

Bury Metropolitan Borough Council



LICENSING POLICY

(Licensing Act 2003)



JANUARY 2008

CONTENTS

- i) Glossary
- ii) Appendices

1. Introduction
2. Authority Profile
3. Licensing Objectives
 - 3.1 Prevention of Crime and Disorder
 - 3.2 Public Safety
 - 3.3 Prevention of Public Nuisance
 - 3.4 Protection of Children from Harm
4. Other Considerations
 - 4.1 Licensing Hours
 - 4.2 Planning
 - 4.3 Cumulative Impact
 - 4.4 Conditions
 - 4.5 Enforcement
5. Premises Licences
6. Personal Licences
7. Provisional Statements
8. Temporary Events Notices
9. Licensing Process

N.B. Whilst this policy endeavours to reflect the legal requirements of the Licensing Act 2003. The Act rather than the Policy will be the definitive reference source for such requirements.

Policy first published January 2005, revised December 2007

i) GLOSSARY

The Licensing Authority (the Authority) is the Council of the Metropolitan Borough of Bury

The operating schedule - a document prepared by an applicant as an essential part of the application. It will detail the licensable activities to be carried out at the premises, the hours of operation which may be different for different activities, the steps to be taken to support the licensing objectives and where alcohol is sold details of the designated premises supervisor.

The Act – the Licensing Act 2003

Secretary of State's guidance – guidance issued under Section 182 of the Act

ii) APPENDICES

1. Statutory Consultees
2. Delegations

1. INTRODUCTION

This policy relates to the licensable activities defined by the Act, namely:-

- a) retail sales of alcohol
- b) the supply of alcohol by or on behalf of a club
- c) the provision of regulated entertainment, being
 - i) performance of a play
 - ii) exhibition of a film
 - iii) an indoor sporting event
 - iv) boxing or wrestling entertainment
 - v) performance of live music
 - vi) playing of recorded music (excluding incidental music)
 - vii) a performance of dance
 - viii) entertainment of a similar description to that falling within v, vi and vii)

where the entertainment takes place in the presence of an audience.

- d) the provision for making music or for dancing
- e) the provision of late night hot refreshment at any time between 11.00pm and 5.00am for consumption on or off the premises.

Bury MBC is the Licensing Authority (the Authority) for the licensing of licensable activities under the provisions of the Licensing Act 2003 (the Act).

The Act requires the Authority in respect of each 3 year period to determine and publish its policy with respect to the exercise of its licensing functions. The Act requires the Authority to consult various bodies before determining and reviewing the policy. Reviews will be conducted using the same process as the original consultation.

During each 3 year period the Authority will keep the policy under review making amendments as it considers appropriate to support the licensing objectives.

To assist this process the Authority will establish a Licensing Forum of interested parties to advise this process. The forum will allow other agencies to participate in discussions with the Authority and assist in the integration of other strategies that may impact on the licensing function, such as crime and disorder, planning, tourism, culture and transport.

The aim of this policy is to strike a balance between the safety and amenity of residents, businesses and those working or engaged in normal activity in and around Bury MBC whilst encouraging a sustainable and vibrant entertainment and cultural industry. Additional opportunities for licensable activities must be matched by appropriate and proportional measures to support the licensing objectives.

The policy is designed to deal with matters within the control of the licence holder. It is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee or licensed premises.

The policy sets out a general approach to the making of licensing decisions that are compatible with the Licensing Act 2003 and the associated guidance. When considering applications the Authority will take into account all relevant representations, and the measures to support the licensing objectives taken by or proposed by the applicant through the operating schedule.

The Authority recognises that the entertainment/leisure industry is a major contributor to the economy and cultural development of the Borough. The Authority wishes to encourage licensees to provide a wide range of entertainment activities within the borough throughout their opening hours and to promote all types of live music, dance, singing, theatre etc. including street art, for the wider cultural benefit of the community. Landowners within the Borough will be encouraged to licence publicly accessible open spaces for appropriate activities. The authority is aware of the need to avoid the imposition of conditions and other controls, which could deter some forms of live entertainment. Only proportionate, reasonable controls necessary for the promotion of the licensing objectives will be considered.

The Authority will endeavour to carry out its licensing functions in a way that supports well managed premises where licence holders display sensitivity to the potential impact of activities on local residents and other businesses.

