

LICENSING COMMITTEE

Thursday, 23rd June, 2022
6.30 pm





LICENSING COMMITTEE

ROOMS 2 & 3, BURNLEY TOWN HALL

Thursday, 23rd June, 2022 at 6.30 pm

Members are reminded that if they have detailed questions on individual reports, they are advised to contact the report authors in advance of the meeting.

Members of the public may ask a question, make a statement, or present a petition relating to any agenda item or any matter falling within the remit of the committee.

Notice in writing of the subject matter must be given to the Head of Legal & Democracy by 5.00pm three days before the meeting. Forms can be obtained for this purpose from the reception desk at Burnley Town Hall, Manchester Road or at the Contact Centre, Parker Lane, Burnley or from the web at: <http://burnley.moderngov.co.uk/ecCatDisplay.aspx?sch=doc&cat=13234> . You can also register to speak via the online agenda. Requests will be dealt with in the order in which they are received.

There is limited space for members of the public to attend the meeting. You are advised to contact democracy@burnley.gov.uk in advance if you wish to attend.

AGENDA

1) Apologies

To receive any apologies for absence.

2) Minutes

To approve as a correct record the Minutes of the last meeting as enclosed.

5 - 6

3) Additional Items of Business

To determine whether there are any additional items of business which, by reason of special circumstances, the Chair decides should be considered at the meeting as a matter of urgency

4) Declaration of Interest

To receive any declarations of interest from members.

5) *Exclusion of the Public*

To determine during which items, if any, the public are to be excluded from the meeting.

6) *Public Question Time*

To consider questions, statements or petitions from members of the public.

PUBLIC ITEMS

7) *Appointments to sub-Committees*

7 - 8

To appoint members to the 2022/23 Licensing Act 2003 and Taxi Licensing sub-committees.

8) *Review of Hackney Carriage Table of Fares*

9 - 14

To consider a request to amend the Hackney Carriage Table of Fares and make a suitable recommendation to the Executive.

9) *Licensing Act 2003 - Review of Statement of Licensing Policy*

15 - 32

To approve a formal 8 week consultation on the updated Statement of Licensing Policy.

MEMBERSHIP OF COMMITTEE

Councillor Jeff Sumner (Chair)
Councillor Arif Khan (Vice-Chair)
Councillor Charlie Briggs
Councillor Shah Hussain
Councillor Jacqueline Inckle
Councillor Karen Ingham
Councillor Mohammed Ishtiaq
Councillor Anne Kelly

Councillor Jack Launer
Councillor Lorraine Mehanna
Councillor Asif Raja
Councillor Christine Sollis
Councillor Mark Townsend
Councillor Don Whitaker
Councillor Andy Wight

PUBLISHED

Wednesday, 15 June 2022

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LICENSING COMMITTEE

BURNLEY TOWN HALL

Wednesday, 2nd February, 2022 at 6.30 pm

PRESENT

MEMBERS

Councillors J Sumner (Chair), A Khan (Vice-Chair), H Baker, F Cant, I Emo, B Foster, S Hussain, K Ingham, A Kelly, S Lone, L Mehanna, A Raja, D Whitaker and A Wight

OFFICERS

Joanne Swift	– Head of Streetscene
Karen Davies	– Environmental Health and Licensing Manager
James Astin	– Workplace Compliance Officer
Alison McEwan	– Democracy Officer
Catherine Waudby	– Head of Legal and Democratic Services

36. Minutes

The minutes of the last meeting were approved as a correct record and signed by the Chair.

37. Review of pre-application licence requirements

The Licensing Committee RESOLVED:

- to reinstate supervised online driver Knowledge Tests from 4th April 2022
- to adopt permanently the online safeguarding training (as prescribed by the Council) and online safeguarding refresher training, to be implemented from 4th April 2022
- to introduce knowledge test refresher training every 3 years, to coincide with the renewal of the driver licence, from 4th April 2022
- to confirm Group 2 driver medicals as an alternative to GP medicals where the practice no longer offers the service, implemented immediately
- to reinstate 3 year driver licences as the norm where the pre-application criteria are met (except in special circumstances eg for medical reasons & hardship)
- to recommend Full Council to amend the Scheme of Delegation in accordance with Appendix A to enable the Head of Legal & Democratic Services to act where training requirements are not met

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Appointment to Licensing Sub Committees

REPORT TO LICENSING COMMITTEE



DATE	23/06/2022
PORTFOLIO	Community and Environmental Services
REPORT AUTHOR	Alison McEwan
TEL NO	01282 477259
EMAIL	amcewan@burnley.gov.uk

PURPOSE

1. To obtain approval of the Licensing Committee for sub delegation of functions to a Licensing Act 2003 Sub-Committee and to a Taxi Licensing Sub-Committee and for the appointment of Licensing Committee Members to these Sub-Committees.

RECOMMENDATION

2. (1) That a Licensing Act 2003 Sub-Committee be established for the sub delegation of functions under the Licensing Act 2003 for a final hearing procedure;
- (2) That a Taxi Licensing Sub Committee be established for sub delegation of functions vested in the Licensing Committee relating to taxi licensing functions as set out in Part 3 of the Council's Constitution; and
- (3) That Members be appointed to the Sub-Committees on a rotational basis subject to their availability.

REASONS FOR RECOMMENDATION

3. For the efficient and effective discharge of the Council's Licensing Authority functions.

SUMMARY OF KEY POINTS

4. The Licensing and Gambling Acts do not require these Sub-Committees to be politically balanced but it is the Council's current practice to apply the political balance calculation to all statutory and non-statutory groups wherever possible. Other forms of licensing are subject to the political balance rules. Seats on all Sub-Committees will be allocated on a rotational basis between members subject to their availability. Members should be mindful that Sub-Committees meet during office hours, as outlined below.

