

LICENSING COMMITTEE

Tuesday, 13th September, 2022
6.30 pm





LICENSING COMMITTEE

ROOMS 2 & 3, BURNLEY TOWN HALL

Tuesday, 13th September, 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.

Due to Public Health guidance re social distancing there is a limit on the number of members of the public who can attend the meeting. You are advised to contact democracy@burnley.gov.uk in advance of the meeting.

AGENDA

1) Apologies

To receive any apologies for absence.

2) Minutes

To approve as a correct record the Minutes of the last meeting held on 23rd June 2022.

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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

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.

7) Licensing Act 2003 Policy 2022-27

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To consider the draft Licensing Act 2003 Policy 2022-27 following the statutory consultation period.

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

Monday, 5 September 2022

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LICENSING COMMITTEE

BURNLEY TOWN HALL

Thursday, 23rd June, 2022 at 6.30 pm

PRESENT

MEMBERS

Councillors J Sumner (Chair), A Khan (Vice-Chair), S Hussain, J Inckle, M Ishtiaq, A Kelly, Launer, L Mehanna, A Raja, M Townsend, D Whitaker and A Wight

OFFICERS

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

1. Apologies

Apologies were received from Cllrs Briggs and Sollis.

2. Minutes

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

3. Appointments to sub-Committees

A member requested that hearings be held in the evenings to facilitate attendance by those members of the committee who worked during the day. Officers referred members to the Committee information provided which set out when hearings would be held, and the reasons for this. Groups were aware of this and had been asked to consider this prior to appointing to the Committee.

A further consideration was the right of those called to appear at a hearing to representation. Holding hearings outside office hours reduced access or increased the cost of representation. Officers agreed to further investigate holding some hearings later in the working day, which may allow more members to participate.

RESOLVED

1. 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. 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. Members be appointed to the Sub-Committees on a rotational basis subject to their availability.

4. Review of Hackney Carriage Table of Fares

IT WAS RESOLVED THAT Licensing Committee recommend that the Executive approve the proposed increase to metered Hackney Carriage fares on Tariff 1 & 2 illustrated at Appendix B.

5. Licensing Act 2003 - Review of Statement of Licensing Policy

It was RESOLVED to approve a formal 8 week consultation of the draft Statement of Licensing Policy.

REPORT TO COUNCIL



DATE	28 th September 2022
PORTFOLIO	Community & Environment
REPORT AUTHOR	Karen Davies
TEL NO	01282 425011
EMAIL	kdavies@burnley.gov.uk

Statement of Licensing Policy

PURPOSE

1. To consider responses to the statutory consultation of the draft Statement of Licensing Policy and make a recommendation to Full Council

RECOMMENDATION

2.
 - **That Licensing Committee recommend Full Council approve the draft Statement of Licensing Policy at Appendix E for implementation on 1st October 2022.**
 - That Scrutiny Committee recommend Full Council approve the draft Statement of Licensing Policy at Appendix E for implementation on 1st October 2022.
 - That Executive recommend Full Council approve the draft Statement of Licensing Policy at Appendix E for implementation on 1st October 2022.
 - That Full Council approve the draft Statement of Licensing Policy at Appendix E for implementation from 1st October 2022.

REASONS FOR RECOMMENDATION

3. The Statement of Licensing Policy (SoLP) is part of the Council's policy framework and it must be approved at Full Council.

SUMMARY OF KEY POINTS

4. The current SoLP was approved in 2020 for the period from Jan 2021 to Dec 2026. (Appendix A) 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. Licensing Committee approved a draft for consultation in June, see Appendix B, and an 8 week consultation has taken place. Statutory consultees, local licensees and the public have been engaged in that process via direct mail, press release, social media posts and the Council`s website. The consultation ended on 2nd September 2022.
9. Responses received through the consultation are provided at Appendix D together with a note of suggested clarifications of the consultation draft. There have been 8 responses in total. The day-time/night-time conflict has been included within 6 responses, and as a result paragraph 5.2.1 of the policy has been reinforced as a period when the licensing objectives are at particular risk of being compromised. Issues relating to new land uses being introduced within business or residential communities are picked up in paragraph 5.10
10. The final draft for approval, incorporating clarifications arising out of the consultation is provided at Appendix E. The amendments are highlighted yellow.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

11. None

POLICY IMPLICATIONS

12. 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 responsible authorities, officers and Members when exercising delegated licensing powers.
It is one of a suite of policy documents relevant to the Council`s Strategic Objectives, particularly within the Town centres.

DETAILS OF CONSULTATION

13. There is an extensive list of statutory and additional consultees. For clarity the full list is provided as Appendix C.

Councillor Afrasiab Anwar, Leader of Council

Councillor Shah Hussain, Executive Member for Community & Environmental Services

Councillor Jeff Sumner, Chair of Licensing Committee

Councillor Arif Khan, Vice Chair of Licensing Committee

Councillor Howard Baker, Chair of Scrutiny Committee

Councillor Ann Royle, Vice Chair of Scrutiny Committee

BACKGROUND PAPERS

14. None

FURTHER INFORMATION

PLEASE CONTACT:

Karen Davies

ALSO:

Jo Swift



LICENSING ACT 2003

**STATEMENT OF LICENSING POLICY
OF BURNLEY BOROUGH COUNCIL
MADE UNDER SECTION 5 LICENSING ACT 2003**

5th November 2020 TO 4th November 2025

THE LICENSING OBJECTIVES

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

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1. INTRODUCTION

1.1 The Licensing Act 2003 (the Act) and statutory guidance provide the legal framework under which licensing will be regulated in England and Wales. This document is produced to explain the criteria under which Burnley Borough Council, a Licensing Authority within the meaning of the Act, will discharge our functions under the law.

1.2 In executing our functions, we will consider the Licensing Act against a backcloth of other legislation, which may impact on the promotion of the licensing objectives. This will include the,

- Crime and Disorder Act 1998 as amended by the Police Reform Act 2002
- Human Rights Act 1998
- Health & Safety at Work Act 1974
- Environmental Protection Act 1990
- Anti-Social Behaviour Act 2003
- Race Relations Act 1976
- Race Relations (Amendment) Act 2000
- Criminal Justice & Police Act 2001
- The Regulatory Reform (Fire Safety) Order 2005
- Policing & Crime Act 2009
- The Equality Act 2010
- The Police Reform and Social Responsibility Act 2011
- Live Music Act 2012
- Anti-Social Behaviour Crime and Policing Act 2014
- Deregulation Act 2015
- Data Protection Act 2018
- Coronavirus Act 2020

1.3 We desire to create an environment where local people and visitors to our areas will have better opportunities to enjoy their leisure time in safety without fear of violence, intimidation or disorder whilst on or in the vicinity of licensed premises.

1.4 We recognise that the leisure industry is a significant contributor to:

- the economy
- cultural development
- jobs
- tourism

within the licensing authority area. We seek to create a licensing policy, which does not drive a wedge between the industry and enforcement authorities. We intend that co-operation and partnership remain the best method of promoting the licensing objectives.

1.5 Subject to the promotion of the licensing objectives, we will encourage facilities to allow people to lawfully enjoy their leisure time in the manner and at the time they wish to. We wish to encourage licensees to provide a wide range of entertainment activities, promote live music, dance, theatrical activity etc.

1.6 The Licensing Authority will actively encourage and promote a broad range of entertainment, recognising the wider cultural benefits for local communities.

