



Licensing Act 2003

Statement of Licensing Policy 2017

Customer Services
Registration and Licensing
Town Hall
Halifax
HX1 1UJ

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1. INTRODUCTION

- 1.1 Calderdale Council was created in 1974 out of local government reorganisation when nine separate local authorities were replaced by Calderdale Metropolitan Borough Council. Calderdale is home to some of the Country's most highly regarded leisure and nightlife providers. Calderdale is the home to six thriving Town Centres, Brighouse, Elland, Halifax, Todmorden, Hebden Bridge and Sowerby Bridge. In 2016 Halifax Town Centre was awarded the Purple flag status for the sixth consecutive year for being a safe and welcoming place for a night out.
- 1.2 Calderdale Councils Mission is: **BE THE BEST BOROUGH IN THE NORTH** and to Grow the Economy, Reduce Inequalities and Build a Sustainable Future.
- 1.3 The most recent census was held in 2011 and the results showed a significant increase in the population of Calderdale to 203,800 since the previous census in 2001. There is a strong commitment across the borough to work together for the benefit of all Calderdale Communities. The Council works in partnership with other public sector organisations, private companies as well as voluntary and community groups in a strategy which aims to promote the social, economic and environmental success of Calderdale.
- 1.4 Calderdale Council has carried out a comprehensive consultation process prior to and during the writing of its Licensing Policy Document. This process will continue in accordance with the Act.
- 1.5 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act.
- 1.6 Conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.
- 1.7 Calderdale Council recognises that Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of evening and night-time economy in town and city centres.

- 1.8 This document sets out Calderdale Council's Licensing Policy, which will guide the Licensing Committee when considering applications under the Licensing Act 2003.
- 1.9 This document should be read in conjunction with the Licensing Authorities Guidance Notes, Codes of Practice and Standard Condition Documents that are available to view on the Council's Web Site
<http://www.calderdale.gov.uk/v2/businesses/licences/entertainment>
- 1.10 Section 5 of the Licensing Act requires Calderdale Council as the licensing authority to produce a Statement of Licensing Policy which will be kept under review and must be reviewed no later than 2022. The Policy has also had regard to the guidance issued by the Home Office under Section 182 of the Act.

2. THE LICENSING OBJECTIVES

- 2.1 The aim of this Licensing Policy is to promote the **four** licensing objectives which are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

Each objective is of equal importance. There are no other statutory licensing objectives, so the promotion of the four objectives is a paramount consideration at all times.

- 2.2 The policy provides information and guidance to applicants and those making representations on the general considerations and approach that will be adopted by the licensing authority in making determinations under the Act and supports a number of other key aims and purposes which the licensing authority strives to implement. They include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- Giving the police and licensing authorities the powers they need to effectively manage and police the night time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and

- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.
- 2.3 The Policy covers new applications, reviews, transfers and variations of licences for the following licensable activities:
- The sale by retail of alcohol
 - The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
 - The provision of regulated entertainment; such as
 - A performance of a play
 - An exhibition of film
 - An indoor sporting event
 - Boxing or wrestling entertainment
 - A performance of live music
 - Any playing of recorded music
 - A performance of dance
 - Entertainment of a similar description to that falling within performance of live music, any playing of recorded music and a performance of dance
 - The provision of late night refreshment, i.e. the supply of hot food and/or drinks from any premises between 23.00 and 05.00
- 2.4 Where the licensing authority has discretion to deal with an application for a new licence, variation, transfer or review it will do so on the individual merits of the case and by reference to the four licensing objectives.
- 2.5 Where relevant representations have been made the licensing authority may where it is appropriate to do so refuse an application or attach additional conditions unless adequate proposals for addressing these issues are included in the operating schedule.
- 2.6 Various factors are considered when addressing the licensing objectives and the weight attached to each objective varies depending upon the circumstances. These include the size of facilities, design or state or repair (where this may impact on public safety) of the proposed premises; the type and frequency of entertainment to be provided; the location and its proximity to other premises, such as schools, offices, religious establishments, residential properties; transport links and any other issues that may be a factor. Applicants are only expected to address issues that are in their direct control but are encouraged to co-operate with agencies to minimise any disturbance that may be caused by the licensed premises.
- 2.7 Where responsible authorities, being Police, Environmental Health, Fire Service, Public Health, Planning, Safeguarding and Trading Standards and any other interested parties do not raise any representations about an application made to the licensing authority, it is the duty of the licensing authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule or club operating schedule and any

mandatory conditions prescribed by the Act. It is recommended that licence applicants contact responsible authorities when preparing their operating schedules.

