

**REPORT:** Council

**DATE:** 11 November 2020

**REPORTING OFFICER:** Strategic Director Enterprise, Community and Resources

**PORTFOLIO:** Resources

**SUBJECT:** Licensing Act 2003 Statement of Licensing Policy

**WARDS:** Borough-wide

## **1. PURPOSE OF REPORT**

To adopt the Statement of Licensing Policy.

## **2. RECOMMENDED: That the Council be requested to**

- 1. adopt the Statement of Licensing Policy attached to this report to come into effect immediately following the expiry of the current Policy; and**
- 2. direct that the Operational Director – Legal and Democratic Services publishes the Statement of Licensing Policy in Accordance with section 5 Licensing Act 2003.**

## **3. SUPPORTING INFORMATION**

- 3.1 The current statement of Licensing Policy is due to expire at midnight on 6 January 2021 and a new Statement of Licensing Policy must be in place on 7 January 2021.
- 3.2 The Operational Director Legal and Democratic Services (ODLD) has undertaken a consultation exercise in respect of the Council's Statement of Licensing Policy in accordance with section 5 Licensing Act 2003. The consultation exercise was completed on 10 August 2020. No responses were received.
- 3.3 At its meeting on 2 September 2020 the Regulatory Committee received a report to advise that there had been no responses received during the consultation exercise. The statement to be adopted is attached as Appendix 1.

## **4.0 Policy Implications**

- 4.1 Once it comes into effect, the Statement of Licensing Policy will be used in accordance with the Licensing Act 2003.

## **5.0 Other Implications**

5.1 There are no other implications arising out of this report

## **6.0 IMPLICATIONS FOR THE COUNCILS PRIORITIES**

### **6.1 Children and Young People in Halton**

The Council's Statement of Licensing Policy operates under a separate statutory code but since it involves licensable activities it is designed to contribute to the licensing objective of the protection of children from harm.

### **6.2 Employment Learning and Skills in Halton**

N/A

### **6.3 A Healthy Halton**

Health is not a licensing objective but to the extent that health impacts on the licensing objectives health issues may be taken into consideration.

### **6.4 A Safer Halton**

The Council's Statement of Licensing Policy operates under a separate statutory code but since it involves licensable activities it is designed to contribute to licensing objectives of promoting public safety.

### **6.5 Halton's Urban Renewal**

N/A

## **7. RISK ANALYSIS**

None

## **8. EQUALITY AND DIVERSITY ISSUES**

There are no equality or diversity issues related to a review

## **9. LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

This report is based on the Licensing Act 2003 and the Statutory Guidance issued under Section 182 of the Act. See also the Councils Statement of Licensing Policy.

## **APPENDIX 1**

### **Updated Draft Consultation Document**

#### **This Statement of Licensing Policy was adopted by Halton Borough Council on**

LICENSING ACT 2003

HALTON BOROUGH COUNCIL

#### **STATEMENT OF LICENSING POLICY**

##### **1. Introduction**

2. The Licensing Act 2003 (“the Act”) requires Licensing Authorities, in our case Halton Borough Council (“the Council”), to provide a Statement of Licensing Policy (“the Policy”) before it can make any decisions on licence applications.

3. The Policy is set out in this document. It details the general principles that the Council will take into account when making its licensing decisions. In drawing up the Policy the Council is required to have regard to Government Guidance (“the Guidance”) produced under Section 182 of the Act. If the Policy departs from the Guidance the Council must be able to justify its decision should there be a legal challenge. This Council believes that the Policy is consistent with the Guidance as well as with the provisions of the Act.

4. The aim of the Policy is to promote the four licensing objectives set out in the Act, namely:-

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

5. The Council wish to promote these objectives whilst still encouraging a vibrant and sustainable entertainment and leisure industry. The Council recognises both the needs of local residents for a safe and healthy environment in which to work and live and the importance of safe and well-run entertainment and leisure facilities to the area.

6. The Policy aims to provide guidance to applicants, responsible authorities and interested parties on the general approach to licensing in the area. Although each and every application will be

dealt with separately and on its own individual merits, the Council in writing this Policy is offering guidance on the wider considerations that will be taken into account.

7. The Policy comes into force on 7<sup>th</sup> January 2021 and will apply for the five year period commencing on that date subject to any amendments or reviews which may be undertaken during that period. The Policy is intended for the guidance of the Council's Regulatory Committee (which has responsibility for the Council's licensing functions) as well as to assist applicants in presenting their application. It is not intended to limit the power or fetter the discretion of the Regulatory Committee who will listen to, and determine on its own individual merits, any application placed before it.

