

BURY LICENSING POLICY 2011 - 2014

Licensing Act 2003

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# **BURY LICENSING POLICY**

## **Licensing Act 2003**

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Please note: 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.

Ratified by Council on XXXXX.

To find out more about any licensing related matter please contact the Licensing Office at Bury Council, 3 Knowsley Place, Duke Street, Bury, BL9 0EJ. Email: [licensing@bury.gov.uk](mailto:licensing@bury.gov.uk)  
Telephone Number: 0161 253 5208.

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## i) Glossary

### **Act**

The Licensing Act 2003 as amended.

**Applicant** – within the statement of licensing policy may mean applicant, licence holder, club premises certificate holder as appropriate

### **Designated premises supervisor/DPS**

Designated person with day to day control in premises that sell alcohol (specified on the Premises Licence).

**NB** there is no requirement for a DPS in premises operated through a club premises certificate

### **Interested Parties**

- persons who live, or are involved in a business, in the relevant licensing authority's area
- a member of the relevant licensing authority.

### **Licensing Authority (the Authority)**

Council of the Metropolitan Borough of Bury.

### **Licensing Objectives:**

Licensing Authority must carry out its functions under the Licensing Act 2003 with a view to promoting

- 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 Licensing Register**

The Licensing Register contains details of all Premises Licences and Club Premises Certificates. The register is available online at:

<https://licensing.bury.gov.uk/PAforLalpacLIVE/>

### **Operating schedule**

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.

### **Relevant Representations**

There are various types of applications that can be made under the Act, and in most cases representations are invited in relation to them. However, to be considered by an Authority they must be 'relevant representations' as defined by the Act.

A 'relevant representation' is one that is made in writing and:

- is about the likely effect of the licence on the promotion of the licensing objectives;
- has been made by a responsible authority, or other person as defined by the Act, within the relevant time period as prescribed by regulation;
- has not been withdrawn; and
- has not been determined by the Licensing Authority as frivolous or vexatious (or repetitious in respect of a review).

**Responsible Authorities** – bodies defined within the Act as detailed at appendix 1.

**Secretary of State’s guidance**

Guidance issued under Section 182 of the Act. To which the Licensing Authority must have regard in discharging its duties

**ii) Appendices**

1. Responsible authorities and useful websites
2. Exercise and delegation of functions
3. Mandatory Conditions
4. Model Conditions
5. Hypnotism
6. Statutory Qualifying conditions for clubs
7. Management of potential noise nuisances
8. Local Authority as Responsible Authority
9. Good Practice for making a representation
10. Information for residents and other persons

**iii) Consultees** – a full list of consultees and their relevant responses are available from the Licensing Service

Further details about the licensing and application process, including application forms, can be obtained from:

Licensing Service  
3 Knowsley Place  
Duke Street  
Bury  
BL9 0EJ  
Telephone: 0161 253 5208  
Fax: 0161 253 6090  
Email: [licensing@bury.gov.uk](mailto:licensing@bury.gov.uk)  
Website: [www.bury.gov.uk](http://www.bury.gov.uk)

**Useful web links**

<https://licensing.bury.gov.uk/PAforLalpacLIVE/> Bury Council’s Public Registers  
[www.bury.gov.uk](http://www.bury.gov.uk) – Bury Council website  
[www.gov.uk](http://www.gov.uk) – contains the Licensing Act 2003 and associated regulations

## **1.0 Scope and Context of the Policy**

- 1.1** Applications for new premises licences or variations need to be supported by an operating schedule. The schedule must specify (among other things) the steps which the applicant proposes to promote each of the licensing objectives.

If no relevant representation is made with regard to the application, the licensing authority must grant the application as set out in the operating schedule, subject only to mandatory conditions under the Act. Steps proposed by the applicant within the operating schedule will become licence conditions. The licensing authority will have no discretion to refuse the application or to alter or add to the conditions arising from the operating schedule.

Where there are relevant representations, then a hearing before a Hearings Panel will normally follow. The Panel must, having regard to the representation and take such steps as it considers appropriate to promote the licensing objectives. These may include refusing the application, or adding to or modifying the conditions proposed in the operating schedule.

In exercising its discretion, the Panel will have regard (amongst other things) to this licensing policy. In preparing their operating schedule, applicants are advised to read the policy carefully. Where an operating schedule complies with this policy, it is generally less likely that a responsible authority or other person will object to it, or that any objection will succeed. Compliance with this policy is likely to assist the applicant to avoid the delay and expense of a contested hearing, and the risk of a refusal or the addition of unwanted licence conditions.

This not to say that an opposed application which complies with the policy will necessarily be granted or that an opposed application which does not comply with it will necessarily be refused. Where there have been relevant representations, the licensing authority will always consider the merits of the case, and interfere with the operating schedule only when, and to the extent, appropriate to promote the licensing objectives. Nor will blanket or standard conditions be applied without regard to the merits of the individual case. So, for example, the licensing authority will not interfere with an operating schedule which does not comply with this policy where the steps proposed are sufficient to meet the licensing objectives in the individual circumstances of the case.

The policy represents the licensing authority's view of the best means of securing the licensing objectives in most normal cases. It has been drawn up in consultation with other expert bodies and responsible authorities, together with community stakeholders. While the contents of the operating schedule are a matter for the applicant, where there is objection to a schedule which departs from the policy, the Panel hearing an opposed application will normally expect to be given a good reason for the departure if it is to be asked to make an exception to the policy.

In this policy, there are a number of references to the licensing authority's expectations of applicants. As explained above, the policy is only engaged where the licensing authority has a discretion following the receipt of objections. In such cases, the licensing authority will not apply the policy rigidly, but will always have regard to the merits of the case with a view to promoting the licensing objectives.

Further, the licensing authority may use this policy when exercising other licensing functions. For example, when considering an application for review of a licence, the licensing authority is likely to view with concern premises which are being operated in clear breach of the terms of this policy.

This policy relates to the licensable activities defined by the Act.

- a) Retail sales of alcohol.
- b) The supply of alcohol by or on behalf of a club.
- c) Providing the following regulated entertainment in the presence of an audience.
  - 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).
- d) Providing late night hot refreshment at any time between 11pm and 5am for consumption on or off the premises. – need to check all these are still relevant

Bury Council is the Licensing Authority (the Authority) for the licensing of licensable activities under the provisions of the Licensing Act 2003 (the Act). Appendix 2 identifies the delegation of functions within the Authority.

- 1.2** The Act requires the Authority in respect of each 5 year period to determine and publish a statement of licensing policy with respect to the exercise of its licensing functions. The Act requires the Authority to consult various bodies before determining and in reviewing the policy. Reviews will be conducted using the same process as the original consultation.

This policy comes into force on **????????**, and will remain in force for a period not exceeding five years, and will be subject to review and further consultation before **????????**. During each five year period the Authority will keep the policy under review making amendments as it considers appropriate to support the licensing objectives.

- 1.3** In undertaking its licensing functions, the Council will be mindful of other legislation which may impact on the promotion of the licensing objectives, for example:
- Crime and Disorder Act 1998 in particular Section 17
  - Environmental Protection Act 1990 (as amended);
  - Noise Act 1996;
  - Anti-social Behaviour, Crime and Policing Act 2014
  - Clean Neighbourhoods and Environment Act 2005 (including powers for the Local Authority to issued fixed penalty notices to licensed premises emitting noise that exceeds the permitted level between 11pm and 7am);
  - Violent Crime Reduction Act 2005
  - Police and Crime Act 2009
  - Police Reform and Social Responsibility Act 2011
  - Health Act 2006
  - European Union Services Directive.

The Authority will not attempt to regulate matters that are provided for in other legislation through its licensing functions.

**1.4** 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. It does not prevent any individual from making any application and having it considered on its individual merits. Nor does it seek to override the right of any person to make representations on an application or to seek a review where the Act allows them to do so. 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 unless relevant representations are received in respect of an application there is no provision for the Licensing Authority, to refuse an application or impose conditions on a licence other than those proposed within the application.

Nothing in this policy will seek to limit the number of licensed premises simply because the Licensing 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.

**1.5** The Policy is integral in managing the role licensed premises play throughout the borough. A key aim of the policy is to ensure that licensed premises have a positive impact on their locality. 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.

**1.6** 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. Where premises do cause problems; they will be addressed swiftly and in the most appropriate manner.

**1.7** The policy aims to strike a balance between the safety and amenity of residents, visitors, businesses and those working or engaged in normal activity in and around the Borough. It seeks to support the Borough as a desirable destination for the widest range of user groups. In embracing a vision for the development of a successful and vibrant night time and evening economies it will encourage an entertainment and cultural offer with a diverse range of activity rather than premises focused mainly or exclusively on the sale of alcohol. The policy and seeks to support the philosophy of Purple Flag.

**1.8** The policy cannot detail every factor that influences the achievement of the licensing objectives nor can it detail all the control measures that may be appropriate. Individual applicants and licence holders must consider the licensing objectives and control measures with regard to the particular nature of their business. Additional opportunities for licensable activities must be matched by appropriate and proportional measures to support the licensing objectives.

