



# **STATEMENT OF LICENSING POLICY**

**Licensing Act 2003**

**7 January 2011- 6 January 2014**

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## **1. Foreword by Councillor Malcolm Graham**

- 1.1 Gateshead is proud of its vibrant and varied culture. Licensed activities are an important part of that culture. The licensed industry makes a significant contribution to the Borough's sustained growth as a healthy, equal, safe and prosperous place to live and work. Licensed activities also take place on varying scales in the community, and make an invaluable contribution to social cohesion and engagement.
- 1.2 The Licensing Act has been in force since November 2005. There have been some significant changes in the trends of licensed activities in the Borough in that time. It should be noted that the anticipated 24 drinking culture that was mooted when the Act came into force has not materialised in Gateshead. The experience in Gateshead has been that both the trade and its patrons are, on the whole, responsible and sensitive to the needs of the communities in which licensed activities take place; and that the Act itself is a key tool in the Council's toolkit to tackling the problems that occur in neighbourhoods where licensed activities have a negative impact.
- 1.3 The Act gives residents and responsible bodies an opportunity to have their views taken into account when the Council decides important matters that can have such a positive or indeed negative impact. The experience in Gateshead over the last five years has been that local people have been empowered by the Act and have made an invaluable contribution to the promotion of the Licensing Objectives, which are –
- The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm.
- 1.4 This Council recognises that these objectives are fundamental to the carrying on of responsible licensed activities, and this Policy sets out how Gateshead Council intends to exercise its licensing and regulatory function under the Licensing Act from 2011 to 2014, when the Policy will again be reviewed.
- 1.5 This Council also recognises that the Act itself is under some scrutiny from Central Government, and changes are ahead in the next few years both in terms of what the Act seeks to achieve and how it does so. This Council is contributing its views and experiences to that process of change. The Council will respond to the changes to ensure that they are brought into effect in a timely and efficient manner.
- 1.6 In the next few years Gateshead Council, along with the rest of the public sector, will have to meet the challenge of achieving its aims and obligations with reduced resources. Ensuring the promotion of the Licensing Objectives will remain paramount to this Council.

## **2. Strategic Context**

- 2.1. The Council's overall vision for Gateshead, as described in Gateshead's Sustainable Community Strategy, Vision 2030 and the Council's Corporate Plan is:

*"Local people realising their full potential, enjoying the best quality of life in a healthy, equal, safe, prosperous and sustainable Gateshead"*

- 2.2 The licensing of premises plays an important role in realising this vision, contributing significantly to the Economy, Environment, and Health areas contained within Priority 1 of the Corporate Plan, in providing safe and accessible venues that promote healthy lifestyles and contribute to economy of the borough.
- 2.3 This Statement of Licensing Policy sets out the strategic guidelines for licensing premises in Gateshead. In particular, it will contribute to:
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.
- 2.4 The Policy links closely with a number of key plans and strategies produced by the Council and its partners, including the Gateshead Community Safety Strategy.

## **3. Local context**

- 3.1 Gateshead is a constantly changing borough that combines the most modern facilities with a fascinating heritage. Set in the conurbation of Tyneside, Gateshead stretches almost 13 miles along the south bank of the river Tyne and covers an area of 55 square miles, making it the largest in area of the five Tyne and Wear metropolitan authorities. Gateshead is ranked the 26<sup>th</sup> most deprived district in England out of 354 in terms of issues such as income, employment, health, housing, crime, the living environment and education according to the Index of Multiple Deprivation 2004. The Index was prepared using Lower Layer Super Output Areas. There are 126 Lower Layer Super Output Areas in Gateshead. Of these 34 are in the top 10% most deprived areas in the country. These fall within ten of Gateshead's wards.
- 3.2 Gateshead has seen a decline in the number of its residents over the last 20 years. The population has declined from 199,652 in 1991 to 191,151 in 2001. This represents a 4.3% decrease and ranks Gateshead as having the 4<sup>th</sup> largest population decline out of 376 local authorities in England and Wales. The population continued to decline as highlighted by the mid-2004 population estimate of 190,400 people (rounded to the nearest hundred). However, in the two years since 2004 there has been a small reverse of that trend with the population remaining at 190,400 in 2005, and increasing to 190,500 in 2006.

8% of residents are over 75 years old and there is also a small but increasing number of residents from black, and minority ethnic groups.

3.3 Gateshead has a rich array of cultural and leisure opportunities for residents and visitors to the borough. Licensable activities form an integral or ancillary part of many of those activities.

3.4 There are a number of cultural centres in the borough. The Quays area surrounding the Baltic Centre for Contemporary Art, the Sage Gateshead, Millennium Bridge and the Hilton Hotel are well established as focal points for a wide range of licensable activities. Low Fell, Whickham and Winlaton have thriving restaurants and public houses. Family and 'gastropubs' are becoming increasingly popular throughout the borough. Off licence retail continues to be popular, as does the provision of late night refreshment and regulated entertainment such as discos, live bands, karaoke and films.

3.5 The tables below shows the number of premises licences and club premises certificates currently issued by this licensing authority, and which licensable activities they each authorize.

*Table 3.5.1 Premises Licenses (November 2010)*

<b>Ward</b>	<b>Premises licensed for retail sale of alcohol for consumption on the premises</b>	<b>Premises licensed for retail sale of alcohol for consumption on the premises also authorised for regulated entertainment</b>	<b>Premises licensed for regulated entertainment only</b>	<b>Premises where licensable activities are authorised after 23:00 hours</b>
Birtley	11	9	0	10
Blaydon	14	8	1	12
Bridges	37	33	2	36
Chopwell & Rowlands Gill	5	4	3	6
Chowdene	3	2	2	2
Crawcrook & Greenside	8	6	4	9
Deckham	9	7	1	6
Dunston & Teams	13	12	1	10
Dunston Hill & Whickham East	6	6	2	5
Felling	14	11	3	11
High Fell	4	4	0	4
Lamesley	17	13	2	11
Lobley Hill & Bensham	8	7	1	7
Low Fell	24	15	2	26
Pelaw &	7	5	5	4

Heworth				
Ryton, Crookhill & Stella	9	7	4	8
Saltwell	9	6	1	10
Wardley & Leam Lane	4	4	1	4
Whickham North	47	26	4	37
Whickham South & Sunniside	8	7	2	7
Windy Nook & Whitehills	5	5	1	5
Winlaton & High Spenn	9	8	0	8
<b>TOTAL</b>	<b>271</b>	<b>205</b>	<b>42</b>	<b>238</b>

Table 3.5.2 Premises Licences - Off Licences (November 2010)

Ward	Premises licensed solely for retail sale of alcohol for consumption off the premises	Premises licensed for retail sale of alcohol for consumption off the premises 24 hours
Birtley	9	
Blaydon	11	
Bridges	16	1
Chopwell & Rowlands Gill	8	1
Chowdene	5	
Crawcrook & Greenside	5	
Deckham	10	
Dunston & Teams	12	
Dunston Hill & Whickham East	5	
Felling	15	
High Fell	9	
Lamesley	7	1
Lobley Hill & Bensham	13	
Low Fell	13	
Pelaw & Heworth	9	
Ryton, Crookhill & Stella	2	
Saltwell	14	
Wardley & Leam Lane	5	
Whickham North	20	1
Whickham	4	

South & Sunnyside		
Windy Nook & Whitehills	7	
Winlaton & High Spen	6	
<b>TOTAL</b>	<b>205</b>	<b>4</b>

*Table 3.5.3 Premises Licences - Takeaway Premises Licensed for Late Night Refreshment (November 2010)*

Ward	Premises licensed for LNR	Premises Licensed for late night refreshment after midnight	Premises Licensed for late night refreshment after 01:00	Takeaway premises also licensed to sell alcohol
Birtley	7	5	2	0
Blaydon	3	1	1	0
Bridges	10	5	3	0
Chopwell & Rowlands Gill	2	1	0	0
Chowdene	2	0	0	0
Crawcrook & Greenside	2	1	0	0
Deckham	4	1	0	0
Dunston & Teams	10	4	1	0
Dunston Hill & Whickham East	3	0	0	0
Felling	6	1	0	0
High Fell	3	0	0	0
Lamesley	6	4	2	0
Lobley Hill & Bensham	3	0	0	0
Low Fell	8	0	0	0
Pelaw & Heworth	2	0	0	0
Ryton, Crookhill & Stella	2	0	0	0
Saltwell	6	0	0	0
Wardley & Leam Lane	2	0	0	0
Whickham North	10	3	1	1
Whickham South & Sunnyside	1	0	0	0
Windy Nook & Whitehills	2	2	0	0
Winlaton & High Spen	4	1	0	0
<b>TOTAL</b>	<b>98</b>	<b>29</b>	<b>10</b>	<b>1</b>

Table 3.5.2 Club Premises Certificates (November 2010)

Ward	No of Clubs	Licensable activities authorised	
		A*	A & R**
Birtley	4	0	4
Blaydon	3	0	3
Bridges	6	1	5
Chopwell & Rowlands Gill	5	1	4
Chowdene	1	0	1
Crawcrook & Greenside	8	2	6
Deckham	3	0	3
Dunston & Teams	6	1	5
Dunston Hill & Whickham East	1	0	1
Felling	4	2	2
High Fell	1	0	1
Lamesley	3	0	3
Lobley Hill & Bensham	1	0	1
Low Fell	5	1	4
Pelaw & Heworth	2	1	1
Ryton, Crookhill & Stella	4	0	4
Saltwell	3	0	3
Wardley & Leam Lane	3	0	3
Whickham North	3	1	2
Whickham South & Sunniside	2	0	2
Windy Nook & Whitehills	1	0	1
Winlaton & High Spen	6	2	4
<b>TOTAL</b>	<b>75</b>	<b>12</b>	<b>63</b>

\* Clubs which are authorised to supply alcohol to club members and sell alcohol to guests of club members

\*\* Clubs which are authorised to supply alcohol to club members and sell alcohol to guests of club members; and provide regulated entertainment for members of the club or their guests

3.6 The plans below show the geographical distribution of these premises and clubs –

*Figure 3.6.1 (see page 9)*

*Figure 3.6.2 (see page 10)*

## **4. Legal Background**

4.1 Gateshead Council (the Licensing Authority) is responsible for the licensing of licensable activities under the Licensing Act 2003 (The Act). This document sets out the policies that the Licensing Authority will apply when making decisions about applications for:

- the retail sale of alcohol
- the wholesale of alcohol to members of the public
- the supply of alcohol to members of registered clubs
- the provision of regulated entertainment in the presence of an audience including the performance of a play; film exhibitions; indoor sporting events; boxing or wrestling events (indoor and outdoor); performing live music and playing recorded music (except incidental music); dance performances etc
- the provision of late night refreshment, i.e. hot food or hot drink between 11pm and 5am

4.2 This policy shall apply in respect of applications, reviews, renewals, transfers and variations to the following:

- premises licences
- club premises certificates
- personal licences

Figure 3.6.1 Total Premises Licences by Ward (November 2010)