The Authority will work in partnership with the police, fire service, licensees, residents, all local businesses and a Licensing Forum to promote the licensing objectives and reviews of this policy.

In undertaking its licensing functions, the Authority will be mindful of other legislation, which may impact on the promotion of the licensing objectives.

In adopting this policy, the Authority recognises that each application will be considered on its individual merits.

Nothing in the policy will deter an individual making an application and having that application judged on its individual merits. Similarly the policy will not deter any body or person from making representations in respect of any application or seeking a review of a licence.

This policy has been developed in consultation with the consultees listed in Appendix 1, and whilst it is prepared for the Authority's area it will also take account of the position in adjoining Authorities where common boundaries are relevant in licensing terms.

The Authority will not attempt to regulate matters that are provided for in other legislation e.g. planning, health & safety, fire safety etc., through its licensing functions.

2. AUTHORITY PROFILE

The Authority is one of the 10 Metropolitan Districts of Greater Manchester.

With a population of 180,608 it occupies an area of 9,919 hectares and is based on the 6 towns of Ramsbottom, Tottington, Bury, Radcliffe, Whitefield and Prestwich.

The Authority currently licenses :-

- Alcohol off-licences 149
- Alcohol on-licences 251
- Club certificates 64
- Entertainments (no alcohol) and late night refreshment premises 134
- Personal licences 958

The night time and leisure economy, especially in Bury town centre continues to develop. The Rock Triangle development has proposals for a further 16 licensed premises including a town centre cinema and bowling alley. The East Lancashire Railway now provides a link to the neighbouring town of Heywood and provides a tourism base on the station towns of Bury and Ramsbottom.

3. LICENSING OBJECTIVES

This policy and the actions of the Authority will promote the 4 licensing objectives, namely:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance; and
- d) the protection of children from harm

The Authority recognises that these are the only objectives relevant for the purposes of this policy.

Each licensing objective is considered to be of equal importance within this policy. They will be considered in relation to matters centred on the premises or within the control of the licensee and the effect if any, which the carrying on of that business has on the vicinity.

The applicant will also be expected to demonstrate the positive steps taken to support these objectives through the Operating Schedule provided with the application.

Through consultation and liaison the Authority will endeavour to secure the proper integration of the licensing policy with other Council and Government strategies and policies so far as they impact on the licensing objectives. When appropriate the Authority will consider reports and information from other bodies in relation to these strategies and policies.

The Authority will monitor the impact of licensing on the provision of regulated entertainment, particularly live entertainments.

3.1 PREVENTION OF CRIME AND DISORDER

Applicants will be expected to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified to minimise or prevent crime and disorder in and around the vicinity of their premises. These measures may vary between premises and will be relevant to the individual style and characteristics of their premises and events.

Whilst accepting the constraints of the legislation the Authority will not support drinks promotions that encourage the irresponsible consumption of alcohol and as such have a detrimental effect on any of the licensing objectives.

The Authority commends the Portman Group Code of practice on the Naming, Packaging and Promotion of Alcoholic drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years and older.

The Operating Schedule for premises from which alcohol will be sold must identify the Designated Premises Supervisor. The Authority will expect the Designated Premises Supervisor to have been given the day to day responsibility for running the premises by the holder of the Premises Licence and, as such, be present on the premises on a regular basis.

The Chief Officer of Police must object to the designation of a new or variation to an existing Designated Premises Supervisor where s/he believes that for exceptional circumstances such an appointment would undermine the crime prevention objective.

Certain temporary events are not required to be licensed but may need to be notified to the Authority using the Temporary Event Notice procedure. Depending on the nature and location of such events, these can have serious crime and disorder implications. Whilst accepting that the statutory notification period is a minimum of 10 days organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the Police and the Authority to work with them to identify and reduce the risk of crime and disorder.

3.2 PUBLIC SAFETY

The Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be expected to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified to ensure public safety, relevant to the individual style and characteristics of their premises and events.

3.3 PREVENTION OF PUBLIC NUISANCE

The Authority understands 'public nuisance' to include such issues as noise and disturbance, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

The Authority accepts that a licence/club certificate holder is responsible for the control of activities on and in the vicinity of their premises. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour.

The Authority recognises the intention of the legislation in seeking to achieve a more flexible-licensing regime with the concept of wider hours of operation than previously existed. Applicants, particularly those wishing to operate late into the night, will need to demonstrate that they have taken measures to minimize the potential for nuisance to arise.