Licensing Act 2003 Sub-Committee

5. Section 10 of the Licensing Act 2003 allows for the powers vested in the Council to be discharged by a Sub-Committee of the Licensing Committee and the Council has previously passed a resolution to enable this function to be discharged in this way.

6. The workload of this committee is variable and during 2021/22 there were four meetings, As the hearings under this Act can be lengthy and may include attendance by the applicant's legal representative(s) it is proposed that the committee continues to meet during office hours.

Taxi Licensing Sub-Committee

7. In 2014 Council allowed for the provisions with respect to taxis as set out in Part 3 of the Constitution and vested in the Licensing Committee, to be delegated to a Sub-Committee comprising seven members.
8. It is proposed that Meetings of this Sub-Committee continue to be held during office hours (usually at 10 a.m. or 2 p.m.) as applicants and appellants may attend with legal representatives. Additionally a number of meetings are held to determine applications for renewal of private hire vehicle licences where the vehicles have exceeded the upper age limit as defined in the Council's vehicle age limit policy. This requires Committee members to inspect the vehicles and this is best done during daylight hours.
9. In 2021/22 there were five meetings of the Taxi Licensing Sub-Committee.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

10. None arising from this report

POLICY IMPLICATIONS

11. None

DETAILS OF CONSULTATION

12. Internal

BACKGROUND PAPERS

13. None

FURTHER INFORMATION

PLEASE CONTACT:

ALSO:

REPORT TO EXECUTIVE



DATE	13th July 2022
PORTFOLIO	Community & Environment
REPORT AUTHOR	James Astin
TEL NO	01282 425011
EMAIL	jastin@burnley.gov.uk

Review of Hackney Carriage Table Of Fares

PURPOSE

1. To consider a request from the Hackney trade to increase the Hackney Carriage Table of Fares. The proposed increase for Tariff 1 & 2 has the support of Hackney Carriage trade representatives and active/working Hackney Carriage drivers licensed by Burnley Borough Council.

RECOMMENDATION

2.
 - That Licensing Committee recommend that Executive approve the proposed increase to metered Hackney Carriage fares on Tariff 1 & 2 illustrated at Appendix B.
 - That Executive approves the proposed increase to metered Hackney Carriage fares on Tariff 1 & 2 illustrated at Appendix B.
 - That, in the event of any objections, Executive delegates authority to the Head of Streetscene in consultation with the Executive Member for Community and Environmental Services to consider any objections received; and after due consideration, to set a new implementation date, with or without modifications.

REASONS FOR RECOMMENDATION

3. The setting of Hackney Carriage fares is an Executive function, but not a key decision.

SUMMARY OF KEY POINTS

4. The Hackney Carriage Table of Fares is reviewed at the request of the trade. This indicates the maximum charge that can be demanded for a journey in a Hackney Carriage and is set in the meter. As this is an Executive function, but not a key decision, Licensing Committee are to be consulted at their meeting on June 23rd and invited to recommend its approval to the Executive. Should Executive decide to vary the fees, the new table of fares will be advertised in a local newspaper and be displayed on the website for 14 days. If there are no objections the fares will come into effect thereafter.

If any objections are received within the 14 days and not withdrawn, then they will be considered by the Head of Streetscene in consultation with the Executive Member. A new date will then be set for implementation, with or without modification. This date will be within 2 months of the date of expiry of the initial period for objections.

5. There has not been a review of the Hackney Carriage fares since 2006. A request to review fares was received in 2008, but did not have the support of the trade and was abandoned. In that time expenses have risen considerably.
6. In the May 2022 National Hackney Carriage Fares table, Burnley Borough Council's fares currently sit 345th out of 349 Local Authorities. This fare table compares details of hackney fares charges across the country for a 2-mile journey on Tariff 1. Burnley Borough Council's hackney fare for a 2-mile journey on Tariff 1 is currently £4.50.

A link to the National Hackney Carriage Fares table is available below at para 13 – Background Papers.

7. In late 2021, Hackney Carriage trade representatives proposed a modest increase mainly due to the financial impact the COVID 19 pandemic, increases in the cost of fuel, vehicle maintenance and the general increase in the cost of living. This request is reflected in the proposal. It simply increases the `flag rate` i.e. the starting figure on the meter. It does not increase the `running rate` i.e. the rate for the measured distance/journey time. In summary the change requested is:

	Current first 1320 yards (three quarters of a mile) or 4 minutes	Proposed first 1320 yards (three quarters of a mile) or 4 minutes
Tariff 1 - 6am to midnight	£2.50	£3.00
Tariff 2 – midnight to 6am & certain Bank Hols	£3.00	£3.50

Officers suggested that the running rate, ie after the first 1320 yards etc. might also be increased to ensure that addition fuel costs in particular are reflected in the meter rate, but this was not supported by the trade representatives or their members.

The hackney carriage trade is concerned a significant increase would result in the general public being discouraged from using hackney carriages due to the increased cost and render hackney carriage drivers unable to compete with the private hire trade.

For example, a hackney driver undertaking a short local journey on Tariff 1 in heavy or static traffic conditions may be making little or no progress. However, the meter is still running and clocking an additional £0.20 pence on the fare every 40 seconds. Drivers are reluctant to charge the full metered fare due and will invariably charge the customer a reduced fare.

It should be noted that most metered journeys carried out by Hackney Drivers are local and relatively short. Therefore, the modest tariff increase proposed would provide a financial benefit on most journeys.