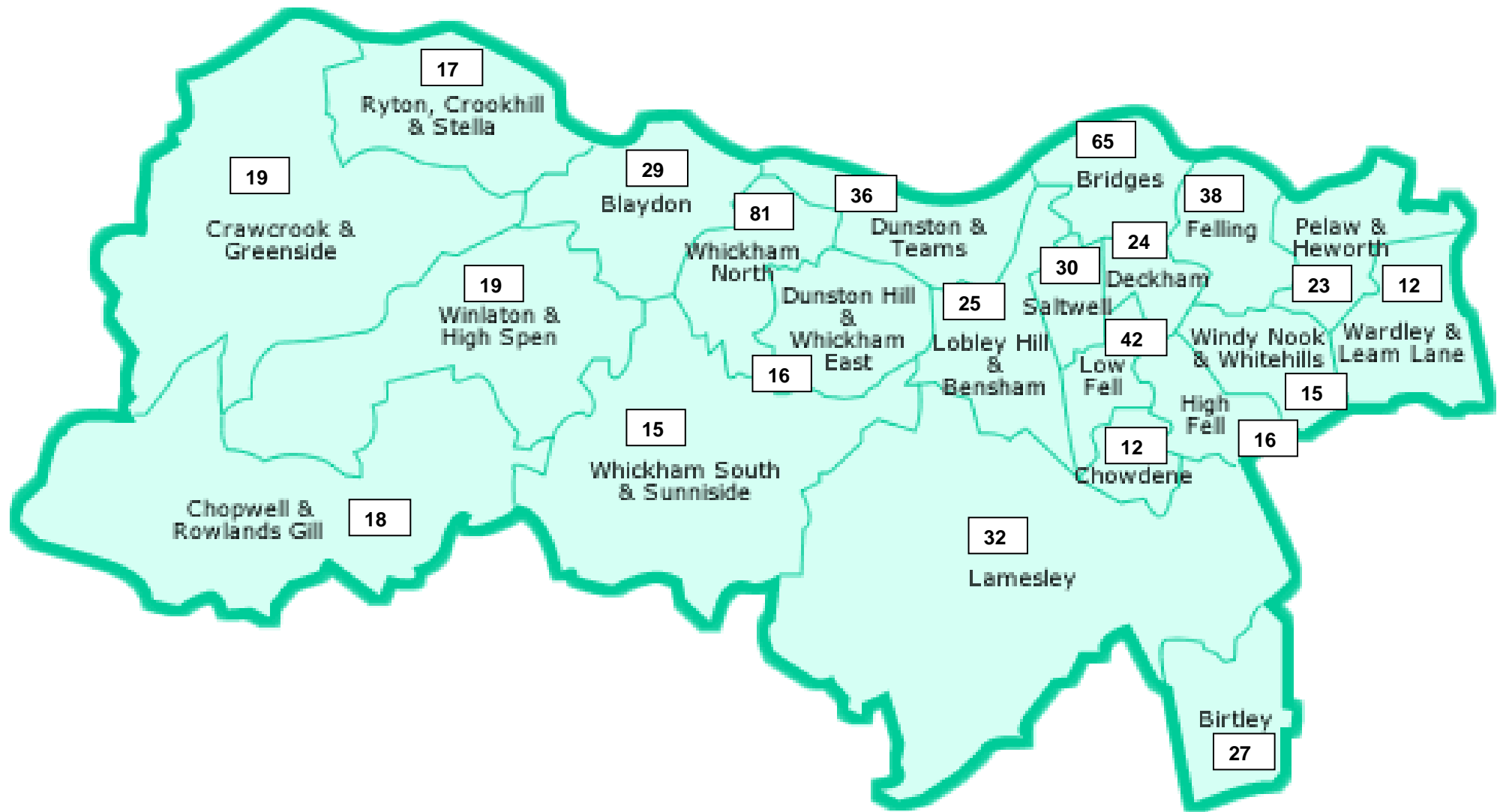
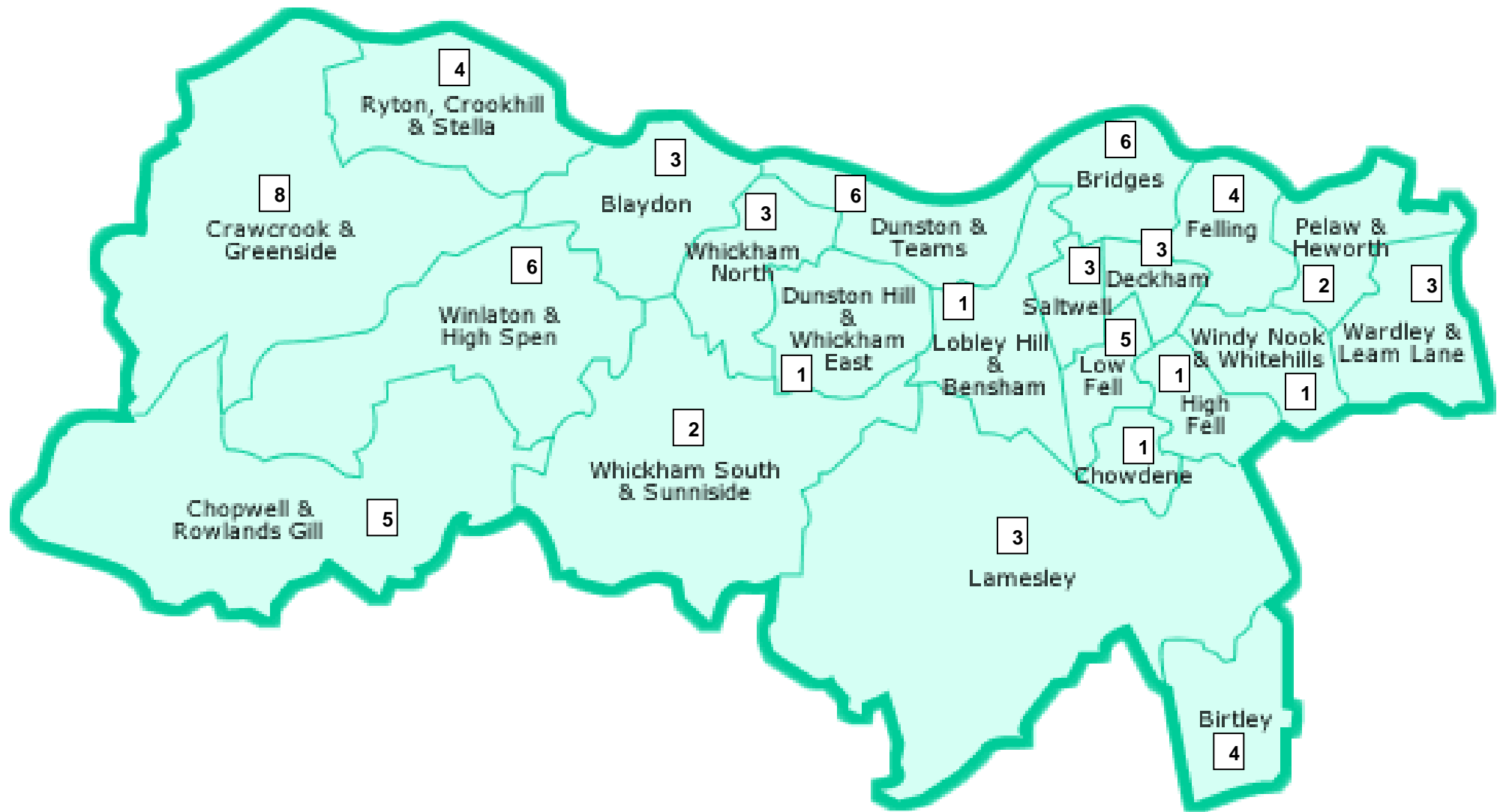


Figure 3.6.2 Club Premises Certificates by Ward (November 2010)



- temporary event notices

4.3 The Licensing Act 2003 requires that the Licensing Authority carries out its various licensing functions so as to promote the following four licensing objectives:

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

4.4 The Licensing Authority regards each objective to be of equal importance. This document sets out the policies the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The Licensing Authority will where it believes necessary, consider attaching conditions to licences to promote the policy objectives as appropriate.

4.5 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the guidance issued under Section 182 of the Act.

4.6 The Act makes provision for the policy to be the subject of consultation with a specified group of consultees. The Licensing Authority will review this policy at least every three years and consult on any proposed revisions.

4.7 This policy and the Licensing Authority's functions seek to achieve control of premises, qualifying clubs and temporary events within the terms of the Act. Terms and conditions will focus on achieving the Licensing Objectives with reference to:

- matters within the control of individual licensees
- the specific premises and the places used
- the vicinity of those premises and places
- the direct impact of the activity taking place at the licensed premises on public who live, work and carry out normal activity in the area concerned

### **Rebalancing the Licensing Act**

4.8 It should be noted that this policy has been prepared at a time when the *Home Office "Rebalancing the Licensing Act"* consultation is ongoing. This may result in changes to the primary legislation next April with the consequence that this Council may need to revise its policy in accordance with or to reflect those changes.

4.9 The stated aim of the Government is to address issues and concerns raised in respect of the current licensing regime. The Government is proposing the following measures:

- a. Give licensing authorities the power to refuse licence applications or call for a licence review without requiring relevant representations from a responsible authority.

- b. Remove the need for licensing authorities to demonstrate their decisions on licences 'are necessary' for (rather than of benefit to) the promotion of the licensing objectives.
- c. Reduce the evidential burden of proof required by licensing authorities in making decisions on licence applications and licence reviews.
- d. Increase the weight licensing authorities will have to give to relevant representations and objection notices from the police.
- e. Simplify Cumulative Impact Policies to allow licensing authorities to have more control over outlet density.
- f. Increase the opportunities for local residents or their representative groups to be involved in licensing decisions, without regard to their immediate proximity to premises.
- g. Enable more involvement of local health bodies in licensing decisions by designating health bodies as a responsible authority and seeking views on making health a licensing objective.
- h. Amend the process of appeal to avoid the costly practice of rehearing licensing decisions.
- i. Enable licensing authorities to have flexibility in restricting or extending opening hours to reflect community concerns or preferences.
- j. Repeal the unpopular power to establish Alcohol Disorder Zones and allow licensing authorities to use a simple adjustment to the existing fee system to pay for any additional policing needed during late-night opening.
- k. Substantial overhaul of the system of Temporary Event Notices to give the police more time to object, enable all responsible authorities to object, increase the notification period and reduce the number that can be applied for by personal licence holders.
- l. Introduce tougher sentences for persistent underage sales.
- m. Trigger automatic licence reviews following persistent underage sales.
- n. Ban the sale of alcohol below cost price.
- o. Enable local authorities to increase licensing fees so that they are based on full cost recovery.
- p. Enable licensing authorities to revoke licences due to non-payment of fees.
- q. Consult on the impact of the Mandatory Licensing Conditions Order and whether the current conditions should be removed.

4.10 Once the Government's intended changes are made clear this policy will be revisited to ensure that it is consistent with the primary legislation.

## **5. Integration with other legislation, policies, objectives and guidance**

- 5.1 Applicants for licences under the Act should be aware of the other legislation and guidance that may be applicable to their business, some of which is described below. The Licensing Authority may require evidence of compliance with other legislation as part of the Operating Schedule.
- 5.2 The licensing objectives build on and link with a number of existing local and national strategies. Applicants and existing licence holders should have regard to such strategies as part of their operation.
- 5.3 Responsible authorities and interested parties should bear in mind that the Licensing Act regime is specifically intended to address issues relating to licensable activities. Where other regimes are intended to address particular concerns arising in relation to licensed premises, the Licensing Officers and Licensing Sub Committee cannot have regard to those concerns.
- 5.4 For instance, if a person lives near a public house and is affected by noise from a karaoke in the pub, that is a matter that the Licensing Sub Committee can address, as it relates to a licensable activity in the licensed premises. If that person was being affected by noise from the pub landlord's dogs, then it would not be appropriate for that complaint to be addressed by the Licensing Sub Committee, as it does not relate to a licensable activity. In that situation, if the matter cannot be resolved between the resident and landlord, then the resident should complain to the Council's Environmental Health Officer, who is empowered to address such matters under Environmental Protection legislation.

### Health Act 2006 – smoking ban

- 5.5 In July 2007 a ban on smoking in public places was introduced throughout England.
- 5.6 Smoking has been an ancillary activity associated with public houses and clubs for many years, and this ban marks a significant cultural shift in this respect. The positive impact has had and will continue to have on the health of residents and visitors to in the borough cannot be underestimated.
- 5.7 Not only is it an offence for a person to smoke in a public place, it is also an offence for the owner of those premises to permit smoking to take place. Licence holders, designated premises supervisors, staff and patrons can be subject to fixed penalties for breaches of the smoke-free legislation. It should be noted that the new restriction has been widely accepted and to date it has not been necessary for this Council to issue any fixed penalties under the legislation.
- 5.8 In order that patrons and staff may continue to smoke, some premises have been able to utilise suitable outdoor areas. Licensees and potential licensees who wish to provide a smoking area are encouraged to consult with the Council's Licensing and Environmental Health Officers before permitting smoking to take place or incurring expense that may be premature or unnecessary.

## Food Safety

- 5.9 If the activity at a premises involves the preparation and/or sale of food then it is the responsibility of the applicant to ensure that all appropriate Food Safety legal requirements are met. It would be expected that a licensee would have registered the premises as a food business with Gateshead Council. It is not a requirement of any licence decision to address these matters, however, it is a good reflection of the responsible licensee that they conform to all relevant legislation.

## Health and Safety/Fire Safety

- 5.10 Many of the specific licensing requirements relate to matters potentially affecting public safety. In addition to these licensing requirements there are wider duties on all business (whatever their legal status and regardless of whether a licence is needed) to protect the health and safety of employees (and the self employed) as well as the public. Some of these duties are deliberately wide, generalised and all encompassing eg main duties under Sec 2, 3 and 4 of the Health and Safety at Work etc Act 1974, others are very specific eg. requirements under the Control of Substances Hazardous to Health Regulations 2002, and do not apply in all circumstances. Some of these duties are absolute under law and have to be complied with, without exception. These Health and Safety duties tend to include all specific safety requirements under licensing requirements for the public on the premises and extend them to cover the safety of others eg staff, contractors, visitors etc. Thus there is a considerable overlap between the licensing regime and the wider health and safety regimes.
- 5.11 The main difference between a licensed and non licensed premises is that the applicant is, to a degree seeking prior approval of their safety systems. It is not usually practicable to consider purely those safety systems affecting the public on the premises in complete isolation. Reflecting this there is a duty on the Licensing Authority to consult with the Health and Safety Enforcing Authority for the premises (usually another part of the Council but may be the Health and Safety Executive).
- 5.12 This may bring to light previous public safety, or other wider safety issues relating to the applicant, the premises, or the type of activity. Even if a safety system is 'prior approved' in principle under a licensing regime it does not absolve the applicant from improving with advances in knowledge, (and they must of course implement these systems as fully as is required), or mean that they are necessarily complying in full with the wider health and safety laws, (this would be a matter for the courts to decide in any given set of circumstances). Due to this element of 'prior approval' some systems may need to be documented (eg certain risk assessments) so that the Licensing Authority can consider them and/or consult on them (eg with Tyne and Wear Fire and Rescue Service), when they might not need to be documented in non-licensed premises to generally comply with the wider health and safety regime.
- 5.13 Under the Regulatory Reform (Fire Safety) Order 2005 any conditions on premises licences or club premises certificates that relate specifically to matters of fire safety are disapplied.

## Planning Permission

- 5.14 Applicants for Premises Licences and Club Premises Certificates and those intending to hold Temporary Events will normally require planning permission for such uses.
- 5.15 Although from the perspective of the business proprietor, there is an element of crossover between licensing and planning regimes, they are separate regimes and are treated as such by the Council. It is important that applicants appreciate that having a licence to conduct a licensable activity does not obviate the need to obtain appropriate planning permission, and vice versa. Where it is necessary to obtain planning consent, it is generally more appropriate for applicants to obtain that consent before seeking a Premises Licence, Club Premises Certificate or Temporary Event Notice as appropriate, as if the planning consent is refused then the applicant could not undertake the licensable activity in any event. Where premises are not yet constructed, applicants are also able to utilise the mechanism to obtain a Provisional Statement under section 29 of the Licensing Act.
- 5.16 Planning consents may carry conditions with which they are expected to comply or action may be taken under the relevant planning legislation. In general, planning consents authorise a broad type of use of a premises, whereas licences are granted for a particular type of activity. A planning permission for an entertainment use, for example may cover a number of activities that can have a wide range of different impacts in the locality.
- 5.17 The precise nature of the impact of the specified activities proposed by a prospective licence will also be considered when an application is made for a Premises Licence.
- 5.18 Licensing applications should not be seen as a re-run of the planning application process and there is a clear separation of the planning and licensing regimes. The Licensing Committee will however ensure that the Planning and Development Committee is advised of the situation regarding licensed premises in the Borough including the general impact of alcohol related crime and disorder and any proposals to introduce a saturation policy to assist the Planning and Development Committee in its decision making process. The purpose of a saturation policy is to minimise the cumulative impact of licensed premises where it can be shown that the density of premises selling alcohol and the concentration of drinkers is such that it is resulting in anti-social behaviour, noise, or crime and disorder. This conflict may be the result of the late night demand on local resources, for example the queuing for fast food outlets, public transport, etc.
- 5.19 The Licensing Authority will not take *need* into account when considering an application as this is a commercial decision and a matter for planning control and the market.
- 5.20 Applicants need to be aware of the Gateshead Unitary Development Plan.
- 5.21 The Licensing Authority will seek to achieve integration with relevant strategies and their aims in determining applications and will do so through relevant consultation of this policy and individual applications.