- 2.8 The licensing authority may not therefore impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the appropriateness to impose conditions due to the representations raised. It may then impose such conditions as are appropriate to promote the licensing objectives arising out of the consideration of the representations.

3. CRIME AND DISORDER

- 3.1 The lead agency for the prevention of crime and disorder is the Police and the Licensing Authority will look to the police as the main source of advice on these matters.
- 3.2 The Licensing Authority will also co-operate with the Security Industry Authority (SIA) as far as possible and will consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in the prevention of crime and disorder by ensuring that door supervisors are properly licensed.
- 3.3 An applicant should consider how they intend to promote the prevention of crime and disorder in their conditions. Where appropriate, applicants should consider the use of lighting, installation of CCTV, non-shatter safety glass for windows, drinking and glass and bottles, increased seating, appropriate location of tables and chairs, the use of SIA licensed door supervisors and secure storage for empty bottles within the licensed premises. Crime prevention measures will where appropriate include suitable training of all bar staff and security personnel to prevent the use and supply of drugs and other illegal substances within the licensed premises and to ensure that incidents of crime and disorder in the premises are reduced to a minimum.
- 3.4 The inclusion of radio links and ring-round phone systems should also be an appropriate condition for licensed premises in the Town Centres within Calderdale. These systems allow managers of licensed premises to communicate with the police and/or other licence holders in the area.
- 3.5 The licensing authority expects the person responsible for the sale of alcohol and consumption on the premises will attend the local pub watch meetings in Calderdale. The Calderdale Pub Watch scheme is designed to discourage troublemakers from the pubs and clubs throughout the borough by information sharing and is a useful body to represent licensees.
- 3.6 An applicant is expected to address the issue of how to anticipate and minimise any potential disorder that might be caused in the vicinity of their premises. Liaison with local bus, taxi and private hire companies should be a consideration for all licence holders, in order to promote the safety of their customers, local residents and staff.

4. PUBLIC SAFETY

- 4.1 Licence holders have a responsibility to ensure the safety of those using their premises. This concerns the safety of people using the relevant premises rather than public health. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption.
- 4.2 Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 4.3 There are a number of matters that should be considered in relation to public safety:-
- Fire Safety - <https://www.gov.uk/workplace-fire-safety-your-responsibilities/who-is-responsible>
 - Ensuring appropriate access for emergency services
 - Good communication with local authorities and emergency services
 - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits
 - Ensure the safety of people when leaving the premises
 - Ensuring the appropriate and frequent waste disposal, particularly of glass bottles
 - Ensuring the appropriate limits on the maximum capacity of the premises to prevent overcrowding
 - Consider the use of CCTV in and around the premises
- 4.4 Applicants are also expected to address positively the need to secure reasonable access and safety for people with disabilities who wish to visit their premises. In this regard licensees are reminded of their obligations under the Disability Discrimination Act 1995. For further information please refer to https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85037/disability.pdf
- 4.5 In relation to the building structure the licensing authority may require checks on equipment or fixtures on the premises to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly where relevant representations are received the licensing authority may attach conditions which require equipment of particular standards to be maintained on the premises. For further information please refer to guidance produced by the Health and Safety Executive www.hse.gov.uk/guidance/index.htm
- 4.6 A zero tolerance policy towards the use of all illegal drugs is required in all premises and should be enforced by licence holders. When new premises are built or changes are made to existing premises, design of the premises should be considered to reduce the use of illegal substances such as lighting throughout the premises, clear view of all parts of the premises and use of

security staff. Applicants will be expected to demonstrate that staff are trained and fully aware of the issues in relation to illegal drugs.