## **8. Scope of the Policy**

9. The Policy covers applications, reviews, transfers and variations of licences for the following licensable activities:

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of a member of that club
- The provision of regulated entertainment, and
- The provision of late night refreshment

## **10. Licensing Objectives**

11. The Council will carry out its functions under the Act with a view to promoting the licensing objectives, namely;

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

12. No one objective is considered to be of any more importance than any other.

13. In carrying out its functions the Council will also have regard to this Policy and to the Guidance as issued by the Secretary of State under section 182 of the Act from time to time.

14. Individual applicants will be required to address the licensing objectives and address the issues of the needs of the local community, the way in which the premises is to operate, the size, location and type of premises, and any entertainment which is to be provided.

15. The Council's vision as set out within the Corporate Strategy 2018/2020 and within Halton's fifteen year Sustainable Community Strategy 2011–2026 is that:

“Halton will be a thriving and vibrant Borough where people can learn and develop their skills; enjoy a good quality of life with good health; a high quality, modern urban environment; the opportunity for all to fulfil their potential; greater wealth and equality, sustained by a thriving business community; and safer, stronger and more attractive neighbourhoods”.

16. The Council has identified strategic priorities and key themes that are set out in its Corporate Plan 2011-2016 and within its fifteen year Sustainable Community Strategy 2011 – 2026. These are:

- A Healthy Halton
- Employment, Learning and Skills in Halton
- A Safer Halton
  - Halton's Children and Young People
  - Environment and Regeneration in Halton
  - Corporate Effectiveness & Business Efficiency

17. Locally due to the high levels of alcohol-related harm Halton experiences the Halton Health and Wellbeing Strategy 2017/2022 includes the reduction in the harm from alcohol as a priority area.

18. The strategy identified a number of issues which may be affected by the licensing regime in Halton including:

- A significant proportion of cases of domestic violence are alcohol related
- Alcohol related crime and alcohol related violent crimes are worse in Halton than for both the North West and England as a whole
- Alcohol specific admissions (both among adults and those aged under 18) are much higher than the national and regional averages.

19. In addition due to the high levels of alcohol-related harm Halton was one of only twenty areas in the country to be awarded the status of being a “Local Alcohol Action Area” (LAAA). This award provided support from the Home Office and Public Health England during 2014/15 related to addressing the harm from alcohol across three areas – health, crime and anti-social behaviour, and diversifying the night time economy.

20. Working in collaboration a local alcohol strategy has been developed and agreed. The *Halton Alcohol Strategy: Reducing alcohol-related harm across the life course, 2014-2019* makes the case that the impact of drinking on public health and community safety

in Halton is so great that radical steps are needed to change our relationship with alcohol.

21. The vision of the strategy is to:

“Enable people in Halton to have a sensible relationship with alcohol that promotes good health and wellbeing and ensures Halton is a safe place to live”.

22. In order to achieve this vision and minimise the harm from alcohol in Halton the strategy will seek to deliver three interlinked outcomes:

1. Reduce alcohol-related health harms
2. Reduce alcohol-related crime, antisocial behaviour and domestic abuse
3. Establish a diverse, vibrant and safe night-time economy.

22. So far as is consistent with the licensing objectives, the Council will carry out its licensing functions with a view to promoting these priorities and themes (including priorities and themes which may be adopted from time to time).

23. The Council will encourage the provision of a wide range of entertainment activities within the Halton area including promotion of live music, dance and so on, in the interests of broadening cultural opportunities within the local community.

#### **24. General principles**

25. If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions. It is recommended that licence applicants contact responsible authorities when preparing their operating schedules.

#### **26. Integrating Strategies**

27. The Council’s core plans and strategies are set out in the Corporate Plan and the Sustainable Communities Strategy.

28. The Council will secure the proper integration of its licensing Policy with its core plans and strategies as well as its local crime prevention, planning, transport, tourism, equal opportunities, race equality schemes, and cultural strategies and any other plans introduced for the management of town centres and the night-time economy (as to which, see below).

29. This will be achieved by ensuring that the Council’s Regulatory Committee receive appropriate reports on all relevant strategies,

plans and policies. Many of these strategies are not directly related to the promotion of the four licensing objectives, but, indirectly, impact upon them. Co-ordination and integration of such policies, strategies and initiatives are therefore important.

30. Many licensable activities take place at night-time: when much of the rest of the economy has closed down. It follows that licensable activities can contribute a very significant element of the night-time economy, particularly within town centres. Emerging Town Centre Strategies for Widnes and Runcorn will contribute to the development of the night-time economy and assist the Council in exercising its licensing functions.

32. This statement sets out the Council's general approach to the making of licensing decisions. It does not override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.

33. Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. Conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others in possession of relevant authorisations. Accordingly, the Council will focus its attention on the premises being used for licensable activities and the vicinity of those premises.

34. In addressing this matter, the Council will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

### **35 The need for licensed premises**

36. There can be confusion about the difference between "need" and the "cumulative impact" of premises on the licensing objectives, for example, on crime and disorder. "Need" concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for

the Council in discharging its licensing functions. "Need" is a matter for planning committees and for the market.

### **37. The cumulative impact of a concentration of licensed premises**

38. "Cumulative impact" is not mentioned specifically in the Act but means in the Guidance the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. For example, the potential impact on crime and disorder or public nuisance on a town or city centre of a large concentration of licensed premises in that part of the Council's area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Council to consider in developing its licensing Policy statement.

39. The Council will not impose any arbitrary quotas on numbers of licensed premises, nor will it impose any restriction or limitation on trading hours in a particular area.

40. The Council considers that there are presently no areas within the Borough of Halton which can be considered to be causing cumulative impact on one or more of the licensing objectives. However, the position will be reviewed should evidence be produced to justify a change in policy.

41. It should be noted that the absence of a special Policy does not prevent the Council or any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

42. Notwithstanding what is set out in this statement about other mechanisms for controlling cumulative impact, applicants will be expected to demonstrate (where appropriate) how their proposals are consistent with dealing with crime and disorder and nuisance in the vicinity of their premises. Attention should be paid to their proposals in respect of hours of operation and the management of their premises generally. Regard should be had to issues such as taxis and transportation and the pattern of licensed premises and food premises in the vicinity, and, not least, the distribution of residential premises in the vicinity.

### **43. Other mechanisms for controlling cumulative effect**

**44. Early Morning Restriction Order (EMRO) - Police Reform & Social Responsibility Act 2011.** An early morning restriction order (EMRO) is a power in the Licensing Act 2003 that will enable licensing authorities to restrict the sale of alcohol in the whole or a part of their



areas for any specified period between 12 midnight and 6 a.m. if they consider this appropriate for the promotion of the licensing objectives. The Council is not currently considering introducing an EMRO.

**45 Late Night Levy.- Police Reform & Social Responsibility Act 2011.** The late night levy (“the levy”) will enable licensing authorities to raise a contribution from late-opening alcohol suppliers towards policing the night-time economy. It will be a local power that licensing authorities can choose whether or not to exercise. It must cover the whole of the licensing authority’s area. However, the licensing authority will also choose the period during which the levy applies every night between midnight and 6am and decide what exemptions and reductions should apply from a list set out in regulation. The Council is not currently considering introducing a Late Night Levy but the position will be reviewed should evidence be produced to justify a change in policy.

46. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres. Once away from the licensed premises, a minority of consumers will behave badly and unlawfully. The general public needs to be made aware that there is a much broader strategy for addressing these problems than the licensing regime of the Act. There are other mechanisms both within and outside the licensing regime that are available for addressing such issues. For example:

- planning controls;
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;

- the confiscation of alcohol from adults and children in designated areas;
- closure notices and orders under the Anti-Social Behaviour, Crime and Policing Act 2014; and
- the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

47. These can be supplemented by other local initiatives that similarly address these problems.

#### **48. Licensing hours**

49. With regard to licensing hours, consideration will be given to the individual merits of an application.

- The Council recognises that, in certain circumstances, longer licensing hours with regard to the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.
- The Council also wants to ensure that licensing hours should not inhibit the development of a thriving and safe evening and night-time local economy.

50. The term “zoning” is used in the Guidance to refer to the setting of fixed trading hours within a designated area. At the moment the Council sees no need to adopt such a policy. The Council has followed the advice in the Guidance and will not be adopting such a Policy within the Borough. However, stricter conditions with regard to noise control will be expected in areas which have denser residential accommodation, but this will not limit opening hours without regard to the individual merits of any application.

#### **51. Shops stores and supermarkets**

52. With regard to shops, stores and supermarkets, the norm will be for such premises to be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are very good reasons for restricting those hours. For example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.

#### **53. Mobile, remote, internet and other delivery sales**

54. The sale by retail of alcohol is a licensable activity and may only be carried out in accordance with an authorisation under the 2003 Act. Therefore, a person cannot sell alcohol from a vehicle or moveable structure at a series of different locations (e.g. house to house),

unless there is a premises licence in respect of the vehicle or moveable structure at each location at which a sale of alcohol is made in, on or from it.