- 1.7 This Council holds premises licences for public spaces in the community, such as parks, town centre areas, community halls and other appropriate public spaces.
- 1.8 Entertainers wishing to perform in any of the areas licensed by the Council may seek permission from the relevant Council Department, details of which can be obtained from the Licensing Unit.
Such persons may then be given consent to use such places by the relevant department of the Council, as opposed to obtaining individual premises licenses or temporary event notices in respect of events they may wish to hold.
- 1.9 The Guidance requires that a Licensing Authority considers such applications from a neutral standpoint. We will however balance the potential for limited disturbance in neighbourhoods against the wider benefits to the community and cultural development of the area.
- 1.10 We will endeavor to carry out our licensing functions in a way that:
- ensures public safety
 - supports well managed premises where licence holders who seek to actively promote the licensing objectives and display sensitivity to the potential impact of licensable activities on local residents and other businesses
 - protects residents' quality of life.
- 1.11 The Equality Act 2010 also includes a duty on the Council as the Licensing Authority to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations, between people with different protected characteristics.
- 1.11 We will have regard to how littering and fouling, noise, street crime and the capacity of the Council's infrastructure, resources police resources and healthcare resources impact on the licensing objectives.
- 1.12 We will discharge our functions with integrity and objectivity. We will work in partnership with the leisure industry, police, fire and rescue services, health, residents and local businesses to promote the licensing objectives.
- 1.13 We will take account of the statement of policy of neighboring licensing authorities where common boundaries exist.
- 1.14 We will seek to give protection to local residents, whose lives can be blighted by disturbance and antisocial activity associated with the behaviour of some people visiting places of entertainment.
- 1.15 We desire to strike a balance between allowing people to enjoy their leisure, at the times and in the manner they wish to, and ensuring the licensing objectives are met.
- 1.16 Licensing is about regulating licensable activities on licensed premises, in qualifying clubs and at temporary events within the definitions of the Act, and the conditions attached to the various authorisations will be focused on matters which are in the control of applicants and licence holders. Licensing law is not the primary mechanism for the

general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises. Licensing law will however be a key aspect of a holistic approach to the management of the evening and night-time economy in town centres.

- 1.17 We will therefore focus upon the direct impact of the activities taking place at or in the vicinity of licensed premises on members of the public living, working or engaged in normal activities in the vicinity of those places.

2. LICENSABLE ACTIVITY

- 2.1 This policy relates to licensable activities. They are:

- The sale of alcohol
- The supply of alcohol by or on behalf of a club to members of the club
- The provision of regulated entertainment
- The provision of late-night refreshment

- 2.2 The provision of hot food or hot drink may take place at any time, but we will only be able to regulate such activity between 11pm and 5am. The provision outside these times is not licensable activity under the Act.

- 2.3 Advice on whether a licence is required for premises or an event can be obtained from the Licensing Unit, Burnley Borough Council.

3. PROMOTION OF THE LICENSING OBJECTIVES

- 3.1 We will promote the 4 licensing objectives, namely

- the prevention of **crime and disorder**
- **public safety**
- the prevention of **public nuisance**; and
- the **protection of children** from harm, and all our decisions will reflect these objectives.

- 3.2 We consider each licensing objective to be of equal importance. They will be considered in relation to matters centered on the premises or within the control of the licensee. We will objectively consider the direct effect that the carrying on of the licensable activities has in the vicinity of the premises. Licensing law is not a mechanism for the general control of anti-social behavior by individuals once they are beyond the direct control of the licensee or vicinity of licensed premises.

- 3.3 We will not deter an individual making an application and having that application judged on its individual merits. It is for the applicant to decide what, if any, measures to suggest in its operating schedule in order to address any potential concerns that might arise in the promotion of the licensing objectives. Applicants are reminded that measures proposed in the operating schedules will be converted into conditions on their licence

- 3.4 Applicants are reminded that responsible authorities or other persons may make representations if they feel that the applicant's proposals do not adequately promote the

licensing objectives. An applicant who proposes no measures to promote the licensing objectives may therefore face more representations than an applicant who risk assesses their operation and proposes necessary and proportionate measures.

- 3.5 We will not deter any person from making representations in respect of any application or seeking a review of a license. Where a representation is received which is not from a responsible authority the licensing authority will in the first instance make a judgement on whether it is relevant, i.e. based upon one or more of the four licensing objectives.

Relevant representations are representations:

- about the likely effect of the premises licence on the promotion of the licensing objectives;
- which have not been withdrawn and are not, in the opinion of the council, frivolous or vexatious.

- 3.6 This authority recommends early consultation with responsible authorities. Many responsible authorities have produced guidance which applicants can take into account when assessing whether they need to include any measures in their application to promote the licensing objectives. In addition, many responsible authorities would be prepared to discuss matters on site with an applicant with a view to reaching agreement on measures to be proposed.

Crime and Disorder

- 3.7 Under the Crime and Disorder Act 1998, the authority must exercise its functions, having regard to the likely effect on crime and disorder in its area, and must do all it can to prevent crime and disorder. Where its discretion is engaged, the authority will seek to promote the licensing objective of preventing crime and disorder in a manner which supports the Lancashire County Council Community Safety Action Plan and any local community safety priorities or emerging threats identified Burnley Community Safety Delivery Group (MATAC) or any similarly constituted group.
- 3.8 If relevant representations are made in relation to a premises licence or club premises certificate, the council will consider whether it is necessary to impose conditions to regulate behaviour on the premises and access to them where this relates to licensable activities, and the licensing objectives. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, their staff or agents, but may seek to impact on the behaviour of customers on or in the immediate vicinity of premises as they seek to enter or leave.
- 3.9 Conditions will be targeted on deterrence and the prevention of crime and disorder. The authority may consider:
- The need for and location of CCTV cameras
 - The need for door supervision
 - The need for a text or radio pager system allowing communication between premises and with the Police
 - If during any specific local event further conditions need to be in place, e.g. Burnley FC home games.

- Membership of a recognised pub watch or similar scheme

Public Safety

- 3.10 The public safety objective is concerned with the physical state of people using the premises. Public safety includes safety of performers appearing at any premises and any staff.
- 3.11 On 1 October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. This authority will not seek to impose fire safety conditions as conditions on licences where the Order applies.
- 3.12 Applicants are advised to consult with the Environmental Health, Health and Safety Team, who can offer advice as to appropriate measures to be included in risk assessments, and potentially in operating schedules. On receipt of relevant representations, the council will have regard to the views of the Health and Safety Team. The team can also offer advice in relation to workplace health and safety matters, including compliance with the Health Act 2006 (smoke free).
- 3.13 Conditions requiring possession of certificates on the safety or satisfactory nature of equipment or fixtures on premises will not normally be imposed as those are dealt with by other legislation. However, if it is considered necessary in light of the evidence on each individual case, conditions may be imposed requiring checks on the equipment to be conducted at specified intervals, and evidence of the checks to be retained. Conditions may also seek to require equipment of particular standards to be maintained on premises.
- 3.14 Special considerations will apply to night clubs and similar venues. Applicants are encouraged to consider the Safer Clubbing Guide published by the Home Office and DCMS, which gives advice on these issues and any other relevant guides

Public Nuisance

- 3.15 If relevant representations are made, the authority will consider whether it is necessary to impose conditions to regulate behaviour on the premises and access to them where this relates to licensable activities, and the licensing objectives. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, their staff or agents, but may seek to reduce the impact of the behaviour of customers entering or leaving the premises on people living or working near to the premises. The council considers that patrons who are using external smoking areas or shelters are there as a direct result of the licensed premises and are within the control of the licensee.
- 3.16 The authority will consider whether issues relating to public nuisance can be effectively dealt with by necessary and appropriate conditions. These conditions will normally focus on the more sensitive periods, for example, noise from premises in the late evening or early morning when residents may be attempting to sleep.
- 3.17 Where applicants are completing operating schedules the authority encourages them to have regard to the location of the proposed or actual premises, and in particular whether

proposals may have a disproportionate impact in dense residential areas or near to sensitive premises such as nursing homes, old people's accommodation, hospitals, hospices or places of worship. Applicants are recommended to consult Environmental Health Services for advice on measures that may need to be incorporated into an operating schedule.