5.22 Applicants need to be aware of Building Control requirements and are advised to contact Gateshead Council's Building Control Officers for advice.

### Human Rights

5.23 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a Local Authority to act in a way that is incompatible with a Convention Right. The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8 that everyone has the right to respect for their home and private life
- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of their possessions

### Equality and Diversity

5.24 The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services and the management, buying or renting of land or property. For service providers, such as licensees:

- It is unlawful to treat disabled people less favourably than other people for a reason related to their disability;
- Reasonable adjustments should be made for disabled people, such as providing extra help or making changes to the way they provide their services;
- Reasonable adjustments should be made to the physical features of their premises which are open to the public, such as licensed premises.

5.25 In addition, the Licensing Authority assesses all licensing applications in relation to a range of equality, diversity and anti-discrimination legislation, codes of practice and corporate policies. These include:

- The Race Equality Scheme
- The Equality Standard for Local Government
- Equality Performance Management Framework
- The Council's Equalities Strategy
- Equal Opportunities Policy
- The Disability Equality Scheme
- The Gender Equality Scheme

### Drug and Alcohol Harm Reduction

5.26 The Government published in 2004 its Alcohol Harm Reduction Strategy for England. In this it outlined how the Licensing Act can be used to address some

of the Social Health and crime and disorder issues raised by the misuse of alcohol, when considering applications for Premises or personal licences.

5.27 This Strategy, and Gateshead Alcohol Harm Reduction Strategy 2009 – 2011 (produced in partnership with Gateshead Primary Care Trust, Northumbria Police, Northumbria Probation Service and the Prison Service), will be taken into account specifically with regard to the sale of alcohol to under 18's and the impact of lack of effective steps to tackle anti-social behaviour. The Licensing Authority will ensure that all Operating Schedules agreed with licensees are suitable and sufficient to address these issues.

5.28 The Licensing Authority will also have regard to initiatives of North East Council on Addiction and Twenty Four:7 Alcohol and Drug Team.

Gateshead Community Safety and Drug Misuse Strategy/ Crime and Disorder Act 1998/ Anti-Social Behaviour Act 2003 / Violent Crime Reduction Act 2006

5.29 The Licensing Objectives play a part in Gateshead Community Safety and Drug Misuse Strategy. The current strategy will be taken into account by the Licensing Authority when considering Operating Schedules submitted by applicants.

5.30 Applicants and licence/certificate holders should be aware of the provisions of the Violent Crime Reduction Act 2006, which –

- creates Drinking Banning Orders, which can ban persons who commit offences under the influence of alcohol from attending licensed premises; ask the police to provide statistic on this
- enables the creation of Alcohol Disorder Zones, and gives Local Authorities and Police powers to designate areas where, due to the extent of alcohol-related crime and disorder, licensees in the area must contribute to the cost of the crime and disorder we haven't got any of these
- enables Police and Trading Standards officers to close premises that persistently sell alcohol to under 18's hasn't been done
- enables Police to ban persons from a particular area where they represent a risk to alcohol-related crime or disorder taking place ask the police if they have done this

Safer Clubbing – 'Guidance for licensing authorities, club managers and promoters'

5.31 For premises which may have problems with drugs, crime and disorder and/or are open late the Licensing Authority will refer to the guidance given and will expect applicants in their operating schedules to use the strategies outlined in the Home Office Drug Strategy booklet – 'Safer Clubbing'.

Culture, Tourism and Employment

5.32 Arrangements will be made to keep the Licensing Committee apprised of the local tourist economy and the employment situation, and the need for any new investment in the area reflected in Gateshead's Sustainable Community

Strategy “Vision 2030” and the Council’s Corporate Plan. The Licensing Authority acknowledges the positive contribution made to local culture, economy and tourism by the entertainment industry, in particular live music and performance art, and film exhibition. Gateshead has seen an increase in the number of live music venues and events in recent years, from smaller scale activities such as the popular karaoke events in many of the pubs in Gateshead Town Centre to the large scale events that take place at the Sage Gateshead, and the outdoor festivals such as the annual Evolution festival that takes place on both sides of the Tyne. This is to be encouraged and promoted, whilst also seeking to strike a reasonable balance with the needs of residents. The Licensing Authority also acknowledges the valuable services provided to residents and visitors by the provision of late night refreshment.

5.33 As referred to above, significant redevelopment work is proposed in the Gateshead Quays area, which will bring more jobs and visitors to the area. This also includes significant housing development in the Quays area.

5.34 Also, major redevelopment work is underway in respect of Gateshead Town Centre. The Trinity Square car park and indoor market, which is at the geographical heart of the town centre, is being demolished to make way for new exciting developments, which will help to make Gateshead the cultural heart of the borough. At the time of writing this statement, this project is some way from completion. As the development progresses it may be appropriate to review this policy to take into account the change of nature of the town centre.

5.35 The Licensing Authority acknowledges that in this time of change, the redevelopment will have a direct impact on those licensed premises that are part of the Town Centre, and an indirect impact on licensed premises in the neighbouring areas.

#### Alcohol exclusion zones

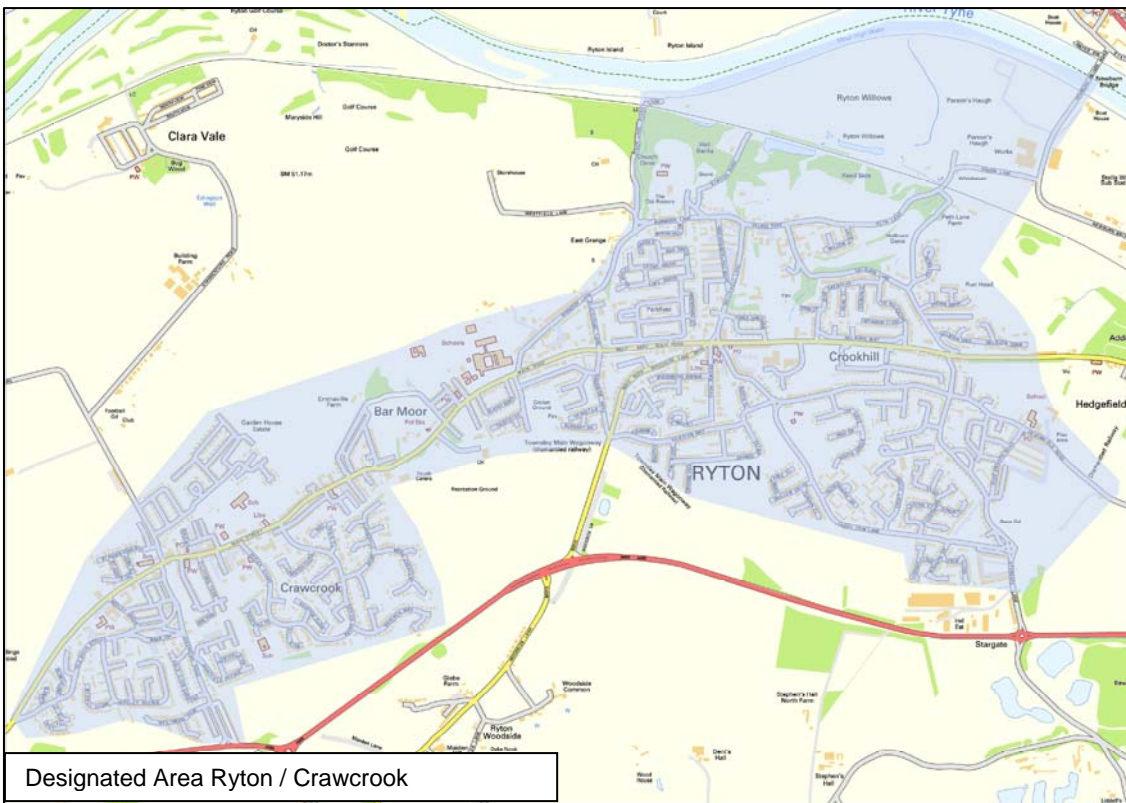
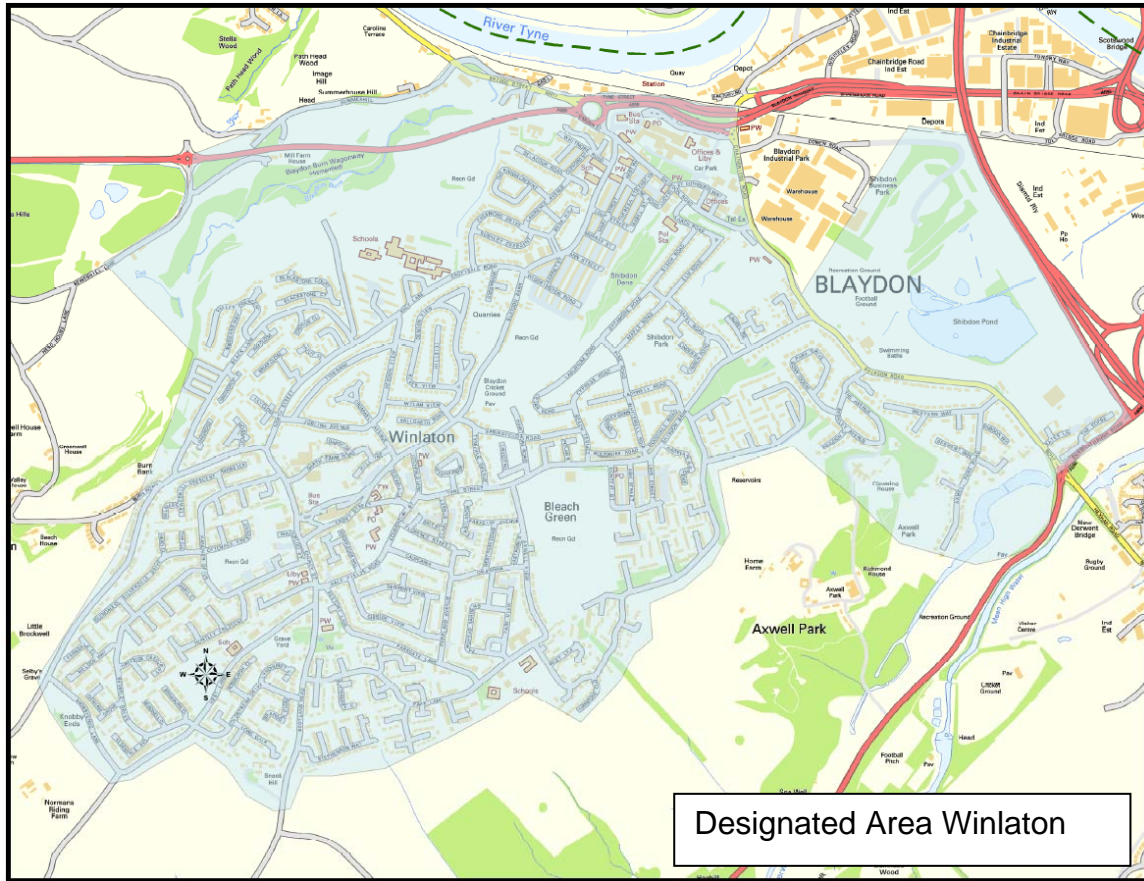
5.36 Although the consumption of alcohol is not a licensable activity, it has some effect on licensable activities in the area, including in particular the supply of alcohol by retail to be consumed off the premises where it is sold.

5.37 Pursuant to Orders made under the Criminal Justice and Police Act 2001, the following areas have been identified as places where there are or is the potential for problem of noise annoyance or disorder because of the consumption of alcohol, as shown in the plans below –

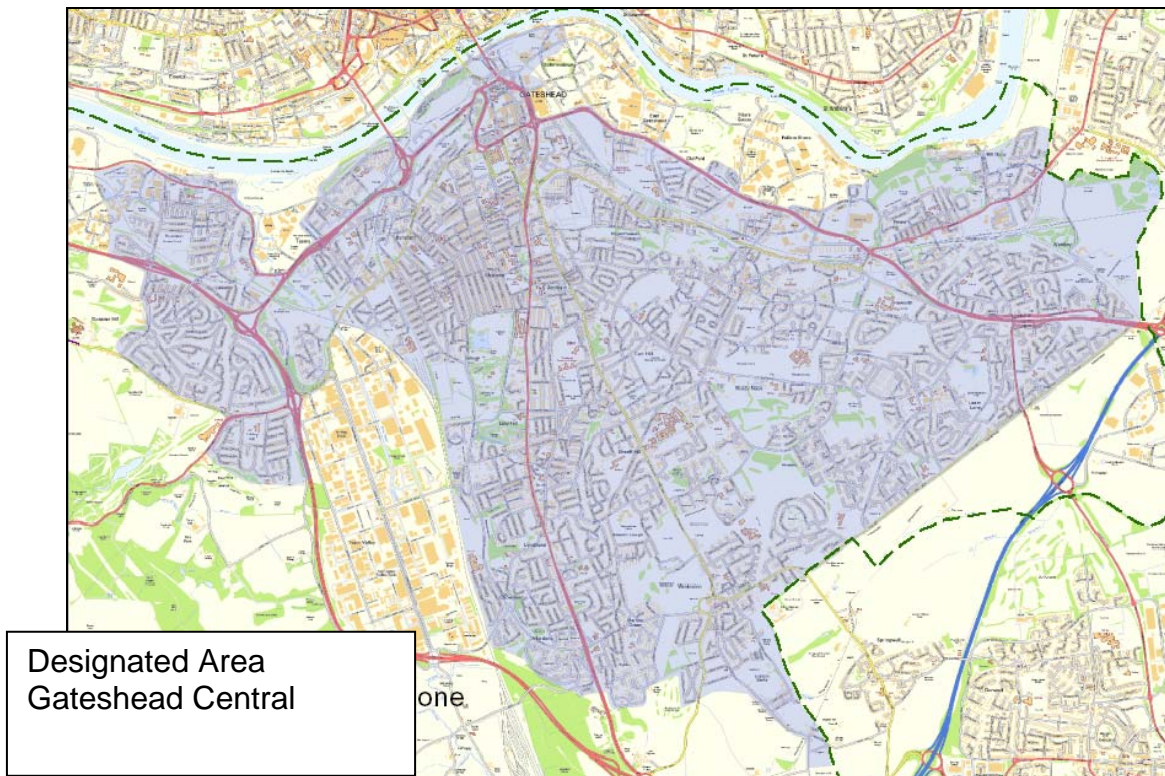
- Gateshead
- at all of the Metro stations in the borough. The Metro is a light rail network throughout the borough and other neighbouring areas in Tyne & Wear.
- Birtley
- Whickham
- Ryton
- Winlaton

These areas were designated following extensive consultation with Northumbria Police, licensees and residents.