5. PUBLIC NUISANCE

- 5.1 The 2003 Act enables the authority and responsible authorities, through representations, to consider what constitutes public nuisance. It is important that when considering the promotion of this licensing objective the focus is on the effect of the licensable activities at the specific premises on persons living and working in and around the premises which may be disproportionate and unreasonable. Public Nuisance is given a statutory meaning in many pieces of Legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 5.2 Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 5.3 Risk assessments carried out by the applicant should focus on how noise, vibration, odour, light and litter arising from licensable activities will impact on those in the vicinity of the premises. They should show, in the operating schedule the results of the risk assessment and how they intend to promote this licensing objective by specifying the steps they will take to prevent or control those risks in relation to the prevention of public nuisance.
- 5.4 The licensing authority recognises that different people have different levels of tolerance to the unavoidable activities involved in the everyday provision of entertainment and refreshment and will look carefully at the impact of licensed premises and events with regard to noise and disturbance in the vicinity of the premises. The later the entertainment takes place, the greater will be the need to take steps to ensure that activities do not cause unreasonable disturbance.
- 5.5 Applicants must address matters such as encouraging customers to leave the premises in an orderly manner. Properly trained door and other staff can assist in this. Appropriate announcements or reminder notices may also be of assistance. The establishment of good working relationships with transport operators can also often assist with this.
- 5.6 The licensing authority when considering each application will be examining the steps taken or proposed to be taken to deal with:-
- Amplified and non-amplified music levels
 - Singing and speech
 - Disposal to waste and bottle bins
 - Plant and machinery (including extraction systems)
 - Noise associated with vehicles arriving at and departing from the premises e.g. car doors, horns, stereos, engine noise, etc
 - Firework displays, etc
 - Odour arising from cooking activities

- Odour arising from the storage of waste
 - Littering including waste packaging, food from takeaway premises and publicity leaflets and flyers
 - Light pollution e.g. artificial light, security, decorative, advertising and lasers
 - Premises located near to hospitals, hotels and nursing homes etc.
- 5.7 The aim is that noise from the premises shall not cause unreasonable disturbance or nuisance particularly between the hours of 11pm and 8am. This can be controlled by conditions to effect the promotion of this objective. These could include:
- Different operating hours
 - Closure of doors and windows
 - Beer gardens/outside areas closing earlier
 - Sound limitation devices
- 5.8 Where the considerations apply to late night refreshment premises they shall only be taken to apply to their operation between the hours of 11pm and 5am the following morning, when the premises licence would be required.
- 5.9 Applicants are advised to seek guidance from a suitably competent noise consultant
- 5.10 Where its discretion is engaged the licensing authority may attach conditions to licences to prevent public nuisance.
- 5.11 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in antisocial behaviour is accountable in their own right. However, the licensing authority may impose a condition, following relevant representations to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or if they wish to smoke, to do so at designated places on the premises, and to respect the rights of people living nearby.

6. PROTECTION OF CHILDREN FROM HARM

- 6.1 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives. Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 6.2 The licensing authority is committed to protecting children from harm in relation to any premises licensed under the Act who propose to allow children into the premises.

- 6.3 The licensing authority expects that where children are to be admitted to the premises the provision of extra resources or measures are put in place to ensure their safety, this may include DBS checks for staff (more information can be found here: <https://www.gov.uk/disclosure-barring-service-check/overview>) , extra staffing or stewarding, risk assessments and clear notification of the times and the areas of the premises to which children will be admitted.
- 6.4 The licensing authority supports the principle of family friendly and safe environments for children on licensed premises. However, conditions restricting the access of, or excluding children from premises will be strongly considered in the following circumstances:-
- Where entertainment of an adult or sexual nature are provided
 - Where members of current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking
 - It is known that unaccompanied children have been allowed access
 - When there is a known association with drug taking or dealing
 - Where there is a strong element of gambling on the premises
 - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided
 - Where there are known concerns around Child Sexual Exploitation, Trafficking, Modern Day Slavery, Grooming, Radicalisation or other known criminal activities.
- 6.5 In these circumstances the conditions, which are likely to be attached to any licence includes:-
- Limitations on the hours where children will be permitted
 - Restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place
 - Restrictions on the parts of the premises to which children may have access
 - Age restrictions (for under 18s)
 - Restrictions or exclusions when certain activities are taking place
 - Requirements for an accompanying adult
 - Full exclusion of people under 18 from the premises when any licensable activities are taking place
- 6.6 The conditions requiring the admission of children to any premises cannot be attached to licenses or certificates. Where no licensing restriction is appropriate, this should remain a matter for the discretion of the individual licence holder, club or premises user.
- 6.7 The licensing authority gives considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection which is the Council's safeguarding team, the Director of public health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Evidence provided will be considered by the licensing