55. The place where the order for alcohol, or payment for it, takes place may not be the same as the place where the alcohol is appropriated to the contract (i.e. the place where it is identified and specifically set apart for delivery to the purchaser). This position can arise when sales are made online, by telephone, or mail order. Section 190 of the 2003 Act provides that the sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract. It will be the premises at this location which need to be licensed; for example, a call centre receiving orders for alcohol would not need a licence but the warehouse where the alcohol is stored and specifically selected for, and despatched to, the purchaser would need to be licensed. These licensed premises will, as such, be subject to conditions including the times of day during which alcohol may be sold. The premises licence will also be subject to the mandatory licence conditions.

56. Persons who run premises providing 'alcohol delivery services' should notify the Council that they are operating such a service in their operating schedule. This ensures that the Council can properly consider what conditions are appropriate. Premises with an existing premises licence, which choose to operate such a service in addition to their existing licensable activities, should contact the Council for its view on whether this form of alcohol sale is already permitted or whether an application to vary the licence will be required. Steps must be in place to ensure that any designated premises supervisor and members of staff involved with the delivery of alcohol to residential addresses are made fully aware of their responsibilities to ensure that no alcohol is sold to persons underage.

#### **57. Protection of children from harm**

58. The Body the Council judges to be competent to act as the responsible authority in relation to the protection of children from harm is Halton Borough Council People Directorate: contact details are set out in **Appendix A**.

59. The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). The Council must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

60. The Council will give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health and Trading Standards may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers and the impacts of parental drinking on children.

61. The Council considers that children and family groups in general should be encouraged to be present in places subject to premises licences unless the environment in those premises (by nature of the activities carried on) is unsuitable. As a general principle, the presence of children and family groups is felt to have a positive influence on the atmosphere within such premises and to produce a more balanced age range within the premises.

62. The Council will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them. The Council will not attempt to anticipate every issue of concern that could arise in respect of children with regard to individual premises and as such, general rules will be avoided. Consideration of the individual merits of each application remains the best mechanism for judging such matters.

63. The Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or temporary event notice.

64. Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity at those venues. Accordingly, between 5am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and even many pubs where the main business activity is the consumption of both food and drink. This does not mean that children should automatically be admitted to such premises and the following paragraphs are therefore of great importance notwithstanding the new offences created by the Act.

65. The fact that the Act may effectively bar children under 16 unaccompanied by an adult from premises where the consumption of

alcohol is the exclusive or primary activity does not mean that the Act automatically permits unaccompanied children under the age of 18 to have free access to other premises or to the same premises even if they are accompanied or to premises where the consumption of alcohol is not involved.

66. Subject only to the provisions of the Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The Act includes on the one hand, no presumption of giving children access or on the other hand, no presumption of preventing their access to licensed premises. Each application and the circumstances obtaining at each premises will be considered on its own merits.

67. Certain areas need to be highlighted that will give rise to particular concern in respect of children. For example, these will include premises:

- where entertainment or services of an adult or sexual nature are commonly provided;
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines); and
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

68. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. The Council, applicants, and responsible authorities will need to apply common sense to this matter. However, such entertainment or services, for example, would generally include topless bar staff, striptease, lap-, table- or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

69. Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:

- limitations on the hours when children may be present;

- imitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place;
- limitations on the parts of premises to which children might be given access;
- age limitations (below 18);
- requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- full exclusion of those people under 18 from the premises when any licensable activities are taking place.

70. Conditions requiring the admission of children to any premises cannot be attached to licences or certificates.

71. Where no licensing restriction is necessary, this will remain a matter for the discretion of the individual licensee or club or person who has given a temporary event notice. Venue operators seeking premises licences and club premises certificates may also volunteer such prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where no relevant representations are made to the Council, these volunteered prohibitions and restrictions will become conditions attaching to the licence or certificate and will be enforceable as such. No other conditions concerning the presence of children on premises may be imposed by the Council in these circumstances.

72. In connection with the protection of children from harm, the responsible authorities include a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm and is recognised by the licensing authority for that area as being competent to advise it on such matters. The Council is a unitary authority and competent in this area. Applications will therefore not need to be copied to any other competent authority in this area: the Council will liaise where appropriate with its own social services department.

### **73. Proof of Age**

74. It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. It is also an offence for an over 18 to purchase alcohol for an under 18 – this is called proxy purchasing. To prevent such crimes, it may be necessary to require a condition to be applied at certain licensed premises going beyond the mandatory minimum requirements requiring the production of "proof of age" before such sales are made. This should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences,

student cards and passports. Trading Standards regulate the sale of alcohol to under 18s and can provide advice and materials relating to the prevention of underage sales. They can also provide free staff training.

## **75. Responsible authorities**

76. A full list of the responsible authorities in the area and appropriate contact details are set out at **Appendix A**.

