



**BARNSLEY**  
Metropolitan Borough Council

# Licensing Act 2003

## Statement of Licensing Policy

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# **BARNSELY METROPOLITAN BOROUGH COUNCIL**

## **LICENSING ACT 2003 – Draft Statement of Licensing Policy 2016**

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# BARNSELY METROPOLITAN BOROUGH COUNCIL

## Barnsley Licensing Committee

### 1. Introduction

- 1.1 The Barnsley Future Council plan defines an achievable vision for the future in which Barnsley is an innovative and vibrant 21st Century market town at the centre of a modern dynamic economy and a great place to live. Priorities to transform the Borough include plans for regeneration of the town centre, providing a safe, vibrant and diverse environment whilst achieving a new and sustainable economic future.
- 1.2 The urban core of Barnsley is home to 82,000 people. Barnsley town centre is the focus for the Borough's main shopping, administrative, commercial and entertainment activities. It is long famous for its market and more recently has become noted for its expanding club scene and night life. To the west of the urban core is the lightly populated attractive hilly country centred on the market town of Penistone. To the south and east are the dispersed towns and villages, separated by open land of the former coalfield, which are the home to some 95,000 people. The Barnsley Urban Area will play a pivotal role in regeneration and the Town Centre itself will be transformed into a modern urban living space offering shoppers and visitors exciting retail, recreational, entertainment and cultural experiences that will enable it to compete successfully with neighbouring centres. Regeneration in the Borough's rural areas will be based on diversification and sustainable development. Cultural and leisure facilities appropriate in type and scale will be encouraged in the smaller market towns.
- 1.3 Integral in making Barnsley a great place to live is to ensure that its communities are attractive, safe living environments with convenient access to good quality local services and amenities, including leisure, entertainment and cultural facilities. Neighbourhoods must be clean, safe and secure and their environments respected and cared for. They must also be friendly and caring places where people are welcome from all backgrounds and cultures and both young and old alike will feel part of the community.
- 1.4 The licensed entertainment and hospitality industry is a major provider of full time, part time and casual employment and it makes a significant contribution to the local economy. It fulfils an important social and community role, providing facilities for both residents and businesses and is a vital support infrastructure for related sectors, such as retail and tourism.
- 1.5 This Licensing Statement forms an essential part of the Council's integrated approach to alcohol related issues and the provision of regulated entertainment which seeks to strike a balance between the need to embrace a vibrant and dynamic entertainment industry as part of the

regeneration of the Borough and the need to ensure that concerns relating to public disorder are effectively addressed. The policies in this statement aim to contribute to making the Borough as a whole and its town centres in particular pleasant, safe and prosperous places in which to live, work, learn and relax. We want to work with partners and the licensing trade to provide a safe, diverse and family orientated night time economy for people to enjoy.

- 1.6 The Council will work in partnership with other local authorities, statutory bodies and agencies, especially those located in South Yorkshire, to ensure a consistent approach is taken on licensing matters whilst respecting the differing needs of individual communities.

## **2. General Principles**

- 2.1 This document sets out the Council's Statement of Licensing Policy, which will guide the Licensing Committee when considering applications for the sale of alcohol, regulated entertainment, late night refreshment, cinematographic and theatrical performances.
- 2.2 This document should be read in conjunction with its appendices, and with any guidance notes or codes of practice to which reference is made.
- 2.3 The aim of this policy is to promote the four licensing objectives which are set out in the Licensing Act 2003, namely:-
  - the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm
- 2.4 The Council wishes to promote the above whilst still encouraging a sustainable entertainment and leisure industry. The Council also recognises local residents need for a safe and healthy environment in which to work and live and the importance to the local economy and cultural health of the Borough of the provision of both safe and well run entertainment and leisure facilities.
- 2.5 The policy aims to provide guidance to applicants, responsible authorities and all interested parties on the general approach to licensing in the Borough. Although each and every application will be dealt with separately and on its own individual merits, the Council in writing this policy is offering guidance on wider considerations that will be taken into account.
- 2.6 The policy will continue to be reviewed in accordance with Government requirements, which is currently at least every five years, and/or if any amendments are/or additions are required to the policy at any time while the policy is active.

- 2.7 This policy document is intended for the guidance of the Barnsley Licensing Committee as well as to assist applicants in presenting their application.
- 2.8 The policy is not intended to limit the power or fetter the discretion of the Licensing Committee who will listen to and determine on its own individual merits any application placed before them. If an application is lawfully made and no relevant representations are received then the Council must grant the application. Only if relevant representations are made will the Council's discretion be engaged.

### **3. Human Rights**

- 3.1 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a Local Authority to act in a way that is incompatible with the Convention right.
- 3.2 In conducting its business as the Licensing Authority for the Metropolitan Borough of Barnsley, the Council will have particular regard to the following relevant provisions of the first protocol of the European Convention on Human Rights;
- Article 1- Every person is entitled to the peaceful enjoyment of his or her possessions, e.g. the possession of a licence.
  - Article 6 - That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
  - Article 8 - Everyone has the right to respect for his home and private/family life.

### **4. Scope of Policy**

- 4.1 The policy covers new applications, reviews, transfers and variations etc. of licences for the following licensable activities:
- the sale by retail of alcohol (including via the Internet or mail order);
  - the supply of alcohol by or on behalf of a club to, or to the order of a member of that club;
  - the provision of regulated entertainment; and
  - the provision of late night refreshment
- 4.2 Any application for a new licence, variation or review will be dealt with on its own individual merits and by reference to the four licensing objectives.
- 4.3 Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and temporary events within the terms of the 2003 Act, and conditions attached to various authorisations will

be focused on matters which are within the control of individual licensees and others in possession of relevant authorisations. Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity of those premises. In addressing these matters, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. Licensing law is not intended to be the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises.