In contrast, longer metered journeys would see very little financial benefit. However, the fare for these is normally subject to negotiation with the customer at the start of the journey, and the metered charge is rarely demanded. This negotiation is permitted provided the charge does not exceed that on the meter.

Considering the fare increase proposed by the trade, this would increase the cost of a 2-

mile journey to £5.00. This would move Burnley's fare tariff to 330th in the national fare table, comparable with Rossendale Borough Council's tariff.

8. All active/working hackney carriage drivers licenced as such by Burnley Borough Council were canvassed in relation to this proposal by way of a brief questionnaire.

The questionnaire asked the drivers to indicate their preference as follows:

- I am in favour of a tariff increase
- I am **not** in favour of a tariff increase
- No preference

Of the 28 drivers canvassed, a total of 18 returned their questionnaire all in favour of a tariff increase

9. Consideration was given to the recognised formula developed by Guildford Borough Council.

The Guildford model for setting hackney carriage fares has stood the test of legal challenge and time. It provides a means of setting and reviewing fares in a structured, transparent, and methodical way. The formula can be applied to other local authority areas as a more consistent approach.

The Guildford model considers a number of factors which include:

- Average local annual salary
- Cost of running a hackney carriage
- Annual cost of hackney carriages licences
- Additional allowance for insurance
- Annual average mileage
- Dead mileage

Guildford Borough Council is 19th in the national fare table and a hackney fare for a 2-mile journey is currently £7.60.

Whilst average salary costs in Guildford will be higher than Burnley, their licence conditions do not specify purpose-built hackneys as is the case in Burnley, which are significantly more expensive to buy and maintain.

If the Guildford model was applied to the proposed fare increase for Burnley Borough Council, clearly fares would increase significantly.

On the face of it, this would appear to be an attractive proposition. However, further consultation with the trade has established a significant fare increase is not wanted by drivers.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

10. The only financial implication of this recommendation is the cost to the trade of the

recalibration of the Hackney Carriage meters.

POLICY IMPLICATIONS

11. The recommendation would introduce permanent changes to the Hackney Carriage table of fares.

DETAILS OF CONSULTATION

12. Consultation with trade as outlined in the report. Taxi Task Gp endorsed the report on 9.06.22. Licensing Committee will consider the proposal on 23rd June.

BACKGROUND PAPERS

13. Link to National Hackney Carriage Fares Table - May 2022:
[PHTM May 2022 Issue 356 :: 86 \(yudu.com\)](https://www.yudu.com/issue/356/86)
Link to the Guildford model outlined in the Institute of Licensing publication – Pages 14 – 17:
[link-magazine-issue-8-fv.pdf \(instituteoflicensing.org\)](https://www.instituteoflicensing.org/publications/link-magazine-issue-8-fv.pdf)

FURTHER INFORMATION

PLEASE CONTACT:

James Astin

ALSO:

Karen Davies

Existing:

Hackney Carriage Table of Fares

THE DRIVER IS REQUIRED BY LAW TO SWITCH THE TAXI METER ON AT THE START OF EACH JOURNEY

Applies to all journeys within the Borough Boundary and to journeys outside the Borough Boundary unless agreed otherwise between driver and hirer prior to the hiring.

TARIFF 1

For hiring commenced between the hours 6.00 am and midnight each day

- For the first 1320 yards (three quarters of a mile) or 4 minutes.....**£2.50**
- For each succeeding 220 yards or 40 seconds thereafter or a combination of both.... **£0. 20**

TARIFF 2

For hiring commenced between midnight and 6.00 am each day, Statutory Holidays and Bank Holidays (excluding Christmas and New Year):

- For the first 1280 yards (8 elevenths of a mile) or 4 minutes and 48 seconds.....**£3.00**
- For each succeeding 160 yards or 36 seconds thereafter or a combination of both.....**£0. 20**

TARIFF 3

For hiring commenced between the hours 6.00 pm Christmas Eve and 6.00 am 27 December and between 6.00 pm New Year's Eve and 6.00 am 2 January:

- For the first 1320 yards (three quarters of a mile) or 4 minutes. .. **£5.00**
- For each succeeding 220 yards or 40 seconds thereafter or a combination of both.....**£0.40**

EXTRA CHARGES.

- To cover cleaning and loss of income, where the interior of the vehicle is soiled (at the discretion of the driver) not exceeding **£50.00**
- Before the journey starts the driver must advise if He / She is exercising discretion to charge a maximum of **£1.00** for carrying abnormal loads. (This does not apply to carriage of suitcases, hand – held luggage, shopping bags, prams / pushchairs or wheelchairs.)
- Assistance dogs are carried free of charge.

UP-FRONT PAYMENTS

DRIVERS MAY ASK YOU TO PAY AN ESTIMATED FARE / DEPOSIT UP-FRONT. IF YOU DO NOT AGREE YOU MAY BE REFUSED TRAVEL.

Complaints or Compliments Should Be Addressed to:

THE LICENSING OFFICE, PARKER LANE, BURNLEY BB11 2DT OR BY E MAIL TO licensing@burnley.gov.uk

Remember to note the taxi plate number and ask for a receipt for the journey

Proposed:

Hackney Carriage Table of Fares

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REPORT TO LICENSING COMMITTEE



DATE	Thursday 23rd June 2022
PORTFOLIO	Community & Environmental Services
REPORT AUTHOR	Karen Davies
TEL NO	01282 425011
EMAIL	kdavies@burnley.gov.uk

Licensing Act 2003 – Review of Statement of Licensing Policy

PURPOSE

1. The Statement of Licensing Policy (SoLP) sets out the principles that the Licensing Authority will apply when exercising its functions under the Licensing Act 2003 and should be prepared and published at least every 5 years. During this period it must be kept under review, and the Licensing Authority can make changes where appropriate.

