



Statement of Licensing Policy

Licensing Act 2003

Draft version for consultation 2018

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1. Introduction

- 1.1. Cheshire West and Chester Council (the licensing authority) is the licensing authority for the Cheshire West and Chester District, under the provisions of the Licensing Act 2003 (the Act).
- 1.2. The district as a whole covers an area of 350 square miles with a total population of 333,900 (ONC 2015) and is located in the County of Cheshire, between the Welsh hills and rural Cheshire. Our population has an ageing profile, with the number of residents aged over 65 expected to increase by over 50 per cent by 2029 and those over 85 will more than double.
- 1.3. Cheshire West and Chester Council is the fourth largest unitary authority in the North West. The Borough includes the city of Chester and the major towns of Ellesmere Port, Frodsham, Neston, Northwich and Winsford. The area is an interesting mixture of both rural and urban communities and combines an exciting range of attractions, festivals, events and shopping experiences for both local residents and tourists alike.
- 1.4. The Council Plan 2016 - 2020 "Helping the Borough Thrive" sets out the overall direction of the Council for 2016 – 2020 and outlines the vision and priorities of the organisation. The following themes and priorities are relevant to this Policy:

Thriving economy

- A great place to do business

Thriving communities

- Cleanest, safest and most sustainable neighbourhoods in the country
- Vibrant and healthy communities with inclusive leisure, heritage and culture

Effective licensing secures the safety and amenity of individual residents and communities whilst facilitating a vibrant and sustainable entertainment industry within a diverse local economy.

- 1.5. This policy recognises that economic prosperity must be balanced with protecting communities and this Council has developed a locality model that ensures service delivery is designed around local needs. Community safety and wellbeing is a high priority and this Council works in partnership with all agencies and uses all available tools, as appropriate, to promote safety and wellbeing and to focus resources. Evidence from Scrutiny Committee, Adult and Children Safeguarding, The Safer Stronger Partnership, the police and Community Safety Partnership, Responsible Authorities, the licensed trade and the public will be used to inform an evidenced based approach to tackling issues associated with licensed premises.

ADD REF TO DRINK LESS ENJOY MORE CAMPAIGN AND OTHER RELEVANT CAMPAIGNS

- 1.6. The Council's Integrated Strategic Needs Assessments (ISNAs) recognise the detrimental effect that alcohol misuse can have on health. Alcohol misuse has a marked effect on the physical and mental health and wellbeing of the individual as well as impacting on their

family and the wider society. Alcohol misuse is strongly linked to crime and disorder, particularly violent crime including domestic violence. All Council departments and partner agencies with a safeguarding remit will be expected to monitor the effects of alcohol misuse and report through the scrutiny process/health and wellbeing board to inform and shape future policy. This Council is also concerned about the health effects of alcohol misuse, particularly in respect of conditions such as liver disease. In the more deprived areas of Cheshire West and Chester the mortality rate from liver disease is 2.4 times higher than in our less deprived areas. For alcohol-specific conditions our most deprived population are twice as likely to be admitted to hospital as the borough average.

We have a significantly higher rate of admissions to hospital for people under 18 specifically related to alcohol. We also have a higher rate of binge drinkers in the over 16 population than the national average, and whilst Chester has the highest rates all localities are higher than the national average.

The public health remit of the Council recognises that whilst treatment interventions are central to supporting individuals with alcohol problems to recover there is a prevention agenda that needs to be integrated across the Council's business. Setting out clearly the local issues and concerns with regards to alcohol, and collaborative approaches to tackling its misuse, are key to tackling the harm it causes in our communities. A balanced approach to business, community and social wellbeing and health impacts is essential to reduce harmful patterns of alcohol use.

This policy therefore recognises the need to work collaboratively with partners to help shape safer and healthier public places.

1.7 A map of the Cheshire West and Chester District is set out in appendix 1.

2. Legal background

2.1. Under the Act the licensing authority must prepare and publish a statement of its licensing policy every 5 years.

2.2. The next date for publication under statute is (xcxc2024).

2.3. This licensing policy (the policy) was adopted by Cheshire West and Chester Council on XCXC2019 having considered any comments received from those consulted on the draft policy. It has been prepared having regard to the licensing objectives and the guidance published by the Secretary of State under Section 182 of the Act (the guidance).

2.4. As required by the Act, the draft licensing policy was subject to formal consultation with:

a) the Cheshire Constabulary;

(b) the Cheshire Fire & Rescue Service;

(c) persons/bodies representative of businesses and residents in its area; and

d) bodies representative of current licence holders.