- 4.4 This Policy seeks to provide advice to applicants about the approach they should take to making applications and the view the Council is likely to take on certain key issues where representations have been made. The Licensing Authority may depart from this policy if the individual circumstances of any case merit such a decision in the interests of the promotion of any or all of the four Licensing Objectives.

## **5. Consultation**

- 5.1 The Council is committed to meaningful consultation with all appropriate public and private organisations and a representative cross-section of all of those with an interest in the contents of the policy.

- 5.2 The Licensing Authority must in any case consult with the following:-

- the Chief of Police for the area;
- the Fire Authority;
- persons/bodies responsible for local holders of premises licences;
- persons/bodies responsible for local holders of club premises licences;
- persons/bodies responsible for personal licensees;
- persons/bodies responsible for business and residents in its area.

- 5.3 The views of all our consultees are duly considered and given proper weight when reviewing this Policy.

## **6. Summary of Process**

- 6.1 Each application for a licence will be considered:-

- on its own individual merits;
- in accordance with the Licensing Act 2003 together with any amendments and supporting Regulations;
- with reference to the guidance issued under section 182 of the Licensing Act 2003;
- under the terms of this policy.

6.2 One of the key principles of the Licensing Act is that every application must be treated on its own merits, applicants, responsible authorities and interested parties may find it helpful to know that the Council cannot attach conditions to a licence unless they are either volunteered by the applicant or are determined by the licensing authority following representations being upheld from responsible authorities or interested parties.

6.3 Nothing in this statement of policy will:-

- prevent any person from applying under the 2003 Act for any of the permissions and from having that application considered on its own individual merits;
- prevent or stop any person from making representations on any application or from seeking a review of a licence or certificate where the 2003 Act permits them to do so.

6.4 The Council recommends early consultation with responsible authorities. Many responsible authorities would be prepared to discuss matters with an applicant with a view to reaching agreement on measures to be proposed.

## **7. Promotion of the Licensing Objectives**

7.1 The Licensing Authority will act in accordance with its duty to carry out its functions under the Act with a view to promoting the statutory Licensing Objectives, which are:-

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

7.2 Each objective is of equal importance. There are no other licensing objectives; therefore, all four objectives are paramount considerations at all times.

7.3 Each applicant must provide with their application full details as to how they will promote each the four licensing objectives detailed above. Applicants are reminded that measures proposed in the operating schedules will be converted into conditions on their licence.

## **8. The Prevention of Crime and Disorder**

8.1 Under the Crime & Disorder Act 1998, Barnsley Metropolitan Borough Council as the Licensing Authority must have regard to the likely effect of the exercise of its licensing function on, and do all it can to prevent, crime and disorder in the Borough. In doing so, the Council will have regard to the likely impact of licensing and related crime and disorder when



considering the location, operation and management of all proposed licence applications, reviews and variations.

- 8.2 Licensed premises, especially those offering late night or early morning entertainment, alcohol and refreshment for large numbers of people, can sometimes if not properly managed, become a source of public nuisance generating crime and disorder problems. The Licensing Authority will expect licensees of premises to develop Operating Schedules that satisfactorily address these issues from the design of the premises through to the daily operation of the business.
- 8.3 There are many steps an applicant may take to prevent crime and disorder. The Council will look to the Police for the main source of advice on these matters. In accordance with the Secretary of State's guidance, police views on matters relating to crime and disorder will be given considerable weight. It is recommended that applicants seek advice from South Yorkshire Police when addressing this issue as well as taking into account local planning and transport policies, tourism, cultural and crime prevention strategies.
- 8.4 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 seek to impact on the behaviour of customers on or in the immediate vicinity of premises as they seek to enter or leave.
- 8.5 The Licensing Authority may attach conditions to licences to promote the Crime Prevention Objective and to prevent Crime and Disorder, both inside and outside the premises. These conditions will be based on the applicants operating schedule and drawn from the model pool of conditions relating to this objective.
- 8.6 Conditions will be targeted on deterrence and the prevention of crime and disorder. Such conditions may include;
- Membership of a recognised pub watch or similar scheme
  - The need for door supervision (must be registered by the Security Industry Authority, SIA)
  - The need for and location of CCTV cameras
  - Conditions setting capacity limits where this is necessary to prevent over-crowding likely to lead to disorder and violence
  - Provision of training for staff in relation to public safety, conflict management and drug related issues.

## **9. Public Safety**

- 9.1 The public safety objective is concerned with the physical state of people using the premises. Public safety includes safety of staff and performers appearing at any premises. The Licensing Act 2003 covers a wide range of

premises that require licences including cinemas, night clubs, public houses, village and community halls, schools, cafes, restaurants and fast food outlets/take- aways. Each of these types of premises present a mixture of risks to public safety, some of which may be common to most premises whilst others will be unique to specific operations.