RECOMMENDATION

2. To approve a formal 8 week consultation of the draft Statement of Licensing Policy provided at Appendix A.

REASONS FOR RECOMMENDATION

3. To commence the statutory process to review the SoLP.

SUMMARY OF KEY POINTS

4. The current policy was approved in 2020 for the period from Jan 2021 to Dec 2026. In view of the ongoing opportunities arising from the Padiham town centre improvements, the Pioneer Place redevelopment, St James St Heritage Action Zone, the Council's acquisition of Charter Walk Shopping Centre and the Council's ambition to work towards Purple Flag status for Burnley town centre the SoLP is being reviewed early.
5. The Council wants to help and support responsible licensed premises to thrive. To do so the licensed activities must be carried on so that they complement other business uses and do not unduly interfere with people and residents who share the use of the neighbourhood. Recent problems associated with anti-social behaviour in and around the town centre, some of which has stemmed from licenced activities, damages the reputation of our Borough and discourages people from living in, working in or visiting the town.
6. The SoLP seeks to set the right tone in terms of working collaboratively with the licenced

trade and regulatory partners to ensure that the licensing objectives are promoted and upheld within licenced premises. The licensing objectives are:

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

7. Burnley`s first SoLP was agreed in 2004 as a collaborative document with neighbouring authorities. That same document has been reviewed over time. The new draft SoLP focusses very clearly on the Borough of Burnley, outlining a policy framework that fits the issues experienced locally. It has been overhauled to take on board the findings of a Purple Flag baseline assessment carried out last year with a view to support a diverse, vibrant and safe evening and night-time economy for residents and visitors to enjoy. The two principal towns within the Borough are undergoing significant transformation, and the Council`s ambitions for the Borough are reflected in the draft document.
8. Prior to approval by Full Council statutory consultation is required. A pre consultation draft has been considered by the Chairs & Vice-Chairs of the Licensing and Scrutiny Committees. The draft appended to this report is now before Committee for approval to begin the formal consultation. Following consultation it will be brought back to Licensing Committee for endorsement later in the year, then proceed through Scrutiny Committee and Executive, prior to approval at Full Council.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

9. None

POLICY IMPLICATIONS

10. Once agreed the Statement of Licensing Policy will become part of the Council`s policy framework. It will explain to the public how the Council will carry out it`s functions, assist applicants with applications, and guide officers and Members when exercising delegated licensing powers.

DETAILS OF CONSULTATION

11. Initial consultation has included Burnley BC Heads of Service with Responsible Authority status under the Act, Heads of Service with an interest in Town Centre/Public Space management, Chair & Vice-Chair of the Events Safety Advisory Group, Lancashire Constabulary and the Chairs & Vice-Chairs of Scrutiny and Licensing Committees.

BACKGROUND PAPERS

12. None

FURTHER INFORMATION

PLEASE CONTACT:

Karen Davies ext 249058

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LICENSING ACT 2003

STATEMENT OF LICENSING POLICY 2022 - 2027

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1. INTRODUCTION

1.1 The Licensing Act 2003 (The Act) provides the framework for alcohol and entertainment licensing. It requires Licensing Authorities to publish a Statement of Licensing Policy to set out how licensable activities will be regulated. Burnley Borough Council (The Council), as Licensing Authority will undertake its licensing functions in accordance with the provisions of The Act, Regulations and Guidance issued by the Secretary of State under section 182 of The Act.

1.2 The policy sets out how the Licensing Authority will carry out those functions and make licensing decisions. Departures from this policy may be appropriate in exceptional situations depending on the individual circumstances of the case. The aim of this policy is to outline how the Licensing Authority intends to apply the licensing regime to promote a vibrant entertainment and cultural industry that boosts the local economy, whilst securing the safety and amenity of residential and business communities and enhancing community wellbeing.

1.3 The policy applies to the following licensable activities:

- Retail sales of alcohol
- Supply of alcohol by or on behalf of a club
- Provision of regulated entertainment
- Provision of late night refreshment (hot food and drink anytime between 11pm and 5am for consumption on or off the premises).

1.4 The licensing function is carried out with a view to promoting the four licensing objectives which are:-

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

Each licensing objective has equal importance.

1.5 Licensing functions will be discharged with integrity and objectivity, and in accordance with the Equality Act 2010. As required, each application will be considered on its own individual merits. Unless representations are received an application must, and will, be granted in the terms sought, ie in accordance with the licensable activities applied for, the licensed hours applied for, the operating schedule and mandatory conditions.

1.6 The 2003 Act is part of a wider Government strategy to tackle crime, disorder and anti-social behaviour and reduce alcohol harm. It is recognised that the Act is not the primary mechanism for controlling nuisance of individuals once they are away from the premises, and beyond the control of the holder of a licence, club certificate or temporary event authorisation.

1.7 In accordance with section 5 of the 2003 Act the licensing authority has consulted with the following in respect of this policy:-

- The Chief Officer of Police

- Lancashire Fire & Rescue Service
- Lancashire County Council's Director of Public Health
- Representatives of holders of Club Premises Certificates
- Representatives of Premises Licence Holders
- Representatives of Personal Licence Holders
- Representatives of local businesses and residents

1.8 The Licensing Authority is committed to cooperative, partnership working with the trade, police, fire and rescue service, responsible authorities, Burnley Business Improvement District, local businesses, residents and others to promote the licensing objectives.

