. The Licensing Authority also works with licence holders to seek compliance with licence conditions and encourage discussion between all relevant parties to promote the licensing objectives. This work is undertaken in recognition that enforcement action will be taken when necessary and appropriate in accordance with the Authority's Enforcement Policy.
- 2.10 Not only has this Statement of Licensing Policy been prepared to promote the four licensing objectives under the Act, the Licensing Authority has had regard to the local strategies which have been developed for the borough, its residents, businesses, workers and visitors. The Licensing Authority intends to secure the proper integration with local crime prevention, planning, and other relevant strategies in its roles to promote the licensing objectives.

- 2.11 Applicants for Premises Licences should be aware of the expectations of the Licensing Authority and the Responsible Authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.
- 2.12 The Licensing Authority will monitor the effect of this Policy throughout the period it covers through licensing liaison meetings with representatives of licence holders and also by way of regular meetings with the Responsible Authorities.
- 2.13 The Authority is committed to ensuring the highest levels of customer service for applicants, Responsible Authorities and members of the public. Our officers will always seek to assist licence applicants in completing applications and considering relevant conditions – particularly with a view to addressing possible representations from residents and Responsible Authorities. This is an important part of building and enhancing the partnership between the Licensing Authority and the licensed trade and providing useful advice and assistance. Notwithstanding this advice, it will be a matter for the applicant to decide what conditions to volunteer and for Responsible Authorities and other persons to seek additional conditions where appropriate to promote the licensing objectives.

### **3.0 ALCOHOL RELATED HARM**

- 3.1 The Council is aware that the hospitality and leisure industry in the Borough is a major contributor to the economy, attracts tourists and visitors, enlivens towns and communities, and is a major source of employment. Whilst alcohol plays a big part in the social and recreational activities of many people living within and visiting the Borough, alcohol misuse can sometimes cause problems within our towns and communities.
- 3.2 The total annual cost to society of alcohol-related harm is estimated to be £21bn. The cost to the NHS, local authority services and workforce productivity is in excess of £3bn a year in the North West of England.
- 3.3 A key part of addressing alcohol harm has been through promotional campaigns such as 'Drink Less, Enjoy More' which have enabled Public Health and Licensing to work more closely together.
- 3.4 Alcohol is everybody's business. It is a crosscutting issue that concerns the health and wellbeing of our residents, the safety of our communities, and the future success of our town centres and their night-time economies.

### **4.0 CHILD EXPLOITATION**

- 4.1 The Licensing Authority is committed to protecting children from harm. We are aware that alcohol misuse is one of the recurring key 'parental factors' in child protection and safeguarding, often contributing to parental neglect of children and domestic abuse and violence within families.
- 4.2 Alcohol is also often a factor in child exploitation (CE), where young people may be encouraged or coerced to drink. Alcohol may also be a factor in risk taking behaviour by young people who drink irresponsibly. Nationally, evidence has been found of the exploitation of children taking place on licensed premises, or licensed premises being used for the purposes of grooming and enticement.

- 4.3 The Licensing Authority encourages licence / certificate holders and operators of licensed premises:
- To ensure that they are fully aware of the signs of child exploitation and to understand that the exploitation of a child is abuse and a crime; and
  - To raise the awareness of their staff about child exploitation and provide intelligence to the appropriate authorities about concerns and about perpetrators who may be operating in their areas.

- 4.4 The Wirral Safeguarding Children Partnership has a webpage dedicated to providing local information about child exploitation policies and procedures including risk factors and signs and symptoms.

## **5.0 PURPOSE AND SCOPE OF THE LICENSING POLICY**

- 5.1 The Licensing Act 2003 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. 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 the determination of licences. This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and having regard to the Guidance issued under Section 182.

- 5.2 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
- The supply of hot food and/or drink from any premises between 11.00 pm and 5.00 am

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

- The Chief Officer of Police
- The Fire and Rescue Authority
- The Director of Public Health
- 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

## **6.0 LICENSING OBJECTIVES**

- 6.1 To achieve these objectives the Licensing Authority will use its full range of powers and engage all relevant Responsible Authorities and members of the public. Accordingly, the Licensing Authority will enter appropriate partnership arrangements, working closely with the Police, the Fire and Rescue Authority, local businesses, community representatives and local people in meeting these objectives.

- 6.2 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.

- 6.3 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act.
- 6.4 In determining a licence application the overriding principle adopted by the Licensing Authority will be to determine each application on its individual merits.

As a Licensing Authority we encourage high quality and well managed premises. Applications should therefore describe how these high management standards will be achieved, and In particular applicants will be expected to demonstrate:

- Knowledge of best practice
- That they understand the legal requirements of operating a licensed business
- Knowledge and understanding of the licensing objectives, relevant parts of the licensing policy, and their responsibilities under the Licensing Act 2003

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

- 6.5 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.
- 6.6 The Licensing Authority will require the applicant to detail in their operating schedule the steps proposed to ensure the deterrence and prevention of crime and disorder, on and in the vicinity of the premises, having regard to their location, character, condition, the nature and extent of the proposed use and the persons likely to resort to the premises.
- 6.7 There are many steps an applicant may take to prevent crime and disorder. The Licensing Authority will look to the Police for the main source of advice on these matters.
- 6.8 The Authority will through its' Community Safety Partnership, devise and help deliver strategies to tackle the misuse of alcohol. 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. The Licensing Authority supports initiatives / good practice to prevent the sale of alcohol to those who attempt to buy alcohol on behalf of those who are underage as well as those who are drunk.