Off sales of alcohol in shops, stores and supermarkets etc. will generally be permitted during the normal hours they wish to open, in accordance with the hours granted in any planning consent. However, in the case of individual premises, which are a focus for disorder and disturbance then, subject to representations, limitations may be appropriate.

The Authority recognises the special position of restaurants or other premises where the sale of alcohol is incidental to the main licensable activities at the premises.

When addressing the issue of prevention of public nuisance, an applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered.

3.4 PROTECTION OF CHILDREN FROM HARM

It is hoped that family friendly premises will thrive, but the prevention of harm to children remains of paramount importance when determining applications

The protection of children from harm includes the protection of children from moral, psychological and physical harm and, in relation to the exhibition of films or transmission of programmes or videos, includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and their lack of understanding of danger.

The Authority recognises that with few exceptions the Act allows for the free access of children to all licensed premises, subject to the licensee's discretion and any conditions applied to the licence.

When considering applications for premises licences and options appropriate to prevent harm to children, the Authority will take into account the history of a particular premises and the nature of the activities proposed to be provided.

For example:

- ▶ 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 serious/substantial gambling on the premises, or
- ▶ Where entertainment of an adult or sexual nature is commonly provided

In these circumstances, conditions may be attached to any licence to:

- ▶ Limit the hours when children may be present
- ▶ Restrict the age of persons on a premises
- ▶ Limit or exclude when certain activities may take place, or
- ▶ Require an accompanying adult.

Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. Applicants will be expected to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified to protect children from harm, relevant to the individual style and characteristics of their premises and events.

In exceptional circumstances conditions restricting access or excluding children completely may be considered necessary.

Where large numbers of unaccompanied children are likely to be present, for example, a children's show or pantomime, the presence of an appropriate number of adult staff may be required. If appropriate the provision of such staff should be included in the Operating Schedule.

In the case of film exhibitions, the Licensing Authority will expect licensees to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or by the Council. In the case of a film exhibition that has not been classified, the Licensing Authority will expect a licensee to conduct an assessment of the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if necessary.

The Authority will support proof of age schemes, particularly those with PASS accreditation, as a means of protecting children.

4. OTHER CONSIDERATIONS

4.1 LICENSING HOURS

The Authority recognises the widespread fixed closing times in certain areas can lead to peaks of disturbance and disorder when large numbers of people emerge onto the streets at the same time. Flexible licensing hours, particularly where alcohol is involved may therefore be an important factor in reducing friction at late night food outlets, taxi ranks and other late night services.

The Authority accepts as a general principle, activity which does not undermine the licensing objectives, taking place over 24 hours and 7 days a week.

No general restriction or limitation on hours in any area is imposed by this policy.

The hours requested by the applicant will normally be approved where the applicant can show that the proposal would not adversely affect the environmental quality, residential amenity and character of any particular area. Where late hours are requested, particularly for those involving entertainment and in residential areas, **subject to representations received**, the imposition of stricter conditions may be appropriate to support the licensing objectives.

4.2 PLANNING

Within the Authority the licensing and planning functions are separate. Operating hours granted within the licensing process will not replace any restrictions imposed as a planning condition and vice-versa. Planning and licensing matters will have to be addressed separately through the relevant process.

It is recognised that in certain circumstances a provisional statement may be sought alongside planning permission.

When necessary there will be an regular exchange of information between the Planning and Licensing Committees regarding the numbers, types etc. of licensed premises.

4.3 CUMULATIVE IMPACT

Nothing in this policy will seek to limit the number of licensed premises simply because the Authority, any interested party or responsible authority consider that there are enough licensed premises to satisfy demand. This is properly a commercial decision for the applicant.

However, where it can be demonstrated, in a particular identifiable area, that excessive crime/disorder/nuisance has arisen, or the amenity of local residents/ businesses is being placed under severe pressure by the customers of licensed premises and it is not possible to attribute those problems to individual premises the Authority will, with full consultation, consider the introduction of a special saturation policy.

The Authority also recognises that in dealing with these types of issues a number of other mechanisms may provide alternative remedies.

4.4 CONDITIONS

The Authority will not impose standard conditions on licences, nor will it impose disproportionate or over burdensome conditions on licences.