- 3.18 When considering such matters, the authority will have regard to representations made by Environmental Health Services, and by local residents.
- 3.19 The council may consider the following matters:
- Whether doors and windows will or can be kept closed after a particular time.
 - Whether other noise control measures such as acoustic curtains or other speaker mounts are required.
 - The fact that lighting outside the premises may help to prevent crime and disorder, but may give rise to light pollution for neighbours.
 - Signs placed at the exit to buildings can encourage patrons to be quiet until they leave the area, and to respect the rights of residents.
 - The size and location of smoking areas and any facilities provided which may encourage patrons to use the external areas more extensively than for just smoking and returning to the inside of the premises
 - Provision of litter bins in the vicinity of premises serving hot food after 11pm.
 - Display of contact details or a direct telephone link to a private hire/taxi firm.

Protection of children from harm

- 3.20 This authority recognises the Lancashire Safeguarding Children Board as the responsible authority for the protection of children from harm.
- 3.21 The protection of children from harm includes protection from physical and psychological harm.
- 3.22 This authority notes that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed unless there is good reason to restrict entry or exclude children completely.
- 3.23 Issues about access of children to premises may give rise to concern:
- where adult entertainment is provided on an occasional basis and is not already licensed under other legislation;
 - where there have been convictions of the current management for serving alcohol to minors;
 - where the premises have a reputation for allowing under-age drinking;
 - where the premises opens into the early hours;
 - where premises have a known association with drug taking or dealing;
 - where there is a strong element of gambling on the premises; and
 - where the supply of alcohol consumption on the premises is the exclusive or primary purpose of the services provided.
- 3.24 Such situations can be identified through a risk assessment of the operation. In these circumstances, applicants are advised to consider offering appropriate conditions through their operating schedule. In addition, licensees may identify that the access of

children to particular parts of the premises poses more risk than others, and seek only to exclude children from areas of highest risk or after certain late hours.

- 3.25 On receipt of relevant representations, the authority will consider whether conditions are necessary. If conditions are necessary these may include:
- limitations on the hours when children will be present
 - limitation upon the presence of children of certain ages when specified activities are taking place
 - limits on the parts of the premises to which children may have access
 - age limitations
 - limitations or exclusions only when certain activities are taking place
 - requirements for an accompanying adult
 - full exclusion of people under the age of 18 when any licensable activities are taking place
- 3.26 In such cases, representations by the Safeguarding Children Board, Trading Standards and the Police will be given considerable weight where they address issues regarding the admission of children.
- 3.27 It is mandatory for premises which sell or supply alcohol to have an age verification policy in place. However, this authority favours the Challenge 25/Check 25 type schemes and such a scheme volunteered as part of an operating schedule will be given the appropriate weight when the authority determines the licence application.
- 3.28 This Licensing Authority is committed to protecting children from harm and supports the programme of underage test purchases arranged by the Lancashire Trading Standards Service, the Licensing Team and Police. Where underage sales are found, the Licensing Authority supports the appropriate and proportionate use of warnings, responsible retail training, fixed penalty notices, reviews and prosecution as a means of promoting the licensing objectives and enforcing the Licensing Act proportionately.
- 3.29 In keeping with the Secretary of State's Guidance the Licensing Sub-Committee will treat underage sales as serious criminal activity and will give consideration to the suspension or revocation of a licence if a review is brought in respect of underage sales.
- 3.40 No condition will be imposed by the council requiring the admission of children to any licensed premises except in the case of exhibition of film where a mandatory condition is applied to all licences with this activity. In the case of a film that has not been subject to classification under Video Recordings Act 2010, we will require the film to be submitted to the Licensing Officers at least 14 days before the proposed exhibition. A certificate will then be given to the film by the Authority and any age restriction imposed must be adhered to.

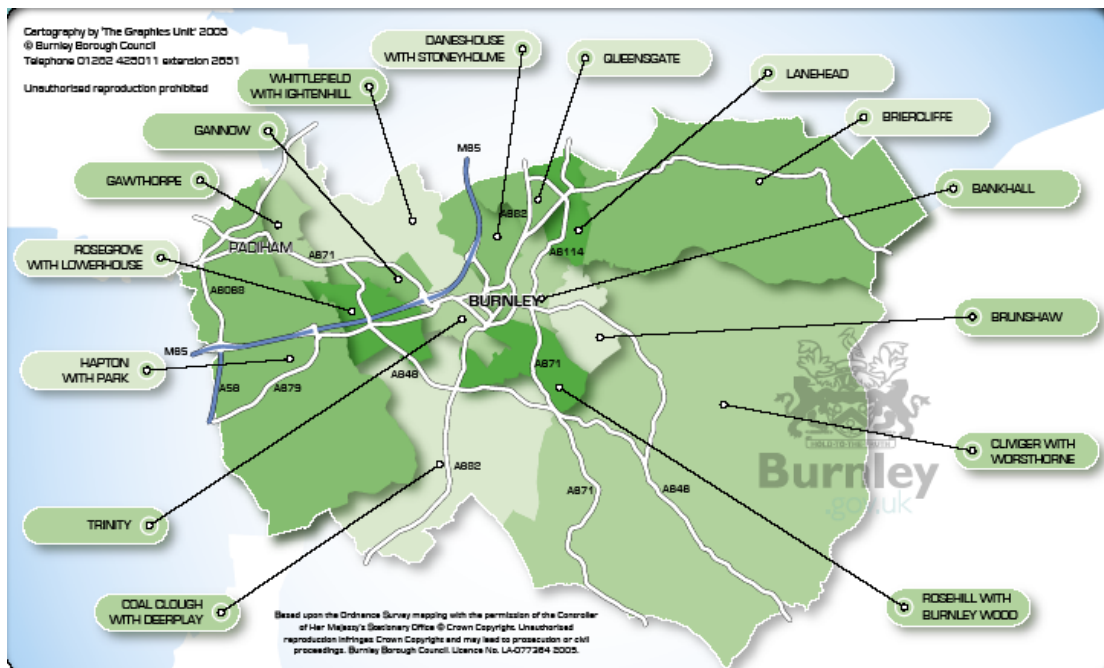
4. LICENSING AUTHORITY PROFILE

- 4.1 Burnley Borough Council is a Licensing Authority under the Act. Authority is delegated to full committee, sub-committees and officers.

4.2 The Policy takes into account the guidance issued under section 182 of the Act. The latest guidance was published by the Home Office in March 2015.

The Borough of Burnley

4.2 Burnley Borough Council is situated in the County of Lancashire and is one of 14 Councils within the County. Burnley has an estimated population of 91,000 contained within an area of 43 square miles. (Information from Census 2011)
 The lifeblood of the area is its industry, which is concentrated in the urban cores of Burnley and Padiham. In post-war years there has been diversification away from textiles to engineering and the newer, technological industries. Much of the Borough is rural in character, and there are 7 parish councils.



4.4 The population profile is illustrated below;

Years of Age	0-14	15-24	25-44	45-64	65+
Percentage of Population	18.4%	12.9%	26.1%	26.3%	16.3%

4.7 The current licensed trade on 1st August 2020 consists of the following premises:

Premises Licences with alcohol	275
Premises licences no alcohol	56
Club Premises with alcohol	15

Total	336
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4.8 Between 24th November 2005 and 1st August 2020, a total of 1142 Personal Licenses have been issued.

5. CUMULATIVE IMPACT

5.1 We will not seek to limit the number of licensed premises simply because any interested party or responsible authority consider that there are enough licensed premises to satisfy demand. Need is a commercial decision for the applicant.

5.2 We will take note of representations from a responsible authority or interested party on the cumulative impact of a saturation of premises in a particular area undermining one or more of the licensing objectives by creating an area of exceptional problems of disorder or nuisance.

5.3 If such representations are made, we will consider adopting a special saturation policy after consultation. We do not at this time envisage a special saturation policy being imposed.

5.4 We will not otherwise impose quotas of licensed premises or artificially restrict trading hours in particular areas.

5.5 The onus will always be on the individual or organisation making the representation to provide sufficient evidence for the assertion that the addition of the premises in question would produce the cumulative impact on the licensing objectives. Once a special saturation policy is in existence, statutory guidance creates a rebuttable presumption against the grant of a licence or a variation of a licence in that area.