- 6.9 Where its discretion is engaged, the Licensing Authority will seek to promote the licensing objective of preventing crime and disorder in a manner which supports the Community Safety Partnership and any local crime reduction strategy.
- 6.10 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.
- 6.11 The Licensing Authority will require the licence holder to indicate what steps will be put in place to control the excessive consumption of alcohol and drunkenness on relevant premises in order to reduce the risk of anti social behaviour occurring elsewhere after customers have left the premises.
- 6.12 The Licensing Authority is aware of the link between the supply of discounted alcohol and incidents of alcohol related disorder and will consider whether any measures or restrictions can be placed on alcohol sales to prevent binge drinking and promote 'sensible drinking'.
- 6.13 Off Licences, shops, supermarkets and stores selling alcohol for consumption off the premises potentially have a high risk of crime and disorder as they can be targeted as an easy premises from where to acquire alcohol. Such premises can contribute to anti social behaviour and disorder through the consumption of alcohol on the street and in open spaces by groups of drinkers, through the sale of alcohol to children, and through the sale of alcohol to street drinkers and persons who are already drunk.
- 6.14 The Licensing Authority expects Off Licences to show particular due diligence in areas where these problems are prevalent, and to strictly monitor the way they sell alcohol where the premises are located close to schools and hostels and similar premises that provide shelter or services to alcohol dependent persons.
- 6.15 It is important that staff working at Off Licences are suitably trained in the Act and can discharge their duties in full compliance with the licence conditions and requirements of the Act. This includes the ability to competently check a customer's age with acceptable forms of identification where necessary.
- 6.16 The Licensing Authority will expect new applicants, existing licence holders and organisers of temporary events to adopt recognised good practices in whatever area of operation they are engaged.
- 6.17 The Licensing Authority will encourage small businesses to network locally with other businesses and to seek advice from regulatory agencies.
- 6.18 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 the crime and disorder issue(s).

### **Promotion of Public Safety**

- 6.19 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 and the Regulatory Reform (Fire Safety) Order 2005.

- 6.20 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.
- 6.21 Holders of Premises Licences, and Club Premises Certificates Certificates, or those organising temporary events, should interpret safety widely, the Licensing Authority will take a broad approach to its meaning.
- 6.22 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.
- 6.23 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 and Rescue 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.
- 6.24 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 Equality Act 2010.
- 6.25 Special events in the open air or temporary structures raise particular issues. Applicants are referred to other sections of this document where guidance on holding these types of event is given.
- 6.26 Maximum occupancy limits in the premises licence will be specified only where appropriate for the promotion of public safety or the prevention of disorder.

### **Prevention of Public Nuisance**

- 6.27 In considering the promotion of this licensing objective, applicants and licence holders need to focus on the effect of licensable activities on persons living and working in the area around the premises which may be disproportionate and unreasonable.
- 6.28 Public nuisance is not narrowly defined within the context of the Act. The Licensing Authority will take a broad 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.
- 6.29 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.
- 6.30 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 Anti-Social Behaviour

Crime and Policing Act 2014 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. Applicants should ensure they have measures in place to prevent public nuisance within the vicinity of the premises that might affect other businesses as well as residents.

- 6.31 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. The matter of persons congregating in outside areas including beer gardens can cause disturbance and be a public nuisance to residents living in close proximity to licensed premises. This congregation may be connected to the manner in which the smoke free legislation is managed at the premises. The Licensing Authority will expect such matters to have been demonstratively assessed and addressed in the Operating Schedule. In cases where there appears to be a likelihood of residents living around licensed premises or businesses within the vicinity being disturbed by customers leaving venues, or there being an impact on crime and disorder from customers leaving venues, applicants may consider putting in place a dispersal policy. Such a policy would set out the steps that would be put in place to minimise disorder or disturbance that may be caused as customers leave.
- 6.32 Applicants are recommended to consult Environmental Health Services for advice on measures that may need to be incorporated into an operating schedule.
- 6.33 The Licensing Authority will particularly consider the following matters where they are material to the individual application:
- The proximity of residential accommodation
  - The type of use proposed, including the likely numbers of customers, proposed hours of operation and the frequency of activity
  - The steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
  - The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises
  - The use of smoking areas and how these are controlled / managed
  - The use of a garden / other open-air areas, and how these are controlled / managed
  - The steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly

- The arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents
- The provision for public transport in the locality (including taxis and private hire vehicles) for patrons
- Whether a dispersal policy has been prepared to minimise the potential for disturbance as customers leave the premises
- Any other relevant activity likely to give rise to nuisance

6.34 Following the implementation of the smoking ban, the Licensing Authority has become aware of nuisance issues relating to the use of external areas at licensed premises. If relevant representations are made, the Licensing Authority will consider whether it is necessary to impose conditions to regulate behaviour in external areas and access to them in order to promote the licensing objectives. In so doing the Licensing Authority considers that generally patrons who are using external smoking areas or shelters are there as a direct result of the licensed premises and are within the control of the licence holder. Applicants with external areas are recommended to seek the views of the Council's Environmental Health Department when preparing their operating schedule so as to include appropriate measures to prevent public nuisance.