1.9 The policy takes effect on XXXXXXX and will remain in force for a period of not more than five years. During this time the policy may be subject to regular review and updating or modification as appropriate, for example to take account of any changes in licensing legislation.

2. THE BOROUGH OF BURNLEY

2.1 Burnley BC is located in East Lancashire, and shares boundaries with Ribble Valley, Hyndburn, Rossendale and Calderdale and Pendle councils. The Borough is a mix of rural and urban geography and has a resident population of circa 90,000. The population is predominantly centred in the main towns of Burnley and Padiham and smaller towns and villages of Hapton, Worsthorne, Briercliffe and Cliviger. It boasts a thriving manufacturing and aerospace sector and hosts a University Centre. There is an expanding retail sector and a vibrant night-time economy, which stakeholders recognise as an asset to the borough.

2.2 The licensed trade encompasses traditional wet-led pubs, food-led pubs, sports and social clubs, restaurants, off-licences, takeaways and an expanding wine bar/ale house sector. Nightclubs & late night vertical drinking premises are concentrated in one area of the town centre, attracting young people from across East Lancashire.

2.3 In Burnley work has recently started on the Pioneer Place project to create a new cinema and restaurant complex, and the Council has recently acquired the main Charter Walk Shopping Centre. An area of the town centre is also being regenerated as a Heritage Action Zone. Over-the-shop and commercial premises conversions are taking place to bring empty premises back into residential use to establish Burnley as a university town.

2.4 In Padiham substantial Public Realm works have been completed, and grant funding obtained for shop front restoration.

2.5 These developments alongside the Council's investment in CCTV and improvements to public spaces, together with current national 'levelling up' strategies, provide significant opportunities to enhance leisure activities in the Borough.

3. OUTLINE OF THE LICENSING PROCESS

3.1 Making an Application

3.1.1 The procedure and documentation requirements for making applications is prescribed by the 2003 Act, associated Regulations and statutory guidance. There are specific and detailed steps to follow, and it can be a complex framework to work within. This policy is not intended to interpret or explain the law in detail.

3.1.2 Applicants are encouraged to seek advice from the licensing authority via www.burnley.gov.uk and, where appropriate, the responsible authorities prior to submitting any formal application or notice. Comprehensive and detailed applications, submitted in a timely manner are encouraged and are less likely to be subject of representations, and so the use of a professional advisor is strongly advised for individuals who are not experienced in Licensing legislation.

3.1.3 Applications should be made on prescribed forms, and be submitted with all accompanying documentation, including confirmation that any advertisement requirements have been met, together with the appropriate fee. Incomplete applications will not be accepted. Where required copies should be served on Responsible Authorities.

3.1.4 Any revision of licensing activities, or people involved in the management of the business etc, are the responsibility of the holder of the licence/certificate, and it is expected that any such changes will be formally updated in a timely manner.

3.1.5 Operating schedules are an opportunity for the applicant to explain how the licensing objectives will be upheld at the premises. The operating schedule should be completed with careful consideration to the activities requested. The Licensing Authority recognises that licensed premises vary considerably in terms of what activities they provide, their size and location and therefore, there is no single set of measures that will be appropriate measures for inclusion on the operating schedule. Applicants should consider the particular sensitivities of people living or working in the vicinity. The application is less likely to be subject to representations where good advice has been sought and appropriate measures incorporated into the operating schedule.

3.1.6 Special considerations will apply to certain venues and industry guidance is available to specific sectors, and should be referenced for best practice.

3.1.7 Any substantial changes to the nature of a business operated from a premises, or any proposal to increase the licensable area by more than 50% should be sought via a new application rather than a variation.

3.2 Representations

3.2.1 There is a prescribed period during which the Licensing Authority can receive written representations in relation to an application. This time period varies depending on the type of application.

3.2.2 Representations can be received from a Responsible Authority or from any other person. Those received from Responsible Authorities will be afforded particular weight.

3.2.3 Responsible Authorities are defined at s13 of The Act. They are a prescribed list of public bodies with specific responsibility for crime & disorder, public safety, nuisance, public health and the protection of children from harm. Representations from any 'other person' must not be frivolous or vexatious.

3.2.4 The Licensing Authority can act as a Responsible Authority and make representations in respect of hearings, or apply for a review. When the Licensing Authority acts in this way there will be a clear division of responsibilities where officers and/or Members involved in procedural matters will be different from those officers/Members acting as the Responsible Authority. (Similar separation will occur where specific Council services are responsible authorities in their own right, eg Environmental Health & Planning services)

3.3 Decision Making Delegations

3.3.1 Licensing decisions are taken in accordance with the Council's scheme of delegation which is detailed at Appendix A.

3.3.2 The powers under the Act fall to the Licensing Committee comprising of 15 councillors. Powers are then delegated on to either the Licensing Sub-Committee (3 councillors) or to one or more officers. All Councillors serving on Licensing Committees receive comprehensive annual training.

3.4 Determination of Applications

3.4.1 If no relevant representations are received in respect of applications for club premises certificates, premises licences or variations then no further conditions can be attached. The licence will be granted as per the application with mandatory conditions and those consistent with the operating schedule. The Licensing Authority has no discretion to refuse the application or to alter the activities applied for.

3.4.2 Where relevant representations are made, objections raised, or an application to review the licence/certificate is submitted, the Licensing Authority must hold a hearing before the Licensing Sub-Committee who will take such action as is available to them under the Act. The steps available will depend on the nature of the application.

3.4.3 Conditions attached to the licence/certificate will avoid 'gold plating' existing legal requirements imposed via other acts of parliament or statutory instruments.