The Authority may develop and publish a pool of conditions. From where, following representations or to support suggested action by the applicant there is a need for conditions to be attached they will be tailored to the individual style and characteristics of the premises or activity concerned.

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

Where late hours are requested, particularly for those involving entertainment and in residential areas, the imposition of stricter conditions may be appropriate to support the licensing objectives.

4.5 ENFORCEMENT

If the need arises enforcement action will be taken in accordance with the Authority's agreed enforcement policy which reflects the principles of the Enforcement Concordat.

In general terms enforcement will be targeted to agreed problem and high risk premises/activities which require greater attention, premises which are well

run and managed and therefore present a lower risk will enjoy a greater degree of self regulation.

The Authority intends to develop protocols with the Police and other enforcement bodies.

Where a licence holder is convicted of an offence under the Act, associated legislation or as a result of some other serious crime a review of the licence is likely to follow.

5. PREMISES LICENCES

Licences may be required for public spaces, buildings such as community halls, parks and other open places. The Authority will support the owners of such spaces, including the Council, where appropriate applying for a licence. Licensable activities, carried on by many different organisations can then simply take place with the permission of the licence holder.

6. PERSONAL LICENCES

Through the Operating Schedule the Authority will expect assurances on the accessibility of the personal licence holders and designated premises supervisors.

7. PROVISIONAL STATEMENTS

The Authority recognises that in certain situations businesses and developers need to have security that a premises licence is likely to be granted following construction or alteration of unlicensed premises.

The Authority will issue provisional statements in accordance with the Act and guidance.

8. TEMPORARY EVENTS NOTICES

Although Temporary Events are not subject to the same degree of control as premises which are the subject of Premises Licences, individuals who give notice of such events will be encouraged to organise the event in a way that supports all of the Licensing Objectives.

Whilst accepting that the statutory notification period is a minimum of 10 days, organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the Police and the Authority to work with them to identify and reduce any risk of crime and disorder the applicant to ensure a safe, successful event.

9. THE LICENSING PROCESS

The Authority will be prepared to discuss an application with an applicant prior to formal application.

The processing of applications and variations by the Authority is controlled by a strict timetable. To ensure the Authority meets that timetable the Authority will not normally accept an application unless it is complete in all respects at the time of submission.

The duties of the Authority under the Act may be carried out by the Licensing & Safety Panel, by a Sub-committee or by one or more officers, acting under authority delegated to them by the Authority. Appendix 2 provides an indication of the way in which the various functions will be delegated.

It is expected that many of the functions of the Authority will be largely administrative in nature, with no perceived areas of contention. In the interests of efficiency and cost-effectiveness officers will for the most part, carry these out.

The Authority will expect applicants to address all the Licensing Objectives in their Operating Schedules, having regard to the type of premises, the licensable activities proposed, the operational procedures, the nature of the location and the needs of the local community.

The Authority will have regard to Guidance issued by DCMS when determining applications. In particular, account will be taken of the need to encourage and promote live music, dancing and similar activities for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for disturbance in a particular neighbourhood, then those concerns will be carefully balanced against the wider benefits to the community. The Authority acknowledges the advice of DCMS that the views of vocal minorities should not be allowed to predominate over the general interests of the community.

The Authority will endeavour to ensure that, if a decision is made which is contrary to the DCMS Guidance, the applicant will be given a full explanation of that decision.

APPENDIX 1

[To be completed in detail during consultation exercise]

STATUTORY CONSULTEES

- a) Greater Manchester Police
- b) Greater Manchester Fire Service
- c) Persons/bodies representative of local holders of premises licences
- d) Persons/bodies representative of local holders of club premises certificates
- e) Persons/bodies representative of local holders of personal licences
- f) Persons/bodies representative of business and residents in the area
- g) The body responsible for the protection of children

OTHER CONSULTEES

List and feedback to be added

Contact details of responsible bodies to be added

APPENDIX 2

EXERCISE AND DELEGATION

The Authority will exercise and delegate functions in accordance with this table.

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a representation made	If no representation made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary designated personal licence holder		If a police representation	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police representation	All other cases
Application for Interim Authorities		If police representation	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 lead authority			All cases
Determination of a police representation to a temporary event notice		All cases	

The full committee will consist of 13 members, with a quorum of 3.

A sub-committee will consist of 3 members.