- 9.2 The premises must be constructed, adapted or operated to safeguard all users against such risks/issues.
- 9.3 The operating schedule of all applications for a licence or a certificate will be expected to demonstrate to the satisfaction of the Licensing Authority that all potential public safety issues connected with the premises have been thoroughly addressed.
- 9.4 Where appropriate, applicants are advised to seek guidance from the Council's Licensing Officer, the District Fire Safety Officer for the South Yorkshire Fire and Rescue Service and, if appropriate, a suitably qualified Health & Safety specialist.
- 9.5 The Licensing Authority may attach conditions to licences to promote the Public Safety Objective and to promote general safety. These conditions will be based on the applicants operating schedule and drawn from the model pool of conditions relating to this objective.
- 9.6 Special considerations apply to night clubs and similar venues. Applicants are encouraged to consider the Safer Clubbing guide published by the Home Office which gives advice on these issues. A check list of some of the most important measures is reproduced in "Appendix F".

## **10. The Prevention of Public Nuisance**

- 10.1 Applicants for a licence are reminded that one of the four licensing objectives is the prevention of public nuisance, and therefore they will be required to demonstrate in their operating schedule how they intend to deal with this issue. Applicants need to focus on the effects of licensable activities on persons living and working in the area around the premises which might be disproportionate and unreasonable.
- 10.2 Issues will mainly concern noise nuisance, light pollution, noxious smells and litter. Nuisance in this context can include low level nuisance affecting a few people living locally, as well as a major disturbance affecting the whole community. Whether or not incidents can be regarded as being "in the vicinity" of licensed premises is a question of fact and will depend on the particular circumstances of the case.
- 10.3 Applicants are advised to seek guidance from Councils' Pollution Control Section, based in Regulatory Services and/or a suitably qualified Noise Consultant for advice on measures that may need incorporating into an

operating schedule. Regard should be given to the location of the proposed or actual premises, and whether there are any especially sensitive receivers in the vicinity.

10.4 The following issues may be considered;

- Display of contact details or a direct phone link to a private hire/taxi firm
- Provision of litter bins in the vicinity of premises serving hot food after 11pm
- The size and location of smoking areas and beer gardens which may encourage patrons to use the external areas more extensively than for just smoking and returning to the inside of the premises
- Time restrictions on the use of beer gardens (such as no use after 9pm)
- Signs encouraging patrons to be quiet when on and leaving the area and to respect the rights of residents
- Light pollution from security/advertising lights
- Whether doors and windows will or can be kept closed after a particular time
- Provision of noise limiting devices and other noise control measures such as acoustic curtains, speaker mounts etc.

10.5 If relevant representations are made, the Council will consider whether it is necessary to impose conditions to regulate behaviour on the premises where this relates to licensable activities and the licensing objectives. Conditions 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.

10.6 The Council considers that patrons who are using external smoking shelters or areas are there as a direct result of the licensed premises and are within the control of the Licensee.

10.7 When considering nuisance issues the Council will have particular regard to representations made by the Pollution Control officers in Regulatory Services, and by local residents. The Council recognises that it is necessary to balance the rights of local residents, businesses and others with those wishing to provide and enjoy licensable activities. However, if it is necessary for the prevention of public nuisance where conditions do not adequately address the issues, an application can be refused.

## **11. The Protection of Children from Harm**

11.1 The protection of children from harm includes protection from physical and psychological harm. The Council recognises the Barnsley Safeguarding Children Board as the responsible authority for the protection of children from harm. The Licensing Authority, in addition to the usual consultees, will consult with the Barnsley Safeguarding Children Board on any application which raises concerns regarding access for children.

- 11.2 The wide range of premises that may be licensed under this Act means that children may visit many of these either as part of a family group or on their own. Applicants for a licence are reminded that one of the four licensing objectives is the protection of children from harm, and that, therefore, they will be required to demonstrate in their operating schedule how they intend to deal with this issue. The Licensing Authority recognises that many premises such as restaurants, café bars, hotels and certain types of public houses have developed family friendly environments and the Licensing Authority does not wish to restrict the development of such premises.
- 11.3 Where children are to be admitted to the premises the provision of extra resources or measures to ensure their safety could include voluntary DBS checks for staff, extra staffing or stewarding, etc., risk assessments and clear notification of the times and the areas of the premises to which children will be admitted.
- 11.4 Applicants should, in their Operating Schedule, set out any limitations that will be in place for the protection of children from harm. For example, that there will be no access when sex shows or other adult entertainment is provided, or that staff having significant unsupervised access to children, such as those who are responsible for the supervision of children's play areas will have undergone a voluntary DBS check to ensure their suitability.
- 11.5 The Licensing Authority will not impose any condition requiring children to be admitted to the premises. This will remain a matter for the individual licensee.
- 11.6 The Act does not prohibit the access of children to licensed premises including those selling alcohol for consumption on the premises. However, the Licensing Authority may limit the access of children to any premises where it is necessary to do so for the prevention of physical, moral or psychological harm..
- 11.7 The Licensing Authority encourages applications from potential or existing licensees that create venues which are family friendly and safe for children. However, the Licensing Authority would have concerns about access to children where, for example:
- entertainment or services of an adult or sexual nature are commonly provided;
  - there have been convictions of members of the current staff at the premises for serving alcohol to minors, or where the premises has a reputation for underage drinking;
  - there is known association with drug dealing or drug taking;
  - there is a strong element of gambling on the premises; and
  - the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided.
- 11.8 On receipt of relevant representations, the Council will consider whether conditions are necessary. Amongst others, these may include:

- limitations on the hours when children may be present (e.g. no children after 9.00 pm);
- a restriction on the age of children to be admitted to the premises (e.g. over 14 years of age only);
- a limitation or exclusion of children when certain activities are taking place (e.g. no children when entertainment of an adult or sexual nature is taking place);
- a requirement for accompanying adults (e.g. all children must be accompanied by a person over 18 years of age)
- limitations on the parts of premises to which children might be given access;
- a combination of any of the above measures; or
- a full exclusion of children when licensable activities are taking place (Complete bans are likely to be rare).