6.35 Where the provision of existing legislation proves inadequate or inappropriate for control purposes, if its discretion is engaged through the submission of representations 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. If conditions or other legislation cannot adequately address the issues of nuisance, an application may be refused.

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

6.36 The Licensing Authority recognises the Wirral Safeguarding Children Partnership as being competent to advise on matters relating to the protection of children from harm.

6.37 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.

6.38 It is mandatory for premises which sell or supply alcohol to have an age verification policy in place. The Licensing Authority supports the Challenge 25 scheme, and such a scheme volunteered as part of an operating schedule will be given the appropriate weight when the Licensing Authority determines the licence application.

6.39 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.

6.40 The Licensing Authority recognises the great variety of premises for which licences may be sought, including cinemas, public houses and '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

6.41 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

6.42 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 or event organiser.

6.43 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.

6.44 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 Disclosure and Barring check.

6.45 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 or the Licensing Authority. Licensees will be expected to include in their operating schedule arrangements for restricting children from viewing age restricted films.

6.46 The Licensing Authority has not adopted its own system of classification and therefore abides by the recommendations of the British Board of Film Classification. A mandatory condition attached to all Premises Licences and Club Premises Certificates authorising the exhibition of films requires that all films should have been classified by a body designated under Section 4 of the Video Recordings Act 1984 (the British Board of Film Classification is the only body designated as such) or by the Licensing Authority itself. Where the Licensing Authority itself is to classify a film, the Authority expects:

- A synopsis of the exhibition or young person's film programmes to be sent to the Licensing Service 21 days in advance, where possible, of any exhibition, giving sufficient information on any potentially controversial issues such as theme, swearing, violence, imitable techniques, horror, drugs, nudity, flashing lights etc, and in particular anything considered over 18 – R18 for example.

- Information as to the steps that will be taken to display notices inside and outside the premises so that persons entering can readily read them and be aware of the category attached to the film.
- Information on how staff are informed on policies and matters that may be significant at the time of the exhibition.
- To ensure that whenever children are in the vicinity of a film or exhibition that is being shown in a multi purpose premises, sufficient ushers/stewards (minimum 18 years old) shall be in attendance at the entrance to the viewing room at all times to ensure children cannot enter or view the film or exhibition.

6.47 Following receipt of the above written information, elected Members will view the film to determine the appropriate recommendation. The film will therefore be referred to a Licensing Sub-committee for determination.

## **7.0 PREMISES LICENCES**

7.1 Applicants for new Premises Licences (or club premises certificates) and variations to existing Premises Licences are encouraged where appropriate to conduct a thorough Risk Assessment to demonstrate compliance with the Licensing Objectives and produce an Operating Schedule to fully reflect how those objectives will be met. The Licensing Authority encourages applicants to obtain appropriate planning consents prior to submitting applications for new premises licences or where variations are being sought.

7.2 An application for a Premises Licence must be made in the prescribed form and be copied to each of the Responsible Authorities and be accompanied by;

- the required fee
- an operating schedule
- a plan of the premises in a prescribed form to which the application relates; and
- if the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the designated premises supervisor

7.3 Applications may be submitted online, rather than in writing. In this case, the applicant will not need to send copies of the application to all the Responsible Authorities as the Licensing Authority will attend to this. The online application must have attached a plan of the premises and consent of the proposed Designated Premises Supervisor if applicable. The relevant licence fee must be paid at the time of submitting the application electronically. The Online Application facility can be accessed on the relevant page of the Council's website at [www.wirral.gov.uk/licensing](http://www.wirral.gov.uk/licensing).

7.4 Where a Premises Licence or Club Premises Certificate holder wishes to amend the licence an application to vary will be required. This will either take the form of a standard variation application (requiring the display of a notice in a local newspaper and a similar notice on the premises for 28 days with any representations being considered by the Licensing Act 2003 Sub Committee) **or** a "minor" variation application (requiring the display of a notice on the premises for 10 working days with any representations being considered by an officer of the authority within 15 working days of the application being made). This "minor" variation process is limited to:

- minor changes to the structure or layout of a premises

- small adjustments to licensing hours
- the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions and
- the addition of certain licensable activities

7.5 This “minor” variation process cannot be used to:

- extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
- to increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises

7.6 Applications to reduce licensing hours for the sale or supply of alcohol or to move (without increasing) the licensed hours between 07.00 and 23.00 will normally be processed as minor variations.

7.7 Licence holders may wish to consider using the minor variations process for such things as the addition or extension of live music at their premises. In considering any such application licensing officers will need to decide whether the particular application could impact adversely on any of the licensing objectives. The Licensing Authority does not consider that the “minor” variation process should be used to seek the removal or amendment of conditions / hours which have been determined by the Licensing Act 2003 Sub-Committee.