### Social Responsibility Standards

5.38 The alcohol industry has had a set of *voluntary* social responsibility standards in place since 2005. These Standards were produced in November 2005 in partnership between the Government and a wide range of representative bodies involved in the production and sale of alcohol in the United Kingdom. However, following concern that the standards were not consistently adopted and applied across the industry combined with public anxiety about “binge drinking” and the associated health problems and social harm led to calls for a mandatory code.

5.39 A new Code of Practice for alcohol retailers containing mandatory conditions for alcohol sale was introduced in April 2010. The Code was the subject of a public consultation exercise in 2009, and the power to introduce it was granted through the *Policing and Crime Act 2009*, which received Royal Assent in November 2009. The new measures are:

- banning irresponsible promotions, such as drinking games, speed drinking, “women drink for free”, and “all you can drink for £10”;
- banning pouring drinks directly into the mouths of customers (the so-called ‘dentists’s chair’;
- ensuring free tap water for customers; and
- ensuring that all on trade premises offer small measures of beers, wine and spirits to customers.
- ensuring that all those who sell or supply alcohol have an age verification policy in place requiring them to ask anyone who looks under 18 for proof of age by providing appropriate identification.

5.40 The first three conditions (irresponsible promotions, the ‘dentist’s chair’ and free tap water) came into effect on 6 April 2010. The remaining conditions (age verification policies and smaller measures) will come into effect on 1 October 2010

#### Pubwatch

5.41 A Pubwatch scheme has been in existence in the Borough for some time. It is led by Northumbria Police, and provides a forum for licensees to gain support from the Police, the Council and other licensees to tackle the problems associated with individuals who cause disturbance, disorder, use drugs or use or threaten violence in and around licensed premises. By acting collectively in excluding such people from a number of premises in the area, this means that the problem is not simply moved from one pub to the next. Pubwatch schemes have been found to be effective tools in tackling anti-social behaviour in many areas where the schemes are well run and there is a significant level of participation by licence holders in the borough. The Gateshead Alcohol Harm Reduction Strategy 2009 – 2011 recognises the importance of the Pubwatch scheme and envisages it being used to share and develop best practice and as a forum for training.

#### Council land

5.42 Gateshead Council has a policy of seeking to obtain premises licences for public buildings and relevant open spaces which are promoted as venues for travelling entertainment and community entertainment. The Council sees the licensing of these spaces as a means of both encouraging cultural activities and ensuring that when those activities take place they are run in a manner that is sensitive to the community in which they will occur.

### **6. General Principles of the Policy**

6.1 In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. In considering every application, under the terms of this Policy, regard will be given to Government Guidance under Section 182 of the Act, from time to time The Act itself and to supporting regulations.

6.2 The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most important control measures for the achievement of all the licensing objectives. For this reason, the Licensing Authority will expect these elements to be specifically considered and addressed within an applicant’s operating schedule.

#### Cumulative Impact of Licensing on the Amenity of Particular Areas

6.3 This Policy will not seek to limit the number of licensed premises that will be permitted on the basis of arguments that there are currently enough licensed premises to satisfy demand. The issue of demand or ‘need’ is an entirely commercial issue and is not a matter to be addressed through the licensing policy. The ‘cumulative effect’ of granting additional licences on the promotion of the four licensing objectives on the other hand, is a matter that the Licensing Authority can and will properly take into account under this policy.

- 6.4 The Licensing Authority recognises that the cumulative effect of licensed premises may result in an increase in numbers of people either walking through or congregating in streets or cause adverse effects on amenity and this in turn may have a number of undesirable consequences, for example:
- An increase in crime against both property and persons
  - An increase in noise causing disturbance to residents
  - Traffic congestion and/or parking difficulties
  - Littering and fouling
  - Anti-social behaviour relating to the sale and consumption of alcohol
- 6.5 Where there is evidence that a particular area of the Borough is suffering adverse effects arising from a concentration of licensed premises, or that residential areas are under stress, this will be taken into account in determining any further applications or variations to existing licences for premises within the area identified. The onus will be on the objectors to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed.
- 6.6 The Licensing Authority may consider a specific saturation policy if this proves necessary whereby new premises licences or club premises certificates are normally refused because the area is saturated with licensed premises and the granting of any more would undermine one or more of the licensing objectives
- 6.7 The Licensing Authority in considering whether to adopt a special saturation policy will take the following steps:
- Identify serious and chronic concern from a responsible authority or representatives of residents or local businesses concerning nuisance and/or disorder;
  - Assess the causes
  - Where it can be demonstrated that disorder and nuisance is as a result of customers of licensed premises, identify the area from which problems are arising and the boundaries of that area; and
  - Adopt a special policy about future licence applications from that area
- 6.8 At the present time the Licensing Authority has not designated any saturation areas within the Borough. Experience in the Borough since the implementation of the Act has not led to the need to designate any saturation areas as yet, however this is kept under review. If in future the Licensing Authority designates any such areas they will be advertised, current licence holders will be informed and new applicants advised on their initial enquiry.
- 6.9 The Licensing Authority recognises that a minority of patrons may behave badly and that the licensing policy cannot address issues relating to the behaviour of individuals or groups unless in the immediate area of the licensed premises. It is, nevertheless, well aware that there are other means of addressing the problems identified above and that other mechanisms available include:
- Planning controls

- Powers to designate parts of the local authority area as places where alcohol may not be consumed publicly and for confiscation of alcohol, from adults and children, in these areas (further information in respect of the alcohol exclusion zones established in the Borough is set out in Section 5 above)
- Positive measures to provide safe and clean environments in partnership with local businesses, transport operators and other departments of the Council
- Enforcement powers in respect of anti-social behaviour underage drinking and disorder
- Training and education of staff working in licensed premises
- Police powers to close down premises or temporary events for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise
- Prosecution of personal licence holders who sell alcohol to people who are drunk
- Powers of police, responsible authorities or a local resident or business to seek a review of a premises licence

6.10 Where there is evidence that a particular area of the Borough is already suffering adverse effects arising from the concentration of late night premises, or that residential areas are under stress, this will be taken into account in determining any further applications for premises within the area identified. As such, the Licensing Authority will take into account the:

- Character of the surrounding area
- Nature, style and character of the proposed operation and
- Potential impact of the licence on the surrounding area, both individually and cumulatively with existing licences.

6.11 The Licensing Authority may refuse applications for licences in respect of new premises if representations are received from a responsible authority or interested party (as defined in the Act) to the effect that the issue of an individual licence would result in an area becoming saturated with licensed premises and may result in significant crime and disorder problems for that area.

6.12 In cases where objectors seek to establish that an application should be refused on the grounds that it would result in or further contribute to a cumulative impact that would undermine one or more of the licensing objectives the onus is on the objector to:

- Identify the boundaries of the area from which it is alleged problems are arising
- Provide full details and evidence as to the seriousness and causes of the nuisance and/or crime and disorder in the area
- Identify the licensing objective(s) which it is alleged will be undermined with specific regard to:
  - the occupancy figure for the proposed premises
  - the nature of the licensed activity to be carried on at the premises and its patrons

## 7. Licensing Objectives

7.1 Applicants will need to provide evidence to the Licensing Authority that, in respect of each of the four licensing objectives, suitable and sufficient measures, as detailed in their Operating Schedule, will be implemented and maintained, and will be relevant to the individual style and characteristics of their premises and events.

### Prevention of Crime and Disorder

7.2 Gateshead Council is committed to reducing crime and disorder within the Borough and helping people feel safe.

7.3 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on the Council, Northumbria Police and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 complements this duty for licensing authorities.

7.4 When addressing the issue of crime and disorder, an applicant must demonstrate that those factors that impact on crime and disorder have been considered. These specifically include:

- Underage drinking
- Drunkenness on premises
- Public drunkenness
- Drugs
- Violent behaviour
- Anti-social behaviour

7.5 Applicants will be expected to demonstrate in the Operating Schedule, that suitable and sufficient measures have been identified and will be implemented and maintained with the intention of preventing crime and disorder.

7.6 In considering applications, the Licensing Authority will expect to see evidence that the following specific matters that impact on crime and disorder have been addressed in the Operating Schedule of the premises:

- The capability of the person who is in charge to run the premises during trading hours or when Regulated Entertainment is provided to effectively and responsibly manage and supervise the premises, including associated open areas
- The steps to be taken in the absence of the Designated Premises Supervisor to effectively manage the business.
- The steps taken or to be taken to ensure that appropriate instruction, training and supervision is given to those employed or engaged in the premises to prevent incidents of crime and disorder
- The measures taken or to be taken to raise staff awareness and discourage and prevent the use or supply of illegal drugs on the premises
- The features currently in place or planned for physical security at the premises, such as lighting outside the premises

- The policies that have been determined in respect of adoption of appropriate existing and future best practice guidance (eg Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit, etc)
- Any arrangements which the licence holder proposes to work in partnership with the Council, police and other traders in establishing a method of co-ordinating closing times to prevent crowds emerging from premises at the same time and to prevent migration between premises with different closing times
- Any appropriate additional measures taken or to be taken for the prevention of violence or public disorder

7.7 The extent to which the above matters need to be addressed will be dependent on the individual style and characteristics of the premises, proposed events and activities. In general however, the Licensing Authority will expect more comprehensive measures to be in place at late night entertainment venues or in premises with a history of crime and disorder issues.

7.8 In such premises appropriate additional measures taken or to be taken for the prevention of violence or public disorder may include:

- Provision of effective CCTV both within and around premises
- Employment of SIA licensed door staff
- Provision of toughened or plastic glasses
- Procedures for risk assessing drinks promotions and events such as 'happy hours' for the potential to cause crime and disorder and plans for minimising such risks

7.9 The Licensing Authority will have particular regard to representations from the Police in deciding whether the above issues have been adequately addressed. It will not normally grant an application for a licence or a variation of a licence where representations indicate that any matter has not been addressed sufficiently to avoid a potential negative impact on crime and disorder, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these representations.

7.10 Where either prescribed and/or premises related conditions have not been adhered to in the past, the Licensing Authority will expect applicants to have considered and taken action to rectify those issues. Applications are likely to be refused where there are significant outstanding issues.

7.11 The Licensing Authority will not normally expect applicants for late night food outlets to include the sale of alcohol in their Operating Schedules because of the general nature and location of takeaway premises.

7.12 The Licensing Authority will expect licensees of venues likely to be affected by drugs to take all reasonable steps to prevent the entry of drugs into licensed premises, to take appropriate steps to prevent drugs changing hands within the premises and to take practical measures to prevent tragedies as a result of drug misuse.

7.13 The Licensing Authority will not support drinks promotions, from any licensed premises, that encourage the irresponsible consumption of alcohol, such as

binge drinking. If such promotions are held they should be in accordance with industry best practice guides. (eg BBPA Guides)

### Public Safety

7.14 Gateshead Council is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. Applicants will therefore be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.

7.15 When addressing the issue of public safety an applicant must demonstrate that those factors that impact on the standards of public safety have been considered. These may include:

- The occupancy capacity of the premises
- The age, design and layout of the premises, including means of escape in the event of fire
- The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
- The hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
- Customer profile (eg age, disability)
- The use of special effects such as lasers, pyrotechnics, smoke machines, etc

7.16 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- Suitable and sufficient risk assessments
- Effective and responsible management of the premises
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of premises and patrons
- Adoption of best practice guidance (eg Guide to Fire Precautions in Existing Places of Entertainment and like premises, The Event Safety Guide, Safety in Pubs published by the BBPA, and the Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by Independent Street Arts Network)
- Provision of effective CCTV in and around premises
- Provision of toughened or plastic drinking vessels
- Implementation of crowd management measures
- Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc pertinent to safety)

## Prevention of Public Nuisance

- 7.17 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 7.18 The Licensing Authority intends to interpret 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 7.19 Applicants need to be clear that the Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Conversely, premises for which it can be demonstrated have effective measures planned to prevent public nuisance, may be suitable for 24-hour opening.
- 7.20 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons relating to disturbance or disorder.
- 7.21 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 prevent public nuisance, relevant to the individual style and characteristics of their premises and events.
- 7.22 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:
- The location of premises and proximity to residential and other noise sensitive premises
  - The hours of opening, particularly between 23:00 and 07:00 hours
  - The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
  - The design and layout of premises and in particular the presence of noise limiting features
  - The occupancy capacity of the premises
  - The availability of public transport
  - 'wind down period' between the end of the licensable activities and closure of the premises, i.e. allowing patrons to remain in the premises for a period after licensable activities have ceased, so that people do not disperse en masse
  - last admission time

7.23 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- effective and responsible management of the premises
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance eg to ensure customers leave quietly
- control of operating hours for all or parts (eg garden areas) of premises, including such matters as deliveries
- adoption of best practice guidance (eg Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of acoustics, Licensed Property: Noise, published by BBPA)
- installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- management of people, including staff, and traffic (and resulting queues arriving and leaving premises)
- liaison with public transport providers
- siting of external lighting including security lighting
- management arrangements for collection and disposal of litter
- effective ventilation systems to prevent nuisance from odour

#### Protection of Children from Harm

7.24 The Licensing Authority will carry out its responsibilities so as to promote the licensing objective for the protection of children from harm.

7.25 The Licensing Authority will specifically require the Operating Schedule to address issues relating to children.

7.26 Licences will be sought from a wide variety of premises including theatres, cinemas, restaurants, concert halls, cafes, late night take-aways, pubs, bars and nightclubs. It is not possible for a licensing policy to anticipate every situation where children are at risk. The Licensing Authority will not therefore impose general conditions that apply to all premises, but will consider how the licensing objectives can be best promoted in each particular case.