In such cases, representations by the Barnsley Safeguarding Children's Board and the Police will be given considerable weight where they address issues regarding the admission of children.

- 11.9 It is mandatory for premises which sell or supply alcohol to have an age verification policy in place. All staff responsible for the sale of alcohol should receive appropriate training on the licensing laws relating to children and young persons in licensed premises.
- 11.10 Licensees selling alcohol either on or off the premises should be aware that both Police and Trading Standards Officers routinely implement test purchasing to reduce sales to persons under 18 years of age and carrying out age challenges to reduce under-age drinking in pubs and licensed venues. Licensees who are convicted of an illegal sale may have their licence reviewed.
- 11.11 In relation to premises showing film exhibitions, the Council expects licence holders or clubs to include arrangements for restricting children from viewing age-restricted films in their operating schedules.

### **Safeguarding**

- 11.12 The risk of Child sexual exploitation can be present at all types of premises and it is expected that risk management systems will be in place to identify and report suspicious activity. Premises that fail to do so may put children at risk of harm and in such cases action will be taken which could result in the suspension or revocation of the licence.
- 11.13 The following measures, or similar, should be considered to help evidence due diligence and keep children safe;
- Report suspicious activity to the Police and record

- Train staff to recognise indicators of child sexual exploitation and how to report concerns
- Train staff to operate an age verification scheme
- Maintain staff training records
- Monitor activity at the premises using CCTV or regular patrols.

## **12. Cumulative Impact**

- 12.1 There can be confusion about the difference between “need” for licensed premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub, restaurant or hotel. This is not a matter that the Licensing Authority can have regard to in discharging its licensing functions.
- 12.2 “Cumulative Impact” means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area eg. a town centre with a large concentration of licensed premises. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Licensing Authority to consider in developing its licensing policy statement.
- 12.3 Where a Responsible Authority or Interested Party makes a representation that an area has become saturated with licensed premises, making it a focal point for large groups of people to gather and circulate, and therefore creating exceptional problems of disorder and nuisance over and above the impact from any individual premises, the Licensing Authority may, where satisfied that the imposition of conditions may not address the issue, adopt a Cumulative Impact Policy, to the effect that the area is already saturated with certain types of licensed premises and the granting of any further licences would undermine one or more of the four licensing objectives.
- 12.4 The effect of a Cumulative Impact Policy is to create a rebuttable presumption that applications for new premises licences, club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants would, therefore, need to address the policy issues in their operating schedule in order to rebut such a presumption.
- 12.5 Where a Cumulative Impact Policy is in force, the Licensing Authority may still not refuse an application for a licence unless it receives a relevant representation. The onus of providing evidence to substantiate the assertion that granting any particular licence would have the cumulative impact claimed rests with the party making the relevant representation.

- 12.6 The Licensing Authority recognises and will take into account the diversity of licensed premises and the different impact of premises with different styles and characteristics. Accordingly the Licensing Authority recognises that even where a Cumulative Impact Policy is in force, it may be able to approve licences that are unlikely to add significantly to the saturation and will consider each application on its own individual merits.
- 12.7 The absence of a Cumulative Impact Policy applicable to a particular area does not prevent any Responsible Authority or Interested Party making a representation on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 12.8 In considering whether to adopt a Cumulative Impact Policy in respect of any location(s) within the Borough, the Licensing Authority has had regard to the following matters:-
- whether a Responsible Authority has identified a concern about crime and disorder or public nuisance affecting the locality in question;
  - whether there is evidence to demonstrate that crime and disorder or public nuisance is arising and that it is caused by the customers of licensed premises and if so, identifying the area from which problems are arising and the boundaries of that area; and
  - whether, having regard to the representation of the consultees specified in the Act, the adoption of a Cumulative Impact Policy is a reasonable measure to take in promotion of the licensing objectives.
- 12.9 At the time of revising this policy the Licensing Authority was not in possession of evidence which would justify the adoption of a Cumulative Impact Policy. The Licensing Authority will be prepared to review this position should it receive evidence which demonstrates that the cumulative impact of premises in any particular area has become prejudicial to the promotion of the licensing objectives.
- 12.10 The Licensing Authority would review any Cumulative Impact Policy at least every five years to measure its effectiveness and to confirm whether it is still needed.
- 12.11 The Licensing Authority would not use a Cumulative Impact Policy solely as grounds for removing a licence when representations are made about an existing licensed premise or refuse variations to a licence, except where those variations are directly relevant to the policy, such as an application to significantly increase the capacity.
- 12.12 The Council encourages the development of a variety of premises providing a range of licensed activities catering for a wide range of users. Any policy adopted on the cumulative impact of licensed premises would impose

restrictions only to the extent that they are justified by the available evidence having regard to the guidance issued by the Secretary of State.