authority and appropriate action taken to ensure that this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, the licensing authority will consider what conditions may be appropriate to ensure that this objective is promoted effectively.

- 6.8 Section 11 of the 2004 Children Act sets out the provision for Local Children Safeguarding Boards to undertake a self-assessment audit of how organisations and service are meeting standards to safeguard children and young people. Applicants may wish to undertake a Section 11 Self-Assessment at <http://www.calderdale-scb.org.uk/professionals/section-11/>
- 6.9 Licence holders may also wish to undertake safeguard training to do so please follow the link <http://www.calderdale-scb.org.uk/professionals/learning-and-development/>
- 6.10 The Local Authority has an Allegations Management Officer (LADO), follow the link to see how and where to refer someone who may have harmed a child or behaves in a way which poses a risk to children. <http://www.calderdale-scb.org.uk/professionals/concerns-about-an-adult-working-with-children/>
- 6.11 Where a license holder knows or suspects a person on their premises has harmed a child or behaves in a way which poses a risk to children it is the licence holders responsibility to report the person(s) to the relevant authorities.

Children and Alcohol

- 6.12 The Act requires that the premises licence holder or club premises licence holder ensures that an age verification policy applies to the premises in relation to the sale of alcohol. The policy will require individuals who appear to be under 18 (or if premises adopt challenge 21 or 25) to produce identification bearing their photograph, date of birth and a holographic mark such as:
- A passport
 - A photo card driving licence
 - A proof of age scheme card (eg, validate, PASS card, citizen card) that is backed by the home office
 - An official identity card, issued by H.M. Armed Forces or a European Country bearing the holders photograph and date of birth.
- 6.13 Licensees must be aware that if they are convicted of the illegal sale of alcohol their licence may be reviewed.

Children and Cinemas/Theatres

- 6.14 The licensing authority will require licensees to ensure that in the case of premises giving film exhibitions that children will be prevented from viewing films unless that film is classified for that age group by the British Board of Film Classification (BBFC) or the licensing authority.

- 6.15 Theatres may present a range of diverse activities and entertainment which incorporate adult entertainment. In these cases the licensing authority to consider restricting the admission of children in such circumstances.
- 6.16 Where regulated entertainment is taking place, when that entertainment is provided wholly or mainly for children, the number of attendants to assist persons entering or leaving the premises must be stated in the operating schedule and must be of a level to ensure the safety of those attending the premises.

7. LICENSING PROCESS

- 7.1 The policy accepts the right of an individual to make an application under the Licensing Act and that each application will be determined on its individual merits.
- 7.2 Unless representations are received from responsible authorities or other persons the Act makes no provision for the licensing authority to impose conditions on a licence other than those proposed within the application. In the absence of any relevant representations the licensing authority is obliged to issue the licence on the terms sought.

Applications

- 7.3 All applications and notices must be made on the forms prescribed by the Secretary of State in line with the relevant section of the Act. Applications or notices together with any supporting documents must be completed in the English language and submitted with the relevant fee where appropriate. Failure to enclose the relevant fee will result in the application being undetermined. Electronic applications may be submitted in accordance with the EU Services Directive.

Premises Licences and Club Premises Certificates

- 7.4 A premises licence and club premises certificates authorise the sale or supply of alcohol, regulated entertainment and late night refreshment (sale of hot food and drink after 11pm). Businesses wishing to apply for a licence or certificate must include with their application details of the hours of operation, any hours for licensable activities, a plan of the premises and an operating schedule.
- 7.5 The licensing authority recommends that applicants seek advice from the appropriate agencies, for example West Yorkshire Police and West Yorkshire Fire Service prior to submitting the application.