7.27 The Licensing Authority will not seek to limit the access of children to licensed premises unless it is necessary to protect children from harm. The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting access to children. The following are some examples of premises that will raise concern:

- Where there have been convictions for serving alcohol to minors or with a reputation for underage drinking
- With 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

7.28 The Licensing Authority will not impose a right of access of children. This will remain a matter for the discretion of the licensee and it is anticipated that the issue of access to children will be addressed in the Operating Schedule.

- 7.29 The range of options available to limit the access of children to licensed premises that may be imposed by the Licensing Authority include:
- Limitations on the hours where children may be present
  - Age limitations
  - Exclusions where certain activities are taking place
  - Requirements for an accompanying adult
  - In exceptional cases, exclusion of people under 18 from the premises or parts thereof when any licensable activities are taking place
- 7.30 Licensees will be expected to prevent children from viewing films that are unsuitable because of the age classification of the film that has been imposed by the British Board of Film Classification or other film classification board approved by the Licensing Authority.
- 7.31 The Licensing Authority will expect that where a significant number of unaccompanied children will be present during a public entertainment event, the licensee will ensure that an adequate number of adult staff are present to control the access, egress and safety in and around the premises. The number of staff required should be assessed by the licensee, taking into account the number of children to be present, the type of entertainment, the characteristics of the premises and any other relevant factor.
- 7.32 Anyone intending to provide staff for the supervision of activities for under 18s will be required to carry out Enhanced Criminal Record Bureau checks on all persons involved servicing such activities. These checks should be entered into a register which should be kept on the premises at all times and made available to the Police or authorised Council officer on request. Staff shall only be appointed who have been subject to a check and are found to be suitable, if in doubt the applicant should liaise directly with the Police.
- 7.33 The mandatory conditions that apply to all premises licensed for the sale and supply of alcohol require (from 1 October 2010) licence and certificate holders to have a policy to ensure that the age of customers is verified, and that persons appearing to be under 18 years old (or older as specified in the policy) are required to provide appropriate identification before being served alcohol. Premises that sell alcohol are encouraged to participate in higher standard Proof of Age Schemes, such as 'Challenge 21', 'No ID, no Sale' and 'Citizencard'.
- 7.34 Where there are restrictions whether imposed by statute or by the Licensing Authority, on the sale or supply of goods or the provision of services or the showing of films or other entertainment to children below a certain age then the licensee will be required to demonstrate that they have in place a system for verifying the age of the children intended to be supplied with such goods, services or entertainment. Training must be given to all persons who might be in a position to refuse such children. Such training must include recognition of age, seeking proof of age, verifying the authenticity of proof of age cards, and handling refusals.

## **8. Licensing Hours**

- 8.1 When the Licensing Act was implemented in 2005 it marked a change in the ability of premises to be open for longer hours, however in practice Gateshead has not experienced a shift to a 24 hour drinking culture. There are at present no areas in the borough where there is a significant number of premises that have sought to be permitted to undertake licensable activities beyond midnight; and indeed the only premises that are licensed for the sale of alcohol 24 hours a day are supermarkets.
- 8.2 The Licensing Authority however also accepts that longer licensing hours with regard to the sale of alcohol may, in some circumstances, help with mitigating the adverse effect of concentrations of customers leaving premises simultaneously. This may then serve to reduce friction at late night fast food outlets, taxi ranks and other sources of transport, which could be the focus of disorder and disturbance.
- 8.3 In general a flexible approach will be adopted and arbitrary restrictions will be avoided. Fixed predetermined closing times for particular areas or zones will not form part of the Licensing Authority's licensing policy as this could lead to a significant movement of people from one area to another. Restriction on trading hours will be considered only where necessary to meet the licensing objectives. Limitations on operating hours may be imposed, for example, following Police representations in the case of isolated shops known to be the focus of disorder, disturbance or for people engaging in anti-social behaviour, including pressurising staff to make unlawful sales.
- 8.4 However, each case will be decided on its own merits based on whether the licensing objectives can be met. Stricter conditions however are likely to apply where the premises are situated in mainly residential areas to minimise disturbance to local residents.
- 8.5 Applicants wishing to operate beyond 23:00 hours will need to demonstrate to the satisfaction of the Licensing Authority, in their operating schedule, that there will be no significant disturbance to members of the public living, working or otherwise engaged in normal activity around the premises concerned. Opening hours beyond 23:00 hours will generally be considered to be more acceptable for premises in commercial or tourist areas with high levels of public transport availability, rather than premises in predominately residential areas.
- 8.6 In making decisions in respect of hours, consideration will be given to representations made by residents and businesses in the vicinity of the premises, their representatives, the police as well as the applicant and other agencies as appropriate.
- 8.7 When considering applications, in respect of hours of operation, the Licensing Authority will take the following into consideration:
- Whether the premises is located in a predominantly commercial area
  - The nature of the proposed activities to be provided in the premises
  - Whether there are any arrangements to ensure adequate availability of taxis and private hire vehicles and appropriate places for picking up and setting down passengers

- Whether there is an appropriate amount of car parking, readily accessible to the premises, and in places where the parking and use of vehicles will not cause demonstrable adverse impact to local residents
- Whether the operating schedule agreed with Council Officers indicates that the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance
- Whether the licensed activity, particularly if located in areas of the highest levels of recorded crime, may result in a reduction or increase in crime or anti-social behaviour
- Whether the licensed activities are likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it.
- Whether there will be any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area

8.8 Any representations from a responsible authority or interested party that identify the premises as a focus for disorder and disturbance will also be taken into consideration.

8.9 In principle, the Licensing Authority believes that shops, stores and supermarkets selling alcohol should generally be permitted to match the hours during which they sell alcohol with their normal trading hours during which other sales take place, unless there are exceptional reasons relating to disorder or disturbance. Where representations are by the police concerning crime and disorder issues the Licensing Authority will consider a restriction on opening hours as one mechanism of combating such problems.

## **9. Premises Licence**

9.1 A premises licence authorises the use of any premises as defined in the Act for licensable activities.

### Application

9.2 Any person aged over 18, a business or a partnership may apply for a premises licence. The application must be accompanied by:

- The required fee
- An operating schedule
- A scale plan of the premises to which the application relates in the prescribed form and,
- If the premises involves the supply of alcohol, a form of consent from the individual who is to be specified as the designated premises supervisor, and the application must be advertised in the prescribed manner.

9.3 Applicants are required to send copies of their application to the Responsible Bodies, whose contact details can be found on the Licensing Authority's website. The application must also be advertised in accordance with the provisions of the Act and Regulations.

9.4 Once a complete application has been received and the notice and advertising provisions have been complied with, a statutory period of 28 days will commence

during which time Responsible Bodies and interested parties may make representations to the Licensing Authority. If these representations are relevant to the Licensing Objectives (and in the case of interested parties they are not vexatious, frivolous or repetitious) then this will trigger a hearing before the Licensing Sub Committee. Parties are encouraged to mediate to attempt to resolve the issues, and if that can be done without the need for a hearing then the parties can request that the hearing is dispensed with. Otherwise, the application will be determined by the Committee having regard to the promotion of the Licensing Objectives.

## **10. Club Premises Certificates**

10.1 A Club Premises Certificate is required in order for Qualifying Clubs (as defined in the Act) to supply alcohol and provide other licensable activities on Club premises.

### Application

10.2 Any member of a club over 18 years old may apply for a Club Premises Certificate and applications must be accompanied by:

- The required fee
- An operating schedule
- A scale plan of the premises to which the application relates in the prescribed form
- A copy of the Club rules and the application must be advertised in the prescribed manner.

10.3 Applicants are required to send copies of their application to the Responsible Bodies, whose contact details can be found on the Licensing Authority's website. The application must also be advertised in accordance with the provisions of the Act and Regulations.

10.4 Once a complete application has been received and the notice and advertising provisions have been complied with, a statutory period of 28 days will commence during which time Responsible Bodies and interested parties may make representations to the Licensing Authority. If these representations are relevant to the Licensing Objectives (and in the case of interested parties they are not vexatious, frivolous or repetitious) then this will trigger a hearing before the Licensing Sub Committee. Parties are encouraged to mediate to attempt to resolve the issues, and if that can be done without the need for a hearing then the parties can request that the hearing is dispensed with. Otherwise, the application will be determined by the Committee having regard to the promotion of the Licensing Objectives.

## **11. The plan**

11.1 When an application for a premises licence or club premises certificate is successful, the plan submitted to the Licensing Authority with an application forms part of the licence or certificate. This means that the plan (and layout) of the premises cannot be altered without also altering the licence or certificate.

- 11.2 If a licence/certificate holder intends to alter the premises in such a way as would have any affect on the plan submitted to the Licensing Authority that forms part of the current licence/certificate for the premises, the licence/certificate holder is advised to contact the licensing Authority before making any alterations.
- 11.3 Plans are required to be in a specific format, and applicants should ensure that they meet the requirements or the plans will be rejected.

## **12. Operating Schedules**

- 12.1 The operating schedule is the part of an application for a Premises Licence or Club Premises Certificate where applicants must set out what they intend to do and how they intend to do it.
- 12.2 The operating schedule should enable the Licensing Authority, responsible bodies and interested parties to understand -
- What licensable activities are intended to be carried out
  - When licensable activities will be carried out – i.e. between what hours, on what days and at what times of year
  - When the premises will be open to the public for non-licensed activities
  - Whether alcohol is intended to be sold for consumption off the premises
  - (Where the sale or supply of alcohol is intended at premises with a Premises Licence) who the Designated Premises Supervisor will be and what his / her address is
  - What steps will be taken to promote the Licensing Objectives.
- 12.3 It is very important that applicants clearly set out the steps they intend to take to promote the Licensing Objectives. This is the applicant's opportunity to show the authorities and their neighbours that they intend to run a responsible business. Applicants should demonstrate the measures they will take to prevent crime and disorder, to promote public safety, prevent public nuisance, and protect children from harm. By promoting the Licensing Objectives, licensees will ultimately benefit their business as they will operate responsibly and in co-operation with authorities, and will not disturb their neighbours.
- 12.4 When preparing their operating schedule, applicants may find it beneficial to liaise with the responsible bodies that will be receiving the application once submitted. This will give applicants the opportunity to address any concerns before the application is submitted, and so minimise the risk of representations being made.
- 12.5 If an applicant intends to sell alcohol, they should consider joining initiatives such as Pub Watch, and those of the Licensing Authority, Northumbria Police and other agencies. These schemes are intended to enable licensees to work together and with authorities to address the problems they can face from crime, disorder, violence and the use of or dealing of drugs in their premises.
- 12.6 Applicants should bear in mind that, in addition to the mandatory conditions that are directly imposed under the provisions of the Licensing Act, the Licensing

Authority may impose conditions on a licence or certificate where they are consistent with the operating schedule. These conditions can be imposed without the need for a hearing to take place.

## **Alcohol delivery**

12.6 The delivery of alcohol to people's homes is regulated under the Licensing Act. The activity of delivering alcohol is essentially the same as delivery of other groceries, which is becoming increasingly popular with the rise of internet shopping. It raises some practical issues with regard to the promotion of the licensing objectives where the place of purchase is different to the place of supply. It is essential that the licensing objectives are adequately promoted by persons wishing to carry on licensable activities in this way.

12.7 The purchase of the alcohol must take at licensed premises. This can be done by internet or telephone purchasing, and the Consumer Protection (Distance Selling) Regulations 2000 will apply.

12.8 Examples of conditions that may be attached to a licence for premises where the main or only activity is the supply of alcohol by delivery include -

- Must not serve alcohol to a person who appears to be excessively drunk
- Must operate a Challenge 21 policy
- Alcohol must not be supplied where it is believed it will be passed on to persons under 18 years old
- Alcohol must only be delivered to residential addresses
- Minimum purchase price of £25

12.9 In addition, if it is intended that customers will be able to make payment at the delivery van, further conditions may be appropriate such as -

- the person paying must be seen to come from the delivery address, and
- only one person may approach the van.

12.10 Section 190 of the Licensing Act states that the place where the supply of alcohol takes place is where the alcohol is appropriated to the contract rather than the place where it is supplied. This means that it is only the place where the alcohol is kept to be put into the delivery van that needs to be licensed, and not the van itself or the place of delivery.

12.11 It may be appropriate also to impose conditions making it clear that delivery vans are only to be stocked with alcohol where it has been pre-ordered, to avoid the possibility of them driving round with excess stocks that could be sold with insufficient checks in place.

12.12 Persons wishing to obtain a licence to carry on a business of this type are encouraged to contact the Licensing Authority and Northumbria Police prior to submitting their application so that any potential difficulties can be discussed at an early stage.

### **13. Outside areas**

13.1 Where an application includes provision of an outside area it is expected that the designated area will be situated in such place and designed in such manner as will cause the least amount of disturbance to neighbours as possible. Applicants will be expected to consider taking reasonable steps to promote the Licensing Objectives. Applicants may need to consider –

- The provision of appropriate bins and other receptacles for litter generated by patrons
- Measures to reduce the amount of noise generated by patrons, particularly late at night. This may include door supervision, closure of outside areas after a particular time, restricting re-admission to the premises after a particular time, etc
- Provision and placement of appropriate street furniture to prevent persons ‘spilling out’ onto public highway in the vicinity of the premises
- Provision of CCTV covering entrances and exits, external areas, and surrounding public highways

### **14. Personal licences**

14.1 Personal Licence holders are authorised to sell or supply alcohol in premises that have a Premises Licence authorising the sale or supply of alcohol.

14.2 Every sale or supply of alcohol must be authorised by a personal licence holder. That does not mean that every sale or supply of alcohol must be made by a personal licence holder, but a personal licence holder must authorise the sale or supply to take place, and will be responsible for the actions that take place that they authorise. The Licensing Authority considers it good practice for persons selling alcohol to be authorised in writing by a personal licence holder.

14.3 The Licensing Authority will grant a personal licence providing the following criteria is met:

- The applicant is over 18
- The required fee is paid
- The applicant possesses a relevant licensing qualification – a list of organisations accredited to provide training leading to this qualification may be found on the Department for Culture, Media and Sport website
- The applicant has not forfeited a personal licence in the previous 5 years beginning with the day the application was made
- The applicant has not been convicted of any relevant offence, as defined in the Act
- The Police have not given an objection notice about the grant of a Personal Licence following notification of any unspent relevant offence
- The application has been submitted correctly

14.4 In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, applicants will be required to produce a current Criminal Record Bureau certificate, which should be copied to the Police along with the application. The Licensing Authority will consult with the Police regarding any relevant offences.