### **13. Early Morning Restriction Orders**

- 13.1 The power conferred on licensing authorities to make, vary or revoke an Early Morning Restriction Area (EMRO) is set out in section 172A to E of the Licensing Act 2003. Guidance from the government is also available.
- 13.2 An EMRO enables a licensing authority to prohibit the sale of alcohol for a specified time period between midnight and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives. EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance and other instances of alcohol related anti-social behaviour which is not directly attributable to specific premises.
- 13.3 There are currently no EMROs in place in the geographical area administered by the Council. It is the Council's intention to support businesses rather than hinder them whilst ensuring promotion of the licensing objectives. However, if there is evidence that current controls are ineffective, an EMRO could be considered.
- 13.4 An EMRO:
- Applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
  - Applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week and can apply for different time periods on different days;
  - Applies for a limited or unlimited period (eg. it could be introduced for a few weeks for a specific event);
  - Applies to the whole or any part of the licensing authority's area
  - Does not apply to any premises on New Year's Eve
  - Does not apply to the sale of alcohol to residents by accommodation providers via mini-bars/room service and
  - Will not apply to a relaxation of licensing hours made by an order made under section 172 of the Licensing Act 2003.
- 13.5 Any request to consider introducing an EMRO would be referred to the Licensing team where a designated procedure would be applied to determine if an EMRO is appropriate. If appropriate, the request would be referred to the Licensing Committee for consideration. Ultimately it would be for full Council to approve the final order.



## **14. Late Night Levy**

- 14.1 Licensing Authorities were given powers in the Police Reform and Social Responsibility Act 2011 to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area. The purpose of the levy is to raise a contribution towards the costs of policing the late night economy. BMBC do not currently have a levy.
- 14.2 A decision to introduce the levy would apply to all relevant premises in the whole of the borough. It cannot be targeted to just one area. The levy would be payable by the holders of any premises licence or club premises certificate in relation to the sale or supply of alcohol on any days during a period beginning at or after midnight and ending at or before 6am.
- 14.3 The decision to introduce the levy is for a licensing authority to make should it consider it appropriate to do so. The licensing authority would be required to carry out a thorough consultation, and would be expected to consult with all parties affected (including all licence holders) and the Chief Officer of Police and the Police and Crime Commissioner. The Council would then have to take into account any representations made before coming to a decision. Any future consideration of a late night levy will be made in accordance with the relevant legislation and government guidance.
- 14.4 When considering whether to introduce a levy, licensing authorities should note that any financial risk (for example lower than expected revenue) rests at a local level and should be fully considered prior to implementation.

## **15. Licensing Hours**

- 15.1 Providing customers with a greater choice is an important consideration in the development of a thriving and safe evening and night-time economy in Barnsley. The Council supports the development of a wide ranging and culturally diverse night-time economy where this can be achieved whilst promoting the four licensing objectives.
- 15.2 The Licensing Authority recognises that longer licensing hours for the sale of alcohol will avoid large numbers of people leaving premises simultaneously. This should reduce friction at late night fast food outlets, taxi ranks and other sources of transport which can lead to disorder and disturbance.
- 15.3 The Licensing Authority will have a flexible approach to opening hours and will generally deal with the issue of licensing hours having regard to the individual merits of each application. Requests in respect of terminal hours will be determined in the light of the potential impact upon environmental quality/, residential amenity, character or function of the particular area, nature of proposed activities to be provided at the premises and the

proposals contained within the operating schedule and how the applicant intends to promote the four licensing objectives.

- 15.4 The Licensing Authority may impose stricter conditions in respect of noise control where relevant representations have been received and premises are situated in mainly residential areas.
- 15.5 The Licensing Authority will consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any time the premises are open for business. However, there may be good reason for restricting those hours, for example following Police representations made in respect of isolated shops known to be the focus of disorder and disturbance.

## **16. Open Air and Large Scale Events**

- 16.1 The promotion and organisation of live musical and other entertainment in the open air, or temporary structures such as marquees can provide opportunities for community involvement, civic pride and can attract visitors to the Borough. However the success of such events is dependent on the quality, safety and facilities provided for people coming to enjoy the event. Also important, however, is consideration of the rights of people who live in the vicinity.
- 16.2 Where large scale events are planned, a premises licence should be submitted at least 3 months prior to the event, so that discussions can be held between the applicant and interested parties such as the Police and noise pollution officers. It is important that substantial notice is given so that proper precautions and preparations can be put in place to ensure the event is a success. This also applies if the event is proposed under a Temporary Event Notice.
- 16.3 Applicants are expected to have reference to the Event Safety Guide – A Guide to Health, Safety and Welfare at Music and Similar Events (commonly known as the “purple guide”), published by the Health and Safety Executive.

## **17. Premises Providing Late Night Refreshment**

- 17.1 Any premises, which include vehicles and/or mobile trailers, selling hot food or drink between the hours of 11 p.m. and 5 a.m., will require a premises licence. This requirement is set out to target those premises such as night cafes and take away food outlets where people may gather between those hours giving rise to the possibility of disorder, disturbance and public nuisance. The applicant will be expected to identify suitable measures for the prevention of litter nuisance.

## **18. Club Premises Certificates**

- 18.1 The Act recognises that premises to which public access is restricted and where alcohol is supplied other than for profit give rise to different issues for licensing law than those presented by commercial enterprises selling direct to the public. For this reason qualifying clubs may apply for a Club Premises Certificate as an alternative to a premises licence.
- 18.2 A club may choose to obtain a Premises licence if it decides that it wants to offer its facilities commercially for use by the public, including the sale of alcohol. Any individual on behalf of the club may also apply for a Temporary Event Notice.

## **19. Amusement with Prizes and Gambling Machines**

- 19.1 All issues relating to AWP machines are now covered within the Statement of Gambling Policy issued by Barnsley Metropolitan Borough Council.