5.6 We recognise that a potential cumulative effect of a proliferation of late-night entertainment premises (including night cafes) may result in an increase in numbers of people either walking through or congregating in streets during the night and this in turn may have a number of undesirable consequences, namely:

- An increase in crime against both property and persons in particular in takeaway premises and taxi queues in the vicinity of licensed premises.
- An increase in noise causing disturbance to residents
- Traffic congestion and / or parking difficulties
- Littering and fouling

5.7 We recognise that only a minority of consumers will behave badly and that not all the anti-social conduct will be in the vicinity of premises or within direct control of the licensee. Licensing Policy is only one means of addressing these problems. Other mechanisms include:

- Planning controls
- CCTV
- Provision of transport facilities including taxi ranks
- Designated Public Places Orders
- Police powers

- Closure powers
- Positive measures to create safer, cleaner and greener spaces.
- Voluntary or best practice schemes such as Street Wardens, Street Pastors or Taxi Marshals

5.8 We will take into account:

- The character of the surrounding areas
- The impact of the licence on the surrounding area, both individually and cumulatively with existing licences; and
- The nature and character of the proposed operation
- The size of the premises subject to consideration

6. PLANNING, DEVELOPMENT CONTROL, RESPONSIBLE AUTHORITIES, TOURISM, PUBLIC TRANSPORT, CULTURE, CRIME PREVENTION AND EMPLOYMENT

6.1 The council is mindful of the duplication, inefficiency and potential for conflict of interests between the Planning, Environmental Health and Licensing activities and will ensure that the operational functions remain distinct. We will not allow licensing applications to be a re-run of planning applications.

6.2 Each relevant committee will provide situation reports relative to licensed premises, to each other, thereby achieving integration between licensing, planning and building control functions, measuring the effect of Licensing Act 2003 policy.

6.3 We will not restrict objective consideration of licensing hours applications as a consequence of any hours of premises use restrictions placed upon premises under planning legislation.

6.4 Where such planning restrictions exist an objection or application for licence review can be made specifying the appropriate licensing objective(s), which may be undermined by the licensable activities.

6.5 In general we will expect that prior to the submission of a licensing application, the appropriate planning permission will have been granted for the use of the premises. We acknowledge the ability of an applicant for a premises licence to seek a provisional statement defined in Section 5.83 – 5.91 of the Section 182 Guidance. Reference is made to Section 11 of this policy.

6.7 We will secure proper integration of our licensing policy by openly receiving reports from those organisations and Council departments responsible for crime prevention, tourism, transport, race equality schemes, cultural strategy, town centre management and night time economy. We will reflect upon such submissions and amend this policy where appropriate to do so.

6.8 We will monitor the impact of our policy on entertainment, in particular theatrical activity, live music and dancing.

6.9 We will, where necessary receive reports from and provide reports to, Lancashire County Council addressing the need to disperse people from town centres swiftly and safely to avoid concentrations which produce disorder and disturbance.

6.10 We will, when required, review the location of Hackney Carriage stands within the Borough to achieve the balance between licensing principles and the principles outlined in Section 6.9 above.

7. LICENSING HOURS

- 7.1 We will consider each application upon its individual merits and the basis of any application will be the draft-operating schedule. We welcome risk assessment documents being submitted in which the licence applicant will specify how they will support the four licensing objectives.
- 7.2 Flexible licensing hours will be important to ensure that the concentration of customers leaving premises simultaneously are avoided, minimising the possible sources of friction at fast food outlets and taxi ranks, thereby reducing the potential for violence and disorder and fear of such.
- 7.3 We will avoid fixed or artificial early closing times, which produce peaks of disorder and disturbance by customers merging into the streets simultaneously. We will balance this with stricter conditions being expected in relation to noise control in areas of dense residential accommodation, particularly later at night or into the early hours.
- 7.4 However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives will be paramount considerations at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 7.5 Shops, stores and supermarkets should normally 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 good reasons, based on the licensing objectives, 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.
- 7.6 The hours requested by the applicant will normally be approved where the applicant can show in their risk assessment and operating schedule that the proposal would not adversely affect the environmental quality, residential amenity and character of any particular area or undermine one or more of the licensing objectives.
- 7.7 Where there is evidence that one or more licensing objectives would be undermined, a responsible authority, authorised person or interested party (Since the introduction of the Policing and Crime Act 2009 the definition of “interested Parties” has been extended to include – “a member of the relevant Licensing Authority”) has the ability to object to the issue or variation of a licence or request a review of an existing licence.
- 7.8 The onus to provide the evidence will always be on the person or organisation making the objection or review application. This burden of proof will not however apply should there be a special saturation policy in being in relation to the area where the premises are situated.

- 7.9 Where individual premises are a focus for disorder and disturbance then, subject to representations, limitations may be appropriate. Where late hours are requested, particularly involving entertainment, the imposition of further conditions would be appropriate.
- 7.10 We will not impose any obligation under the 2003 Act requiring the holder of a premises licence or club premises certificate to remain open for the entire period permitted by his licence or certificate. If, for example, a public house has no trade on a particular evening, the licence holder is entitled to close the premises.
- 7.11 We will however encourage applicants to be realistic in the potential opening hours that they apply for.
- 7.12 We acknowledge that the times when an applicant wishes the premises to be open to the public may not be identical to the hours during which licensable activities may take place.
- 7.13 We ask applicants to note that in the case of the sale by retail of alcohol (or supply of alcohol by or on behalf of a club to, or to the order of, a member of a club) for consumption on the premises, 'consumption' of alcohol is not a licensable activity.
- 7.14 Therefore, the authorised period specified in the premises licence, club premises certificate or temporary event notice relates to the period during which alcohol may be sold or supplied.
- 7.15 It is therefore permissible for premises to allow the consumption of previously purchased alcohol, within the period between the end of the licensable activity of sale or supply of alcohol and the end of time when the premises will be open.

8. EARLY MORNING ALCOHOL RESTRICTION ORDERS (EMROS)

- 8.1 Under Section 172 A to E of the Act, the Licensing Authority has the power to make an EMRO prohibiting the sale of alcohol for a specified period between the hours of 24:00 and 06:00. They are designed to address recurring problems with licensed premises, serious public nuisance and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 8.2 The Licensing Authority will consider evidence that such a decision is appropriate for the promotion of the Licensing Objectives. Consideration will be given to evidence provided by partners, Responsible Authorities and the Local Community Safety Partnership as well as evidence the Licensing Authority has gathered to determine whether an EMRO would be appropriate for the promotion of the licensing objectives. The Licensing Authority will consider the problems that have been identified. A range of evidence may be considered, including local crime and disorder statistics, statistics on anti-social behaviour offences, health related statistics (e.g. alcohol related emergency attendances and hospital admissions, environmental health complaints, complaints recorded by the Council, residents' questionnaires, evidence from local councillors and evidence obtained through local consultation).

8.3 It is acknowledged by the Licensing Authority that an EMRO is restrictive, whilst also being a powerful tool to address recurring problems of alcohol-related crime and disorder, serious public nuisance and alcohol-related anti-social behaviour. Prior to making an EMRO the Licensing Authority will consider whether any other measures (implemented by themselves or with partners) may address the problems that have been identified in particular other measures might include:

- Development of a Cumulative Impact Policy
- Reviewing the licenses of specific problem premises
- Encouraging the creation of business-led practice schemes
- Use of powers of the Council to designate an area where alcohol may not be consumed publicly (Designated Public Places Order)
- The confiscation of alcohol in designated areas
- Police enforcement of the general law concerning disorder and anti-social behaviour
- Prosecution for the offence of selling (or allowing such a sale) alcohol to a person who is drunk

8.4 In taking any decision to make an EMRO, the Licensing Authority will follow the statutory process and will invite representations.

LATE NIGHT LEVIES

8.5 Under Section 125 of the Police Reform and Social Responsibility Act 2011 the Council can adopt a Late-Night Levy, following a consultation process, outlined by the Home Office. It allows the Council to charge an additional fee to any licensed premises that has a licence for the sale of alcohol (on and off sales) after 12 midnight and up to 06:00 in order to cover the additional costs associated with late night alcohol trading. Legislation allows this to start from midnight but it is up to the Council to decide when they wish to apply it.