- 7.6 Applicants must provide an operating schedule with the application which evidences how the four licensing objectives will be met.
- 7.7 The application must send copies of completed application forms to the responsible authority and advertise the application in the local newspaper and display a notice on the premises. The licensing authority will also advertise the application on its website.
- 7.8 Relevant representations may be submitted by responsible authorities or other persons during the prescribed 28 day objection period. If no representations are received the licensing authority must grant the application as applied for. If representations are received the application will be determined at a hearing of the licensing sub-committee.
- 7.9 Application and guidance for premises licences can be found on the council's web site
www.calderdale.gov.uk/v2/businesses/licences/entertainment/premises-licences
Or club premises certificates
www.calderdale.gov.uk/v2/businesses/licences/entertainment/club-premises-certificate
- 7.9 Individuals applying for a premises licence for the sale of alcohol or late night refreshment must be entitled to work in the UK. The Immigration Act 2016 amended the Licensing Act 2003 with effect from 6 April 2017 so that an application made on or after that date by someone who is not entitled to work in the UK must be rejected. This does not include applications which apply to regulated entertainment only. The list of documents which an applicant may provide to demonstrate their entitlement to work in the UK is published on gov.uk. Where an applicant's permission to work in the UK is time-limited a premises licence will be issued for an indefinite period, but the licence will become invalid when the immigration permission expires. The individual's entitlement to work in the UK may be extended or made permanent by the Home Office, and granting the licence for an infinite period prevents the licensee from having to re-apply. It is not the licensing authority's responsibility to carry out continued checks to see whether a licence holder's permission to be in the UK has been brought to an end.

Temporary Events

- 7.10 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 applicant gives notice to the licensing authority of the event, a 'temporary event notice' or TEN.

- 7.11 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 10 working days before the event to which it relates; a late TEN is given not before 9 and not later than 5 working days before the event. The notice periods do not include the day the authority receives the notice or the day of the event.
- 7.12 The police or Environmental Health may submit an objection to a TEN, if they do so then this would go to Licensing Sub-committee Hearing for decision by Members of the Licensing Committee, unless it is a Late TEN in which the objection would result in the immediate refusal.
- 7.13 The Licensing Act provides that in exceptional circumstances, the police or environmental health may issue an objection notice because they believe the event would undermine one or more of the four licensing objectives set out in the Act. The objection notice must be issued within 3 working days of being notified. The issuing of such an objection notice requires the consideration of the objection by the licensing authority 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 the licensable activities are not authorised. This is why the authority recommends that event organisers contact the Police and Environmental Health at the earliest possible opportunity about their proposals.
- 7.14 For guidance and application process relating to TEN's please visit the councils website
www.calderdale.gov.uk/v2/businesses/licences/entertainment/temporary-event-notices

Personal Licences

- 7.15 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 material times but if any sales are made when a personal licence holder is not present, then they must have been authorised by someone who holds a personal licence.
- 7.16 Every premises licence that authorises the sale of alcohol must specify a designated premises supervisor (DPS). This will be a personal licence holder who has been given day to day responsibility for running the premises by the premises licence holder. To specify a DPS the premises licence holder must submit an application to the licensing authority.
- 7.17 Guidance and application process can be found on the council's web site
www.calderdale.gov.uk/v2/businesses/licences/entertainment/personal-licences
- 7.18 Individuals applying for a personal licence must be entitled to work in the UK as above in 7.9.