- 14.5 If a representation is made by the Police to an application the matter will be referred to the Licensing Sub Committee. At the hearing the Licensing Authority will consider carefully whether the grant of the licence will be in the interests of the crime prevention objective. The refusal of the application will be the normal course unless there are, in the opinion of the Licensing Authority, exceptional and compelling circumstances that justify granting the application.
- 14.6 The Personal Licence lasts for ten years from the date on which it is issued, unless it is suspended, surrendered or forfeited during that period.
- 14.7 Personal Licences are not specific to premises, and so Personal Licence Holders may use their licence to authorise the sale or supply of alcohol in a number of different licensed premises.
- 14.8 Where a personal licence holder is charged with a relevant offence he or she must notify the Court that they have a Personal Licence and produce the licence to the Court. Where a Personal Licence holder who is convicted fails to notify the Court that they hold a Personal Licence, that person will have committed a criminal offence and may be prosecuted by the Licensing Authority or the Police.
- 14.9 1443 (correct at November 2010) personal licences have been issued by this Authority since the Licensing Act 2003 came into force. Four objection notices with respect to personal licence applications have been received by the Licensing Authority and two applications have been refused by the Licensing Sub-Committee.
- 14.10 Given the nature of personal licences, persons granted a licence by this Authority may use it anywhere in England and Wales. Equally, personal licensees working in the Borough may have been granted their personal licence by another Authority.

## **15. Designated Premises Supervisor**

- 15.1 Where one of the licensable activities authorised to take place at licensed premises is the sale of alcohol, the Licensing Act requires one of the Personal Licence holders associated with a premises to be a Designated Premises Supervisor. The main purpose of this is to ensure that there is always one specified individual who can be readily identified as being responsible for the premises.
- 15.2 The sale of alcohol may only take place where there is a current Designated Premises Supervisor for the premises. That person must be a personal licence holder. The Designated Premises Supervisor will be named on the Premises Licence, and on the licence summary, which must be prominently displayed in the premises.
- 15.3 The Designated Premises Supervisor will be the first point of contact for the Licensing Authority, Police, and Fire and Rescue Service. It is expected that the Designated Premises Supervisor will be a key person related to the premises, so that matters arising can be dealt with as quickly as possible. Where the Designated Premises Supervisor is not available at the premises for whatever reason, the Licensing Authority will expect an individual to be nominated as a

point of contact who will have details of where the Designated Premises Supervisor can be contacted. Even when a Designated Premises Supervisor is not present at the premises, that person still has responsibility for ensuring the promotion of the Licensing Objectives in their absence. If a Designated Premises Supervisor will not be in attendance at the premises for any extended period, they should consider applying to vary the Premises Licence to appoint an alternative person as Designated Premises Supervisor, who will be able to exercise that function effectively.

- 15.4 If a Designated Premises Supervisor is convicted for a relevant offence, the Court may suspend that person's Personal Licence, or declare it to be forfeited. In these circumstances, the premises will no longer be authorised to sell alcohol until another Designated Premises Supervisor is duly nominated. This will also be the case if the nominated Designated Premises Supervisor no longer works at the premises.
- 15.5 It is the responsibility of the Premises Licence holder to notify the Licensing Authority immediately of any change of Designated Premises Supervisor.
- 15.6 The Police are able to object to the appointment of a new Designated Premises Supervisor, either for a new application or when varying a Premises Licence to specify a new Designated Premises Supervisor, where, in exceptional circumstances they believe that the appointment would undermine the crime prevention objective. When this happens the Licensing Authority will arrange for a Licensing Committee hearing at which the issue can be considered and both parties can put their arguments. The Sub Committee will confine their consideration to the issue of crime and disorder and give comprehensive reasons for their decision. Both parties have the right to appeal the Sub Committee's decision to the Magistrates' Court.

## **16. Temporary Event Notices**

- 16.1 Certain temporary events are not required to be licensed but can be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the police to work with them to identify and reduce the risk of crime and disorder. It is recommended that persons seeking approval for an event lodge their Temporary Event Notice at least 21 working days before the event. In any event, applicants are required to give at least ten working days' notice to the Licensing Authority and the police. "Working days" means Monday to Friday.
- 16.2 The Temporary Event Notice procedure can be used by persons wishing to provide temporary -
- sale of alcohol
  - regulated entertainment
  - late night refreshment

where either the premises in question are not licensed for that activity, or the applicant wishes to undertake the activity outside the licensed hours.

16.3 Temporary Event Notices can only be utilised in certain circumstances, as follows:

- no more than 499 people may be present at the temporary event at any particular time
- the temporary event may not be for a duration of more than 96 hours
- there must be a minimum of 24 hours between temporary events at the same premises by the same premises user
- no more than twelve temporary events can be held at the same premises each calendar year
- the aggregate time of temporary events held at premises during each calendar year must not exceed 15 days

16.4 Persons not holding personal licences may not hold more than five temporary events per calendar year. Personal licence holders may hold up to 50 temporary events per year.

16.5 Given the nature of some activities that some people try to authorise through TENS the licensing authority would recommend that the event organisers liaise with the police with respect to the establishment of a safety advisory group.

16.6 715 Temporary Event Notices have been given to Gateshead since the Licensing Act 2003 came into force. 4 of these were the subject of Objection Notices from Northumbria Police.

## **17. Petrol stations / garages**

17.1 Section 176 of the Act excludes certain premises from being authorised for the sale or supply of alcohol, and states that, “premises used primarily as a garage or which form part of premises which are primarily so used” are excluded from being licensed. Premises are used as a garage if they are used for the sale of petrol or derv, or for the sale or maintenance of vehicles.

17.2 It is this Council's policy that if it appears that the primary use of premises may be as a garage, the applicant will be required to provide satisfactory evidence of primary use before the application is accepted, as it is not possible for a valid application to be made for excluded premises.

17.3 In the case of existing premises, applicants should submit sales data with their application. The amount of data that will be required will be dependent on the nature of premises and the activities that take place. In the case of new premises, clearly this data can only be based on projections, but applicants should provide as much information as possible to support their projections. For instance, where the applicant has other similar premises that are already licensed, they should provide details of sales figures from those other premises for comparative use. Applicants may wish to submit details of the number of purchases of fuel alone, the number of purchases of fuel and other goods, and the number of purchases of other goods alone. These figures should be provided for a sufficiently long period to show any seasonal trends. Applicants may also wish to provide details of turnover for each type of purchase as above.

- 17.4 Applications which are granted on the basis of false or inaccurate information may be the subject of review, should evidence emerge that the premises are primarily used as a garage.

## **18. Adult entertainment**

- 18.1 The term 'adult entertainment' is not defined in the Licensing Act, but it is taken in this policy to refer to activities and form of entertainment that may be unsuitable for children to participate in or to observe. Common examples of adult entertainment include striptease, lap dancing and other forms of dancing /entertainment with a sexual content. Other types of activity may also be 'adult entertainment' such as total fighting, mixed martial arts, and demonstrations and participation in activities containing elements of bondage, discipline, domination, submission, sadism and/or masochism. This list is clearly not exhaustive, and the Licensing Authority will consider each application on its merits.
- 18.2 Although adult entertainment is permitted by the Licensing Act, it is necessary that licensees set out details of the activities they intend to take place in their operating schedule, so that the Licensing Authority, responsible bodies and others may take appropriate steps to ensure that the Licensing Objectives are not undermined. As such it is important that applicants complete box 'N' of their application form, and provide as much detail as possible regarding the nature of the proposed activities.
- 18.3 If applicants do not complete box 'N' it is the policy of this Licensing Authority to impose a condition on the licence / certificate (if issued), consistent with the operating schedule, that prohibits adult entertainment at the premises. If licencees / certificate holders are then found to have provided adult entertainment in breach of this condition, they may be prosecuted and/or the licence / certificate may be reviewed which could lead to the imposition of further conditions, suspension or revocation.
- 18.4 Applicants and licence / certificate holders are advised to consider the nature of the activities they wish to take place at their premises in line with the guidance notes to box 'N' of the application form.

### Sex-related entertainment

- 18.5 In 2010 Gateshead Council will begin a consultation process regarding the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in respect of the regulation of sex entertainment venues. If the Council adopts the legislation, it may implement a policy regarding the regulation of these venues, and applicants / licensees should ensure that they have regard to that policy in due course. If necessary this statement of licensing policy will be revised and updated.
- 18.6 The Licensing Authority will give detailed consideration to the implications on the Licensing Objectives of any applications for entertainment involving nudity (whether full or partial) or any other sex-related entertainment.

- 18.7 Applicants wishing to provide sex-related entertainment are expected to make this clear on their application. Should they fail to do so without reasonable excuse, or make any false statement in their application, the Licensing Authority will consider this to be misleading as to the nature of the activities for which the licence / certificate is sought. That person may also commit an offence under section 158 of the Act.
- 18.8 Where premises wishing to provide sex-related entertainment are located near schools, places of worship, hospitals, youth clubs or other premises where significant numbers of children are likely to attend, it is likely that representations will be received. Applicants should be sensitive to the needs of interested parties, and should bear in mind that their licence / certificate may be reviewed, restricted or indeed revoked if it is determined that the activities are harmful to the Licensing Objectives.
- 18.9 The Licensing Authority will expect applicants to consider the following issues carefully in their Operating Schedules :
- Ensuring that children are not admitted to and cannot witness these activities
  - Distance between performer and customer
  - Provision and maintenance of CCTV and storage of CCTV footage for extended periods
  - Pre-employment checks and ongoing CRB checks
  - Codes of conduct for performers and staff including supervisors and security
  - Rules of conduct for customers
  - Disciplinary measures for performers, staff customers in the event of breaches of the above

#### Gambling Act 2005

- 18.10 From September 2007 certain licensed premises have been able to conduct specified gambling activities pursuant to the Gambling Act 2005. Licensees and potential licensees who wish to conduct gambling activities should have regard to the Act, and to Gateshead Council's Statement of Gambling Principles (and, where appropriate, Gateshead Council's Policy on Gambling Permits which now forms part of the Statement of Principles).
- 18.11 Applicants and existing licensees / certificate holders should be aware that the presence of gaming machines in licensed premises is considered to be "adult entertainment" and requires notification to the licensing authority in box "N" of the application form otherwise they will not be permitted, as it is the policy of this licensing authority to add a condition, consistent with the operating schedule of each premises where box "N" is not completed, prohibiting adult entertainment at the premises as set out in guidance note 8 of the respective application forms.

## **19. Film classification**

- 19.1 Where the Licensing Authority is requested to classify a film for exhibition within the Licensing Authority's area, it will do so if the film has not been classified by the British Board of Film Classification, or such classification is not pending.
- 19.2 When an applicant submits a film for classification, they should provide a copy of the film to the Licensing Officer, and should indicate the rating that they consider appropriate. The Licensing Officer shall consult with Northumbria Police and the Local Safeguarding Children Board. The applicant should provide the copy of the film at least 28 days in advance of the proposed screening. If the applicant is unable to provide a copy of the film in DVD / VHS format then they should liaise with the Licensing Officer to arrange for a screening of the film for the relevant bodies as above.
- 19.3 The Licensing Authority shall have regard to any representations received from the Local Safeguarding Children Board and Northumbria Police. The Licensing Authority shall have regard to the classification standards applied by the British Board of Film Classification. The Licensing Authority shall also have regard to (but shall not be bound by) any classification given to the film by another Licensing Authority.
- 19.4 Where a relevant representation is received, the classification of the film shall be determined by a hearing of the Licensing Sub Committee.

## **20. Licensing application procedures**

- 20.1 The Licensing Authority will issue and make readily available guidance notes on the procedures it requires for making applications for licences and will from time to time review such guidance.
- 20.2 The Licensing Authority will process personal information in accordance with the Data Protection Act 1998. The personal details provided by applicants will be held on a database and where the law allows, may be shared with other departments within the Council to update details they hold. The Licensing Authority may also be required to disclose personal information to third parties (such as Police, Department for Work and Pensions or Audit Commission for the National Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.

## **21. Conditions**

- 21.1 Some licensed premises had conditions imposed on their Justices' Licences or Club Premises Certificates prior to the Licensing Act 2003 coming into force. Unless those conditions were varied during the transitional period, they were carried over onto the licences and certificates issued by this Licensing Authority when the regulatory function was transferred to it in November 2005.
- 21.2 The Act prescribes certain mandatory conditions that must be imposed on licences and certificates. These are set out in the Act and include those relating to irresponsible promotions, the 'dentist's chair' and free tap water which will

come into effect on 6 April 2010 and those relating to age verification policies and smaller measures which come into effect on 1 October 2010. Applicants should take these conditions into account when considering the nature of their businesses and when preparing their Operating Schedules. Where an application is received and no representations are made, conditions consistent with the operating schedule will be set out in the licence.

- 21.3 The Licensing Authority cannot impose non-mandatory conditions unless and until its discretion to do so is triggered by its receipt of relevant representations. A hearing must then take place before the Licensing Authority's Sub Committee, where it will be determined what steps are necessary for the promotion of the Licensing Objectives.
- 21.4 'Standard conditions' will not be attached to licences, thereby avoiding the imposition of disproportionate and burdensome requirements. If conditions are required in particular circumstances, they will be tailored to reflect the individual style and characteristics of the premises and activities concerned. Only those conditions which are necessary to meet the licensing objectives will be imposed. Conditions will not be imposed which are beyond the responsibility or control of the licence holder and will focus on those matters on the premises and places being used for licensable activities and the vicinity of those premises and places.
- 21.5 Conditions will not be imposed where the Licensing Authority considers other regulatory regimes provide sufficient protection to the public eg food safety, health and safety at work and fire safety legislation.
- 21.6 It is the Licensing Authority's view that, when considering conditions, there should be openness, transparency and reasonableness. Consequently, officers will seek to discuss proposed conditions in advance with the applicant and/or representative with the aim of achieving a mutually agreeable level of protection to the public along with fulfilment of the licensing objectives. All parties should however be aware that if a hearing is necessary, it is the Sub Committee that will determine whether any conditions are to be imposed, and if so what those conditions will be.
- 21.7 Where the Sub Committee determines that conditions are to be added to a licence it will have regard to the Pool of Model Conditions (See Appendix 1). Every licence is considered on its merits, and the Sub Committee will tailor these conditions to the individual circumstances. Equally, it may be appropriate for conditions to be imposed that are not envisaged in the Model Pool, and the Sub Committee is able to do so if appropriate.
- 21.8 If an applicant / licence holder volunteers certain measures in its Operating Schedule, the Sub Committee can impose conditions on the licence or certificate in accordance with the measures offered.
- 21.9 The Regulatory Reform (Fire Safety) Order 2005 has the effect of disapplying any existing conditions on licences and certificates relating to fire safety.