8.6 Any income raised by the Levy must be split with the local Police force; the Police would receive a minimum of 70% of funds raised and the Council's 30% must be used to fund services which make the late-night economy a more welcoming place.

The Council will consider implementing a Late Night Levy if appropriate.

9. CONDITIONS

9.1 The authority may only impose conditions where relevant representations are made following an application to grant or vary a licence or where a review request is being considered.

9.2 The council recognises that the only conditions that should be imposed on a licence are those which are appropriate and proportionate to the promotion of the licensing objectives. There may be circumstances where existing legislation and regulations already effectively promote the licensing objectives and no additional conditions are required.

9.3 Where conditions are imposed, they will be tailored to the individual style and

characteristics of the premises and events concerned.

- 9.4 Applicants are strongly encouraged to make early contact with the appropriate responsible authorities to discuss proposed conditions in advance of the submission of their application to the council.

Dispersal Policies

- 9.5 We will take note of any voluntary dispersal policy at premises and reserve the right to impose dispersal policy conditions upon a licence following relevant representations.
- 9.6 This policy will set out the steps that are to be implemented to disperse customers over an extended period of time specified in the operating schedule. It is intended that customers leave the premises in an orderly fashion without bottles or glasses etc, thereby reducing the potential for conflict within or in the vicinity of the premises.

Excessive consumption of alcohol & Irresponsible drinks promotions

- 9.7 The council is acutely aware of the link between the supply of alcohol that is subject to certain promotions and the possibility of resultant incidents of alcohol related crime and disorder and implications for public safety, public nuisance and the risk of harm to children.
- 9.8 In April 2010 new mandatory conditions came into effect which:
- Ban irresponsible promotions;
 - Ban the dispensing of alcohol directly into the mouth; and
 - Ensure that customers have access to free tap water so that they can space out their drinks and not get too intoxicated too quickly.
- 9.9 The legislation makes it clear that an irresponsible promotion is one that is “carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance or harm to children”.
- 9.10 The mandatory conditions made under sections 19A and 73B of the 2003 Act (the conditions governing irresponsible promotions, dispensing alcohol directly into the mouth, provision of free tap water, age verification, small measures and the prohibition on sales of alcohol below the permitted price) do not have to be physically included in the licence or certificate but nonetheless will apply to every licence and certificate authorising the sale and supply of alcohol for consumption on the premises.
- 9.11 As a consequence any on-trade premises which fails to comply with these mandatory conditions will be breaching licence conditions and will be dealt with in accordance with this authority’s enforcement policy and protocols and may be subject to a review of their licence.

10. ENFORCEMENT

- 10.1 Enforcement action will be undertaken by properly trained officers of the Licensing Authority outlined in Section 13(2)(a) of the Act and authorised persons defined by Section 13(2) (b to f) of the Act. In carrying out enforcement action we will adhere to the terms of the joint enforcement policy that exists between the Council and Lancashire Constabulary. The authority has adopted the principles of the Hampton Report in its enforcement concordat. Formal enforcement will be a last resort and proportionate to the degree of risk. To this end the key principles of consistency, transparency and proportionality will be maintained
- 10.2 We expect that Designated Premises Supervisors and Personal Licence Holders will ensure that all their staff, including door supervision staff, will be fully trained in the law relating to the rights of entry of authorised persons. We will view obstruction of authorised persons by staff or employed agents of the licensee as a serious matter.
- 10.4 The Licensing Authority has power to institute criminal proceedings in respect of any offence under the Act. We will delegate the authority to institute proceedings in accordance with the Council's Constitution - scheme of delegation. The sufficiency of evidence and public interest criteria will be applied to any decision on prosecution in accordance with the Prosecution of Offences Act. Elected members will be precluded from this decision-making process to enable them to retain independence, should conviction result in a subsequent licence review.

11. VARIATIONS (Minor & Full) & PROVISIONAL STATEMENTS

- 11.1 Both Premises Licences and Club Premises Certificates may be varied under the Licensing Act 2003.
- 11.2 A minor variation is a simplified process with a set statutory fee applicable to all premises and clubs. There is a requirement to advertise the application by displaying a notice on the premises. Decisions on a minor variation are delegated to officers and there is no right to a hearing. The Licensing Authority may consult with any relevant responsible authority on an application for a minor variation and take their views into account.
- 11.3 Minor variations are those which cannot adversely impact on the licensing objectives and generally fall into four categories which are:-
- Minor changes to the structural layout which does not;
 - Increase the capacity for drinking (increasing floor area for patrons drinking etc.)
 - Affecting access or egress (blocking fire exits or escape routes)
 - Impede or remove noise reduction measures at the premises (removing acoustic lobbies etc.)
 - Small adjustments to licensing hours
 - Removal of out of date, irrelevant or unenforceable conditions or the addition of volunteered conditions
 - Addition of a licensable activity where similar activities already exist.

- 11.4 Full variations follow the same procedure as that for a new Premises Licence with the need for advertisement on the premises and in the newspaper in addition to the statutory consultation.
- 11.5 The areas in which a premises licence may be varied include;
- Varying the hours during which a licensable activity is permitted
 - Adding or removing licensable activities
 - Amending, adding or removing conditions within a licence
 - Altering any aspect of the layout of the premises which is shown on the plan.
- 11.6 Where the changes proposed are substantial or involve completely changing the nature of the business, (for example if there is more than a 50% increase in the licensable area) it will be more appropriate to apply for a new premises licence.
- 11.7 In the context of variations, which may involve structural alteration to or change of use of the building, it should be noted that the decision of the licensing authority will not exempt an applicant from the need to apply for planning permission where appropriate.
- 11.8 Where existing premises are being extended or otherwise altered, we will require the licence holder to notify the Licensing Authority, and to apply for a provisional statement, new licence application or variation as appropriate.

Provisional Statements

- 11.3 We recognise that in certain situations businesses and developers need to have security that a premises licence is likely to be granted following construction or alteration of premises. We will issue provisional statements in accordance with Sections 29-32 the Act and Section 182 Guidance.
- 11.5 We will not be responsible for any costs or consequential losses incurred by an applicant who constructs or alters premises without taking advantage of seeking a provisional statement.
- 11.6 When a person applies for a premises licence in respect of premises (or part of the premises or premises which are substantially the same) for which a provisional statement has been made, representations by responsible authorities and interested parties will be excluded in certain circumstances.
- 11.7 These are where:
- the application for a licence is in the same form as the licence described in the provisional statement; and
 - the work in the schedule of works has been satisfactorily completed;
 - given the information provided in the application for a provisional statement, the responsible authority or interested party could have made the same, or substantially the same, representations about the application then but failed to do so without reasonable excuse; and
 - there has been no material change in the circumstances relating either to the premises or to the area in the vicinity of those premises since the provisional statement was made.

11.8 In the context of variations, which may involve structural alteration to or change of use of the building, it should be noted that the decision of the licensing authority will not exempt an applicant from the need to apply for planning permission where appropriate.

12. SPECIAL OCCASIONS

12.1 We will not seek to restrict any National orders made by the Secretary of State as regards any special occasion.

13. DESIGNATED PREMISES SUPERVISORS AND PERSONAL LICENCE HOLDERS.

13.1 A person fulfilling the qualifying conditions who is ordinarily resident within the Council's geographic area will be entitled to apply for a personal licence. The Act prohibits us from accepting applications from persons who ordinarily live outside the area. From the 1st April 2015 existing licence holders and new licences granted are valid indefinitely, this had previously been 10years.

13.2 The Chief Officer of Police has the right to object to a personal licence application where the applicant has been convicted of a relevant offence before or during the application period. During the validity of the licence the Chief officer of Police may not object to a personal licence already granted, but may ask for a review of any relevant premises licence.