**1.9** The Authority will aim 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.

**1.10** The policy is designed to deal with matters within the control of the licence/club certificate holder on and in the vicinity of their premises. 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



- 1.11** Whilst the policy 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.
- 1.12** In some cases additional licences may be required under separate legislation, for example sexual entertainment venues, civil marriage venues and Performing Rights Society permissions.
- 1.13** General advice on organising events is available on the Council's Website: [www.bury.gov.uk](http://www.bury.gov.uk)
- 1.14** The licensing authority recognises there is no public health licensing objective and therefore cannot conduct its licensing function in order to promote public health. The licensing function can only be carried out to promote the four licensing objectives as set out by the Licensing Act 2003.

Through ensuring the responsible selling of alcohol, this may impact on reducing a person's drinking at harmful or hazardous levels. However, it is recognised that any such positive impact will be as a coincidence of the licensing authority conducting its licensing function under the Act to promote the Licensing Objectives. Local Health Bodies potentially have access to much data that can inform licensing decisions and policy. When such data is presented it will be considered and where links are made to any of the four licensing objectives it will be taken into account by the Licensing Hearings Panel in reaching its decision. The licensing authority recognises the impact of alcohol misuse in Bury and it is hoped that through the implementation of this licensing policy the promotion of the four licensing objectives will in turn have a positive effect on preventing alcohol misuse. For example by ensuring licensed premises refuse sales of alcohol to children, or those attempting to purchase it on behalf of children; this will impact positively on a reduction in child alcohol related health problems. Additionally, by preventing the use of illegal drugs on licensed premises, it is hoped this might reduce combined alcohol and drug misuse, which is a significant issue in the borough.

Any person that is encountering problems related to a licensed premise or activity should contact the licensing authority in the first instance to report the problem. Please contact Bury Council's Licensing Service:

**Email: [licensing@bury.gov.uk](mailto:licensing@bury.gov.uk)**  
**Or Telephone: 0161 253 5208**

## **2.0 Authority Profile**

- 2.1** The Authority is one of the 10 Metropolitan Districts of Greater Manchester. With a population of 181,300 it occupies an area of 9,919 hectares and is based on the 6 towns of Ramsbottom, Tottington, Bury, Radcliffe, Whitefield and Prestwich. The evening economy operates predominately around Bury Town Centre.

The Authority currently licenses:  
453 Premises Licences with Alcohol  
127 Premises without Alcohol  
51 Club Premises Certificate  
1822 Personal licences

Bury was transformed with The Rock development in 2010/11. This major development based on Bury town centre doubled the retail floor space, delivering a

broad mix of retail, leisure, tourism, offices and residential property. Of particular significance was an expansion of the retail sector in the daytime economy with an additional 52 new retail units. New food and drink outlets, plus a 10 screen Vue cinema, AMF bowling has supported a growth of the night time economy to the extent that during 2014 the Council applied for and gained the Purple Flag accreditation. The development also includes over 400 residential units offering a 'city centre living' concept. This development has considerably increased the number of new residents, shoppers and leisure consumers on weekdays as well as weekends.

**2.2** Whilst the physical expansion of Bury Town Centre has created considerable opportunities and challenges, of equal or greater significance is its development from what was predominately a retail centre into one that has a mixed leisure and residential component. A previous criticism of the centre was that the evening economy consists of little other than outlets selling alcohol and fast food offerings that compete in terms of price and length of opening hours.

**2.3** 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.

Council parks currently licensed for entertainment within Bury are:

- Whitehead Memorial Gardens, Bury
- Clarence Park and Miss Walker's Fields, Bury
- Nuttall Park, Ramsbottom
- St Mary's Park (playing fields), Prestwich
- Openshaw Park, Bury
- Hoyles Park, Bury
- Close Park, Radcliffe

**2.4** The East Lancashire Railway provides a tourism base on the station towns of Bury and Ramsbottom and a link to the neighbouring borough of Rochdale at Heywood station. Bury also has a bus/ metro interchange which provides links strong links to other neighbouring areas.

### **3.0 Operating Schedule**

**3.1** The Operating Schedule is a major part of the application process; it should detail the steps which an applicant intends to take to promote the licensing objectives. Applicants are encouraged to undertake a risk assessment process in preparing an application which may cover the premises layout, construction and design, the licensable events and activities to be undertaken, control measures and the anticipated customer profile. Applicants are expected to include positive proposals in their application on how they will manage potential risks.

**3.2** Whilst the Licensing Authority cannot require such risk assessments to be documented, (other than where required by other legislation), in appropriate cases it would consider such documentation to be good practice and a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder, in the event of changing circumstances/conditions at the premises.

- 3.3** Responsible bodies and interested parties will scrutinise the schedule to get a thorough understanding of how the business will operate. The more detail given in the schedule the less likely the responsible bodies and interested parties are to raise concerns. Applicants are encouraged to consult relevant responsible bodies prior to application to ensure any concerns are understood at an early stage and are addressed via the schedule
- 3.4** Applicants are strongly encouraged to consider all matters within their control that support the licensing objectives. The more matters are dealt with through the Operating Schedule at the application stage the less likely applications are to attract representations. Measures to be taken identified through the schedule will form the basis of the conditions to be attached to the licence.
- 3.5** Additional opportunities for licensable activities must be matched by appropriate and proportional measures to support the licensing objectives especially where activities are planned to go late into the night or early morning. Premises in close proximity to residential areas should consider what effect their business will have on smoking, noise and dispersal policies etc to ensure the promotion of the public nuisance objective.
- 3.6** Premises selling alcohol must identify the Designated Premises Supervisor (DPS). The Authority will expect the DPS 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 will 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.
- 3.7** Additional measures may be necessary on an occasional basis when a special event or promotion is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature. Where anticipated reference should be made to such events in the operating schedule with the additional measures planned to promote the licensing objectives.
- 3.8** The Licensing Authority accepts that the Operating Schedule will reflect the circumstances at individual premises. Applicants are encouraged to liaise with the relevant responsible body when compiling their operating schedules.

#### **4.0 Licensing Objectives**

This policy and the actions of the Authority will promote the 4 licensing objectives.

- a) The prevention of crime and disorder
- b) Public safety
- c) The prevention of public nuisance
- 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.

## 4.1 Prevention of Crime and Disorder

Prevention of crime and disorder is both an objective of the Act and an important responsibility of the Authority under the Crime and Disorder Act 1998.

The Authority will expect applicants to demonstrate in their Operating Schedule that suitable and sufficient measures have been considered to minimise or prevent crime and disorder in and around the vicinity of their premises and how any identified control measures will be implemented. Control measures may vary between premises and will be relevant to the individual style and characteristics of their premises and events. The design and layout of premises can assist in the prevention, detection and recording of crime and disorder. A change in customer numbers or profile can alter the risks associated with any particular business.

### 4.1.1 Factors for consideration

In considering applications, the Authority will expect the applicant to have considered a variety of matters which may include:

- a) Effective and responsible management of premises
- b) Customer profile, potential for underage drinking and drink abuse and capacity control to prevent overcrowding. A change in customer numbers and profile can alter the risks associated with any particular business
- c) Condition and design of the premises including the provision of security measures, such as lighting outside premises. The design and layout of premises can assist in the prevention, detection and recording of crime and disorder.
- d) Use of CCTV both within and outside the premises where necessary which is compliant with the Information Commissioners Office guidance relating to surveillance camera code of practice; Applications in relation to licensed premises must take into account the circumstances surrounding that application and whether a requirement to have a surveillance camera system is appropriate in that particular case.
- e) Procedures for the risk-assessment of promotions and events that have the potential to cause or increase crime and disorder risks, and plans for minimizing the effects
- f) Measures to be put in place to help prevent the use or supply of illegal drugs, search and provision of secure deposit boxes for confiscated items
- g) Employment and regulation of licensed door supervisors and other appropriately trained supervisors/staff
- h) Active participation in an appropriate Pub & Club Watch Scheme, or other scheme designed to ensure effective liaison with the local community, the responsible authorities and other licensees, including participation in a local radio/pager link scheme and communication with the Police

- i) Dispersal Policy and the control of customers entering/ leaving the premises with opened bottles and glasses when observing smoking regulations etc
- J) Potential effects arising from the provision of adult entertainment
- K) Operation of glass collection and spillage policy
- L) Provision of toughened or plastic/polycarbonate glasses and bottles and/ or the decanting from glass bottles where appropriate
- M) Use of a last entry time for the premises

This list is not exhaustive and is provided, simply, to give examples of proposals for consideration in the operating schedule. Some control measures will assist in the promotion of more than one of the licensing objectives.