## **20. Licensing Conditions**

- 20.1 The Council recognises it may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing that it is appropriate to impose conditions to promote one or more of the four licensing objectives. Conditions include any limitations or restrictions attached to a licence or certificate and are essentially the steps the holder of a licence or certificate will be required to take at all times when licensable activities are taking place at a premise.
- 20.2 The Licensing Authority will only impose conditions on licenses and certificates which are proportionate and necessary for the promotion of one or more of the four licensing objectives and will not impose such conditions for any other purposes.
- 20.3 The Licensing Authority will ensure that conditions attached to licences or certificates are tailored to the individual style and characteristics of the particular premises and events concerned.

## **21. Operating Schedules**

21.1 Under the Licensing Act 2003 applicants are required to complete an 'operating schedule'. These play a key role in ensuring that the four licensing objectives are promoted. An operating schedule should include enough information to enable a responsible authority or any other person to assess whether satisfactory steps have been taken to promote the licensing objectives.

## **22. Applications for Personal Licences**

22.1 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a Personal Licence. The Act does not require the presence of a Personal Licence holder at all times, but if any sales are made whilst the personal licence holder is not on site then they must have been authorised by someone who holds a personal licence.

22.2 Applicants must produce a Criminal Record Bureau certificate with the application form.

22.2 The Council recognises that it has no discretion regarding the granting of personal licences where;

- The applicant is 18 or over
- Possesses a licensing qualification
- Has not had a licence forfeited in the last five years and
- Has not been convicted of a relevant or similar offence.

If the first 3 criteria do not apply, the application must be rejected. If there is an unspent conviction for a relevant offence as named in the Act, the licensing officer is required to notify South Yorkshire Police. The Police may then wish to make an objection on the grounds of crime and disorder. If an objection is lodged the applicant is entitled to a hearing before the Council, at which consideration will be given as to whether the grant of the licence will compromise the promotion of the crime prevention objective.

## **23. Designated Premises Supervisors**

23.1 Every premises Licence that authorises the sale of alcohol must specify a Designated Premises Supervisor. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act.

23.2 Where there is no DPS in respect of a premises licence, no alcohol may be served under that licence.

## **21. Excessive Consumption of Alcohol**

- 21.1 The Council recognises the impact that excessive or binge drinking can have on public health and that positive action on promoting the licensing objectives is equally likely to have an indirect impact on public health.
- 21.2 Applicants should be aware of the specific mandatory conditions, attached to all licences authorising the sale or supply of alcohol for consumption on the premises, which effectively;
- Ban irresponsible promotions
  - Ban the dispensing of alcohol directly into the mouth and
  - Ensure that customers have access to free drinking water if they ask for it
- 21.3 As a consequence, any on-trade premises that participates in irresponsible drinks promotions will be breaching licence conditions and will be dealt with in accordance with the appropriate legislation.

## **22. Applications for Temporary Event Notices**

- 22.1 The need for a temporary event notice (TEN) may arise where a premises licence or club premises certificate is not held, or can be used to extend the permissions on an existing licence or certificate for a temporary period.
- 22.2 Temporary event notices are subject to various statutory limitations. These are;
- The number of times a premises user may give a TEN in a calendar year;
  - The number of times a TEN may be given for any particular;
  - The maximum duration of an event authorised by a TEN;
  - The maximum total duration of the events authorised by TENS in relation to individual premises;
  - The maximum number of people attending at any one time and
  - The minimum period between events authorised under separate TENS in relation to the same premises by the same premises user.

Details of the above can be obtained from the Council's Licensing web site or from the Licensing office.

- 22.3 No permission is required from the Council for these events. In general, only the Police or Regulatory Services may intervene to prevent such an event or modify the arrangements for such an event. The Council will only intervene itself if the limits on the number of notices that may be given is exceeded.
- 22.4 There are two types of TEN, a standard TEN and a late TEN. A standard TEN is given no later than 10 days before the event to which it relates. A late TEN is given not before nine and not less than five working days before

the event. Where the required notice period is not given, the TEN will be returned as void and the activities to which it relates will not be authorised.

- 22.5 The Licensing Act 2003 provides that the police or Regulatory Services may, within the prescribed period, issue an objection notice if they believe the event would undermine one or more of the licensing objectives. The objection must then be considered by the Council in a hearing. If an objection is made to a late TEN, then the TEN will not be valid and the event cannot go ahead.
- 22.6 With large events, it is important that substantial notice (at least 3 months) is given so that proper preparations and precautions can be put in place for the event. The Council encourages the earliest possible notice of events, especially where events are to take place in the open air or in a temporary structure.

### **23. Minor Variations**

- 23.1 Small variations that will not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. The minor variations process is designed to allow licensees to make small changes to their licences more quickly and cheaply.
- 23.2 The test as to whether a proposed variation is 'minor' is whether it could impact adversely on any of the four licensing objectives. Government guidance is available on this issue.
- 23.3 Anyone considering submitting an application for a minor variation is advised to first discuss the proposed variation with a Licensing officer prior to submitting the application. It should be noted that the Licensing Authority will not determine whether a variation is a minor variation or a full variation without the relevant application and fee being submitted.

### **24. Alcohol Deliveries**

- 24.1 An applicant seeking a licence that will enable them to provide alcohol as part of an alcohol delivery service should consider including in their operating schedule the procedures they need to operate to ensure that;
- The person they are selling alcohol to is over the age of 18;
  - That alcohol is only delivered to a person over the age of 18
  - That a clear document trail of the order process from order, despatch from the licensed premises and delivery to the customer is maintained (with times and signatures) and available for inspection by an authorised officer and
  - The time that alcohol is sold on the website/over the phone and the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol.