8 SPECIAL EVENTS IN THE OPEN AIR OR IN TEMPORARY STRUCTURES

- 8.1 The licensing authority is keen to encourage and promote live music and similar entertainment. Such events can provide opportunities for community involvement and can attract visitors to the Borough.
- 8.2 The success of such events depends on the quality, levels of safety, and consideration for the rights of people who live or work in the vicinity as well as the standard of facilities for those coming to enjoy an event.
- 8.3 General guidance on event hosting can be found on the council's web site at <http://www.calderdale.gov.uk/v2/residents/leisure-and-culture/parks-and-open-spaces/event-hosting-and-filming-permissions>
- 8.4 In particular, the following issues will need to be addressed:-
- A detailed risk assessment identifying all risks concerned with the event and the measures that will be put in place to address these;
 - A plan to deal with any emergency situation that may arise during the event;
 - A central location for all safety and insurance certificates and other documents relevant to the promotion of the event and equipment used, so that they can be produced at the request of an authorised officer;
 - Ticketing arrangements and estimation of maximum numbers of visitors to the event, and appropriate levels of trained stewards and security staff will also need to be considered;
 - Detailed planning of sanitary conveniences, first aid provision, temporary structures, temporary road closures, parking arrangements, transportation arrangements and any banners/signs to be used;
 - At an early stage there should be liaison and discussion with local residents to address minimising any disturbance and disruption to them;
 - Positive proposals for ensuring the access, safety and comfort of people with disabilities who may wish to enjoy the event;
 - Arrangements for reuniting children who may have become separated from guardians;
 - Security industry trained and licensed security staff should be employed;
 - Ensure first aid/medical provision meet the minimum requirements laid down in the HSE Guidance for events www.hse.gov.uk/event-safety/index.htm
- 8.5 Applicants for Premises Licenses or Temporary Event Notices are expected to state in their operating schedule the precise nature of all entertainment proposed to take place, and to have carried out risk assessments for each entertainment type.

9 PAVEMENT CAFÉS

- 9.1 Calderdale Council encourage and positively supports pavement café's within the Borough. The provision of pavement cafés have proved successful in

enhancing town centre life and attractiveness but there is a need for improving the management of site layout and quality without affecting the objective of promoting and encouraging their existence. Without adequate management pavement cafés can potentially cause obstruction to pedestrians and detract from the surrounding environment.

- 9.2 Applicants wishing to provide such facilities will therefore need to make an application to the Licensing Authority. Information can be found at www.calderdale.gov.uk/v2/businesses/licences/entertainment/pavement-cafe-licence

10 STAGE HYPNOTISM

- 10.1 Licensees are reminded that, where regulated entertainment is provided in a premises, performances by stage hypnotists require a separate permission under the Hypnotism Act 1952. Information on how to apply and conditions can be found on the council's web site at www.calderdale.gov.uk/v2/businesses/licences/entertainment/stage-hypnotism-permit

11 AMUSMENT WITH PRIZES AND PERMITS

- 11.1 The Gambling Act 2005 replaced the Gaming Act 1968 and included new rules for the provision of gaming machines and other forms of gambling in alcohol licensed premises.
- 11.2 If premises already hold a Section 34 permit issued under the Gaming Act 1968, this will remain in force until it expires, unless the premises licence holder changes.
- 11.3 If premises have two AWP machines or less they are required to 'notify' the Licensing Authority, if premises have more than two AWP machines then they are required to apply for a licensed premises gaming machine permit. Further information and guidance can be found on the council's web site www.calderdale.gov.uk/v2/businesses/licences/gambling-and-gaming-licences
- 11.4 Further information relating the Gambling Act 2005 can be found at the Gambling Commission web site www.gamblingcommission.gov.uk

12 LICENSING HOURS

- 12.1 The Licensing Authority recognises that fixed closing times in certain area can lead to peaks of disorder and disturbance and that a variety of opening hours

relating to circumstances, and the requirements of different licensees may reduce this.

- 12.2 The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. However, where valid representations have been received, conditions may be imposed in regard to noise control for premises in largely residential areas.

13 INTEGRATION STRATEGIES

- 13.1 The licensing authority in dealing with the Licensing Act 2003, will adopt a multi-disciplinary approach to ensure proper integration of local and national strategies to promote the licensing objectives
- 13.2 The licensing authority will take into account its position in relation to partnership working to deal with various issues, including:
- Creating a safer environment
 - Reducing and preventing crime and disorder
 - Economic regeneration
 - Providing reassurance to residents and persons who work in the area
 - Reducing alcohol harm, reducing drug harm
 - Use of planning controls
 - Promoting the transport strategy
 - Encouraging tourism, cultural events and associates activities
 - Supporting the town centre strategy
- 13.3 The licensing authority will seek to actively participate in other council, statutory authority, police, fire service and government strategies and objectives that have a bearing on the promotion of the licensing objectives.
- 13.4 Where a responsible authority makes relevant representations or requests a review and the licensing authority upon being satisfied that so as to ensure the promotion of the licensing objectives it is both appropriate and proportionate to impose conditions on licenses this will be followed in support of the strategies. This would include ensuring that any conditions did not detract from, or work in opposition to, these strategies.
- 13.5 The licensing authority will avoid placing conditions on licences that duplicate statutory requirements. The legislation covering health and safety, fire safety, building safety and nuisance all place a range of statutory duties both on licensees and their employees in respect of the general public when on the premises.
- 13.6 The only conditions that will be attached are those that are appropriate for the promotion of the licensing objectives either from the operating schedule, as a result of representations from a responsible authority or from a hearing of the Licensing and Regulatory Committee or Sub Committee.