## **4.2 Public Safety**

Public safety is about protecting the safety and the lives of patrons. It is the expectation of the Authority that anyone visiting a licensed venue can do so in complete safety, confident that they are visiting premises that have been constructed with safety in mind are well managed and maintained. Applicants will be expected to demonstrate through the Operating Schedule that suitable and sufficient measures have been considered and adopted to ensure public safety, in and around the vicinity of their premises and how any identified control measures will be implemented. In certain situations customers may be in unfamiliar surroundings and under the influence of alcohol. Additionally, they may be subject to reduced lighting levels and increased sound levels. The use of special effects may increase a feeling of disorientation. Control measures may vary between premises and will be relevant to the individual style and characteristics of their premises and activities.

### **4.2.1 Factors for consideration**

The Authority will expect the applicant to have considered a variety of control measures which may include:-

- a) the capacity of the venue
- b) the condition, design and layout of the premises
- c) the nature of the activities to be provided whether licensable or not (e.g. hypnotism; see appendix 4
- d) the use of any special effects such as lasers, smoke/ foam machines
- e) means of access and egress
- f) the use of CCTV
- g) hours of operation
- h) customer profile including any special needs of any groups
- i) staff training especially in dealing with emergency situations, evacuations, over crowding etc
- j) conduct a Fire Risk Assessment for the premises, which is reviewed regularly
- k) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers etc.
- l) use of a daily pre-opening and closing checklist
- m) Operation of glass collection and spillage policy
- n) Use of a last entry time for the premises

- o) effective management of exterior spaces (e.g. beer gardens, smoking areas). Cleansing arrangements and ensuring the premises and surrounding area are kept clean and free of litter

This list is not exhaustive and is provided, simply, to give examples of appropriate proposals for consideration in the operating schedule. Some control measures will assist in the promotion of more than one of the licensing objectives.

### **4.3 Prevention of Public Nuisance**

**4.3.1** Activity involving entertainment, eating or drinking in a public venue has the potential to impact adversely on the surrounding area as a result of noise, smells, or congestion. It may be caused by the premises directly or customers when leaving, leaving litter or taking up on-street car parking space in close proximity to residential premises.

The Authority defines 'public nuisance' widely to include 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 impact of noise generated by these activities is particularly intrusive at night when ambient noise levels are much lower. As a result the Authority may make a distinction between the approach taken in predominantly commercial areas and predominately residential areas.

**4.3.2** The Authority recognises the intention of the legislation to achieve a more flexible-licensing regime with the concept of wider hours of operation. However, this does not mean that all venues are suitable either by design or location to host every form of licensable activity. Experience shows that premises adjoining or in close proximity to residential properties do not lend themselves to all forms of entertainment and longer operating hours. The Authority will expect applicants, particularly those wishing to operate late into the night, to demonstrate that they have taken strong effective measures to minimise the potential for nuisance to arise.

#### **4.3.3 Factors for consideration**

The Authority will expect the applicant to have considered a variety of control measures which may include:

- a) the hours of opening and operation
- b) the nature of the activity at the premises
- c) the location and use of nearby properties
- d) the number of people likely to attend the venue, available transport options and dispersal policy
- e) the design and layout of the premises
- f) operation of the premises to prevent escape of noise, smells etc
- g) the use of outdoor areas
- h) last admissions policy
- i) queue control
- j) effective management of exterior spaces (e.g. beer gardens, smoking areas). Cleansing arrangements and ensuring the premises and surrounding area are kept clean and free of litter
- k) responsible management of the use of flyers and other promotional material
- l) Appropriate arrangements for deliveries and collections

This list is not exhaustive and is provided, simply, to give examples of appropriate considerations for inclusion in an operating schedule. Some control measures will assist in the promotion of more than one of the licensing objectives. Appendix 8 gives applicant's guidance on management of potential noise nuisance.

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

**4.4.1** 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 protection 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 content. 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.

**4.4.2** 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 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. 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. In certain circumstances conditions restricting access or excluding children completely may be considered necessary.

**4.4.3** 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. Special consideration is expected to be given to promoted events in licensed premises aimed at, or likely to attract, persons under 18. The licensing authority expects robust measures to be in place to address potential risks associated with such an activity.

#### **4.4.4 Factors for consideration**

The Authority will expect the applicant to have considered a variety of control measures which may include:

- a) the appropriateness of activities conducted on the premises
- b) an age restriction or age based exclusion for certain events
- c) proof of age schemes and the use of a refusals log
- d) the potential for underage drinking or other underage activity
- e) limits on the hours children can be on the premises, including identification of times when children should not be present
- f) the need for an accompanying adult or additional staff
- g) the use of licensed door staff
- h) the need to formally vet staff through the DBS scheme
- i) controlled viewing of age-restricted films to the recommendations of the British Board of Film Classification or by the Council.

This list is not exhaustive and is provided, simply, to give examples of appropriate considerations for inclusion in an Operating Schedule. Some control measures will assist in the promotion of more than one of the licensing objectives.

## **5.0 Licensing Hours**

- 5.1** The Authority recognises the argument that widespread fixed closing times in certain areas can lead to peaks of disturbance and disorder if 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 that as a general principle, the act permits activity which does not undermine the licensing objectives, taking place over 24 hours and 7 days a week. The hours requested by the applicant will normally be approved where the applicant can show that the proposal would not, with regard to the licensing objectives, adversely affect the environmental quality, residential amenity and character of any particular area.

- 5.2** Applicants, who wish to sell or supply alcohol for consumption on premises, are expected to include in the Operating Schedule the times when the premises will open, when sales of alcohol will commence and cease, and the time when the premises will be closed. Shops, stores and supermarkets will generally be permitted to sell alcohol during their normal retail hours. However, in the case of individual premises which are a focus for disorder and disturbance then, subject to representations, limitations may be appropriate.

- 5.3** No general restriction or limitation on hours in any area is imposed by this policy but in seeking hours of activity that go through the night and into the morning, applicants will be expected to show, through the Operating Schedule, strong, proactive action and taking of their responsibilities to ensure their management of premises do not allow situations to develop which undermine the licensing objectives. Where late hours are requested, particularly for those in residential areas, subject to representations received, the imposition of stricter conditions may be appropriate to promote the licensing objectives.

- 5.4** Off sales of alcohol from retail outlets will generally be permitted during the premises regular opening hours. 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 position of restaurants and other premises where the sale of alcohol is incidental to the main licensable activities at the premises.

- 5.5** The Council will always consider the nature of the licensed activity, the location of the premises and the proximity of surrounding late night commercial and residential uses. Where there is already an adverse impact on neighbouring residents, or an anticipated impact from licences granted but not yet trading, the Council will consider the extent to which the proposed use will add to that impact. The absence of appropriate infrastructure or resources to regulate activity in public areas beyond the responsibility of the licensee may be a factor in considering whether later hours for a particular premise should be granted. The nature of the licensed activity is an important consideration. A



restaurant, for example, where alcohol is served to seated customers with food is less likely to impact on residential amenity than a use where the primary activity is alcohol consumption.

Where relevant representations are made, especially in residential areas, the Authority may seek to impose a time when the regulated activity needs to stop. This may be a different time to the closing times at the premises.that doesn't give rise to nuisance. Later closing times may be permitted in certain circumstances:

- where there is a high level of accessibility to public transport services; and
- where there is an appropriate amount of car parking, readily accessible to the premises, and in places where vehicular movement will not cause demonstrable adverse impact to local residents
- where through the Operating Schedule an applicant indicates that appropriate steps to comply with the licensing objective of preventing public nuisance are to be taken.
- the licensed activities would not be 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;
- there will not be any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area.

## **6.0 Planning**

**6.1** Within the Authority the licensing and planning functions are separate. It is strongly recommended that prospective applicants contact the Planning Service in advance of making a licensing application to seek advice on any planning consents or any conditions relevant to the premise to ensure planning and licensing usage is compatible. Where, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes that is different to the licensing hours, the licence holder must observe the earlier closing time in order to avoid any breach of conditions.

**6.2** It is also advised that if consent has not already been granted, reference is made to various planning policies contained in the adopted Bury Council Unitary Development Plan and the emerging Local Plan in order to ascertain whether any controls are also relevant from a planning perspective.

Copies of the relevant Policy Documents can be found on the Councils web site under Planning Policy or by following the link below:  
<http://www.bury.gov.uk/index.aspx?articleid=3602>

**6.3** The Licensing Authority is not bound by decisions made by the Planning Committee and vice versa, so the grant of planning permission does not mean a licence will automatically be granted and vice versa. The granting of any licence or variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control consent where appropriate.

**6.4** As the need arises there will be an exchange of information between the Planning and Licensing Committees regarding the numbers, types etc. of licensed premises. The Licensing & Safety Panel may receive reports on the needs and aspirations of the local tourist economy, the Cultural Strategy and

the current employment situation to enable the Panel to reflect these matters in their considerations notwithstanding the fact that decisions on applications made under the Act, shall be made on the basis of promoting the licensing objectives.