13.3 Where, during a period of validity, we receive notice that a personal licence holder has been convicted of a relevant offence, we will notify the Chief Constable thereby allowing that officer to consider an objection to the subject being a designated premises supervisor.

13.4 The holder of a premises licence which includes the sale and supply of alcohol must nominate a Designated Premises Supervisor (DPS). That person will normally have been given day to day responsibility for running the premises. The DPS will also be in possession of a personal licence. The Act does not require the presence of the DPS at all material times. The expectation is however that the DPS is available to be at the premises, if required, within a reasonable time.

13.5 The DPS will be readily identifiable on the premises as a person in a position of authority. No sale or supply of alcohol may be made at a time when no DPS has been specified on the licence or at a time when the DPS does not hold a Personal Licence.

13.6 The law requires a responsible person as defined in Section 153 of the Act to be on duty to specifically approve the sale or supply of alcohol by a person under the age of 18 years.

13.7 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc) Order 2009 amends the Licensing Act 2003 to allow management committees of community premises to make an application for a premises licence or to vary an existing premises licence which includes an application to remove the requirement of a designated premises supervisor and the authorisation of the sale of alcohol by a personal licence holder.

- 13.8 The Order defines “community premises” as a church hall, chapel hall or other similar building, or a village hall, parish hall, community hall or other similar building. It applies also to premises that form part of such buildings.
- 13.9 In most cases it should be clear whether premises meet the “community premises” definition under this part of the Act. However, if there is any doubt, the Licensing Authority will consider each case on its merits, with primary consideration being given as to how the premises are predominantly used.

14. PREMISES LICENCE REVIEWS

- 14.1 Where an application for a review of a premises licence is made, we will inform the public of the application for review in accordance with the regulations made under the Act thereby allowing any other responsible authority, authorised person or interested party to also make application at that time.
- 14.2 We are obliged by law to disregard any complaints made by any person other than a responsible authority, which are vexatious, frivolous, or substantially the same as a previous application made within 1 year.
- 14.3 Following an application for review of a premises licence or objection, we will encourage the parties to a review to mediate via the Licensing Officers in order that appropriate conditions on a licence may be volunteered in a revised operating schedule prior to a hearing by the Licensing Committee or subcommittee wherever possible. Representations can be withdrawn in accordance with the Regulations.
- 14.4 The Violent Crime Reduction Act 2006 has amended parts of the Licensing Act 2003 and now expands police and council powers to deal with problem premises in a more expedient manner.
- 14.5 A new power to carry out summary reviews in serious cases of crime and disorder is brought in at section 53A of the Licensing Act 2003. Where a review application is accompanied by a certificate issued by a senior police officer, the Licensing Authority is required within 48 hours to consider whether it is necessary to take any interim steps pending the completion of the review process. This may include the immediate suspension of the premises licence.

15. CLUB PREMISES CERTIFICATES

- 15.1 The law requires us to be satisfied that a club applying for a club premises certificate are a bone-fide members club. The law requires a number of conditions to be met. These are:
- That, under the rules of the club, persons may not be admitted to membership, or be admitted as candidates for membership, or to any of the privileges of membership without an interval of at least two days between their nomination for membership and their admission;
 - That, under the rules of the club, those becoming members without prior nomination or application may not be admitted to the privileges of membership

without an interval of at least two days between their becoming members and their admission;

- That the club is established and conducted in good faith as a club;
- That the club has at least 25 members;
- That alcohol is not supplied to members on the premises otherwise than by or on behalf of the club.

15.2 To qualify as a club authorised to supply alcohol to its members and guests, the law requires additional conditions to be met. These are:

- The purchase and supply of alcohol by and for the club is managed by a committee made up of elected members of the club all aged over 18 years;
- No arrangements may be made for any person to receive any commission, percentage or similar payment at the expense of the club with reference to purchases of alcohol by the club;
- No arrangements may be made for any person to derive directly or indirectly any monetary benefit from the supply of alcohol to members or guests apart from to benefit the club as a whole or any indirect benefit a person derives by reason of the supply contributing to a general gain for the club as a whole.

15.3 In determining whether a club is established and conducted in good faith, the Licensing Authority, subject to the Council's scheme of delegation, will consider the following matters:

- Any arrangements restricting the freedom of the club to purchase alcohol;
- Any arrangements where the money or property of the club or any gain arising from the running of the club can be used for purposes otherwise than for the benefit of the club as a whole or for charitable, benevolent or political purposes;
- The arrangements for giving members information about the finances of the club;
- The books of account or any other records kept to ensure accuracy of that information;
- The nature of the premises occupied by the club.

15.4 We wish to see local culture flourish, and in cases where genuine members clubs wish to allow the public to use the premises, we will objectively consider applications for the same premises to hold both a premises licence and club premises certificate for different parts of the same premises or the same part of the same premises at different times.

16. PUBLIC INFORMATION

16.1 The Licensing Register will be available for inspection at the Licensing Office during normal office opening hours.

16.2 The Licensing Register and all current applications will be available on the website of the Council. All minutes of Committee and Sub-Committee will be similarly available together with agendas of future meetings.

16.3 We will require the owner of any premises licence to prominently display in the premises a copy of the licence and schedules in order that the public will be made aware that the

premises are licensed, the licensable activities allowed and the name of the designated premises supervisor.

17. TEMPORARY EVENTS

- 17.1 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or TEN).
- 17.2 Temporary event notices are subject to various limitations. These are concerned with:
- the number of times a premises user may give a TEN – 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people);
 - the number of times a TEN may be given for any particular premises (15 times in a calendar year that is 1st Jan to 31st Dec);
 - the maximum duration of an event authorised by a TEN is 168 hours (seven days);
 - the maximum total duration of the events authorised by TENs in relation to individual premises (21 days in a calendar year);
 - the maximum number of people attending at any one time (fewer than 500 including staff); and
 - the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user (24 hours).
- 17.3 The most important aspect of the system of temporary event notices is that no permission is required for these events from the council. Only the police or Environmental Health may intervene to prevent such an event or modify the arrangements for such an event.
- 17.4 The police or Environmental Health may issue an objection notice because they believe the event would undermine the one or more of the four licensing objectives set out in the Act. The police or Environmental Health must issue an objection notice within three working days of being notified, but they can subsequently withdraw the notice. The issuing of such an objection notice requires the consideration of the objection by the council at a hearing in the case of a standard TEN. If an objection notice is issued in relation to a late TEN then the TEN is cancelled and licensable activities are not authorised.
- 17.5 Many premises users giving temporary event notices will not have a commercial background or ready access to legal advice. They will include, for example, people acting on behalf of charities, community and voluntary groups, all of which may stage public events to raise funds, at which licensable activities will take place. The council will ensure that local guidance about the temporary permitted activities is clear and understandable and will strive to keep the arrangements manageable and user-friendly for such groups.
- 17.6 There are two types of TEN; a standard TEN and a late TEN. These have different notice periods. A standard TEN is given no later than ten working days before

the event to which it relates; a late TEN is given not before nine and not later than five working days before the event.

17.7 The authority encourages notice providers to give the earliest possible notice of events likely to take place. This is particularly relevant to events which are to take place in the open air or in a temporary structure. Assistance with the planning of events can be provided through the council's Event Safety Advisory Group.

17.8 The council will provide local advice about proper respect for the concerns of local residents; of other legislative requirements regarding health and safety, noise pollution, the building of temporary structures, or other necessary permissions, and of the powers to close down events with no notice on grounds of disorder, the likelihood of disorder or noise emanating from the premises.

18. PROHIBITION OF SALE OF ALCOHOL AT GARAGES OR SERVICE AREAS

18.1 In considering whether premises are prohibited from being granted a premises licence under Section 76 of the Act, we will objectively consider the Guidance issued under Section 182 of the Act, and judge each case on the individual circumstances of the application. We reserve the right to require information from the applicant to prove the primary use of the premises.

19. GAMING MACHINES

19.1 The issue of gaming machine permits in respect of club premises and alcohol licensed premises is dealt with by the Gambling Act 2005 and any policies and/or guidance issued in relation to that Act.