### **Disapplication of Certain Mandatory Conditions for Community Premises**

- 21.10 Certain community premises which have or are applying for a premises licence to authorise the sale or supply of alcohol may request that the standard mandatory

conditions be replaced with alternative conditions to ease the requirement for a DPS and for alcohol sales to be made or authorised by a personal licence holder. Such an application may only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premises. Where it is not clear whether premises are community premises, the Licensing Authority will approach the matter on a case by case basis, the main consideration being how the premises are predominantly used. If the premises are genuinely made available for community benefit most of the time, and are accessible by a broad range of persons and sectors of the local community for purposes which are beneficial to the community as a whole, the premises will be likely to meet the definition.

## **22. Transfers**

- 22.1 Where a licence or certificate holder wishes to transfer their licence / certificate to another person, they may apply to the Licensing Authority to do so, and will need to pay the appropriate fee.
- 22.2 In these circumstances, the transfer will be approved by the Licensing Authority unless the Chief Officer of Police objects to the transfer. The objection must set out the basis upon which the police believe that if the transfer was permitted, harm would be caused to the Licensing Objectives.
- 22.3 If an objection is received, a hearing before the Sub Committee will be arranged, and the person seeking the licence/certificate to be transferred into their name will be able to make representations regarding the police objection. The Sub Committee will then either approve or refuse the transfer application.
- 22.4 If the application is refused then the licence or certificate will revert to the person who held it prior to the transfer application. That person will then assume all such responsibilities unless and until the licence / certificate is transferred to someone else. If that person does not wish to regain those responsibilities they must contact the Licensing Authority immediately to surrender the licence / certificate, and as such they are advised to contact the Licensing Authority following the submission of the transfer application to ascertain whether any objection has been received, and when it will be determined.

## **23. Variations**

- 23.1 Where a premises licence or club premises certificate holder wishes to amend the licence or certificate, the Act allows in most cases for an application to vary to be made rather than requiring for an application for a new licence or certificate.
- 23.2 Simplified procedures now exist for the following variations:
- A change of name or address
  - Specifying a new individual as the designated premises supervisor
  - A request to be removed as a designated premises supervisor
  - An application to disapply mandatory conditions in the case of a community premises

- An application for a minor variation

### Minor variations

23.3 Minor variations generally fall into four categories:

- Minor changes to the structure or layout of the premises
- Small adjustments to licensing hours
- The removal of out of date irrelevant or unenforceable conditions or addition of volunteered conditions
- The addition of certain licensable activities

23.4 The test in all cases is whether the proposed variation could impact adversely on any of the licensing objectives.

23.5 Where it appears that a proposed variation may impact adversely on any of the licensing objectives the Licensing Authority will consult with relevant responsible bodies before deciding whether to grant the minor variation or refuse it. Interested parties can also make representations to the Licensing Authority but this will not trigger a hearing. The Licensing Officer must however have regard to such representations when reaching their decision.

23.6 There is no right of appeal against the decision of the Licensing Authority in respect of a minor variation. If a person or body wishes to challenge the Licensing Authority's decision in this respect, this would require an application for judicial review.

### Standard variation applications

23.7 Where the minor variation procedure is inappropriate, licence and certificate holders can use the standard variation procedure. Examples of where this would be necessary are –

- The variation is to extend the duration of a licence
- The variation is to add the supply of alcohol as a licensable activity
- The variation is to authorise the supply of alcohol between 11pm and 7am
- The variation is to extend the hours during which the supply of alcohol is authorised
- The variation is to take account of a substantial variation to the premises themselves

23.8 If a variation application involves changing the structure of the premises an amended plan must be submitted. Applicants should refer to the relevant section of this document in respect of the plan.

23.9 Applicants are required to send copies of their variation application to the Responsible Bodies, whose contact details can be found on the Licensing Authority's website. The application must also be advertised in accordance with the provisions of the Act and Regulations.

23.10 Once a complete application has been received and the notice and advertising provisions have been complied with, a statutory period of 28 days will

commence during which time Responsible Bodies and interested parties may make representations to the Licensing Authority. If these representations are relevant to the Licensing Objectives (and in the case of interested parties they are not vexatious, frivolous or repetitious) then this will trigger a hearing before the Licensing Sub Committee. Parties are encouraged to mediate to attempt to resolve the issues, and if that can be done without the need for a hearing then the parties can request that the hearing is dispensed with. Otherwise, the application will be determined by the Committee having regard to the promotion of the Licensing Objectives.

## **24. Complaints about licensed premises**

- 24.1 The Licensing Authority will investigate complaints about licensed premises where appropriate. Complainants will, in the first instance, be encouraged to raise the complaint directly with the licensee or business concerned. In the case of a valid complaint, the Licensing Authority will initially endeavour to seek a resolution through informal means.
- 24.2 All complaints must, in the first instance, be addressed to the Environmental Health, Licensing and Enforcement Manager, Regulatory Services, Civic Centre, Regent Street, Gateshead NE8 1HH.
- 24.3 The Licensing Authority will only investigate complaints under this Policy if they relate to one or more of the four licensing objectives.
- 24.4 Where they consider appropriate, the Licensing Authority may pass any complaint on for investigation by any other statutory agency under whose enforcement responsibility the complaint falls.

## **25. Failing to comply with the Licensing Act**

- 25.1 When someone carries out licensable activities without authorisation or in contravention of their authorisation, the Licensing Act enables the Council, the Police and other responsible bodies and interested parties to take action to address the problems that arise. It may be appropriate to prosecute the person or business in relation to any criminal offences that they commit. If the licensable activities are being carried out under a premises licence or club premises certificate it may be appropriate for it to be reviewed, in which case it can be amended, suspended or revoked if necessary. The following section sets out the way in which this Council uses its powers in this respect.

### **Enforcement**

- 25.2 The Council delivers a wide range of enforcement services, aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Council has adopted the Government's *Enforcement Concordat* and the *Regulator's Compliance Code* which are designed to ensure effective and efficient public protection services and is based around the principles of consistency, transparency and proportionality.

- 25.3 The enforcement policy proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been contravened. An isolated administrative offence may be dealt with for example by way of a written warning whilst more serious offences which have either been committed over a period of time or which jeopardise public safety may result in a referral for prosecution.
- 25.4 The Council will seek to work actively with the Police, Fire & Rescue Service, Trading Standards and any other relevant authority to enforce the licensing legislation. This may include carrying out test purchases, inspections of licensed premises, investigating complaints about licensed premises and investigating allegations of unlicensed premises. Such a partnership approach is intended to prevent duplication of effort, maximise the potential for controlling crime and disorder at premises and to ensure compliance when relevant conditions are appropriate. Gateshead Council has approved the Northumbria Police Joint Enforcement Protocol, which will encourage a consistent approach to enforcement throughout the Licensing Authorities within the Northumbria Police area.
- 25.5 Inspections will take place at the discretion of the Council and its partner agencies and will be concentrated on areas of need. A light touch inspection regime will be employed for well managed and maintained premises with a targeted and graduated inspection and enforcement regime for problem and high-risk premises.
- 25.6 Where possible and appropriate, the Licensing Authority and its partner agencies will give early warning to licence holders of any concerns about problems occurring at premises associated with the licensing objectives.
- 25.7 The Licensing Authority will carry out its responsibilities for enforcement so as to promote the licensing objectives.

## **Reviews**

- 25.8 Interested parties and responsible authorities may seek a review of a premises licence or club premises certificate if they believe that the current operation under the licence or certificate is harmful to one or more of the Licensing Objectives.
- 25.9 Where an application to review a licence or certificate is received by the Licensing Authority, it should be accompanied by any relevant supporting information, documentation, etc. If the application is relevant, and (if made by an interested party) is not frivolous, vexatious or repetitive, a hearing before the Licensing Authority's Sub Committee will be held. Where appropriate the parties may be able to hold discussions with a view to reaching an agreement on steps that can be taken to improve the position.
- 25.10 When a hearing before the Sub Committee takes place, the Sub Committee will consider all information presented to it, and decide what course of action is appropriate for the promotion of the Licensing Objectives. There are a range of responses that are open to the Sub Committee on a review application. The Sub Committee may –

- Take no further action
- Impose conditions on the licence or certificate
- Add conditions to the licence or certificate
- Exclude a licensable activity from the licence or certificate
- Remove the designated premises supervisor
- Suspend the licence or certificate for a period not exceeding three months
- Revoke the licence or certificate.

25.11 The review process is intended to enable the Licensing Authority to take appropriate timely measures to promote the Licensing Objectives in respect of individual premises. A review can take place even if it would be disproportionate to revoke a licence or certificate, as some lesser measure can be taken, as above.

25.12 Also, because the review process is intended to address the future conduct of the licence holder, a review can take place regardless of any other measures that may be open to the interested party or responsible body. For instance, if a licence holder is found to have sold alcohol to a minor, it is not necessary for a prosecution (or indeed a successful prosecution) to take place in respect of that sale before a review is brought, as the review would consider the steps necessary to prevent future underage sales.

25.13 Below is a table setting out the number of reviews that have taken place in Gateshead since the Licensing Act came into force (correct at November 2010) and which shows which responsible bodies have applied for reviews, and also where reviews have been initiated by interested parties.

*Table 25.1 Review Applications (November 2010)*

Year	Responsible Body							Interested Party
	Police	Fire & Rescue	Planning	Environmental Health	Weights & Measures	Health & Safety	LSCB	
<b>2006/2007</b>	0	0	0	0	10	0	0	0
<b>2007/2008</b>	1	0	0	0	2	0	0	0
<b>2008/2009</b>	2	0	0	0	0	0	1	1
<b>2009/2010</b>	1	0	0	0	0	0	0	2

## Summary reviews

- 25.14 The Violent Crime Reduction Act 2006 gave the Police and Licensing Authorities new powers to address problems quickly by imposing interim conditions on a licence and having a fast track review process where the Police consider that the premises are associated with serious crime or serious disorder (or both).
- 25.15 The powers only apply to premises that have a premises licence, and only to those premises that are authorised to sell alcohol.
- 25.16 If an interim review is triggered by the Police, the Licensing Authority may modify the licence by adding or amending conditions, exclude licensable activities from the scope of the licence, remove the DPS from the licence, and/or suspend the licence.
- 25.17 At the full review of the licence that follows the interim review, the Licensing Authority may do any of these steps as above, and in addition it may revoke the licence.
- 25.18 The Police have been able to trigger these expedited reviews since 2007. To date there have been no applications by the Chief Officer.

## **26. Appeals**

- 26.1 Where an applicant is aggrieved by a condition, decision or relevant representation from a responsible authority or relevant person, there is a right of appeal. This appeal must be lodged within a period of 21 days except in the case of TENS – check from the day on which the applicant was notified by the Licensing Authority of the decision and must be made to the Magistrates' Court.
- 26.2 In respect of personal licences, refusal to issue or revocation – appeals must be made to the Magistrates' Court in the area where the licence was issued.
- 26.3 Appeals in relation to all other licences must be made to the Magistrates' Court where the premises or event is situated.
- 26.4 Three appeals have been made with respect to licensing authorisations in the borough since the Licensing Act 2003 came into force.

## **27. Delegation and Decision Making**

- 27.1 The Council has established a Licensing Committee to administer its functions under the Licensing Act 2003. Powers and functions have also been delegated to Licensing Sub-Committees and officers in order to provide a speedy, efficient and cost effective service to all parties involved in the licensing process.
- 27.2 Many of the decisions and functions are largely administrative in nature such as the grant of non-contentious applications, including for example those licences and certificates where no representations have been made. These will be

delegated to Council officers. All such matters dealt with by officers will be reported for information to the next Licensing Committee meeting.

- 27.3 Applications where there are relevant representations will be dealt with by the Licensing Committee/Sub-Committee – unless such representations are considered irrelevant, frivolous or vexatious or unless the Licensing Authority, the applicant and everyone who has made representations agrees that a hearing is not necessary (usually after successful mediation).
- 27.4 The table given in 26.12 below sets out the delegation of decisions and functions of the Licensing Committee, subcommittees and officers. The various delegations include delegation to impose appropriate conditions.
- 27.5 This scheme of delegations is without prejudice to the right of relevant parties to refer an application to a Licensing Sub-Committee or the full Licensing Committee if considered appropriate in the circumstances of any particular case.
- 27.6 Unless there are compelling reasons to the contrary, the Licensing Authority will require the Licensing Committee or any of its sub-committees to meet in public – although Members can retire into private session to consider their decision. A public announcement of the decision will be made at the end of the hearing together with clear, cogent reasons for the decision having due regard to the Human Rights Act 1998, the four licensing objectives and all other legislation.
- 27.7 The Licensing Committee will be made up of 15 members and Sub-Committees of three who will hear any relevant representations from authorised persons, responsible authorities and interested parties in the form of a hearing.
- 27.8 Where a function is delegated to an officer, that officer will be responsible for liaising between the applicant, interested parties and the responsible authorities to ensure that any licence granted is subject to the appropriate conditions. Where objections are made then the officer will once again liaise with the applicant, interested parties and the responsible authorities to see if a ‘settlement’ is possible to overcome the objections without the need for the matter to go before the Committee or the Sub-Committee.
- 27.9 The Committee or Sub-Committee will determine each case before it on its individual merits. However, in determining the application the Licensing committee or Sub-Committee, will consider:
- The case and evidence presented by all parties
  - The promotion of the four licensing objectives
  - Guidance issued by central Government
  - The Licensing Authority’s own statement of Licensing Policy
- 27.10 ‘Relevant representations’ are representations as defined by Section 18 of the Act:
- About the likely effect of the premises licence on the promotion of the licensing objectives

- Made by an interested party or a responsible authority, have not been withdrawn and, in the case of representations made by an interested party they are not in the Licensing Authority's opinion relevant, frivolous or vexatious.