## **7.0 Cumulative Impact**

**7.1** Where the Licensing Authority receives representations from a responsible authority or an interested party that the cumulative effect of new licences is leading to an area becoming saturated with premises making it a focal point for large groups to gather in and circulate away from leading to excessive crime/disorder/nuisance or loss of amenity of local residents/businesses 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

**7.2** Where there is evidence that a particular area of the district 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 application for premises within any area identified. As such, the Authority will take into account:

- The character of the surrounding areas
- The impact of the licence on the surrounding area, both individually and cumulatively with existing licences; and
- The nature and character of the proposed operation
- In considering all licence applications, the Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or public disorder and to support the licensing objectives.

## **8.0 Conditions**

**8.1** The Authority will not impose standard conditions on licences, nor will it impose disproportionate or over burdensome conditions on licences. However, where late hours are requested, particularly for those involving activities within residential areas, the imposition of stricter conditions may be appropriate to support the licensing objectives and they may be time and/or activity related.

**8.2** There are a number of mandatory licensing conditions applicable to all licences that permit the sale or supply with alcohol. These are reproduced at Appendix 3.

**8.3** The Authority has developed and published a pool of model general conditions attached as Appendix 4. Applicants are encouraged to consider the inclusion of relevant conditions within their operating schedule at the time of application. The conditions are for guidance only and do not form part of the policy, they will be modified and added to as the need arises. 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.

## **9.0 The Licensing Process**

- 9.1** The Authority will be prepared to discuss an application with an applicant prior to formal application and in the event of an application attracting representations facilitate discussion between the various parties.
- 9.2** 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
- 9.3** The processing of applications by the Authority is controlled by a strict timetable. To ensure the Authority meets that timetable the Authority will not accept an application unless it is complete in all respects at the time of submission.
- 9.4** 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 local 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

## **10.0 Licence Reviews**

- 10.1** The proceedings set out in the Act and regulations represent a key protection for the community where there are problems associated with licensed premises.
- 10.2** Any person can apply for a review of a licence. The licensing authority encourages licensed premises, local residents and businesses to work together in achieving the promotion of the licensing objectives. Where problems arise it can be constructive for local residents to approach the manager of the licensed premises in the first instance. Alternatively, problems can just be reported to the licensing authority for them to address with the premises concerned. Responsible authorities are encouraged to give licence holders early warning of any concerns identified at a particular premise.

When considering whether any licensable activity should be permitted, on receipt of any relevant representations, the Authority will assess the likelihood of it causing unacceptable adverse impact, particularly on local residents, by considering the following factors amongst other relevant matters:

- the type of use, the number of customers likely to attend the premises and the type of customers at the time of the application;
- the proposed hours of operation;
- the level of public transport accessibility for customers either arriving or leaving premises and the likely means of public or private transport that will be used by the customers;
- the means of access to the premises, which should have customer entrances on the principal pedestrian routes;

- the cumulative impact of licensed premises in an area;
- the scope for mitigating any impact;
- how often the activity occurs.
- and, in considering any application for a premises which is already licensed, the Authority will take into account any evidence:
- of past demonstrable adverse impact from the activity, especially on local residents;

Or

- that, if adverse impact has been caused, appropriate measures have been agreed and put into effect by the applicant to mitigate the adverse impact. If, however, such measures have not been put into effect or there has been insufficient time to assess them, this could impact on the determination of the application;

Or

- of past history of the premises, where there have been no relevant complaints or problems.

The prime purpose of this part of the policy is to achieve the licensing objective of preventing public nuisance. In furtherance of this aim the policy lists particular matters that the Authority will take into account in considering whether a licensed activity is likely to cause an adverse impact, particularly to local residents:

- The precise nature of the activity, especially for entertainment, will be a factor in considering the impact, principally in terms of the age and orderliness of the customers.
- Levels of noise from licensed premises, which may be acceptable at certain times of day, may not be acceptable later in the evening or at night when ambient noise levels are much lower.
- The Authority's preference is to see licensed activities located in places where customers are not reliant on private car use, and can walk or use public transport. The Borough varies considerably. In town centres, a high use of public transport could be expected by the customers of licensed premises but, even there, car use is likely to increase when activities go on very late. Consequently, there could be unacceptable parking and traffic in nearby residential areas.
- The main impact of customers arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible. It would not be appropriate, for instance, to have licensed activities which cause large numbers of people to exit into a residential area as opposed to a situation where pedestrian movement takes place directly to and from nearby public transport services.

With any adverse impact it may be possible to take steps to mitigate or prevent the impact and if such measures are reliable an activity may be licensed. In accordance with Government guidance, the decisions taken by the Authority will obviously be focused on matters within the control of individual licensees, and others granted relevant permissions, and the steps they can take to achieve the licensing objectives. Accordingly, these matters will centre on the premises and places being used for licensable activities and the likely impact of those activities on members of public living, working or engaged in normal activity in the area concerned.

In taking its decisions the Authority accepts the difficulty a licence holder has in preventing anti-social behaviour by individuals, once they are beyond the

direct control of that licence holder. However, it will also take into account that the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly engage in anti-social activities to the detriment of nearby residents or businesses.

The aim of the policy is to achieve a balanced approach to these difficult issues.

**10.3** The Authority has a range of powers when determining a review; it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

**10.4** The Authority and responsible authorities will use the review procedures effectively to ensure promotion of the licensing objectives. Where reviews arise and the Authority determines that the matter under review is seriously detrimental to one or more of the licensing objectives revocation of the licence, even in the first instance, may be seriously considered. Appendix 9 explains to applicants the role of Licensing Authority as a Responsible Authority.

**10.5** Where an applicant is aggrieved by any decision or condition, there is a right of appeal to the Magistrates' Court. This appeal must be lodged within a period of 21 days from the day on which the applicant was notified by the Council of the decision. Unless an appeal is lodged a review decision takes effect at the end of the appeal period.

**10.6** The Council will give comprehensive reasons for its decisions. The Council will also address the extent to which the decision has been made with regard to its statement of licensing policy and the Guidance issued by the Secretary of State under section 182.

## **11.0 Premises Licences**

In addition to what may be described as traditional licensed premises, a licence 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. Licensable activities, carried on by many different organisations can then simply take place with the permission of the licence holder.

The Authority will consider applications from community premises e.g. church hall, chapel hall, village and parish hall or other similar buildings to remove

the requirement needing a designated premises supervisor with a personal licence to sell alcohol.

If a Premises Licence authorises the retail sale of alcohol, there is a requirement to have a designated premises supervisor, the individual who is named as the designated premises supervisor has to hold a personal alcohol licence. A personal alcohol licence permits the holder of such a licence to authorise the retail sale of alcohol.

### **Late Night Refreshment Outlets**

The Authority will expect the applicant to have considered a variety of control measures which will:-

- Promote community safety
- Reduce the impact of dispersing customers within the local community
- Promote better management of the premises
- How they will reduce incidents of public disorder, violence and anti-social behaviour
- Encourage health and Safety and welfare of both staff and customers

### **12.0 Club Premises Certificates**

The supply of alcohol, and provision of other licensable activities on qualifying club premises, is authorised by way of a club premises certificate. The grant of a club premises certificate means that a qualifying club is entitled to certain benefits. These include:

- the authority to supply alcohol to members and sell it to guests on the premises to which the certificate relates without the need for any member or employee to hold a personal licence;
- the absence of a requirement to specify a designated premises supervisor;
- more limited rights of entry for the police and authorised persons because the premises are considered private and not generally open to the public;
- the club premises not being subject to police powers of instant closure on grounds of disorder and noise nuisance (except when being used under the authority of a temporary event notice or premises licence) because they operate under their codes of discipline and rules which are rigorously enforced; and
- not being subject to potential orders of the magistrates' court for the closure of all licensed premises in an area when disorder is happening or expected.

The arrangements for applying for, or seeking to vary, club premises certificates are similar to those in respect of a premises licence. Operating Schedules must include the steps the club intends to take to promote the licensing objectives.

The Act recognises that premises, to which public access is restricted and where alcohol is supplied other than for profit, give rise to different issues for licensing law than those presented by commercial enterprises selling direct to the public. For this reason, it preserves aspects of earlier alcohol licensing law as it applied to "registered members clubs". These clubs are organisations

where members have joined together for particular social, sporting or political purposes and then combined to buy alcohol in bulk as members of the organisation for supply in that context.

Clubs traditionally have not been licensed because alcohol is supplied rather than sold to members.

The new authority for the supply of alcohol, and provision of other licensable activities on qualifying club premises, is a club premises certificate and this is issued by the Licensing Authority.

These will be translated into conditions included in the certificate, unless the conditions have been modified by the Authority, following consideration of relevant representations.

The legislation detailing the statutory qualifying conditions for clubs is provided at Appendix 6.

### **13.0 Temporary Events Notices (TENS)**

If a licensable activity is planned to take place on non-licensed premises, the organiser can submit a Temporary Events Notice (TEN). A TEN can also be used to include additional licensable activities or alter the hours of operation on licensed premises. They can cover any period up to 168 hours. A TEN has to be served on the Police and the Licensing Authority at least 10 working days prior to commencement of the event, a longer period is preferable wherever possible. There is nothing to prevent simultaneous notification of multiple events at a single time so long as the first event is at least 10 working days away and there must be at least 24 hours between events.