3.5 Reviews of Licences & Certificates

3.5.1 The procedure for reviewing premises licences and club premises certificates represents a key protection for the community where there is evidence to show that a specific concern exists relating to one or more of the licensing objectives.

3.5.2 The Licensing Authority expects responsible authorities and other persons to give early notice to licence holders of any concerns about problems identified at premises and of the need for improvement. It is expected that requests for a review of any licence or certificate will be sought only if such notice has failed to resolve the matter or problem.

3.5.3 Where a licence or certificate is reviewed, and the licensing objectives are found to have been undermined, consideration will be given to the full range of actions available to the Sub-Committee when determining the outcome.

3.6 Enforcement

3.6.1 Police and Local Authority Licensing Officers have responsibility for enforcement under The Act. The Licensing Authority will take a risk based approach to enforcement and act in a proportionate manner in accordance with the Regulators' Code.

3.6.2 The Licensing Authority monitors compliance with The Act through a range of inspection and audit activities. Contact is made with those premises where breaches are identified.

3.6.3 Where enforcement action relates to a situation where one or more of the licensing objectives is undermined, the Licensing Authority expects the relevant responsible authority or appropriate regulatory body to consider making an application to review the premises licence. See Appendix B.

4. MANAGEMENT CONTROL OF PREMISES

4.1 Designated Premises Supervisor

4.1.1 The Licensing Authority expects the Designated Premises Supervisor (DPS) to have been given the day-to-day responsibility for running the premises and as such it is expected that the DPS would usually be present at the licensed premises on a regular basis. The Licensing Authority expects that, in terms of a Premises which allows the supply of alcohol on the premises, this the DPS will be present for more than 50% of the opening hours in any 7- day week.

4.1.2 The premises licence holder is expected to ensure that the DPS has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided.

4.1.3 The DPS is also expected to appropriately manage anyone employed in the carrying out of licensed activity including door staff and distributors of promotional materials.

4.2 Children and Licensed Premises

4.2.1 The Council determines Lancashire Safeguarding Children Board to be the responsible authority in relation to the protection of children from harm.

4.2.2 Whilst the Licensing Authority wishes to see family-friendly premises thriving in the borough, it is of the opinion that the protection of children from harm in licensed premises is an important issue. Consequently, the risk of harm to children will be a paramount consideration when determining applications.

4.2.3 Applicants will be expected to include in their operating schedule a statement of the measures that they will take to protect children from harm (including employees under 18 years of age) which includes moral, psychological and physical harm as well as the protection of children from exposure to grooming, strong language, sexual expletives and gambling. This will include applications from late night food vendors. Once the applicant has undertaken assessments of any risk to children, they can volunteer appropriate conditions.

5. POLICIES SPECIFIC TO BURNLEY BC

5.1 Town Centre Diversification

5.1.1 The Licensing Authority recognises that regeneration work in Burnley and Padiham town centres, together with the acquisition of Charter Walk Shopping Centre present considerable opportunities to broaden the scope of licensed premises to encourage early evening dining and family friendly activities.

5.1.2 The Licensing authority wants to encourage responsible businesses to operate in the Borough. The Council is keen to encourage and support a more diverse mix of venues, events and visitor attractions which will be balanced against the potential for disturbance to town centre residents.

5.1.3 It is the Council's intention to work with relevant partners, including the Burnley Business Improvement District, to set out a shared vision for Burnley Town Centre.

5.2 Night-Time/Day-Time Conflict

5.2.1 The attention of the Licensing Authority has been drawn to problems which occur in the town centre in the window between the night-time economy closing and the day-time economy opening up. This can include issues with drunken and anti-social behaviour, criminal damage, littering, urinating and vomiting in the street, abuse of employees in the course of their work and disturbance to town centre residents. The Licensing Authority will work with partners and the trade to address these concerns. Where the activities of a licensed premises or club are subject to a review and found to be undermining licencing objectives at that time of day consideration will be given to reducing the hours of licensable activity, by way of an earlier closing time. Any new closing time will take account of the closing times of other premises in the vicinity so that staggered dispersal of customers is achieved.

5.3 Burnley Town Centre Highway Issues

5.3.1 The Licensing Authority is keen to ensure the safe use of vehicular and pedestrian routes particularly at night. Where venues are subject to a review and found to be undermining public safety by causing footpath obstructions that lead to pedestrians walking in the carriageway, consideration will be given to a suspension of the licence or certificate. Obstructions may arise from queuing, smoking areas or pavement cafes etc.

5.4 Temporary Event Notices (TENs)

5.4.1 The Act enables certain organised events to provide one or more licensable activities at unlicensed premises for less than 500 people to take place following notification to the Licensing Authority, the Police and Environmental Health via a TEN. Only the Police and Environmental Health can object.

5.4.2 The Licensing Authority recognises that one-off events provide valuable opportunities for communities to mix and celebrate together. Advice and assistance will be available to bona fide community events who do not have a commercial background or ready access to legal advice. This will include, those seeking TENs on behalf of charities, community and voluntary groups. The

Licensing Authority will ensure that local guidance about the temporary permitted activities is clear and understandable for such groups.

5.4.3 The use of multiple TENS for adjacent plots of land, or the artificial creation of a smaller TEN premises within the boundary of a larger event or festival for the purpose of utilising TENS for the sale of alcohol is considered outside of the scope and spirit of the Act. Premises Licences should be sought in these circumstances.