## **24. Other mechanisms of Control**

24.1 The Council recognises that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the vicinity of licensed premises and therefore, beyond the direct control of the individual club or business holding the licence, certificate or authorisation concerned.

24.2 In preparing this policy the Council has sought to avoid unnecessary duplication of existing legislation and regulatory regimes. Nothing in this policy is intended to revoke or replace the need for applicants to act in accordance with legal requirements. All applicants are advised to seek proper advice to ensure that the activities they proposed are within the boundaries set by existing legislation and regulations.

## **25. Integrating Strategies**

25.1 The Licensing Committee may receive reports from time to time on other policies, strategies and initiatives that may impact on licensing activity within the remit of the committee. Subject to the general principles set out in this policy and the overriding need to promote the four licencing objectives it may have regard to them when making licensing decisions.

25.2 The Committee may, after receiving such reports, make recommendations to the Council or other bodies about the impact of the licensing policy on such policies, strategies and initiatives. The Committee may also make recommendations relating to the impact of such policies, strategies and initiatives on the licensing policy, which may include recommendations to amend the licensing policy itself.

25.6 Other plans, policies and strategies which have a link to this one include:

- Barnsley Metropolitan Borough Council Corporate Plan 20xx – 20xx. This plan sets out the Council's direction and priorities for the next 3 years. The priorities are; xxxxxxxxxx
- The Government's Alcohol Strategy. This sets out proposals to crack down on the 'binge drinking' culture, reduce alcohol linked violence and disorder and reduce the number of people drinking to levels which damage their health.
- Barnsley MBC's Alcohol Strategy
- Barnsley MBCs Health and Wellbeing Strategy.

## **28. Sales of Alcohol to Children Under the Policing and Crime Act 2009**

28.1 One of the key sections of the Policing and Crime Act 2009 in relation to licensed premises is the offence of 'persistently selling alcohol to children' on two occasions within three months. The 'persistently selling alcohol' offence is committed by a premises licence holder (not the seller) where

there is proof of underage sales at particular premises on two separate occasions within a three month period. There is no due diligence defence available to the premises licence holder and proof that an underage sale occurred can be based simply on payment of a fixed penalty notice by the seller or even a caution.

- 28.2 Where persistent sales of alcohol have occurred at a premises and it is apparent that those managing the premises do not operated responsible policy or have not exercised appropriate due diligence it is expected that responsible authorities should consider taking steps to ensure that a review of the licence is carried out. This is particularly the case where there has been a prosecution for the offence or a closure notice has been given. In determining the review the Council will consider revoking the licence if it considers this to be appropriate.

## **29. The Planning System and the Avoidance of Duplication**

- 29.1 There is no obligation for an applicant to have planning permission in place before applying for a premises licence, provisional statement or for a variation of a licence; however, it is strongly recommended that the proposed use of the premises has planning permission first so that consideration can be given to the impact that the use will have on the locality. Applicants are advised to state whether they have also applied for planning permission or that they intend to do so.
- 29.2 Applications for licences can be made prior to any planning permission being in place and the lack of planning permission is not a relevant representation under the licensing objectives. The Planning and Licensing regimes are separated as they involve consideration of different matters. Licensing committees are not bound by decisions made by a planning committee and vice versa.
- 29.3 There may be circumstances where, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

## **30. Promotion of Equality**

- 30.1 The Equality Act 2010 and section 149, the Public Sector Equality Duty, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations between persons with the following protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.



- 30.2 In seeking to support a community in which diversity is encouraged, the Council will expect all applicants to take steps to ensure that no person is treated differently on the grounds of race, colour, religion, ethnic or national origins, age (unless an age-related event), sex (unless a single sex event), sexual orientation (unless a gay or lesbian event), or disability, and that the management and operating practices of licensed premises within the district comply with all race relations, equal opportunities and anti-discrimination legislation.

### **31. Enforcement**

- 31.1 Licensed premises must be operated and maintained in accordance with the provision of the Licensing Act 2003, the four licensing objectives and any conditions imposed by the Licensing Authority. Failure to do so will result in enforcement action being taken by the Licensing Authority and/or South Yorkshire Police.
- 31.2 The Council adopts a multi-agency approach to the detection and prosecution of offences under the Licensing Act. In the first instance, the most appropriate authority will lead on the investigation at the problem premises. Joint enforcement in this way enables the targeting of agreed problems and high risk premises which require greater attention, while providing a lighter touch approach to premises which are well run.
- 31.3 The Licensing Authority will carry out its inspection and enforcement functions having regard to the principles of consistency in approach, transparency and proportionality. It will target its inspection process towards those premises which are considered high risk and therefore requiring greater attention.
- 31.4 The risk weighting of premises will be determined in accordance with all relevant factors, including location, style of operation, history, reputation and management attitudes

### **32. Live Music, Dancing and Theatre**

- 32.1 The Licensing Authority will actively encourage and promote a broad range of live entertainment, including music, dance and theatre for the wider cultural benefit of the community. In determining what conditions should be attached to licences as a matter of necessity for the promotion of licensing objectives, the Licensing Authority will be aware of the need, where possible, to avoid measures that might, indirectly, deter entertainment. The Licensing Authority considers live performances central to the development of cultural diversity and vibrant, exciting communities. It subscribes to the view expressed in the statutory guidance that the absence of cultural provision in any area can lead itself to a loss of community awareness and can expose young people to anti-social activities that have the potential to damage local communities.