Planning and building control

- 13.7 The grant of a premises licence or club premises certificate does not negate the need to seek and be granted, any required planning consent and/or building control approval. A hearing on any licence application will not consider whether any decision to grant or refuse planning permission was lawful and correct. The licensing process is not a re-run of the planning process. The licensing committee is not bound by decisions made by the planning committee and vice versa.

14 ENFORCEMENT

- 14.1 The licensing authority holds regular licensing enforcement group liaison meetings with West Yorkshire Police, West Yorkshire Fire and Rescue Service, trading standards and other Local Authority Enforcement Agencies such as Environmental Health Service, Public Health, Planning and Highways relating to the enforcement of the 2003 Act.
- 14.2 The licensing authority will have particular regard to the following principles; the targeting of high risk premises or activities which require greater attention; consistency of approach; transparency and proportionality
- 14.3 The licensing authority will operate a light touch inspection regime for well-maintained premises.
- 14.4 The licensing authority will properly investigate any complaints received. The views of local minorities will not be allowed to predominate over the general needs of the community or the rights of licensees unless those views are well founded on issues of concern that can be demonstrated.
- 14.5 The licensing authority adopts a multi-agency approach to the enforcement of licensing breaches. Consideration will be given as to the appropriate powers that should be used to address a problem where other agencies for example West Yorkshire Police, West Yorkshire Fire and Rescue Service or the licensing authority's Environmental Health Services also have their own powers. Formal enforcement will always 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.

15 CONDITIONS OF LICENCE

- 15.1 The licensing authority will impose conditions that are appropriate in order to address the licensing objectives. Where these can be addressed in different ways, the most cost effective solution will be required. The licensing authority in particular, wishes to positively encourage live music, dancing and theatre

and so will not impose excessive requirements that will discourage such events.

- 15.2 The Licensing Authority does not propose to implement standard conditions of licence across the board but, instead, will attach conditions tailored to individual applications.

16 CINEMAS

- 16.1 All films exhibited at local premises will require classification from the British Board of Film Classification or the licensing authority itself. Where the licensing authority's discretion is engaged conditions may be attached to licences specifying how such classification should be displayed on-screen, outside the premises and in any advertisement for the exhibition.
- 16.2 It should also be noted that the licensing authority reserves the right to pre-view, re-classify or prohibit the showing of any film, irrespective of whether it has been classified by the British Board of Film Classification, where it feels there are reasonable grounds for doing so.

17 PUBLIC HEALTH

- 17.1 Calderdale Council recognises the impact of alcohol misuse in Calderdale.
- 17.2 Alcohol can have a profound and negative effect on communities, families and individuals limiting the ability to work, to parent and to function effectively in society. Alcohol abuse contributes to social exclusion making it difficult to play full and active roles in society as a result of their vulnerability and placing a strain on key health services and council resources.
- 17.3 Extrapolating estimates taken from the Government's Alcohol Strategy (2012), in Calderdale it would be expected that there are:
- 31,990 Binge Drinkers
 - 27,185 Increasing Risk Drinkers
 - 8,924 High Risk and Dependant Drinkers
 - 7,613 Dependent Drinkers

For Calderdale, this means that Binge Drinking and those identified as increasing risk drinkers make up to 43% of our local adult population.