19.2 Compliance with the Gambling Commission's Codes of Practice relating to gaming machines on licensed premises is mandatory.

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APPENDIX B



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	

Decision	Licensing Committee	Licensing Sub-Committee	Officer
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:

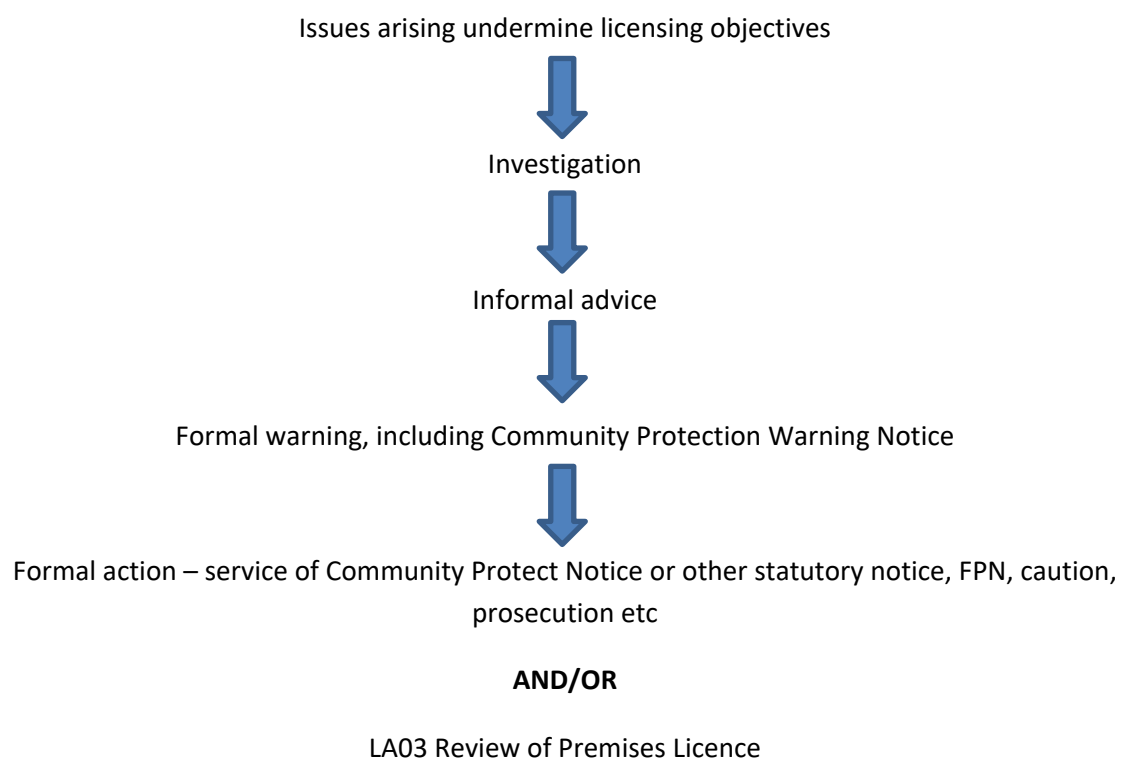
- The prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

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	TSO	Building Safety	X	X	X
		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.



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APPENDIX C

Lancashire constabulary
Lancashire Fire Service
Lancashire Trading Standards
Lancashire Safeguarding Childrens Board
Environmental Health
Planning
Director of Public Health
Alcohol Licensing Team
Burnley BID
CAMRA East Lancashire
Padiham Town Council
Member of Parliament for Burnley
Burnley BAND
Police & Crime Commissioners Office
British Institute of Innkeeping
British Beer & Pub Association
Association of Multiple Retailers
Drugline Lancashire
Federation of Small Businesses
HSE executive
Social Services
Hyndburn BC
Ribble Valley BC
Pendle BC
Calderdale BC
Rossendale BC

All Burnley BC Premises Licence Holders

All Burnley BC Councillors
All Lancs CC Burnley Councillors
All Parish Councils

All Burnley BC Head's of Service

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Appendix D

Responder	Ref	Licensing Policy Consultation Responses	Action
Responsible Authority		no comments	
Responsible Authority	5.10.	Paragraph 187 of the Revised National Planning Policy Framework July 2021 refers to the `Agent of Change` Principle. In essence this means that the person or business (i.e. the agent) introducing a new land use is responsible for managing the impact of that change. Planning policies in relation to new development or change of use should ensure there can be effective integration with existing businesses, including licenced premises such as pubs and music venues. Under this principle the existing licensed premises should not have unreasonable restrictions placed on it by the local authority and should the operation of the existing business have significant adverse effects on the new development, or new use , for example noise disturbance, then the applicant or `agent of change` should provide suitable mitigation before the development is completed. In my opinion the agent of change principle should be highlighted in the policy as this could have bearing for example when considering the Protection of Public Nuisance Objective	Include reference to this at para 5.10.
	5.4.4	I endorse paragraph 5.4.4, A number of Town Centre premises have used TEN`s, sometimes multiple, to extend existing hours into the early hours of the morning which are more sensitive and add to problems where the the night-time/day-time economies clash. This has the potential to cause to noise disturbance to any sensitive premises in the vicinity and should be discouraged. It is more appropriate for premises to apply for a variation to their licence so that the application can be properly considered by responsible authorities and could be subject to a hearing	Add 'multiple'

Responder	Ref	Licensing Policy Consultation Responses	Action
	5.4.6	Any temporary event notification for outdoor events or those in temporary structures, which could have the potential to cause noise disturbance, should be given additional scrutiny, particularly those that propose amplified or live music after 11pm	Amend to add potential for noise nuisance particularly after 11pm
	various	All hearings, not just reviews, will lead to discretion. RA will normally take a lead.	Amend as required to clarify all hearings. Clarify roles at 3.2.4
Public	Various	<p>I am writing today to express my concerns in regards to the draft licensing policy relating to the nightlife in Burnley. As a town centre resident some of the anti-social behaviour and noise from the surrounding areas can be quite intimidating.</p> <p>For example, one morning I was greeted by over 20, drunken people outside waiting for taxis. The noise was unacceptable and the crude comments from some of the people were unexcusable. After my encounter, I refuse to leave my home any earlier than 8:30am, occasionally there are still stragglers outside however not as many, this I do not believe to be fair and this situation should not occur at such a time in the morning, especially outside of residential properties.</p> <p>On multiple occasions I have exited my home and come across sick, balloons, canisters, smashed glasses, rubbish and clothing .</p> <p>I understand the need to have clubs and bars however I don't understand the need for these places to be open until 6am and 8am. I also don't see the need for these clubs to be open on a week day as the majority of the residents work...Monday to Friday, 9 till 5 and being awoken by shouting and music in the early hours of the morning is not acceptable in any way, shape or form.</p> <p>I believe that the only way forward is to reduce the operating hours of ALL of the clubs to 3:30am.</p>	Define hours of conflict at 5.2.1 and add measures available to a hearing in those hours. EMROs are provided for in the policy, providing the evidence is available

Responder	Ref	Licensing Policy Consultation Responses	Action
		<p>I would like to express my concern re the late licencing of the nightclubs surrounding this property. Every week I have to clean up broken glass, drug bags, gas canisters, sick etc before I can show anyone the property.</p> <p>I get regular calls, messages, complaints from residents who have to deal with drunk and antisocial behaviour on their way to work from 6am. One resident says she goes to work as late as possible as she is scared to go to her car.</p> <p>There is an incident every week, either broken windows, someone dealing drugs right outside xxxxxx, trespassers on the balcony, attempted suicides on the balcony, sexual acts carried out in the bin store, I could go on.</p> <p>There can be no sensible reason why nightclubs are permitted to stay open until 6-7am. If they closed earlier it would mean the streets would be clear before residents wake up and start their day. It is totally unacceptable that Burnley citizens are afraid to go to their car at 7am in the morning because there are gangs outside their home and hanging around on the walkway between their front door and their car.</p> <p>There are also babies and children living here - what kind of example is this setting?</p> <p>Why was living accommodation permitted to being built in this area if there was no intentional to deal with the anti-social behaviour caused by the nightclubs?</p> <p>It seems only sensible that if the closing hours do not change then there should be a security presence around the building to protect people living here.</p> <p>I have spoken to business owners, taxi drivers, the media, members of the public and not one single person is in favour of such late opening hours. It is not good for business.</p>	