### **Premises licensed for the sale of alcohol for consumption “off” the premises**

7.8 Over recent years the Licensing Authority has become increasingly aware of the problems experienced in some local communities arising from the availability of alcohol for sale at local shops for consumption off the premises. These problems typically manifest themselves when youths obtain alcohol and drink it in public spaces and cause noise, nuisance and anti-social behaviour often late at night. In addition, alcohol-dependent persons will obtain alcohol from such shops and congregate around them, or in nearby streets and public places, causing noise, nuisance and anti-social behaviour at any time of the morning, day or night.

7.9 The Licensing Authority recognises that it can be difficult for shop-keepers to prevent such activity particularly where alcohol is obtained from proxy sales. Nonetheless, the Licensing Authority has a statutory duty to promote the licensing objectives and thereby protect local communities from anti-social conduct due to the availability of alcohol from local shops. To this end, the Licensing Authority expects all applicants shops wishing to sell alcohol, or extend their hours of sale, to carefully assess their local environment and seek advice from local councillors, the local Police and the Council’s Responsible Authority Officer and Weights and Measures Officer as to their views as to hours, conditions and product types which are appropriate to their local environment and customer profile. In the event that applications are submitted which have not demonstrated that such matters have been properly considered it is likely that representations will be made by the relevant Responsible Authorities and the public which will delay the determination of the application and result in it being referred to the Licensing Act 2003 Sub Committee for determination.

7.10 Once an application is referred to the Sub Committee it can be expected that the Sub Committee will scrutinise the application or licence very carefully and arrive at a decision which it considers to be appropriate to promote the licensing objectives. This may well result in a reduction in hours for the sale of alcohol, additional conditions, for example, restricting the maximum alcohol strength of certain products or that no single

cans may be sold or even the refusal of the application.

- 7.11 Applicants and licence holders should give particular care to their operating procedures where they are situated close to schools. For example, child focussed precautions should be considered regarding the placing of alcohol away from products attractive to children and in a location where it can be easily monitored as well as the placing and prominence of alcohol advertising.
- 7.12 The Licensing Authority considers that it is not generally appropriate for hot food / fast food takeaways to be licensed for the supply of alcohol because of the risk of crime and disorder and public nuisance arising from alcohol being consumed in the shop or by customers congregating in the vicinity of the shop. Whilst this is the Authority's general position the Authority recognises the need to consider each case on its merits. In the event that such a premises is licensed to sell alcohol, strict conditions are likely to be imposed as to such things as the hours of such sale, the quantity of alcohol which may be sold and the related purchase of food.

## **8.0 OPERATING SCHEDULE**

- 8.1 Under the Licensing Act 2003 applicants are required to complete an 'operating schedule'. Applicants are expected to have regard to the Council's Statement of Licensing Policy. They must also be aware of the expectations of the Licensing Authority and the Responsible Authorities as to the steps that are appropriate for the promotion of the licensing objectives and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.
- 8.2 Operating schedules are the key to ensuring that the four licensing objectives are promoted. An operating schedule should include enough information to enable any Responsible Authority or other person to assess whether the steps to be taken to promote the licensing objectives are satisfactory.
- 8.3 Applicants should make their own enquiries and demonstrate how they have considered the following in their operating schedule:
- The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children and young persons may congregate
  - Any risk posed to the local area by the applicants' proposed licensable activities; and
  - Any local initiatives for example, local crime reduction initiatives or voluntary schemes which may help mitigate potential risks of undermining the licensing objectives.
- 8.4 The Licensing Authority expects individual applicants to complete the operating schedule in a manner that is specific to the application being made in respect of those premises and the licensable activity to be carried on rather than in general or standard terms. Information should be given to demonstrate how the applicant proposes to address and promote the licensing objectives.
- 8.5 Any application or operating schedule not completed in accordance with the Act and the regulations may be returned to the applicant unprocessed with a request to complete the forms correctly before the application is accepted by the Licensing Authority.

- 8.6 Operating schedules for Premises Licences are the key to ensuring compliance with the four licensing objectives. The measures proposed in the operating schedule will normally be converted into conditions to be attached to the Premises Licence and/or Club Premises Certificate and should therefore fulfil the following criteria:
- i) Be precise and enforceable
  - ii) Be unambiguous
  - iii) Not duplicate other statutory provisions
  - iv) Be clear in what they intend to achieve, and
  - v) Be appropriate, proportionate and justifiable
- 8.7 Prospective holders of new Premises Licences, and those seeking variations to existing Premises Licences are advised to consult with the Licensing Authority and the various Responsible Authorities at the earliest possible stage.
- 8.8 During the course of its inspections, the Licensing Authority may refer matters to any other agency where there appears to be a contravention of the legislation enforced by that agency.