A full list of consultees is set out in Appendix 2.

- 2.5. The Cheshire West & Chester licensing policy will come into effect on **XCXC 2019** and will be available on the Cheshire West & Chester Council website.

3. Scope

3.1. This Policy relates to licensable activities identified by the Act, namely:

- The retail sale of alcohol
- The supply of alcohol to club members
- The provision of regulated entertainment, subject to specific exemptions*, is:
 - (1) a performance of a play
 - (2) an exhibition of a film
 - (3) an indoor sporting event
 - (4) boxing or wrestling entertainment
 - (5) a performance of live music
 - (6) any playing of recorded music
 - (7) a performance of dance
 - (8) entertainment of a similar description to that falling within (5), (6) or (7) above.
- The provision of late night refreshment, i.e. hot food or hot drink, between 11pm and 5am for consumption on or off the premises.

*Regulated entertainment is that which takes place in front of an audience for their entertainment or is provided for profit. There are exemptions to the definition relating to live and recorded music and spontaneous music, singing and dancing. Further guidance on these particular exemptions can be found at appendix 3

4. Fundamental principles

4.1. This policy has been developed with the licensing objectives at its core. They are:

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

Each objective is of equal importance.

- 4.2 It is the view of the licensing authority that the key to delivering the licensing objectives is partnership working. Cooperation and partnership working between the Borough Council, the police, fire authority, public health, the voluntary sector, local business and residents, whilst not a panacea for all community problems, remain the best means of promoting the licensing objectives.
- 4.3. While this policy sets out the licensing authority's general approach to making licensing decisions, it is for applicants to determine the contents of their application, subject to the requirements of the Act and regulations. It is only where relevant representations are received that the licensing authority's decision making powers are engaged.
- 4.4. Where relevant representations are received, each application will be considered on its individual merits.

5. Applications for licences – an overview

- 5.1. The process for dealing with applications is set out in detail in the Act, the regulations and the guidance. In brief, an application for the grant or variation of a premises licence or club premises certificate will include an operating schedule, which addresses the licensing objectives, and a plan of the premises.
- 5.2. Responsible authorities and other persons (anyone likely to be affected - residents and businesses) have the opportunity to review the operating schedule. If they consider that one or more of the licensing objectives has not been adequately addressed then they may make representations to the licensing authority.
- 5.3. Responsible authorities are generally public bodies that must be notified of all applications. The names and contact details of the responsible authorities are available on the Council's website. Cheshire West and Chester Council is also a responsible authority.
- 5.4. If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities and/or other persons, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions. It is recommended that applicants contact responsible authorities when preparing their operating schedules.
- 5.5. Where representations are made, a hearing will usually be required to consider them. Copies of all representations, including details of the persons making them, will be made available to applicants and, if a hearing is held, will form part of the report which is a public document.
- 5.6. Other persons may be assisted or represented by any person, whether or not that person is legally qualified. This could include Ward Councillors, Parish Councillors and people from voluntary sector organisations such as the Citizen's Advice Bureau, residents and tenants associations etc.

- 5.7. Where the licensing authority considers that an individual has a genuine and well-founded fear of intimidation, it will consider, upon request, maintaining the anonymity of the person making the representation.
- 5.8. After considering all the relevant issues, the licensing authority may grant the application and may impose additional conditions necessary to promote the licensing objectives. Alternatively the licensing authority may refuse the application on the grounds that refusal is necessary for the promotion of the licensing objectives.
- 5.9. Application forms and guidance notes on the procedures for making applications for premises licences and club premises certificates, variations and temporary event notices are available on the Cheshire West and Chester Council website. Electronic applications may also be made using the Gov UK website www.gov.uk .

6. Premises licences and club premises certificates

Premises licence

- 6.1. An application for a new premises licence or variation must be supported by an operating schedule. The operating schedule is intended to enable any responsible authority or other person to assess whether the steps included to prevent crime and disorder and public nuisance, promote public safety and protect children from harm are satisfactory. Therefore, the applicant/licence holder is expected to risk assess the proposed operation and activities to promote the licensing objectives when preparing the operating schedule.