Only the Police and Environmental Health can object to a TEN.

Standard TENS must be given a minimum of 10 working days prior to the first day of the event, and the Licensing Authority recommend that wherever possible notice-givers submit their TEN a minimum of 28 days prior to the commencement of the event. There is provision for making an application for a late TEN. Such applications may be made no earlier than 9 working days before the event and no less than 5 working days before the event. The Licensing Authority understands this to mean 9 or 5 clear days exclusive of the day on which the event is to start and exclusive of the day on which the notice is given.

Where one or more of the relevant statutory limits are exceeded, the Licensing Authority will serve a Counter-Notice to prevent the licensable activities from going ahead. There is no provision under the Act to appeal against the issue of a Counter-Notice.

Greater Manchester Police or the Council's Environmental Health service can issue an objection notice. The Licensing Authority will consider any such notice at a hearing (unless the objection notice is withdrawn before the hearing date). The hearing will be confined to consideration of the crime and disorder objective and will be held in accordance with the procedure. There is no provision for a hearing in the case of a late TEN.

The Licensing Authority will notify the applicant of its decision at least 24 hours before the beginning of the event period specified in the temporary event notice.

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.

## **14.0 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.

## **15.0 Petitions**

**15.1** Petitions may be submitted to the Licensing Authority so show depth of feeling for or against an application. There is no prescribed format for such petitions and whilst the licensing authority has no power to require any particular format individuals may find the following suggestion useful. Each page should include:

- i) The premise name and address
- ii) The details of the application
- iii) The reason for the petition and a linkage to one or more of the licensing objectives
- iv) The full name and address (in print) and signature of each person supporting the petition

**15.2** Appropriate weight will be given to petitions having regard to the above. **Petitions in respect of an application will only be accepted if submitted by a Responsible Authority, a person who has made a relevant representation or by the applicant. The licensing authority will not consider each signatory as a separate representation and so will not contact individual signatories.**

## **16.0 Personal Licences**

**16.1** The Authority recognises it has very little discretion regarding the granting of personal licences. In general, provided an applicant has a qualification determined by DCMS and does not have certain criminal convictions, the application must be granted. A person holding a personal licence should be a person who is not only properly qualified but a person who will assist the police and relevant authorities in the fight against crime. Granting a licence to a person with a criminal history may in some cases undermine rather than promote the crime prevention objective.

**16.2** If an applicant has a relevant conviction the police can oppose the application. If an objection is lodged by the police, a hearing of the Authority's Licensing Panel will be held. The Authority will consider carefully whether the grant of the licence will be in conflict with the crime prevention objective. It will consider the seriousness and relevance of the conviction(s), the period that



has elapsed since the offence(s) were committed and any mitigating circumstances. The Authority will only grant the application if it is satisfied that doing so will promote this objective. A person holding a personal licence should be a person who is not only properly qualified but a person who will assist the fight against crime. Granting a licence to a person with a criminal history may in some cases undermine rather than promote the crime prevention objective.

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

## **17.0 Designated Premises Supervisors**

**17.1** Under the Licensing Act 2003, all licences that authorise the sale of alcohol must contain details of the Designated Premises Supervisor (DPS).

Responsible Authorities will typically look to develop constructive working relationships with DPS and the licensing authority expects that this is reciprocated to promote effective partnership working relations with the trade.

The Guidance to the Licensing Act states: 'the designated premises supervisor is the

key person who will usually be charged with day-to-day management of the premises including the prevention of disorder.' The licensing authority will not normally impose conditions related to the management competency of DPS's, save where it is considered appropriate that in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder, public safety and public nuisance.

In exceptional circumstances, the police may object to the appointment of an individual as a DPS For example where they have a criminal record.

Where, following an objection by the police, the licensing authority is satisfied that the appointment of a person as a DPS would undermine the crime prevention licensing objective, the policy is to refuse the appointment or to remove them as the DPS in circumstances where they are already in post.

## **18.0 Drugs**

**18.1** The Authority will expect licensees of venues likely to be affected by drug issues to take all reasonable steps to prevent the entry of drugs into their premises, to take appropriate steps to prevent drugs changing hands within the premises and to take practical measures to prevent drug misuse on the premises.

**18.2** In particular, the Authority will expect licensees of such venues to be familiar with the contents of Chapter 4 (drug awareness) of the BIIAB Level 2 National Certificate for Entertainment Licensees and to be following the recommendations of that handbook. The Authority will also expect licensees to be following the best practice guide on safer nightlife which builds on the safer clubbing published by the Home Office.

## **19.0 Adult Entertainment**

Bury Council has re-adopted the provisions of Schedule 3 Local Government [Miscellaneous Provisions] Act 1982 and is currently drafting a policy which will relate to adult entertainment venues and activities.

In some cases additional licences may be required under separate legislation for sexual entertainment venues.

## **20.0 Enforcement**

**20.1** If the need arises enforcement action will be taken in accordance with the Authority's agreed enforcement policy and the Regulators' Compliance Code. The Authority has developed protocols with the Police and other enforcement bodies. The Enforcement Policy is available at <http://www.bury.gov.uk/CHttpHandler.ashx?id=1573&p=0>

**20.2** Enforcement will be targeted to 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. Compliance visits will take place at the discretion of the Authority and partner agencies and resources will be prioritised towards areas of greatest need.

The Authority will continue to work with the licensing trade to ensure compliance of the Licensing Act and the promotion of the licensing objectives. Officers attend local pub watches on a co-opted basis.

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

The Authority will investigate complaints where it is alleged that licensable activities have/or are to take place without the relevant licence/certificate/notice and will use its discretion to determine whether, in the circumstances, it is in the public interest to take enforcement action. Factors which may be taken into account are:

- The nature of the event
- The impact/likely impact of the event
- The safety measures in place to deal with any possible risks.

The licensing authority works in conjunction with partners such as Environmental Health, Trading Standards, Greater Manchester Police, Planning Department, Bury Safe, Bury Drugs and Alcohol Strategy Team, National Health Service (NHS), Bury Safeguarding Children Board and Greater Manchester Fire and Rescue Service, in delivering a range of initiatives aimed at ensuring the promotion of the Licensing Objectives throughout Bury such as:

- Joint-agency enforcement exercises
- Proactive monitoring of licensed premises
- Test purchase operations
- The establishment of Public Spaces Protection Orders deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone.

The Authority will undertake surveillance relating to under-age sales to ensure compliance with legal and conditional requirements.

## **21.0 Additional considerations**

### **21.1 Purple Flag**

Purple Flag is an external accreditation designed to provide recognition that a town or city centre is managing its night time experience (17.00 – 06.00) and thus helping overcome any negative public perceptions that may exist. It provides the opportunity for a centre to present itself in a positive light to town centre users, including operators, residents, tourists and visitors.

Purple Flag has been developed by from original research undertaken by the Civic Trust. This showed that:

- More people would use centres at night if they were safer, more accessible and offered more choice
- A good mix of clientele can lessen intimidation and improve perceptions
- A wider range of attractions and consumers leads to longer term economic viability

In February 2015, Bury Council were awarded the Purple Flag accreditation for Bury Town Centre. The Authority may look favourably on applications that promote the agenda and attributes of the accreditation.

Further info at [www.purpleflag.org.uk](http://www.purpleflag.org.uk)

### **21.2 Large Scale Events**

If you wish to hold an event in a public space in Bury general advice on organising events is available on the Council website: [www.bury.gov.uk/index.aspx?articleid=1922](http://www.bury.gov.uk/index.aspx?articleid=1922). Contact can also be made with the Council's Licensing Unit to discuss the application further.

Licensees should also make reference to The Event Safety Guide – A Guide to Health, Safety and Welfare at Music and Similar Events, commonly referred to as 'The Purple Guide'

Landowners within the Borough will be encouraged to licence publicly accessible open spaces for appropriate activities.

The Council holds a number of premises licences for public areas throughout the borough, parks currently licensed for entertainment within Bury are:

- Whitehead Memorial Gardens, Bury
- Clarence Park and Miss Walker's Fields, Bury
- Nuttall Park, Ramsbottom
- St Mary's Park (playing fields), Prestwich
- Openshaw Park, Bury
- Hoyles Park, Bury
- Close Park, Radcliffe

### **21.3 Pubwatches and Off-licence Forums**

Membership of such schemes are demonstrations of good practice by the licensed trade and are supported by the Licensing Authority as well as partner agencies such as Greater Manchester Police and Public Health England. The Authority encourages licensees to participate in such local groups, or for them to seek to establish new ones where none currently exist. The Authority will endeavour to provide as much support as possible to any members of the trade looking to work together with neighbouring residents and businesses to ensure the promotion of the Licensing Objectives.

#### **21.4 The use of tables and chairs on the public highway (Street Cafe Licence)**

Licensed premises that wish to use a portion of a public street, road or place for the placing of tables, chairs or other temporary furniture outside a restaurant or cafe for patrons to use may only do so under permission of a Street Cafe licence issued by the Council as Highway Authority. Applicants should be aware that approval is not automatic and no tables or chairs should be placed on the highway until formal approval has been obtained

Street Cafe licences are subject to their own specific restrictions, including limitations on the hours during which they may be used and the number of tables and chairs that may be provided.