77. The inclusion of the health service as a responsible authority under the Licensing Act 2003, which occurred in 2012, enables health bodies to have a say in alcohol licensing. The Licensing and Public Health teams work together within the council to ensure that the health impacts of alcohol licensing are considered.

78. As there is not a specific licensing objective related directly to health within the current legislation, health bodies, when making a representation, are most likely to relate such representations to the objectives on public safety and protecting children from harm. This is likely to include the prevention of accidents, injuries and other immediate harms that can result from alcohol consumption, such as unconsciousness or alcohol poisoning. Anonymised data can be collected about incidents relating to specific premises or areas when representations are made.

79. Health bodies hold valuable information which may not be recorded by other agencies, including analysis of data on attendance at emergency departments and the use of ambulance services following alcohol related incidents. Sometimes it may be possible to link ambulance callouts and attendance to irresponsible practices at specific premises.

80. The Director of Public Health is responsible for making representations and observations on applications on behalf of health bodies.

## **81 The Portman Group code of Practice on the Naming Packaging and promotion of alcoholic drinks**

82. The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-

sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with.

83. The Code is an important weapon in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors. The Council commends the Code and applicants will be expected to state how they intend to apply the Code.

#### **84. Plastic containers and toughened glass**

85. The Council has concerns about the dangers of bottles and glasses being used as weapons. It believes that the use of safer forms of glasses can help to reduce injuries and will expect applicants to state in their operating schedule what proposals they have to minimise such injuries through the use of safer forms of glasses, bottles and other means.

86. Consideration will therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries. Location and style of the venue, the activities carried on there, and the hours of operation, would be particularly important in assessing whether a condition is necessary: for example, the use of glass containers on the terraces of outdoor sports grounds may be of concern.

#### **87. CCTV**

88. The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

#### **89. Children and cinemas**

90. In the case of premises giving film exhibitions, the Council will expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of



Film Classification or the Council itself. The Council has no current plans to adopt its own system of classification.

91. The Act also provides that it is mandatory for a condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by a body designated under section 4 of the Video Recordings Act 1984 - the British Board of Film Classification is the only body which has been so designated – or by the licensing authority itself.

## **92. Crime prevention**

93. Conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies. For example, the provision of closed circuit television cameras in certain premises. Conditions will, where appropriate, also reflect the input of the local Crime and Disorder Reduction Partnership.

## **94 Drugs**

The Council recognises that the supply and use of illegal drugs by individuals is not relevant to all licensed premises but it is recognised that conditions may need to be attached to the licences for certain venues if representations are received. The aim will be to endeavour to reduce the availability, sale, and consumption of illegal drugs and to create a safer environment for those who may have taken them. Any conditions will take into account the relevant guidance and advice from appropriate bodies.

The Council expects licensees of all venues to take all reasonable steps to:

- Prevent the entry of drugs into licensed premises
- Prevent drugs changing hands within the premises
- Understand the signs of drug misuse in people so that practical steps can be taken to deal with any instances that occur
- Have appropriately trained staff to deal with drug related incidents.

The Council expects licensees to permit the access and use of drug dogs within the public and staff areas of the premises upon request of the Council and/or police involved in such an initiative.

The increasing prominence and dangers that can occur from Novel (New) Psychotic Substances (Legal Highs) is recognised and the Council would encourage all venues to include suitable steps within their Drugs Policy to deal with legal highs. The Council will consider whether it would be appropriate to impose a condition in order to

promote one or more of the statutory licensing objectives where there is evidence to do so.

### **95 The control of excessive Alcohol consumption**

It is an offence under the Licensing Act 2003 to sell to, or obtain alcohol for, a person who is drunk on licensed premises.

In practical terms this includes:

- Selling an alcoholic drink to someone who you know is drunk
- Buying an alcoholic drink for someone who you know is drunk

The Council expects all premises licence holders to take steps to control excessive consumption and drunkenness on relevant alcohol licensed premises. All serving staff should be trained in recognising the signs of drunkenness, how to refuse service and the premises duty of care. The premise should display prominent signage at point of sale that it is an offence to sell alcohol to anyone who is drunk.

This will reduce the risk of anti-social behaviour occurring both on and away from the premises after customers have departed. Premises licence holders are expected to be able to demonstrate a general duty of care to customers using their premises and others affected by their activities.