## **9.0 OFF LICENCES**

- 9.1 For sales of alcohol for consumption off the premises – applicants in respect of off licences and other premises selling alcohol for consumption off the premises may need to consider whether:
- there are appropriate numbers of staff on duty to deal with possible ‘intimidation’ to sell alcohol.
  - there are restrictions required on the sale of low price, high strength alcohol and drink promotions.
  - an incident log book is available to record incidents.
  - there are measures in place to prevent underage sales.
  - there are measures in place to prevent alcohol from being sold outside permitted hours where the operating hours of the premises exceed those for the sale of alcohol.
  - there are procedures in place to prevent sales of alcohol to intoxicated persons (with particular attention to street drinkers) or individuals leaving premises in the vicinity such as a late night bar; where there is evidence to suggest this is a problem the Licensing Authority may require a temporary cessation of alcohol sales during high risk times.

## **10.0 CONDITIONS**

- 10.1 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 other person, such as a local resident, local business or a local Ward Councillor. 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 Statutory guidance. The Licensing Authority then needs to be satisfied that it is appropriate to impose conditions or refuse an application in order to promote one or more of the licensing objectives.

- 10.2 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 appropriate for the promotion of the licensing objectives.
- 10.3 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. As referred to earlier in this Policy it would be sensible for applicants to consult with Responsible Authorities when operating schedules are being prepared. This would allow for proper liaison before representations prove necessary. The level of detail to be provided should be proportional to the scale and nature of the application to allow Responsible Authorities and other persons to consider whether the licensing objectives are being/can be fully met.
- 10.4 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.
- 10.5 Conditions deemed appropriate to achieve the licensing objectives will be applied following relevant representations. 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.
- 10.6 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 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.
- 10.7 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 and conditions will be tailored to the specific premises concerned. Licensing Law is not the primary mechanism for the general control of nuisance and anti-social behaviour once they are beyond the direct control of the individual or business holding the licence, however the Licensing

Authority recognises that it is a key aspect of such control and Licensing Law will always be part of a holistic approach to the management of the evening and night time economy in town and city centres.

10.8 Other mechanisms available for addressing issues when individuals behave badly away from licensed premises include:

- Planning control
- Town centre initiatives
- The provision of CCTV surveillance in town centres
- 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 including the issuing of fixed penalty notices
- 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

## **11.0 STAFF TRAINING**

11.1 The Licensing Authority recommends that all persons employed on licensed premises who are engaged in the sale and supply of alcohol be encouraged to attend training programmes to raise awareness of their responsibility and particularly of the offences contained within the Act. Similarly persons employed at on-licensed premises should be encouraged to attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all staff involved in managing or supervising the premises.

11.2 It is also recommended that persons employed on premises providing entertainment for children and youths attend training programmes in basic child protection and safety, and if appropriate have the necessary Disclosure Barring Service checks.

## **12.0 ENFORCEMENT**

12.1 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.

12.2 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.

12.3 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.

12.4 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.

### **13.0 CUMULATIVE IMPACT**

13.1 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.

13.2 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.

13.3 However, a special policy does not relieve Responsible Authorities or any other person of the need to make a relevant representation 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.

13.4 The absence of a special policy does not prevent any Responsible Authority or any other person 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.

13.5 It is for any person making such representations to provide evidence to the Licensing Act 2003 Sub-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

13.6 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.

13.7 The Licensing Authority recognises that public houses, 'night clubs', restaurants, theatres, concert halls, community buildings 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.

#### **14.0 SPECIAL CUMULATIVE IMPACT POLICY**

- 14.1 On 5 January 2017 Merseyside Police requested the Licensing Authority consider adopting a Special Cumulative Impact Policy, for an area within Birkenhead. The request was made due to the level of crime and disorder, public nuisance, littering, street drinking, under-age drinking and anti-social behaviour believed to be resulting in part from the number of off-licence premises located in the area. The request was supported by Ward Councillors.
- 14.2 A comprehensive consultation process was therefore undertaken about the possibility of introducing a Special Cumulative Impact Policy for Charing Cross, Grange Road West, Grange Mount, Oxtan Road and the boundary of the Town Centre.
- 14.3 The consultation period ran from 13 January 2017 to 3 March 2017 and sought views on a Special Cumulative Impact Policy in relation to premises licensed for the sale by retail of alcohol for consumption off the premises only
- 14.4 The Authority was satisfied from the responses received that the number of premises in Charing Cross, Grange Road West, Grange Mount, Oxtan Road and the boundary of the Town Centre licensed under the Licensing Act 2003 for the sale by retail of alcohol for consumption off the premises only were cumulatively giving rise to significant problems of public nuisance and crime and disorder.
- 14.5 As a result, the Authority resolved to introduce a Special Cumulative Impact Policy limited to Charing Cross, Grange Road West, Grange Mount, Oxtan Road and the boundary of the Town Centre with effect from 10 July 2017.
- 14.6 The streets that are subject to the Cumulative Impact Policy are shown delineated on a plan attached to this Policy Statement at Appendix C.
- 14.7 In arriving at this decision the Authority decided that the Special Cumulative Impact Policy in this area should only apply to Premises licensed for the sale by retail of alcohol for consumption off the premises only.
- 14.8 All premises within the streets specified above falling within this category or wishing to apply to carry out licensable activities which, if granted, would place them in category will be subject to a presumption against granting any application for a premises licence or a variation that is likely to add to the existing cumulative impact.
- 14.9 However, this presumption will only be triggered in the event of a relevant representation being received. If there are no such representations the Authority MUST grant the application in terms that are consistent with the operating schedule submitted.
- 14.10 If such representations are made, a Sub-committee of the Authority will hear those representations and conclude whether or not the presumption against granting should apply. This will normally be the case unless the applicant can demonstrate in their operating schedule that the application will not add to the cumulative impact on one or more of the licensing objectives and that the Authority would therefore be justified in departing from the Special Cumulative Impact Policy in the light of the individual circumstances of the case.