32.2 The Licensing Authority will look favourably upon applications from the Council which seek premises licences for public spaces in the community in its own name. This could include, for example, appropriate open spaces, town centre squares, community halls and similar public spaces. With regard to those places, performers and entertainers will not need to obtain a licence or give a temporary events notice themselves in order to perform. Instead they will require permission from the Council as the premises licence holder.

### **33. Representations**

33.1 Depending on the type of application, representations can be made by a responsible authority or any other person (as defined by the Licensing Act 2003). This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications, regardless of their geographic proximity to the premises.

33.2 The representation must be submitted in writing or by email to the licensing team within the relevant time period for comments. The representation must be relevant to the likely effect of the grant of the licence or variation on the promotion of one or more of the licensing objectives. Anonymous representations will not be accepted.

33.3 The issues on which the representation is made should not be frivolous or vexatious. Where the licensing officer determines that a representation is not relevant, frivolous or vexatious it will notify the person concerned of the reasons for its determination and the representation will not be considered.

33.4 Where relevant representations are received about an application the Council will hold a hearing to consider them, unless the Council, the applicant and all those making representations agree that a hearing is not necessary. Applicants and those making representations should seek to try to reach agreement or narrow the areas in dispute prior to any hearing.

### **34. Applications**

35.1 The Licensing Authority requires all applications to be made using the correct form and in accordance with, and having satisfied, the requirements of the Licensing Act 2003 and the associated regulations. The Council actively supports the ability for applicants, where permitted, to submit applications electronically.

- 35.2 Any application not made in accordance with, or not having satisfied the requirements of the Licensing Act 2003 or the associated regulations may be returned to the applicant for resubmission. The Licensing Authority will not consider that any such application has been properly made and accordingly will not consider that the time limits set out in the Licensing Act 2003 have commenced.
- 35.3 Where an application is required to be advertised in a local newspaper, it is the policy of the Council that the chosen newspaper should be one which is published daily or weekly and is widely available in the vicinity of the premises to which the application relates.

### **35. Administration, Exercise and Delegation of Functions**

- 35.1 The Licensing Authority has established a Licensing Committee to administer the wide range of licensing decisions and functions which the Council will be involved in.
- 35.2 The Licensing Committee has certain delegated decisions and functions and has established a number of Sub Committees to deal these. This will provide an efficient and cost effective service for all parties involved in the licensing function.
- 35.3 The grant of non-contentious applications has been further delegated to Officers. Decisions made by Officers under delegated powers will be reported to the Licensing Committee for information and comment.
- 35.4 The table below sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and Officers alike.
- 35.5 The agreed delegation of decisions and functions is without prejudice to the ability of Officers to refer an application to a Sub-Committee, or from a Sub-Committee to a Full Committee if considered appropriate in the particular circumstances.
- 35.6 Every decision made by the licensing committee, subcommittee or officers shall be accompanied by clear reasons for the decision.

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for Personal Licence		If an objection made	If no objection made
Application for Personal Licence (with unspent		All cases	

convictions)			
Applications for Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application for Provisional Statement		If a relevant representation made	If no relevant representation made
Application to Vary Premises Licence/Club Premises Certificate		If a 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 Premises Licence		If a Police objection	All other cases
Applications for an Interim Authority Notice		If a Police objection	All other cases
Application to Review Premises Licence/Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous or vexatious etc.			All cases
Decision to object when Local Authority is a Consultee and not the relevant authority considering the application		All cases	
Determination of a Police Objection to a Temporary Event Notice		All cases	

### 36. **Advice**

- 36.1 Advice about whether or not activities require a licence may be obtained from Barnsley MBC, Regulatory Services, Licensing Section, PO Box 602, Barnsley, S70 9FB Telephone (01226) 772468 Fax (01226) 775699, e-mail [regulatoryservices@barnsley.gov.uk](mailto:regulatoryservices@barnsley.gov.uk)

## **The Safer Clubbing Checklist for Club Owners, Managers and Event Promoters**

The role of club owners, managers and event promoters is to ensure that all aspects of their venue is designed and run in a way which maximizes the safety of customers, performers and staff.

### **Key activities of Club Owners, Managers and Event Promoters include:**

- Communicating all safety requirements clearly to performers ensuring that they are familiar with and understand the safety requirements for the venue;
- Developing a constructive working relationship with Licensing Authority Officers and Police Officers with licensing responsibilities;
- Developing a venue drug policy in consultation with both Licensing Officers and Police Officers;
- Ensuring that all staff are aware of their responsibilities within the drug policy and that they receive training and support to discharge these fully;
- Employing door supervisors from a reputable company and with SIA accreditation;
- Employing experienced and fully trained first aiders;
- Providing free and easily accessible supplies of cold water and ensuring the provision of water is supervised to prevent contamination of water by others;
- Liaising with appropriate drug service personnel to provide training to staff, and information, advice and support to clubbers;
- Considering inviting and supporting drug outreach work, including integrating outreach workers into the staff team;
- Sharing intelligence on drug use and drug dealing with Police Officers and other local venues;
- Informing clubbers of their rights and responsibilities, and encouraging feedback on safety issues;
- Considering the provision of safe transport home; and
- Ensuring that all staff are aware of the law and the responsibilities of the club to work within it.