Where these areas include the provision of any licensable activities, including the sale of alcohol they must be included in the plan attached to the licence or certificate.

Applicants are expected to have specific regard to the impact upon the Licensing Objectives that the operation of any areas on the public highway that are licensed for tables and chairs might have.

Applicants should note that the grant of a premises licence to include part of the highway does not in itself grant permission to use that part of the highway and similarly a licence from the highway authority does not grant permission to undertake any other licensable activity.

#### **21.5 Early Morning Alcohol Restriction Orders**

An Early Morning Alcohol Restriction Order (EMRO) allows the licensing authority to restrict the sale of alcohol at a specified time between the hours of midnight and 6:00am. There are no exceptions except for the supply of alcohol to residents with overnight accommodation via minibars and room service.

EMROs are intended to deal with alcohol-related crime & disorder, anti-social behaviour, and serious public nuisance, which is not directly attributable to individual licensed premises. EMROs only apply to the sale or supply of alcohol they do not affect authorised hours for regulated entertainment or late night refreshment

An EMRO can apply to a specific area or even single street, it does not need to be Borough wide. It can apply to specific days of the week, can specify different times for different days of the week, and can apply to limited periods of the year or for an unlimited period. But it cannot apply on New Year's Eve/New Year's Day;

Any consideration for the introduction of an EMRO would be the subject of separate formal consultation and, if it is to be introduced, must be adopted at a meeting of the full Council

## **21.6 Late Night Levy**

A Late Night Levy (LNL) enables Licensing Authorities to raise a contribution towards the costs of policing the Night Time Economy (NTE) by charging a levy on holders of Premises Licences and Club Premises Certificates authorised to sell alcohol.

It would apply across the whole Borough and be applicable to any premises licensed to operate from a fixed time between 00.00 hrs – 06.00 hrs.

Any consideration for the introduction of a LNL would be the subject of separate formal consultation and, if it is to be introduced, must be adopted at a meeting of the full Council.

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## **Appendix 1 Responsible Authorities**

### **Licensing Authority**

3 Knowsley Place  
Duke Street  
Bury  
BL9 0EJ  
Tel Number: 0161 253 5208

### **The Fire Safety Manager Greater Manchester Fire & Rescue Service**

Bury Fire Station  
Magdalene Road  
Bury, BL9 0ES  
Tel Number: 0161 253 0313

### **Bury Safeguarding of Children Board**

18-20 St Mary's Place  
Bury  
BL9 0DZ  
Tel Number: 0161 253 5705

### **Planning Authority**

3 Knowsley Place  
Duke Street  
Bury  
BL9 0EJ  
Tel Number: 0161 253 5314

### **Greater Manchester Police**

Dunster Road  
Bury,  
BL9 0RD  
Tel Number: 0161 856 8177

### **Environmental Services**

Health & Safety, Pollution and Weights & Measures Sections  
3 Knowsley Place  
Duke Street  
Bury  
BL9 0EJ  
Tel Number: 0161 253 5353

### **Neighbouring Authorities**

Bolton	01204 336570
Blackburn	01254 585585
Rochdale	01706 647474
Rossendale	01706 217777
Salford Council	0161 794 4711

## Appendix 2

### Exercise and delegation of functions

The Council Constitution delegates the governance arrangements in respect of the Licensing Act 2003 to the Licensing and Safety Panel except Policy issues which are reserved to Council by the Act. The delegated functions are exercised in accordance with this table.

The Licensing & Safety Panel consists of 13 members, with a quorum of 3. A Hearings Panel consists of 3 members.

<b>Matter to be dealt with</b>	<b>Full Panel</b>	<b>Hearings Panel</b>	<b>Officers</b>
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
Decision to object when local authority is a consultee and not the lead authority		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of an application to vary premises licence at community premises to include alternative licence condition.		If Police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of application for minor variation			All cases
Decision on whether a representation is irrelevant, frivolous or vexatious			All cases
Application for review by Licensing Authority			All cases



## Appendix 3

### Mandatory Conditions

This licence is granted subject to any **Mandatory Conditions** imposed by the Licensing Act 2003, **and conditions volunteered** on the application form to be undertaken by the applicant and where necessary, **conditions imposed by the Licensing Authority** in order to promote the Licensing Objectives.

### Mandatory Conditions:

- a No supply of alcohol may be made under the Premises Licence at a time when there is no Designated Premises Supervisor (DPS) in respect of the Premises Licence OR at a time when the Designated Premises Supervisor does not hold a Personal Licence or his/her Personal Licence has been suspended.
- b Every supply of alcohol under the Premises Licence must be made or authorized by a person who holds a Personal Licence.
- c Any Door Security staff employed to carry out a security activity at the premises must be licensed with the Security Industry Authority (SIA).
- d. In respect of the exhibition of films as mentioned below:
  - 1 The admission of children to the exhibitions of any film is restricted as follows:
  - 2 Where the film classification body is specified in the licence, unless 3(b) below applies, the admission of children is restricted in accordance with any recommendation of that body.
  - 3 Where:-
    - (a) the film classification body is not specified in this licence, or
    - (b) the licensing authority has notified the holder of the licence that this subsection applies to the film in question,the admission of children is restricted in accordance with any recommendation made by the licensing authority.
  - 4 In relation to the above:

"children" means persons under the age of 18 years; and  
"film classification body" means the persons or person designated as the authority under section 4 of the Video Recordings Act 1984.

### Mandatory Conditions pursuant to The Licensing Act 2003 Mandatory Licensing Conditions (Amendment) Order 2014

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:

  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the

responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise)

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

**2.** The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

**3.** (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:

(a) a holographic mark, or

(b) an ultraviolet feature.

**4.** The responsible person must ensure that:

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:

(i) beer or cider: ½ pint

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml, and

(iii) still wine in a glass: 125 ml

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises, and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

**Definition:**

***Responsible person - as defined by section 153 (4) Licensing Act 2003 -***

- (a) *In relation to a licensed premises -*
- (i) *the holder of a premises licence in relation to a premises*
  - (ii) *the designated premises supervisor (if any) under such a licence*
  - (iii) *any individual aged 18 or over who is authorised for the purposes of this section by such a holder or supervisor.*
- (b) *In relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question.*

**The Licensing Act 2003 (Mandatory Conditions) Order 2014**

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979

(b) "permitted price" is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence—
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

**4.** (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

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## **Appendix 4**

### **Licensing Act 2003 – Model conditions**

**NOTE:** the conditions below do not form part of the policy and will continue to be developed, if you have any questions about these conditions, please contact the Licensing Office.

The following conditions are offered for consideration by Licensing Hearings Panels should the Panel consider a licence be granted with additional and/ or modified conditions. They may also be offered by applicants through the application or mediation processes. It is not the intention to apply all these model conditions to each and every licence. It is accepted that any conditions will only be attached to a licence where it is reasonable and proportionate to do so and promotes one or more of the licensing objectives.

Any risk assessment to identify necessary conditions will consider the individual circumstances of the premises including:

- The nature and style of the venue
- The activities being conducted there
- The location and
- Anticipated clientele

### **Prevention of Public Nuisance**

1. Prominent, clear and legible notices must be displayed at all exits requesting that customers respect the needs of local residents and to leave the premises and area quietly.
2. Music and associated other noise sources (e.g. DJs and amplified voices) shall not be generally audible inside noise sensitive property at any time. The DPS or a member of staff is to carry out noise level checks of the surrounding outside area whenever entertainment is being provided taking action to reduce noise levels where there is a potential for nuisance to be caused.
3. All external doors and windows are to be kept closed when live entertainment or recorded music is in progress.
4. The **\*beer garden / \*outside area** is not to be used for licensable activities or for the consumption of alcohol after **[x]** hours daily. (**\* delete as applicable**).
5. On occasions when the premises are used/hired to hold an 18<sup>th</sup> birthday party, at least one SIA registered security staff is to be employed at the premises for the duration of the function. In addition, on such occasions, the sale of alcohol and the provision of regulated entertainment is to cease no later than 23.00hrs. (**Consider such a condition for holders of Club Premises Certificates following noise nuisance representations associated with such use of the club**).

On occasions when the premises are used/hired to hold an 18<sup>th</sup> birthday party, on such occasions, the sale of alcohol and the provision of regulated entertainment is to cease no later than 23.00hrs.

6. Management and staff are to use their best endeavours to prevent persons loitering outside the premises and to ensure that persons refused entry or ejected are asked to leave the vicinity of the premises.
7. At an appropriate time before closing time, announcements should be made reminding customers to leave quietly.