27.11 An interested party' means any of the following as defined by Section 13 of the Act:

- A person living in the vicinity of the premises
- A body representing persons who live in the vicinity
- A person involved in a business in that vicinity
- A body representing persons involved in such business; or
- An elected member of the Council.

27.12 Delegation of functions:

<b>Matter to be dealt with</b>	<b>Full Licensing Committee</b>	<b>Licensing Sub-Committee</b>	<b>Officers</b>
Application for personal licence		If representation is made	If no representation made
Application for Personal Licence with unspent convictions		All cases	
Application for Premises Licence/ Club Premises Certificate		If a relevant representation made	If no relevant representation is made
Application for a Provisional Statement		If a relevant representation made	If no relevant representation is made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation is 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	
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	
Consideration of reports to the committee	Six monthly		
Classification of films for exhibition where BBFC has not classified		If a relevant representation made	If no relevant representation is made

## 28. Consultation and Review

28.1 This Policy will come into effect on 7 January 2011 and will remain in force for not more than 3 years. During that time it will be subject to periodic reviews and further consultation.

28.2 The Council is required to review its Licensing Policy statement every three years and will, in doing so, take into account the views of:

- Members and relevant officers of the Council
- Northumbria Police, Tyne and Wear Fire & Rescue Service and all of the other Responsible Authorities defined in the Act
- Holders of premises and personal licences and club premises certificates
- Local businesses, residents and representatives
- Individuals and organisations with an interest in the regulations of licensable activities both locally and nationally

28.3 The Council, may however, review the policy at any time within those three years should it consider it appropriate to do so.

28.4 Consultees are encouraged to report to the Council annually on the operation of the licensing function.

28.5 Following consultation, any revisions to this Policy will be published.

## 29. Further information

29.1 Further information about the Licensing Act 2003 and the Council's Licensing Policy can be obtained from:

Licensing Section  
Regulatory Services, Gateshead Council, Civic Centre, Regent Street  
Gateshead, Tyne and Wear NE8 1HH

Tel: 0191 4333911  
Fax: 0191 4774740  
email: [licensing@gateshead.gov.uk](mailto:licensing@gateshead.gov.uk)

Website: [www.gateshead.gov.uk](http://www.gateshead.gov.uk)

Information is also available from:

Department for Media, Culture and Sport  
2-4 Cockspur Street, LONDON SW1Y 5DH

Tel: 020 72116200

email: [enquiries@culture.gov.uk](mailto:enquiries@culture.gov.uk)

Website: [www.culture.gov.uk](http://www.culture.gov.uk)

### Public Information

29.2 The Register of Premises Licences and Personal Licence holders will be available for inspection by appointment during normal office hours.

## APPENDIX 1

### LICENSING ACT 2003

#### POOL OF MODEL CONDITIONS

Notes: -

- (i) These conditions shall be read in conjunction with the “Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Act issued on 28 June 2007”.
- (ii) The conditions shall not be regarded as “standard conditions” which are to be automatically imposed in all cases. They are designed to provide a range of possible conditions which may need to be attached to Premises Licences and Club Premises Certificates depending upon differing situations. The wording of the conditions may need to be modified to suit a particular premises and situations.
- (iii) This is not an exhaustive or exclusive list of conditions. Additional conditions may be drafted and attached to Premises Licences and Club Premises Certificates to meet individual circumstances.
- (iv) Individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the Licensing Objectives.
- (v) When incorporated into a Premises Licence or Club Premises Certificate, any condition becomes enforceable under the law and a breach of such a condition could give rise to prosecution.

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#### CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

1. The Licensee, that is the person in whose name the Premises Licence is issued, shall ensure that at all times when the premises are open for any licensable activity, there are sufficient, competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the Licence and for preventing crime and disorder.
2. The Licensee shall ensure that on each day that door supervisors are engaged for duty at the premises, their details (names and licence numbers) are recorded in an appropriate book kept at the premises. In conjunction with this record book, the licensee shall also keep an incident book. This record book and incident book must be available for inspection by the Police or Authorised Officer at all times when the premises are open.
3. Glass bottles containing beverages of any kind shall not be left in the possession of any patrons after service and following the discharge of the contents into an appropriate glass or drinking vessel.

4. Glass bottles containing wine may be sold for consumption with a meal taken at a table, by customers who are seated in an area set aside exclusively for patrons taking table meals.
5. No persons carrying open or sealed glass bottles shall be admitted to the premises at any time that the premises are open for any licensable activity.
6. One pint and half pint capacity drinking glasses, and highball (tumbler) drinking glasses, in which drinks are served, shall be of strengthened glass (tempered glassware) or of a material whereby in the event of breakage, the glass will fragment with no sharp edges being left. Alternatively, drinks may be served in non-glassware drinking vessels (e.g. plastic, polystyrene, waxed paper).

*(Note. Weights and measures legislation requires the use of “stamped glasses” where “meter-measuring equipment” is not in use.)*

7. No glass drinking vessels or glass bottles shall be permitted (*in the areas described in the attached schedule and delineated on the approved plan.*)
8. No patrons shall be allowed to leave the premises whilst in the possession of any drinking vessel or open glass bottle, whether empty or containing any beverage.

*(Note. This condition shall not apply to patrons who have purchased beverages for consumption off the premises (within the curtilage of the premises licensed area or in the area covered by a Pavement Café Licence) with the express consent of the Licensee, designated premises supervisor or responsible person.)*

9. The Licensee and designated premises supervisor shall ensure that there are effective management arrangements in place to enable them to know how many persons there are in the premises at all times when the premises are open for a licensable activity.
10. The maximum number of persons permitted to assemble on the licensed premises, or relevant part of the licensed premises shall be indicated by a fixed notice bearing the words “Maximum Occupancy” with letters and numbers not less than 20 mm high, conspicuously sited at each relevant part of the premises and at the reception point.
11. All members of staff at the premises including Door Supervisors shall seek “credible photographic proof of age evidence” from any person who appears to be under the age of 18 years and who is seeking access to the premises or is seeking to purchase or consume alcohol on the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a “PASS” logo.
12. A suitably worded sign of sufficient size and clarity shall be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.

13. A conspicuous notice shall be displayed on or immediately outside the premises adjacent to the entrance to the premises which gives details of times when the premises are permitted to be open for any licensable activity.
14. A conspicuous notice shall be displayed on or immediately outside the premises, or which is immediately adjacent to the premises, which gives details of any restrictions relating to the admission of children to the premises.
15. A CCTV system shall be designed, installed and maintained in proper working order, to the satisfaction of the Licensing Authority and in consultation with Northumbria Police. Such a system shall: -
  - Ensure coverage of all entrances and exits to the Licensed Premises internally and externally,
  - The till area
  - Ensure coverage of such other areas as may be required by the Licensing Authority and Northumbria Police.
  - Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (on tape or otherwise) for a period of 28 days, and shall be supplied to the licensing Authority or a Police Officer on request.
  - Be in operation at all times the premises are in use.
16. The Premises Licence Holder and Designated Premises Supervisor shall cooperate with any reasonable crime prevention initiative which are promoted by the Licensing Officer at Gateshead Police Station from time to time.
17. The Premises Licence Holder and Designated Premises Supervisor shall comply with any reasonable measures required by the Licensing Authority from time to time relating to preventing the sale of alcohol to children.
18. A 'Challenge 21' policy shall be adopted, ensuring that all members of staff at the premises shall refuse to sell alcohol to anyone who appears to be under the age of 21 and who is seeking to purchase alcohol unless that person provides credible photographic proof of age evidence.
19. Implementing and maintaining a 'Challenge 21' policy, including staff training to prevent underage sales, and ensuring that all members of staff at the premises shall seek credible photographic proof of age evidence from any person who appears to be under the age of 21 and who is seeking to purchase cigarettes and/or alcohol. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a 'PASS' logo.
20. Staff are to be made aware of 'proxy sales' and shall refuse sales of alcohol to adults who they suspect are buying alcohol on behalf of children.

21. Staff shall refuse to sell age restricted products to any adult who they suspect to be passing age restricted products to under age children (i.e. proxy sales). Details of these refusals should also be kept in the ledger.
22. Staff are to be given sufficient training agreed with the Licensing Authority in the control of age-restricted products, refresher training for existing staff and training for all new staff.
23. Accurate training records are to be kept for all staff involved in sales of age-restricted products.
24. A refusals ledger shall be maintained, and made available to Local Authority enforcement officers on request, there refusals to be supported by the CCTV cameras.
25. Staff are to be provided with an unobstructed view of the area immediately outside the shop and entrance.
26. Persons under the age of 18 shall only be allowed to enter or remain on the premises prior to 21.00 hours each day, and only when accompanied by a responsible adult, and with the discretion of the Designated Premises Supervisor.
27. No person carrying open or sealed glass bottles shall be admitted to the premises at any time that the premises are open for any licensable activity.
28. There shall displayed suitably worded signage of sufficient size and clarity at the point of entry to the premises and in a suitable location at any points of sale advising customers that underage sales of alcohol are illegal and that they may be asked to produce evidence of their age.
29. No alcoholic drinks shall be sold or supplied for consumption on weekdays during the term time (inclusive) of [                      ] School.

### **CONDITIONS RELATING TO PUBLIC SAFETY**

30. Notices detailing the actions to be taken in the event of fire or other emergency, including how to summon the fire brigade shall be prominently displayed and protected from damage and deterioration.
31. Temporary electrical wiring and distribution systems shall not be provided without notification to the licensing authority at least ten days before commencement of the work and prior inspection by a suitable qualified electrician. Premises shall not be opened to the public until the work is deemed satisfactory by the above parties.
32. Where it is not possible to give ten days notification to the licensing authority of provision of temporary electrical wiring and distribution systems, the work shall be undertaken by competent, qualified persons.

33. All temporary electrical wiring and distribution systems shall be inspected and certified by a competent person before they are put to use.
34. An appropriately qualified medical practitioner shall be present throughout a sports entertainment involving boxing, wrestling, judo, karate or similar.
35. Where a ring is constructed for the purposes of boxing, wrestling or similar sports, it must be constructed by a competent person, and inspected by a Building Control Officer of the Council (at the cost of the applicant). Any material used to form the skirt around the ring must be flame retardant.
36. At any wrestling or other entertainment of a similar nature, members of the public shall not occupy any seat within 2.5 metres of the ring.
37. Any Licensee wishing to hold a 'Total Fighting' event on the licensed premises shall first apply to the Council for a variation of this licence and in the event that such application is granted, shall comply with any additional conditions that may be imposed. The term 'Total Fighting' shall include any 'full contact' martial arts involving the combined codes of judo, karate and ju-jitsu, judo, sombo and Olympic wrestling or any other mixed martial arts.
38. At water sports entertainments, staff adequately trained in rescue and life safety procedures shall be stationed and remain within the vicinity of the water at all material times.

**CONDITIONS RELATING TO PUBLIC SAFETY IN THEATRES, CINEMAS,  
CONCERT HALLS AND SIMILAR PLACES**

39. The number of attendants on each floor in a closely seated auditorium shall be as set out on the table below:

<b>Number of members of the audience present on a floor</b>	<b>Minimum number of attendants required to be present on that floor</b>
1	One
101	Two
251	Three
501	Four
751	Five
And one additional attendant for each additional 250 persons (or part thereof)	

40. Attendants shall not be engaged in any duties that would hinder the prompt discharge for their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
41. All attendants shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
42. The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.

43. No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction.
44. A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.
45. Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
46. Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
47. In no circumstances shall anyone be permitted to –
  - sit in any gangway;
  - stand or sit in front of any exit; or
  - stand or sit on any staircase including any landings.
48. Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.
49. Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.
50. Any special effects or mechanical installation shall be arranged and stored to minimise any risk to the safety of the audience, the performers and staff.
51. Except with the prior written approval of the Council and subject to any conditions, which may be attached to such approval no special effects shall be used on the premises.

Special effects include:

- dry ice machines and cryogenic fog;
  - smoke machines and fog generators;
  - pyrotechnics, including fireworks;
  - real flame;
  - firearms;
  - motor vehicles;
  - strobe lighting;
  - lasers (see HSE Guide 'The Radiation Safety of Lasers used for display purposes' [HS(G)95] and BS EN 60825: 'Safety of laser products');
  - explosives and highly flammable substances.
52. Where premises used for film exhibitions are equipped with a staff alerting system the number of attendants present shall be as set out in the table below:

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

53. Staff shall not be considered as being available to assist in the event of an emergency if they are: -
- the holder of the premises licence or the manager on duty at the premises; or
  - a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
  - a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.
54. Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
55. The staff alerting system shall be maintained in working order and be in operation at all times the premises are in use.
56. The level of lighting in the auditorium shall be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

### **CONDITIONS RELATING TO PUBLIC NUISANCE**

57. Windows, doors and fire escapes shall remain closed during proposed entertainment events within the premises
58. Noise generated by amplified music shall be controlled by a noise limiting device set at a level determined by the Local Authority Environmental Health Officer, such level being confirmed in writing to the Licensee.

59. Noise limiting devices, once set, cannot be reset or adjusted without consultation with the Local Authority Environmental Health Officer.
60. The lobby doors at the premises shall be kept closed except for access and egress. Door staff shall supervise to ensure that the doors are maintained closed as far as possible when public entertainment is taking place.
61. Clear and legible notices shall be displayed at exits and other circulatory areas requesting patrons to leave the premises having regard to the needs of local residents. In particular, the need to refrain from shouting, slamming car doors and the sounding of car horns shall be emphasised.
62. The premise personal licence holder, designated premise supervisor and door supervisor shall monitor the activity of persons leaving the premises and remind them of their public responsibilities where necessary.
63. Noise and vibration from regulated entertainment shall not be audible at the nearest noise sensitive premises
64. There shall be provided at sufficient regular intervals throughout the premises and grounds litter bins which shall be emptied and waste removed on a frequent basis, and staff and attendants shall as far as reasonably practicable ensure that the public, members and guests do not litter.

#### **CONDITIONS RELATING TO THE PREVENTION OF HARM TO CHILDREN**

65. Children under 18 years will not be allowed access to the premises.
66. The club premises certificate holder shall ensure that all attendants (including volunteers and staff) who are to supervise children have been properly vetted (by and enhanced Criminal Records Bureau check) and have no convictions that would make them unsuitable to supervise children.
67. There shall be child protection policies agreed with the Licensing Authority and actioned accordingly.