- 17.4 It is hoped that the implementation of this Statement of Licensing Policy and the promotion of the four licensing objectives will have a positive effect on preventing alcohol misuse in Calderdale and reduce harmful and hazardous

drinking. It is anticipated that this Statement of Licensing Policy will have a positive effect on a range of alcohol related issues, such as pricing and the promotion of treatment services, including screening and advice, marketing controls, availability controls, legal drinking age enforcement, reinforcing drink driving laws and server liability. An example of this would be ensuring licensed premises refuse sales of alcohol to children, or those attempting to purchase on behalf of children, impacting positively on a reduction in child alcohol-related health problems. Public Health are also interested in reducing irresponsible promotions of alcohol to decrease the number of alcohol related incidents so preventing crime and disorder and also increasing public safety.

17.5 More information on alcohol misuse in Calderdale can be found at:

<http://www.calderdale.gov.uk/v2/residents/health-and-social-care/joint-strategic-needs-assessment/health/adult-drugs-and-alcohol>

17.6 Calderdale in Recovery is a single point of access for help with drug and alcohol misuse and is available for individuals themselves, friends and family and also those who work in the field. More information on their work and how you can access their services can be found at:

<https://calderdaleinrecovery.com/>

18 EQUALITY ACT 2010

18.1 The Act extends the protection of the law on the basis of protected characteristics to users of licensed premises and to employees of licence holders.

18.2 The Act covers nine protected characteristics, which are:

- Age
- Disability
- Gender Reassignments
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race
- Religion and belief
- Sex
- Sexual Orientation

18.3 All Licence holders should ensure that they comply with the Act in respect of their clients and also to their employees.

18.4 Licence holders who set standards of behaviour for their customers or clients which have a worse impact on people who share a particular protected characteristic than on people who do not share that characteristic, must make

sure that they can objectively justify what they have done. Otherwise, it will be indirect discrimination.

- 18.5 A licence holder who sets standards of behaviour must make reasonable adjustments to the standards for disabled people and avoid discrimination arising from disability.
- 18.6 The Council recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 18.7 The Licensing Authority will publish information which will demonstrate our compliance with the Equality Duty.
- 18.8 Further sources of information are available at the Government Equalities Office and the Equality and Human Rights commission.

19 ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS

- 19.1 The licensing authority has established a Licensing and Regulatory Committee to administer the wide range of licensing decisions and functions which the licensing authority will be involved in.
- 19.2 The Licensing and Regulatory Committee has delegated certain decisions and functions and established a number of sub committees to deal with them. This will provide an efficient and cost effective service for all parties involved in the licensing function.
- 19.3 The grant of non-contentious applications has been further delegated to officers.
- 19.4 The table below sets out the agreed delegation of decision and functions to Licensing and Regulatory Committee, Sub Committees and Head of Customer Services and Communications.

| <u>Matter to be dealt with</u> | <u>Licensing and Regulatory Committee</u> | <u>Licensing and Regulatory Sub Committee</u> | <u>Head of Customer Services and Communications</u> |
|---|---|---|---|
| Recommendation and Development of Licensing Policy for consideration by | All cases | | |

| | | | |
|---|--|---|------------------------------------|
| Executive Committee | | | |
| Application for personal licence | | If a relevant Police objection is made. | All other cases. |
| Application for personal licence with unspent convictions | | All cases | |
| Application 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 relevant Police objection is made | All other cases |
| Request to be removed as designated premises supervisor | | | All cases |
| Application for transfer of premises licence | | If a relevant Police objection is made | All other cases |
| Applications for Interim Authorities | | If a relevant Police objection is made | All other cases |
| Application to review premises licence/club premises certificate | | All cases | |
| Decision on whether a representation is irrelevant frivolous vexatious etc | | All cases | |
| Decision to object when Local Authority is a consultee and not the lead authority | | All cases | |
| Determination of a Police representation concerning a temporary event notice | | All cases | |

20 SUMMARY OF PROCESS

20.1 Where relevant representations have been received each application for a licence will be considered:-

- On its individual merits;
- In accordance with the Licensing Act 2003, as may be amended and supporting Regulations;
- With reference to statutory guidance as may be issued by the Secretary of State from time to time as issued under Section 182 of the Licensing Act;
- With reference to the licensing authority's Licensing Policy

20.2 Nothing in the licensing authority's licensing policy will:-

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