14.11 Other than this area, there are no other places within the Authority's area which are the subject of a special cumulative impact policy. In the event that the Licensing Authority becomes satisfied, after considering available evidence following consultation in accordance with Section 5(3) of the Licensing Act 2003, that it is appropriate to include an approach to cumulative impact in respect of any other streets or areas in the licensing policy statement, this will be referenced in the Policy Statement by way of amendment.

14.12 The absence of a special policy in a particular street or area does not prevent any responsible authority or person making representations on an application for the grant or variation 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.

## **15.0 LICENSING HOURS**

15.1 Guidance issued under Section 182 of the Licensing Act 2003 states that the Licensing Authority has powers to make decisions regarding licensed opening hours and that Licensing Authorities are best placed to make such decisions based on local knowledge. In determining licensing hours the Licensing Authority will have regard to the location of the premises in question and the surrounding area, considering each application on its individual merits.

15.2 Particular regard will be given to premises in close proximity to residential accommodation.

15.3 If relevant representations are made, the Licensing Authority will determine the hours of use proposed having regard to the operating schedule and any risk assessment that adequately demonstrates that:

- the applicant has properly considered what is appropriate for the local area when considering what hours and activities to apply for
- the potential effect on the licensing objectives is not significant
- the agreed operating schedule demonstrates that the applicant is taking appropriate steps to minimise any adverse impact on local residents and businesses

15.4 Restrictions may be made to the proposed hours of use where, after receiving relevant representations, the Licensing Authority considers it appropriate for the promotion of the licensing objectives to do so.

## **16.0 INTEGRATING STRATEGIES**

16.1 The Licensing Authority will seek to ensure proper integration with the Community Safety Partnership, Planning, and other relevant strategies when dealing with licence applications and through partnership working. The Licensing Authority will work with other partners including the Police, Trading Standards and Public Health to develop initiatives that support the licensing objectives.

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

- 16.3 The Licensing Authority shall have regard to the local Policing Plan and local crime prevention strategies where appropriate.
- 16.4 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.

## **17.0 PLANNING**

- 17.1 It will be expected that applications for Premises Licences, Club Premises Certificates and Temporary Event Notices will normally relate to premises with an existing lawful use for the activity proposed and the times when such activities are permitted.
- 17.2 Applications for Premises Licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority. The planning and licensing regime involve consideration of different (albeit related) matters, for example, Licensing considers public nuisance whereas planning considers amenity.
- 17.3 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.
- 17.4 There are also circumstances when as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Applicants are strongly recommended to consider whether their application conflicts with a relevant planning permission for a particular premises. If the applicant is unsure whether this is the case or where they are aware of such a conflict, they should contact the planning department. Contact details are provided in Appendix 2
- 17.5 The Council's Planning Policies are currently set out in its Unitary Development Plan (UDP), supplemented by additional guidance on A3 use of restaurants and cafés, A4 use of public houses and A5 use for take-aways. The strength of these policies is that there is an obligation both on the Council, as the local Planning Authority, and the decision maker on any appeal, to give considerable weight to them. This helps to ensure consistency in the decision making process.
- 17.6 In general, planning permissions authorise the development or change of use of land and buildings in the public interest, whereas licences relate to the specific circumstances and proposed licensable activity within a particular premises and the suitability of the operator and may cover only a part of the premises.
- 17.7 In many cases where an application is made for a new licence or variation, the town planning use will already be authorised by a previous planning permission or because the premises has a longstanding lawful use. Therefore, a new application for planning permission is often not required. However, the existing planning permission if recently

granted is very likely to have conditions restricting the use of the premises in some way: e.g. the hours of operation. In that case, anybody seeking a licence to operate beyond those hours would need to seek and obtain the revised planning permission or a variation or removal of the relevant planning condition.

17.8 In general, the planning position should be resolved before a licence application is made. The Licensing Authority may refuse to grant a licence if the:

- Activity to be authorised would amount to an unlawful use of the premises
- Hours being sought exceed those authorised by any planning permission.

17.9 The Licensing Authority may nonetheless determine a licence application without evidence of a lawful planning use where the applicant satisfactorily demonstrates special reasons justifying such an approach.

## **18.0 TEMPORARY EVENT NOTICES**

18.1 A permitted temporary activity is an event lasting for no more than 168 hours where the number of people attending the event is no more than 499.

18.2 Temporary events do not involve the Licensing Authority giving permission for the event to take place but the Police and Environmental Health must be served with the Temporary Event Notice (TEN). This is a notification procedure in which only the Police and Environmental Health may intervene to prevent such an event taking place or to modify the arrangements for such an event. The Police and Environmental Health may only do so where they believe it may undermine the promotion of the licensing objectives.