### **96. Capacity limits**

97. Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

### **98. Good Management**

99. Certain kinds of physical environment within places subject to premises licences (such as an over preponderance of vertical drinking) are generally thought to be less conducive to avoiding crime and disorder. Good management and adequate staff training are vital. Where appropriate the provision of food in addition to alcohol can have a beneficial effect. Where food is provided it is good practice (but not mandatory under the licensing system) to have regard to current practice on healthy eating. The Council encourages premises licence holders to take an active part in local Pub Watch and Arc Angel schemes.

100. Another aspect of good management in relation to door supervision is to have proper systems in place to comply with the

Private Security Industry Act 2001 and to think about how good door supervision systems can contribute to crime reduction both within and outside of premises. Applicants will be expected to have considered these and all relevant issues and to reflect these within their operating schedules

#### **101. Cultural strategies**

102. In connection with cultural strategies, the Council will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing. Only necessary, proportionate and reasonable licensing conditions will be applied on such events. Where there is any indication that such events are being deterred by licensing requirements, the statement will be re-visited with a view to investigating how the situation might be reversed.

103. The United Kingdom ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1976. Article 15 of the Covenant requires that progressive measures be taken to ensure that everyone can participate in the cultural life of the community and enjoy the arts. It is therefore important that the principles underpinning ICESCR will be integrated, where possible, with the Council's approach to the licensing of regulated entertainment.

#### **104. Transport**

105. The Council proposes, through its Local Transport Plan, to develop protocols to be agreed between the local police and other partners that have due regard to the need to disperse people from town centres swiftly and safely to avoid concentrations which produce disorder and disturbance. Applicants will be expected to have considered this issue, and their operating schedule should reflect their proposals for how they might assist in this process.

#### **106. Tourism, employment, planning and building control, and highways**

107. The following matters should be noted in relation to tourism, employment, planning and building control, and highways:

- arrangements have been made for the Council's Regulatory Committee to receive, when appropriate, reports on the needs of the local tourist economy for the area to ensure that these are reflected in their considerations;
- the Council intends to keep the Regulatory Committee apprised of the employment situation in the area and the need for new investment and employment where appropriate;

108. Planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Except in cases where planning permission is not required, applications for premises licences for permanent commercial premises should normally be from businesses with planning permission in place for the property concerned.

109. Licensing applications will not be a re-run of the planning application and should not cut across decisions taken by the Council's Development Control Committee or following appeals against decisions taken by that committee. Nevertheless, applicants should be aware that because the rules applicable and the range of matters to be taken into account are not identical, it is possible for planning permission to be granted and a licence application to be refused (and vice versa) in respect of the same premises. The same applies to the conditions which may be applied to planning permissions and premises licences.

110. Similarly, the granting by the licensing committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.

111. Planning obligations under section 106 Town and Country Planning Act 1990 warrant special mention. The Council as licensing authority can neither demand that a planning obligation be entered into nor be party to a planning obligation. However, applicants are free to enter into such agreements with the Council as planning authority if they so wish. Such agreements could potentially deal with a wide range of matters such as contributions to town centre policing and litter control.

112. Proper integration will be assured by the Regulatory Committee, where appropriate, providing regular reports to the Development Control Committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This will enable the Development Control Committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.

113. The Council's Local Transport Plan is the mechanism by which the Council will work in partnership with all appropriate bodies to deliver effective local transport strategies. Effective strategies will include provision of night-time and evening services, where this is appropriate to the local situation.

114. Where applicants seek premises licences in respect of pavement cafes and the like, they will have to have satisfied the

Council (as Highway Authority) of the appropriateness and legality of any proposal prior to any application to the Licensing Authority.

### **115. Promotion of Equality**

116. The Council recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons with different protected characteristics.

117. Local authorities are also required under the 2010 Act, to discharge the public sector equality duties. The Council is required by the Equality Act 2010 to publish information at least annually to demonstrate its compliance with the equality duty. Applicants will be expected to demonstrate that they have taken this issue into account.

### **118. Duplication**

119. The Council will avoid duplication with other regulatory regimes so far as possible. For example, legislation governing health and safety at work and fire safety will place a range of general duties on the self-employed, employers and operators of venues both in respect of employees and of the general public when on the premises in question. Similarly, many aspects of fire safety will be covered by existing and future legislation.

120. Conditions in respect of public safety will only be attached to premises licences and club premises certificates that are “necessary” for the promotion of that licensing objective and if already provided for in other legislation, they cannot be considered necessary in the context of licensing law. Such regulations will not however always cover the unique circumstances that arise in connection with licensable activities, particularly regulated entertainment, at specific premises and tailored conditions may be necessary. It should be borne in mind that an alteration is “material” for the purposes of the Building Regulations if it has the potential to affect structural stability, fire safety or access.