8. No Refuse shall be disposed of or collected from the premises between the hours of **(insert hours)** where such disposal or collection is likely to cause disturbance to local residents.
9. Where the premises provide food to the public for consumption off the premises there shall be provided at or near the exits, **[give number]** waste bins to enable the disposal of waste food, food containers, wrappings etc.
10. Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrapping etc. at the end of trading on each day. *Such refuse shall be placed in a container designed for the storage and disposal of refuse and waste foods.*
11. The premises shall be closed to customers **[x minutes]** after licensable activity has ceased.

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

12. The premise is to operate an effective CCTV system which is to be maintained in good working order at all times the premises is open for business. The type of system and the number/positioning of cameras is to be agreed in liaison with the police. The location of cameras will be recorded on the plan attached to the licence. The recording medium (e.g. discs/tapes/hard drive etc) and associated images are to be retained and securely stored for a minimum period of 28 days and are to be made available to the police/Authorised Officers of the Licensing Authority upon request. The premises licence holder or designated premises supervisor [delete as necessary] is to provide the police with the contact details of at least two members of staff (or other person(s)) who are trained and familiar with the operation of the equipment so that, at the expense of the premises licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of recorded data upon request and within no more than 12 hours from the time of the request. The premises licence holder or the Designated Premises Supervisor must notify the licensing office or the Police in the event of CCTV breakdown or malfunction as soon as is reasonably practicable and in any event within 24hrs.

On an annual basis [or at a greater frequency specified] the premises licence holder or the DPS is to notify the licensing office in writing that the cctv system has been checked, maintained to any recognised specification and is in working order. An action plan to be agreed to rectify any recorded malfunction or planned alterations.

13. A written record shall be kept every time images are recorded by CCTV and shall include details of the recording medium used, the time and date recording commenced and finished. This record shall identify the person responsible for the recording and shall be signed by him/her. Where the recording is on a removable medium (i.e. videotape, compact disc, flash card etc.), a secure storage system to store those recording mediums shall be provided.
14. A Personal Licence holder must be on the premises at all times when open to the public.
15. A Personal Licence holder must be on the premises on **(state days)** \_\_\_\_\_ between **xxxxhrs** and close of business.

16. A daily log must be maintained at the premises showing the full name, date of birth and SIA badge number of the Door Security Staff on duty, the time when they started and ended their shift and the details of any incidents that take place to include incidents when a member of the public is refused entry to the premises. The log is to be made available to the Police, to SIA inspectors & to Authorised Officers of the Licensing Authority on request.
17. Staff training shall take place on the Licensing Act and Licensing objectives every six months and a written record of this training to be maintained and made available to the police and any authorised officer of the Council for inspection on request.
18.  security staff must be employed at the premises on  [days] between the hours of  and close of business.
19. Security staff are to use their best endeavours to prevent persons loitering outside the premises.
20. The premises must be linked to a system of communication with the Police and other licensed premises as agreed with the Police and Licensing Authority. The system shall be kept in good working order at all times. When the premises are open to the public, the communications link to the Police and other licensed premises shall be switched on and available to and monitored by the Designated Premises Supervisor or a nominated member of staff. The system to be used to report incidents and warn each other of the presence of potential trouble makers in the area.
21. The communication system must be used to report information likely to be of interest to other parties to the network as soon as possible.
22. The licence holder and/or the designated premises supervisor or a person nominated by them shall be a member of and attend at the meetings of the Pub and Club watch scheme for the area within which the premises is located.
23. No person in possession of a drink in a sealed or unsealed container shall be allowed to enter the premises except for the purposes of delivery or from moving from one part of the premises to another.
24. No drink shall be sold from a bar or by staff service or consumed in or on the premises other than in a container made from non-splintering plastic or toughened glass during  [time and/ or activity related].
25. No drink shall be removed from the premises in an unsealed container.
26. There shall be maintained on the premises at all times an adequate and appropriate supply of first aid equipment and materials.
27. At all times when the public are present, at least one person who holds a current recognised first aid certificate or award shall be present on the premises. Where more than one such person is present their duties shall be clearly defined.  For use in situations where general h&s legislation won't apply.

### **Public Safety**

28. Customers are to be prevented from leaving the premises with glasses or open bottles.

29. Empty bottles must be placed into locked bins so as to prevent them from being used as weapons.
30. Only plastic glasses/plastic bottles/toughened glass are to be used in the outside areas.
31. The premises should operate at a maximum capacity of [x].
32. Clientele must not be admitted to the premises after [xhrs] **or within [xhrs]** of the end of licensable activity.
33. The DPS or premises licence holder must develop and operate a dispersal policy for clientele leaving the premises. **[this may include links to taxis and other transport providers.]**
34. The DPS /licence holder must ensure members of staff are adequately trained with regard to **[specify topic area]**.

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

35. The premises will operate a "Challenge 21 or 25" **[delete as appropriate]** proof of age policy and signage to this effect is to be prominently displayed within the premises. Persons who appear to be under the age of 21/25 must produce for thorough scrutiny by staff, proof of identity/age before being sold/supplied alcohol. Only a passport or photo-card driving licence or a proof of age card bearing the official 'PASS' accreditation hologram should to be accepted as proof of age.
36. The premises is to maintain a refusals book to record the details of incidents/descriptions of individuals whenever a member of staff has refused to sell alcohol to a person suspected of being under the age of 18. The book must be made available to the police/authorised officers of the Licensing Authority on request.
37. All individual alcohol containers (e.g. bottles/cans/cartons) before going on display for sale are to be uniquely and indelibly marked in a manner approved by the Greater Manchester Police.
38. That ALL alcohol be displayed/stored behind the counter.
39. That the following alcoholic drinks be kept behind the counter or in a place where customers do not have direct access to these products without the assistance of a member of staff, namely:
  - i) All spirits, flavoured spirits, alco pops (i.e. spirit based drinks mixed with soft drink/flavoured juice etc) which will include and not be limited to products as "Bacardi Breezers" and similar products).
  - ii) Cider
  - iii) Lager
  - iv) [other]
40. No person under the age of 18 shall be permitted access to the premises when entertainment of an adult nature is taking place.
41. No person under the age of [x] shall be permitted to remain on the premises after **[x]** hours.



## **Appendix 5**

### **THE HYPNOTISM ACT 1952**

Stage hypnotism provided as an entertainment requires special consideration and planning. If an applicant knows they may wish to have a performance of stage hypnotism at any time this should be addressed in the Operating Schedule. The Act states that no person shall give an exhibition, demonstration or performance of hypnotism on any living person at or in connection with an entertainment to which the public are admitted, whether on payment or otherwise, at any place unless the controlling authority (Bury Council) have authorised that exhibition, demonstration or performance under this section. Where consent is given for this type of entertainment the Council will impose specific licence conditions designed to ensure the safety of the audiences and in particular to ensure that children are not admitted to and cannot participate in such activities.

There is no prescribed format for an application to hold a performance of stage hypnotism, however, an applicant will be expected to include in their written application, their full personal and contact details and the details of any professional qualifications, membership and experience they may have in relation to the performance of stage hypnotism acts. They should also provide full details of the venue and timings during which they request the performance to take place. Applications should normally be received at least 28 days before the first performance is due to take place, however, the council will consider accepting applications less than 28 days prior to the performance taking place particularly in circumstances where the hypnotist has previously performed at the venue with the approval of the council and without giving the council any cause for concern.

Applications to hold a performance of stage hypnotism will be considered by the Licensing and Safety Panel.

#### **CONDITIONS**

1. The artiste shall be competent in the inducement of, and reversal of, a state of hypnosis.
2. No exhibition, demonstration, or performance of hypnotism shall involve any person under the age of 18 years.
3. The exhibition, demonstration or performance of hypnotism shall not, either directly or indirectly, induce, suggest to, or direct any person to behave in a manner which is either:
  - a) obscene, indecent, or offensive, and/or
  - b) aggressive, and/or
  - c) demeaning to an extent which would be unacceptable to the ordinary common person.
4. Any form of induced sleep or trance, under which any person is placed in the course of the exhibition, demonstration, or performance of hypnotism, shall be fully reversed immediately after that person's part in the exhibition, demonstration, or performance is concluded.
5. These Conditions form part of the authorisation, and shall be monitored/enforced by a responsible member of the management of the premises.

6. The hypnotist must produce satisfactory evidence of current Public Liability Insurance cover, (to a minimum level of £1,000,000), to the management of the venue prior to the performance taking place.

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## Appendix 6

### STATUTORY QUALIFYING CONDITIONS FOR CLUBS

The following qualifying conditions which a club must satisfy are extracted from the Act.

- **Condition 1** is that under the rules of the club persons may not —
  - a) be admitted to membership, or
  - b) be admitted, as candidates for membership, to any of the privileges of membership, without an interval of at least two days between their nomination or application for membership and their admission.
- **Condition 2** is that under the rules of the club persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission.
- **Condition 3** is that the club is established and conducted in good faith as a club (see Section 63 of the Licensing Act 2003).
- **Condition 4** is that the club has at least 25 members.
- **Condition 5** is that alcohol is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club.