5.4.4 TENS for existing licensed premises will not be encouraged where the proposal is simply to extend the existing hours of operation. Applications of this kind will be subject to increased scrutiny because the TENS process does not transfer licence/certificate conditions over to the TEN for the additional hours, and in larger venues a TEN will impose a `cliff edge` reduction in capacity at the moment the activities move from the control of the licence/certificate to the TEN. Where extended licensing hours are desired, an application for variation of the premises licence is considered more appropriate than repeat TENS.

5.4.5 The previous history of an individual as a manager of licensable activities will be a relevant consideration in relation to objections and determination of TENS.

5.4.6 The Licensing Authority encourages early application for TENS well in advance of the event date. This is particularly relevant to events which are to take place in the open, or in/on temporary structures. This is so that if there are potential objections these can be subject of discussion, negotiation, and if possible mutual agreement. This allows for withdrawal and resubmission of a TEN in certain circumstances, thereby reducing the likelihood of the need for a Licensing Hearing or the issue of a Counter Notice. Assistance with the planning of events can be provided through the Council's Events Safety Advisory Group.

5.5 Events, including those held on Council land

5.5.1 The organiser of any large scale or high risk event, wherever it is held, will be expected to involve the Council's Event Safety Advisory Group (ESAG) at the earliest opportunity in the planning stage. All event organisers will need to demonstrate how they intend to safely deliver their event in line with the licensing objectives, relevant H&S guidance and Council policy. Such events will normally be carried out under a Premises Licence.

5.5.2 The Licensing Authority wishes to encourage cultural and community events in the borough. The Council holds premises licences for some of its areas of public land and town centres which are available to host such events with the prior agreement of the Council.

5.5.3 Persons or organisations wishing to host large commercial events on licensed public land should consult with the Council at an early stage in relation to the use of a Council Premises Licence. Large events will often be expected to obtain their own premises licence. The written permission of the Council is required, and all conditions attached to the agreements to use the premises must be complied with. The use of TENS to add alcohol sales will only be appropriate when the event will accommodate 499 people or less (including staff & performers etc).

5.6 Licensing Hours

5.6.1 Applicants are strongly encouraged only to apply for hours that they realistically intend to operate, as later hours are typically more likely to attract representations. Once granted a licence remains in force forever, unless surrendered, varied or reviewed, so responsible should give careful consideration to licensed hours at the application stage.

5.6.2 Where its discretion is engaged at a hearing, the licensing authority will give consideration to the appropriateness of hours applied for, having regard to any planning restrictions in relation to operating hours, the location of premises and their likely effect on the promotion of the four licensing objectives. While it is recognised that in some circumstances flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided, the licensing authority will consider restricting hours to ensure the promotion of the licensing objectives. Any new closing time will take account of the closing times of other premises in the vicinity so that staggered dispersal of customers is achieved.

5.6.3 The Licensing Authority considers that later hours will typically be more sensitive and higher risk in causing noise from regulated entertainment, anti-social behaviour from patrons in the vicinity of the premises, and crime and disorder from inebriated patrons. This will include late night food vendors. It therefore follows that additional measures may be required, including noise mitigation controls and an increasing number of SIA registered door supervisors may need to be employed the later the premises remains open, and these requirements may be considered as licence conditions.

5.6.4 It may also be appropriate, where later hours are requested for alcohol, to have a last entry condition as a condition of the Premises Licence to prevent vulnerable or intoxicated customers moving to the last venue open.

5.7 Dispersal Policy

5.7.1 The Licensing Authority encourages premises to adopt a dispersal policy where appropriate.

5.7.2 Where the activities of a licensed premises or club, including late night food vendors, are subject to a review and found to be undermining licensing objectives as a result of inadequate dispersal arrangements then consideration will be given to reducing the hours of licensable activity, by way of an earlier closing time. Any new closing time will take account of the closing times of other premises in the vicinity so that staggered dispersal of customers is achieved.

5.8 Welfare Provision

5.8.1 It is expected that premises licensed to sell alcohol for consumption on the premises, especially those trading beyond midnight, implement appropriate welfare measures. This may include the employment of designated welfare staff and trained first aiders, as well as steps to identify vulnerable person(s) and respond to accidents, injuries and other immediate harms such as unconsciousness, alcohol poisoning, drug intoxication, and any reported 'Spiking' incidents. Safety measures could include encouraging customers to ensure their drinks are not left unattended, and the use of publicity material to ensure customers remain vigilant. Overt CCTV is also a major deterrent for potential offenders.

5.8.2 Where spiking incidents occur inside premises or affect customers who either leave or are ejected, the necessary duty of care is exercised by the Premises Licence Holder / DPS and their staff, and that includes the immediate calling of appropriate medical aid and the notification of the police.

5.8.3 A zero-tolerance policy should be implemented regarding the use of illegal drugs and new psychoactive substances (NPS), (previously referred to as 'legal highs'), and nitrous oxide (NO) on the premises. Where there is a risk of illegal drug use on the premises, the authority expects a documented policy that sets out how drugs will be prevented from being brought into the premises, what action the venue will take should anyone be caught with drugs on the premises, and how the drugs will be disposed of.

Licensees should remain alert to emerging issues. The authority considers that nightclubs, in particular, address these risks, but it may also be appropriate for other licensed premises to do so. Relevant considerations could include: –

- The searching of customers and their bags etc on entry, this being a condition of entry
- A refusal/ejection policy for anyone found in possession of drugs, NPS, NO or similar intoxicants
- The use of toilet attendants / floor walkers and regular documented toilet checks –
- Searches of the premises – Training of staff in drug awareness to identify and prevent the supply and use of illegal drugs and new psychoactive substances
- Physical measures to deter drug use on the premises.
- Clear posters displayed and the overt use of CCTV, particularly in vulnerable areas.