121. The Council appreciates that regulations under which a fire safety inspection would normally be carried out do not apply to ships/boats unless they are in dry dock. The safety regime for passenger vessels is enforced under the Merchant Shipping Acts by the Maritime and Coastguard Agency who operate a passenger ship certification scheme. Accordingly, it will not normally be necessary to duplicate the controls imposed through the certification scheme.

122. Certain health and safety issues can be taken into account despite apparent duplication. For example, applicants will be expected to consider the appropriate types of drinking containers (i.e

glass or plastic) within premises or parts of premises. This example can only be considered under the crime and disorder heading.

### **123. Standardised conditions**

124. The Guidance states that a key concept underscoring the Act is for conditions to be attached to licences and certificates which are tailored to the individual style and characteristics of the premises and events concerned. This can be important to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. The Guidance states that standardised conditions should therefore be avoided and indeed, may be unlawful where they cannot be shown to be necessary for the promotion of the licensing objectives in any individual case. The Council will apply the general principles relating to conditions as set out in the Guidance.

125. The Guidance states that it is acceptable for licensing authorities to draw attention in their statements of Policy to pools of conditions from which necessary and proportionate conditions may be drawn in particular circumstances. The Council considers that standardised wording of conditions (but not universally applied block conditions) are acceptable when dealing with the same or very similar situations.

126. There will be circumstances where no additional conditions may be necessary where existing legislation and regulation already effectively promote the licensing objectives. Where conditions are imposed they will focus on matters within the control of applicants/licence holders.

### **127. Enforcement**

128. The Council has established a protocol with the local police on enforcement issues.

129. In particular, this protocol is intended to provide for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run. The Act does not require inspections to take place save at the discretion of those charged with this role. The principle of risk assessment and targeting should prevail and inspections should not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are more effectively concentrated on problem premises.

### **130. Live music, dancing and theatre**

131. The Council recognises that as part of implementing the Council's cultural strategies, proper account should be taken of the

need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays, for the wider cultural benefit of communities. Concern to prevent disturbance in neighbourhoods will always be carefully balanced with these wider cultural benefits, particularly the cultural benefits for children.

132. In determining what s should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives, the Council will be aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a disproportionate nature. It is noted that the absence of cultural provision in any area can itself lead to the young people being diverted into anti-social activities that damage communities and the young people involved themselves.

133. To ensure that cultural diversity thrives, the Council will have a Policy of seeking premises licences where appropriate for public spaces within the community in their own name. This could include, for example, village greens, market squares, promenades, community halls, Council owned art centres and similar public areas. Performers and entertainers would then have no need to obtain a licence or give a temporary event notice themselves to enable them to give a performance in these places. They would still require the permission of the Council as the premises licence holder for any regulated entertainment that it was proposed should take place in these areas.

134. It should be noted that when one part of the Council seeks a premises licence of this kind from the Council in its capacity of licensing authority, the Regulatory Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered fairly by the Committee. Those making representations genuinely aggrieved by a positive decision in favour of the Council application by the Council in its capacity of licensing authority would be entitled to appeal to the magistrates' court and thereby receive an independent review of any decision made.

### **135. Live Music Act 2012 - Live music in licensed venues**

136. Live music is no longer considered to be regulated entertainment in venues licensed for the sale of alcohol for consumption on the premises in the following situations:

- when it is unamplified and takes place between 8am and 11pm; and
- when it is amplified and takes place in the presence of an audience of 500 persons or less and is provided between 8am and 11pm.

137. The premises must be open for the sale of alcohol during the time that the live music is provided for the exemption(s) to take effect.

138. Any condition attached to the Premises Licence relating to live music will cease to have effect in respect of the live music when offered between 8am and 11pm, unless such conditions have been reinstated by the Licensing Authority as part of a Review Hearing.

#### **139. Live music in venues which are not licensed**

140. Unamplified, live music has been deregulated between 8am and 11pm in all non-licensed venues.

However, unamplified, live music after 11pm and amplified live music in non-licensed venues will still require formal authorisation from the Licensing Authority by way of a Premises Licence, Club Premises Certificate or Temporary Event Notice (TEN).

#### **141. Preparation of Operating Schedules**

142. Applicants are strongly advised to obtain proper professional advice in the preparation of operating schedules and in particular are strongly advised to seek advice from the police on matters relating to crime prevention (including CCTV) to ensure a proper link between Crime and Disorder Strategies and Alcohol Harm Reduction Strategies.

#### **143. Contact Points**

**144. Appendix B** gives details of contact points where members of public can obtain advice about whether or not activities should be licensed.