## **Appendix 7**

### **Management of Potential Noise Nuisances**

One of the greatest irritations to residents trying to sleep is the sound of music escaping from licensed premises. Particularly at night when it is generally quieter noise will be amplified and provide more disturbance for residents. Clearly a responsible applicant will wish to further the licensing objective of preventing public nuisance by introducing adequate control measures.

In relation to noise from within the building the Authority will expect the applicant to have considered the likelihood of any sound leakage from the premises. This noise could relate not only to music but also to equipment or patrons. If there appears to be a potential for sound leakage the applicant will be able to address this in practical ways such as:

- Keeping doors and windows closed and providing adequate mechanical ventilation.
- Reducing sound levels and installing a sound-limiting device to prevent sound exceeding the appropriate level.
- Installing soundproofing measures to contain sound and vibration.
- Music and associated other noise sources (e.g. DJs and amplified voices) shall not be generally audible inside noise sensitive property at any time. The DPS or a member of staff is to carry out noise level checks of the surrounding outside area whenever entertainment is being provided taking action to reduce noise levels where there is a potential for nuisance to be caused.

Excessive noise and/or disorder will require more rigorous action. It is important that queues formed later in the evening are supervised to keep noise to a minimum. In terms of patrons leaving the premises, particularly late at night or early in the morning, the Authority will expect the applicant to have included in the Operating Schedule practical step to minimise problems, such as the examples given below, although there will be few premises that need to address all these:

- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors.
- At appropriate times using the PA system to make announcements to the same effect.
- Instructing door staff to ask customers leaving the premises to leave the area quietly.
- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down.
- Availability of licensed Hackney Carriage and Private Hire Vehicles to take patrons from the premises.
- In appropriate cases door supervisors or a manager patrolling nearby streets to assess for themselves whether there is a problem and how best to deal with it.
- Banning from the premises people who regularly leave in a noisy fashion.
- Increasing outside lighting levels, where practicable without causing further nuisance.

- Where there is a private forecourt, preventing patrons from using it for eating and drinking etc after a specified time, or ensuring it is vacated 30 minutes before the terminal hour.
- Ensuring that customers are not permitted to take open bottles or glasses of alcohol out of the premises.
- Taking appropriate steps where necessary to deal with noxious smells and light pollution.
- licensing objectives.

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## **Appendix 8**

### **Local Authority as Responsible Authority**

The Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 to enable licensing authorities to act as the other Responsible Authorities. This will enable the Licensing Authority to take early intervention action where they consider it appropriate. The Licensing Authority will still expect that other responsible authorities to intervene where the basis for the intervention falls within their remit, for example the police in criminal matters. Further, the licensing authority does not expect to act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community groups).

### **Licensing Authority making representation as a Responsible Authority**

As far as reasonably practical the Licensing Authority will make provision for separation of roles between the licensing officer making a representation and the licensing officer preparing and presenting the report to the a Hearings Panel.

1. Review/ representation is submitted by the officer to the Licensing Unit Manager or Head of Trading Standards and Licensing
  - a. If it is a review application, the submitting officer is responsible for completing the application process e.g. sending the copies of the application to all Responsible Authorities
2. Once the review application/representation has been submitted the submitting officer does not take any further involvement with the application process until the matter is considered by the Hearings Panel
3. The report will be drafted by someone other than the submitting officer
4. At the hearing the Licensing Unit Manager/Deputy Licensing Officer/Head of **Commercial and Licensing** will present the report.

The submitting officer will attend the hearing to present his/her case findings.

### **The role of Councillors**

All hearings are before 3 Councillors drawn from the 13 Councillors that constitute the Licensing and Safety Panel.

Any Councillor is able to make a representation in their capacity as a member of the Council. If members of the public have concerns over a premise and do not wish to submit a representation themselves they may contact their local Councillor to enquire whether they will make a representation on their behalf. However, it is a matter for the individual Councillor whether they accept and it is recommended that such requests are made in writing so that any request can be clearly demonstrated.

Additionally, if a member of the public makes a representation, they may in turn nominate any person, including a local Councillor, to represent them at the hearing. However it is the individual's responsibility to ensure that the nominated person is available and willing to represent them.

As above, any request should be made in writing so that the licensing authority can be satisfied the person has been correctly nominated.

## Appendix 9 Good practice for making a representation

### Relevant Representations

There are various types of applications that can be made under the Act, and in most cases representations are invited in relation to them. However, to be considered by an Authority they must be 'relevant representations' as defined by the Act.

If you want your views to be considered by the Council in respect of a particular application, you must submit a 'relevant representation'. A relevant representation must:

- (a) be made by any person or Responsible Authority
- (b) be made in writing to the licensing authority
- (c) be received by the licensing authority no later than 28 days after the date the application was made (ten days for a minor variation)
- (d) relate to the likely effect of the granting of the application upon one or more of the Licensing Objectives, which are:

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

Potential issues could include noise or disturbance from the premises, previous examples of crime and disorder associated with the premises, litter problems associated with the premises, or provision of activities not suitable for children where children could be admitted. Any representation that is considered as frivolous or vexatious by the licensing authority will not be accepted.

Representations may be made by email and the licensing authority does not require email representations to be followed up with a hard copy. Representations should be made to:

**By post: By email:**

The Licensing Unit  
Bury Council  
3 Knowsley Place  
Duke Street  
Bury  
BL9 0EJ

Email: [licensing@bury.gov.uk](mailto:licensing@bury.gov.uk)

Representations should:

- Demonstrate a link to the promotion of the licensing objectives. If you are making a representation in support of an application, explain how the proposed application would promote the Licensing Objectives
- Provide an evidential base for the grounds of the representation, which could include written logs of problems, details of previous complaints, photographs or video evidence of the particular issues.
- Ensure as far as possible that the representation is specific to the premises.
- Consider how you would like the issues to be addressed. For example, you may wish to propose additional or alternative conditions to those proposed in

the operating schedule. Alternatively, you may wish to propose restricted hours or licensable activities.

- Representations will not be considered if they are considered 'frivolous' or 'vexatious' by the licensing authority. 'Frivolous' and 'vexatious' have their ordinary meaning; therefore, the licensing authority might disregard representations that are made because of a business dispute between rivals or representations that lack seriousness.

Representations can be made in opposition to, or in support of, an application. In cases where only 'positive' representations are made, without qualifications, the Licensing Authority will consider whether a hearing is necessary

The Licensing Authority will determine whether:

- *the representation has been made by a other person as defined under the Act; and*
- *would consider the issue(s) raised in arepresentation as frivolous or vexatious (or repetitious in respect of a review).*

Another person aggrieved by a rejection of their representation on these grounds may challenge the Licensing Authority's decision by way of judicial review.

Where a relevant representation is made in respect of:

- an application; or
- an existing licensed premises

A hearing will be held, unless an agreement is reached between all relevant parties that a hearing is not required.

The Licensing Authority will attempt mediation between the relevant parties wherever it may be practicable or appropriate to do so, so as to avoid unnecessary hearings.

### **Disclosure of personal details of persons making representations**

The licensing authority is required to provide the licence applicant with copies of any relevant representations received in respect of the application.

The licensing authority may consider withholding some or all of a person's personal details where that person can demonstrate they have a genuine and well-founded fear of intimidation and the circumstances justify such action. The withholding of personal details by the licensing authority will only be taken in exceptional circumstances and any person requesting their details to be withheld will be expected to demonstrate why such action is necessary.

Where a person who has concerns over an application but does not wish their personal details to be disclosed, alternative approaches include requesting a local councillor to submit a representation based on their concerns, or alternatively providing details on how the licensing objectives are likely to be undermined to a responsible authority, who may make representation, if they consider it justifiable and appropriate to do so.



## Appendix 10

### Information for residents and other persons

Local residents and businesses can play an important role in the licensing process as it will be they who are most likely to be directly affected. This section provides useful information on understanding how to find out about applications and submit any comments (representations) in respect of them. Representations do not have to be objections and can be made in support of an application.

#### Finding out about the application

Applicants for new licences and variations to existing licences are required to advertise the application in two ways by:

1. Placing a notice at or on the premises on A4 (or larger) pale blue paper prominently at or on the premises where it can be conveniently read from the exterior of the premises and
2. Placing a notice in a newspaper in a newspaper circulating in the vicinity of the premises. Advertisement will be at least once in the ten days following the application being given to the licensing authority.

A notice will also be published on the Council's website (<http://www.bury.gov.uk/index.aspx?articleid=3016>) outlining key details in respect of an application.

Representations can be made against or in support of the application within 28 days

Additionally, the Authority's Licensing Unit provides email notifications of applications received by the licensing authority on a ward-by-ward basis to Councillors.

Information about application can be obtained by contacting the Licensing Unit and providing a valid email. While the Licensing Unit will normally advise of all applications within the ward, the Council is not legally required to do so. This information is provided as a courtesy to Bury Councillors and there may be occasions when notice is not provided. Therefore, the Authority recommends that those interested or requiring this information regularly check the Council's register of licence applications and notices on premises which can be found on the Council's website at: <https://licensing.bury.gov.uk/PAforLalpacLIVE/>