5.9 Irresponsible Drinks Promotions

5.9.1 The Licensing Authority through this policy would like to encourage the responsible consumption of alcohol and where there is evidence at review that the licensing objectives are being compromised or are likely to be compromised, the Licensing Authority will consider imposing controls on drinks promotions to deal with localised problems. These controls could include:

- restricting the sale of super strength beer, lager and cider, or
- the requirement to charge a minimum cost per drink as part of a package of measures to deal with problems.
- Ensuring 'all you can drink' promotions and 'happy hour' promotions do not compromise any licensing objective

5.9.2 Rather than having to resort to controls of this kind, the Licensing Authority would like to encourage a voluntary code of good practice in relation to drinks promotions including pricing, and to encourage licence holders and others working at licensed premises to familiarise themselves with the mandatory condition relating to drinks promotions.

5.10 Planning Conditions Applicable to a Premises

5.10.1 The Licensing Authority is mindful that the licensing and planning regimes must be kept separate and determined in accordance with the respective legal and policy frameworks.

5.10.2 An application for a premises licence or club premises certificate, or a variation to either, will normally only be granted where the activity to be authorised by the application is a lawful planning

use, as evidenced by a valid planning consent, and the hours sought do not exceed those authorised by that consent.

5.11 Public Spaces Protection Order (PSPO)

5.11.1 The Licensing Authority supports the use of PSPOs as a tool to prevent crime, disorder and anti-social behaviour. The Licensing Authority expects premises that operate in areas where PSPOs have been implemented to have measures in place to ensure their customers do not breach the PSPO requirements.

5.12 Cumulative Impact

5.12.1 Whilst open to representations from responsible authorities, the Licensing Authority believes that a town centre cumulative impact policy may work against its stated ambition to diversify the range of premises operating across the town centres. The delineation of a particular area, and imposition of restrictions in respect of new licences permitted within that area, may lead to premises instead setting up in more sensitive, residential areas, and deprive the town centre of new, alternative business models.

5.13 Early Morning Restriction Orders

5.13.1 EMROs are intended to address serious issues including high levels alcohol related crime and disorder, serious public nuisance and anti-social behaviour. They can apply to specific areas and impose a blanket restriction on the prohibition of the sale of alcohol within the area at specific times (between midnight and 6am). It is therefore a powerful tool that will severely impact businesses subjected to the restrictions, and should be considered as a last resort. The process involves gathering of evidence, advertisement and formal consultation followed by a hearing in relation to representations, prior to Full Council making an Order. The EMRO would be subject to regular review to ensure that that it can still be justified.

5.13.2 The Licensing Authority is open to representations from partners in relation to evidence. However levels of crime & disorder, public nuisance or anti-social behaviour are not known to be sufficiently serious in any particular area so as to warrant consideration of a blanket restriction on alcohol sales. As with cumulative impact policies there is a risk premises will relocate outside the area, and the further possibility that businesses may fail to the detriment of the broader night-time economy.

EXERCISE AND DELEGATION OF FUNCTIONS

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

Decision	Licensing Committee	Licensing Sub-Committee	Officer
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If relevant representation made	If no relevant representation made
Application for Provisional Statement		If relevant representation made	If no relevant representation made
Application to vary Premises Licence/ Club Premises Certificate		If relevant representation made	If no relevant representation made
Application to vary Designated premises supervisor		If a police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of a premises licence		If a police objection	All other cases
Application for interim Authority		If a police objection	All other cases
Deciding an application for Premises licence review is irrelevant, repetitious, vexatious or frivolous			All cases
Application to Review Premises licence / club premises Certificate unless all parties agree unnecessary		All Cases	
Decision to object when a local authority is a consultee and not the relevant licensing authority		All cases	
Determination of a police objection to a Temporary Event Notice		All cases	
Determination of a Minor Variation			All cases
Determination of a s20 Film Classification		All cases	
Licensing Authority to act as Responsible Authority			All cases
Disapplication of the s19 requirements to have a DPS in community premises			All cases

LA03 LICENSED PREMISES COMPLIANCE PROTOCOL

In order to effectively deal with issues arising at or from licensed premises, partner organisations and services will take a pro-active role where non-compliance or community protection issues occur that undermine the licensing objectives, which are:

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

A summary of public sector partners is as follows:

Organisation	Service	Examples of issues that might arise	Available Sanctions		
			Community Protection	Criminal	LA03 Review
Police		Crime & Disorder / Breaches of LA03 inc Licence Conditions	X	X	X
BBC	Lic Team	Breaches of LA03 inc Licence Conditions	X	X	X
	EH	Noise from Regulated Entertainment Breaches of HASAWA	X	X	X
	Planning	Unlawful use Operating in breach of planning conditions	X	X	X
	ASB	ASB	X	X	X
	Comm Safety	PSPO	X	X	X
	Env Team	Littering/Street cleaning	X	X	X
	Econ & Growth	Reputational/Brand Damage Concerns from business community	X		X
LCC	Building Control	Building Safety	X	X	X
	TSO	Counterfeit goods Underage sales	X	X	X
	Children's Services	Safeguarding Employment of Young Persons	X	X	X
	Public Health	Health & Wellbeing issues – including alcohol harms, mental health, obesity, determinants of ill health	X		X
LFRS		Fire Safety Risk assessments		X	X
UK Border Force		Right to Work Issues		X	X
Gambling Comm		Regulated gambling activities		X	X

Where a partner organisation receives reports of activity that undermines the licensing objectives arising at or from licensed premises the following graduated enforcement response is available to them.