#### **145. Administration, exercise and delegation of functions**

146. The Council's Regulatory Committee (and Regulatory Sub-Committees) will carry out all of the Council's licensing functions under the Act except those relating to the making of statements of licensing Policy. A full delegation scheme is in place. The scheme of delegation relating to matters which can be dealt with by the Regulatory Sub-committee(s) and officers of the Council are set out at **Appendix C**. This follows the recommended delegation of functions set out in the Guidance and is carried forward into the Council's Constitution. Whether delegated powers are exercised on any given occasion is a matter of practice adopted from time to time.

#### **147. Monitoring/Review**

148. The Council will carry out a review of the statement in accordance with the Guidance and the Act.





APPENDIX A

**LIST OF RESPONSIBLE AUTHORITIES AND CONTACT  
DETAILS**

**List of Responsible Authorities (The Council's website should  
be consulted to check for alterations to contact details)**

<p><b>Relevant Licensing Authority</b></p> <p>Licensing Section Halton Borough Council Municipal Building Kingsway Widnes WA8 7QF</p>	<p><b>Chief Officer of Police</b></p> <p>c/o The Relevant Licensing Officer Cheshire Constabulary Headquarters Clemonds Hey Oakmere Road Winsford CW7 2UA</p>
<p><b>Fire and Rescue Authority</b></p> <p>Cheshire Fire and Rescue Authority Fire Station Winwick Road Warrington WA2 8HH</p>	<p><b>Public Health Authority</b></p> <p>Director of Public Health Halton Borough Council Community and Resources Directorate Town Hall Heath Road Runcorn WA7 5TD</p>

<p><b>Health and Safety Enforcing Authority<sup>1</sup></b></p> <p>Director of Public Health</p> <p>Halton Borough Council</p> <p>Community and Resources Directorate</p> <p>Town Hall</p> <p>Heath Road</p> <p>Runcorn WA7 5TD</p>	<p><b>Local Planning Authority</b></p> <p>Halton Borough Council</p> <p>Planning Department</p> <p>Municipal Building</p> <p>Kingsway</p> <p>Widnes WA8 7QF</p>
<p><b>Authority exercising functions in relation to minimising or preventing the risk of pollution of the environment or of harm to human health</b></p> <p>Director of Public Health</p> <p>Halton Borough Council</p> <p>Community and Resources Directorate</p> <p>Town Hall</p> <p>Heath Road</p> <p>Runcorn WA7 5TD</p>	<p><b>Recognised Child Protection Body</b></p> <p>Halton Borough Council</p> <p>People and Economy Directorate</p> <p>c/o Legal Services</p> <p>Municipal Building</p> <p>Kingsway</p> <p>Widnes WA8 7QF</p>
<p><b>Local Weights and Measures Authority</b></p> <p>Principal Trading Standards Officer</p>	

<sup>1</sup> In some cases this may be the Health & Safety Executive. If in doubt please contact the Council.

<p>Halton Borough Council</p> <p>Town Hall</p> <p>Heath Road</p> <p>Runcorn</p> <p>WA7 5TD</p>	
<p><b>NOTE</b></p> <p>If the premises are situated in one or more licensing authority areas, send the application and supporting documents to each additional licensing authority.</p> <p>Please check with the Licensing Section if you require further advice.</p>	

### **Vessels**

Where applications relate to vessels additional responsible authorities will be involved (depending on the circumstances) as set out below.

- 1) The navigation authority in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated when it is used for licensable activities.
- 2) Environment Agency.
- 3) Canal & River Trust (formerly the British Waterways Board)<sup>2</sup>.
- 4) The Secretary of State for Transport through the Maritime and Coastguard Agency.

Advice should be sought from the Licensing Authority regarding the relevant additional responsible authorities.

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<sup>2</sup> The British Waterways Board (Transfer of Functions) Order 2012

## APPENDIX B

### **CONTACT POINTS WHERE THE PUBLIC MAY OBTAIN ADVICE FROM THE COUNCIL**

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

Email address: [legalservices@halton.gov.uk](mailto:legalservices@halton.gov.uk)

Telephone: 0151 511 7879

Postal Address:

Halton Borough Council

Licensing Section

Legal Services

Municipal Building

Kingsway

Widnes

WA8 7QF

APPENDIX C

**SCHEME OF DELGATION**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If objection made	If no objection 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 premises supervisor		If a police objection	All other cases
Request to be removed as designed premises supervisor			All cases
Application for transfer of premises licence		If police objection	All other cases
Application for interim authorities		If police objection	All other cases
Application to review premises licence / club premises certificate		All cases	
Decision of whether a complaint is irrelevant, frivolous, vexatious etc			All cases

Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	
Determination of application to vary premises licence by a 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 Minor variation			All cases