18.3 The event organiser must give the Licensing Authority, the Police and Environmental Health a minimum of 10 clear working days notice, or 5 clear working days notice in the case of a late TEN. This does not include the application date, the day of the event, weekends and bank holidays. The Licensing Authority recommends that TEN's are received by this Authority and Merseyside Police at least 28 days before the event, to allow any necessary discussions to take place with the Police or Environmental Health.

18.4 It is not a requirement for a TEN to be served on other Responsible Authorities, however the Licensing Authority will notify the Responsible Authorities of all TEN's received. In addition Ward Councillors will be made aware of the TEN'S received relating to the premises in their ward so they are up to date with activities taking place in their area and are therefore able to respond to enquiries from local residents.

18.5 As stated in paragraph 18.2 it is only the Police and Environmental Health who can object to a TEN and providing details to other Responsible Authorities and Ward Councillors is purely to assist them in undertaking their duties.

## **19.0 LICENCE REVIEWS**

19.1 At any stage following the grant of a Premises Licence or Club Premises Certificate a Responsible Authority or any other person may ask the Licensing Authority to review the Licence or Club Premises Certificate because of a matter at a particular premises in connection with any of the four licensing objectives.

- 19.2 Where a person or body is considering making an application for a review they are advised to contact the Licensing Office, contact details are provided in Appendix 2. This is so that an officer may provide some initial feedback on the matter and then if appropriate attempt to facilitate a meeting or a series of meetings between relevant persons to discuss the review process and identify any possible solutions.
- 19.3 Applicants for a review should make all efforts to set out their concerns clearly and ensure that these concerns are relevant to a failure to promote one or more of the licensing objectives.
- 19.4 In considering an application from an 'other person' the Licensing Authority must first consider whether the applicant is relevant, vexatious, frivolous or repetitions.
- 19.5 The promotion of the licensing objectives relies heavily on a partnership between licence holders, residents, Responsible Authorities and other persons in pursuit of common aims. It is important therefore that Authorities, persons and Responsible Authorities give licence holders early warnings of their concerns and of the need for improvement.
- 19.6 The Licensing Authority in considering the review may take such of the following steps:
- modification of the conditions of the premises licence
  - the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence
  - removal of the designated premises supervisor from the licence
  - suspension of the licence for a period not exceeding 3 months
  - revoke the licence
- 19.7 The Licensing Authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives.

## **20.0 ADMINISTRATION EXERCISE AND DELEGATION OF FUNCTIONS**

- 20.1 The powers of the Licensing Authority under the Act may be carried out by the Licensing Act 2003 Committee, by a Sub-Committee or, instead, by one or more officers acting under delegated authority.
- 20.2 The Licensing Authority recognises its responsibilities under The Equality Act 2010.
- 20.3 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.
- 20.4 Where there are relevant representations applications will be dealt with by a Sub-Committee of the Licensing Act 2003 Committee, as will any application for the Review of a licence.
- 20.5 The Licensing Authority will expect individual applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.

20.6 When determining applications, the Licensing Authority will have regard to any guidance issued under Section 182 of The Licensing Act 2003. 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.

20.7 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 Act 2003 Committee, or delegated to a Sub-Committee or Council officer. Appendix 1 to this Statement of Licensing Policy sets out how the Council will approach and carry out its different functions.

## **21.0 PROMOTION OF EQUALITY**

21.1 The Licensing Authority will undertake its functions and responsibilities in accordance with the requirements of The Equality Act 2010.