Responder	Ref	Licensing Policy Consultation Responses	Action
		<p>There are many videos taken from our CCTV cameras and I herewith attach a sample of them. We converted an existing building xxxxxxx into 26 apartments. However, due to Burnley’s licencing laws there are drunk and drugged up people fighting in the streets until 7-8am in the morning. We have 3 doctors that live at our Building xxxxxxx and they work shifts at xxxxxxx. At the weekends they have to make their way through fighting in the streets most if not every weekend. It is not all drink related as we have evidence that drugs are openly being sold on the streets and mindless people out of control are causing damage to property and prevent normal people from living a normal life.</p> <p>The night clubs seem to promote the taking of drugs, xxxxxxxxxxxxxxxxxxxx. I have many videos to support this claim. My company wanted to regenerate more buildings in Burnley Town Centre, however, until Burnley can adopt sensible Licensing hours and properly Police people going home the area will add to the bad reputation it is developing and going forward, investors in both property and business will avoid Burnley. I would suggest 2.00 am latest, like many other good quality towns throughout the UK.</p>	
Licensed Trade	4.1.2	“Experience” needs more definition. If we only have experienced DPS candidates we will never have new DPS. Younger new DPS should be given equal chance with the right guidance from the premises licence holders.	Add supervision at para 4.1.2
	4.2.3	Agree to a certain degree. Its something I see more and more of in Burnley with the latest increasing minimum wage – especially street promoters of nightclubs. I think its brilliant to give these younger generation a taste of the Burnley’s nightlife. It’s also a ‘foot in the door’ for a lot of these youngsters into the hospitality sector. They are the bartenders / managers of the future. I’d hope these employers that are employing them have appropriate risk assessments in place. It’s also a strong argument for more police presence on the streets.	NFA

Responder	Ref	Licensing Policy Consultation Responses	Action
	5.2	Staggered dispersals should not be more favourable for one business over another. Most licenses have 30 minutes drinking up time from the last sale of alcohol to the doors shutting which I believe is a fairer way to avoid staggered dispersals.	Amend para 5.2 - to include reference to period for sale of alcohol. Amend para 5.6.2 to clarify any hearing will look at existing/proposed hours if deemed to be contributing to undermining LO
	5.4.4	STRONGLY DISAGREE. TEN's have been used in Burnley for extending pubs opening times for special occasions and events for as long as I can remember, ever since I've been a licensee in town. What if there's a late night boxing match on at 5 in the morning? Do you expect the pubs to apply for permanent 5am/6am licenses? This is where 5.4.4 strongly contradicts 5.6.1. 5.4.4 will have licensed premises applying for later hours on their license that they won't regularly use (exactly what 5.6.1 is against). This would have a detrimental effect on the late-night times that you're trying to combat. Premises operators change but, as mentioned, licenses rarely do, they get transferred. I think TENs should be encouraged for extending opening times for special events and occasions to avoid everyone applying for later premises licenses.	Add 'Other than for special occasions' & 'multiple'. Refer to hours of conflict. Clarify at 5.6.2
	5.9.1	There are control methods that can be used that stop these promotions undermining the four licensing objectives. Happy hours can actually be used responsibly and even help promote licensing objectives, they can be used to encourage customers to come out at a more reasonable time (7pm/8pm).	NFA
	5.13.1	An EMRO would be the death of Burnley's vibrant nightlife – that many other towns are struggling to build. It would also ultimately lead to a huge loss of Business rates revenue. Sometimes you don't know what you have until its gone.	EMROs are provided for in the policy, providing the evidence is available

Responder	Ref	Licensing Policy Consultation Responses	Action
Licensed Trade	5.6	The council MUST seriously consider a curfew on when businesses can serve alcohol until. I work regularly and the late license laws create a far more dangerous drinking culture that the council MUST look into amending. Earlier curfews would make it easier to control and police, businesses would be busier earlier. If people want to purchase alcohol, become inebriated and likely cause problems, they must be willing to accept imposed restrictions for their behaviour.	Define hours of conflict at 5.2.1 and add measures available to a hearing in those hours. EMROs are provided for in the policy, providing the evidence is available

Responder	Ref	Licensing Policy Consultation Responses	Action
TC Business	5.2.1 5.6 5.13	<p>I would like to express my concern re the late licencing of the nightclubs surrounding this property. Every week I have to clean up broken glass, drug bags, gas canisters, sick etc . I get regular calls, messages, complaints from XXXXXXXXXX who have to deal with drunk and antisocial behaviour on their way to work from 6am. One person goes to work as late as possible as they are scared to go to there car. There is an incident every week, either broken windows, someone dealing drugs right outside, trespassers, attempted suicides, sexual acts carried out in the bin store, I could go on. There can be no sensible reason why nightclubs are permitted to stay open until 6-7am. If they closed earlier it would mean the streets would be clear before residents wake up and start their day. It is totally unacceptable that Burnley citizens are afraid to go to their car at 7am in the morning because there are gangs hanging around. There are also babies and children - what kind of example is this setting? Why was living accommodation permitted to being built in this area if there was no intentional to deal with the anti-social behaviour caused by the nightclubs? It seems only sensible that if the closing hours do not change then there should be a security presence. I have spoken to business owners, taxi drivers, the media, members of the public and not one single person is in favour of such late opening hours. It is not good for business. Since XXXXXXXXXX has been marketed I have had several calls from XXXXXXXXXXXXXXX and developers from all over the country who are looking to invest in Burnley. There is a real opportunity here to turn the dynamic of the town around and make it a nice place to be. For the sake of closing a few hours earlier, the reputation and future prosperity of this town could be altered for the better.</p>	Define hours of conflict at 5.2.1 and add measures available to a hearing in those hours. EMROs are provided for in the policy, providing the evidence is available

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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 by 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 This policy has been subject to a wide public consultation, to include the following statutory consultees prescribed at section 5 of the 2003 Act:-

- 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 **1st October 2022** 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, 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 are 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 club, 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 applications, or apply for a review. The Licensing Authority would not normally act in this way on behalf of residents or other Responsible Authorities. When the Licensing Authority does act 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, even if a Cumulative Impact Policy is in place.

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, **or is appropriately supervised by someone with the necessary experience.**

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 and businesses.

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, **ie between 4.30am and 8am**. 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 licensing objectives at that time of day, or where representations are made in relation to an application or TEN seeking hours that fall within the period of conflict, then at a hearing consideration will be given to the range of options available to uphold licensing objectives through the period . Any changes in licensed hours and/or closing time &/or last admission time will take account of the times of other premises in the vicinity so that earlier, 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, then at a hearing 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 Other than for special occasions, multiple TENS for existing licensed premises will not be encouraged where the proposal is simply to extend the existing hours of operation, particularly into the sensitive hours of conflict between the night-time and day-time economies. 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 and where amplified music is to be played, particularly after 11pm. 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 Authorities 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, or hours permitted by the existing licence, 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. 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. At a hearing 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 an existing or proposed licensed premises or club, including late night food vendors, are subject to a hearing and licensing objectives are not upheld due to inadequate dispersal arrangements then consideration will be given to restricting 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, should 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 a hearing 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.

5.10.3 The 2018 NPPF 'Agent of Change' principle establishes that where a new land use is introduced into an area, the impact should be managed by the person/business that introduces the new use, eg introducing noisy premises into a quiet location or vice-versa. This will be relevant when considering measures necessary to uphold licensing objectives at hearings.

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 of 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
	Building Control	Building Safety	X	X	X
LCC	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.