**DELEGATION OF FUNCTIONS**

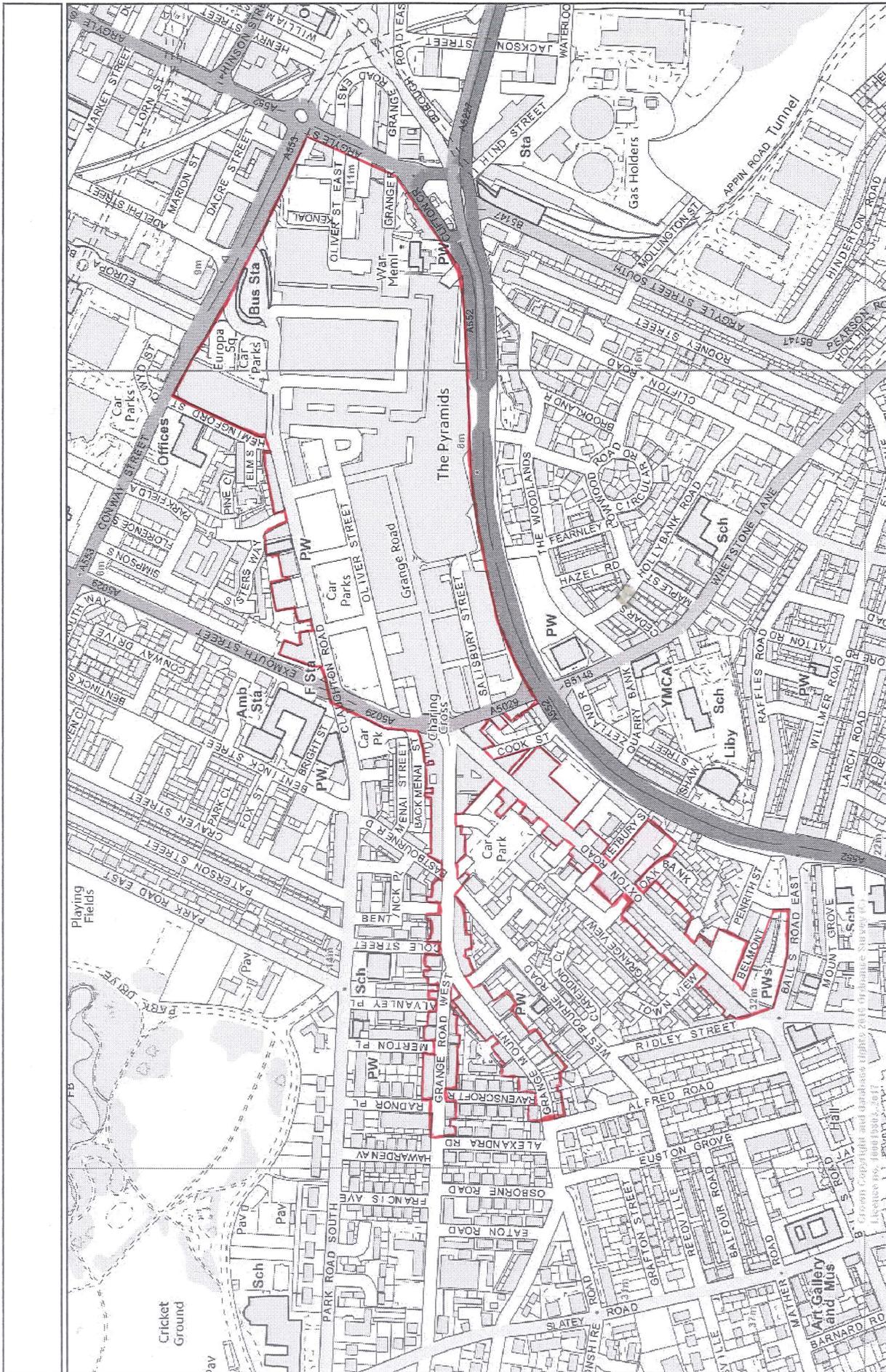
<b>Matters to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If 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 an Environmental Health / Police objection to a temporary event notice		All cases	

## LIST OF CONTACTS

Name and Address	Telephone Number	Email Address	Fax Number
Licensing Authority Wallasey Town Hall Brighton Street Wallasey CH44 8ED	0151 691 8043	<a href="mailto:licensing@wirral.gov.uk">licensing@wirral.gov.uk</a>	N/A
Merseyside Police HQ Licensing Unit 5th Floor Canning Place Liverpool L1 8JX	0151 777 4648	<a href="mailto:licensing.unit@merseyside.pnn.police.uk">licensing.unit@merseyside.pnn.police.uk</a>	0151 777 4619
Environmental Health Town Hall Brighton Street Wallasey CH44 8ED	0151 604 3549	<a href="mailto:environmentalhealth@wirral.gov.uk">environmentalhealth@wirral.gov.uk</a>	N/A
Planning Authority Development Control Wallasey Town Hall South Annexe Brighton Street Wallasey CH44 8ED	0151 606 2004	<a href="mailto:planningapplications@wirral.gov.uk">planningapplications@wirral.gov.uk</a>	0151 691 8532
Wirral Area Child Protection Committee Hamilton Building Conway Street Birkenhead CH41 4FD	0151 666 4291	N/A	0151 666 4580
Trading Standards Wallasey Town Hall South Annexe Brighton Street Wallasey CH44 8ED	0151 691 8020	<a href="mailto:tradingstandards@wirral.gov.uk">tradingstandards@wirral.gov.uk</a>	0151 691 8098

<p>Merseyside Fire &amp; Rescue Service Wirral District Fire Safety The Fire Station Mill Lane Wallasey CH44 5UE</p>	<p>0151 296 4932</p>	<p><a href="mailto:WirralAdmin@merseyfire.gov.uk">WirralAdmin@merseyfire.gov.uk</a></p>	<p>0151 296 6222</p>
<p>Public Health Old Market House Hamilton Street Birkenhead CH41 5AL</p>	<p>0151 666 5182</p>	<p>N/A</p>	<p>N/A</p>
<p>Home Office Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY</p>		<p><a href="mailto:alcohol@homeoffice.gsi.gov.uk">alcohol@homeoffice.gsi.gov.uk</a></p>	
<p>Guidance issued under section 182 of the Licensing Act 2003 can be obtained from:</p>			
<p>Home Office Direct Communications Unit 2 Marsham Street London SW1P 4DF</p>	<p>020 7035 4848</p>	<p><a href="mailto:AlcoholStrategy@homeoffice.gsi.gov.uk">AlcoholStrategy@homeoffice.gsi.gov.uk</a></p>	<p>020 7035 4745</p>



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