Content of operating schedule

- 6.2. Cheshire West and Chester is a large and diverse district, made up of Chester City Centre, Winsford, Ellesmere Port, Northwich, Frodsham and Neston, together with several other towns and villages covering suburban and other built up areas, rural and semi-rural areas. This means the district is expected to have a wide variety of different styled premises. Different types of premises will have varying impacts on the licensing objectives and applicants should demonstrate how they will manage their premises to minimise the negative impact and maximise any positive impact on the licensing objectives.
- 6.3. Before submitting an application, the licensing authority will expect the applicant to have considered the needs and aspirations of the location of the premises, its residents, visitors and businesses. These considerations should be demonstrated within the operating schedule. 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.
- 6.4. Applicants should pay particular attention to the following:
 - Terminal hours
 - Capacity
 - Seating ratios
 - Control of outside areas

- Construction and design of premises e.g. double glazing, air conditioning, double door systems and sound attenuation

6.5. The operating schedule must include the following information:

- Full details of the licensable activities to be carried on at and the intended use of the licensed premises
- The times during which the licensable activities will take place
- Any other times when the premises are to be open to the public
- Where the licence is required for a limited period, that period
- Where the licensable activities include the supply of alcohol, the name and address of the individual specified as the designated premises supervisor
- Whether alcohol will be supplied for consumption on or off the premises or both
- The steps which the applicant proposes to promote the licensing objectives
- A plan or plans of the premises, scale 1:100

6.6. When considering the licensing objectives, the applicant should address any particular issues which may cause concern. The steps proposed to deal with them should be set out clearly in the operating schedule.

6.7. The steps proposed and the extent to which they need to be addressed will depend on the individual style and characteristics of the premises, proposed events and activities. The licensing authority will generally expect more comprehensive measures to be in place for premises closing after midnight or where premises have a history of crime and disorder or public nuisance issues.

6.8. If an applicant volunteers a prohibition or restriction in the operating schedule because their own risk assessment has determined such a prohibition or restriction is appropriate, such a prohibition or restriction will become a condition of the licence and as such enforceable by the licensing authority.

Large entertainment venues

6.9. Large entertainment venues are often associated with transport and anti-social behaviour problems. These can have a great impact on the areas surrounding such premises. Applications for large entertainment venues will be expected to demonstrate how they will minimise any impact on an area, including how any transport or antisocial behaviour issues will be managed. Applicants should pay particular attention to the following:

- Terminal hours
- Capacity
- Seating ratios
- Control of outside areas
- Construction and design of premises e.g. double glazing, air conditioning, double door systems and sound attenuation

- 6.10. Because of the historic nature of the City of Chester and its population distribution, applicants for larger entertainment venues may find it easier to meet the requirements to promote the licensing objectives by utilising areas outside the City Centre and away from other populated areas.

Club premises certificates

- 6.11. A qualifying club applying for a club premises certificate or variation will also have to support the application with an operating schedule similar to a premises licence. Again this will enable responsible authorities and anyone likely to be affected by the application to decide whether the steps included to prevent crime and disorder and public nuisance, promote public safety and protect children from harm are satisfactory. Therefore, the applicant/certificate holder is expected to risk assess the proposed operation and activities to promote the licensing objectives when preparing the operating schedule.

Casinos and bingo clubs

- 6.12. Casinos and bingo clubs are covered by the Gambling Act 2005 (the 2005 Act). Responsibility for the licensing of such premises (premises licence) rests with the licensing authority. The Gambling Commission is responsible for issuing operators licences and personal licences under the 2005 Act.
- 6.13. The licensing authority will be responsible for licences relating to the sale of alcohol, the provision of regulated entertainment and late night refreshment at casinos and bingo clubs. However the licensing authority will not duplicate any conditions imposed by virtue of the 2005 Act.
- 6.14. Applicants wishing to carry on licensable activities under the Act must submit an operating schedule but, in detailing steps taken to achieve the licensing objectives, may refer to any conditions imposed by virtue of the 2005 Act, where relevant.

Outdoor sports stadia

- 6.15. Outdoor sports stadia are the subject of separate legislation with regard to health and safety and fire safety. The licensing authority will not duplicate any conditions imposed by such legislation. Sports events taking place at outdoor stadia are not regulated entertainment under the Act with the exception of boxing and wrestling matches.

Vessels

- 6.16. The Act applies to a vessel which is not permanently moored or berthed as if it were premises situated in the place where it is usually moored or berthed.
- 6.17. A premises licence will be required if licensable activities will take place while the vessel is being navigated. Matters relating to safe navigation or the operation of the vessel, passenger safety and emergency provision are covered by separate regulations. However, details of how the licensing objectives will be achieved on board the vessel should be included in the applicant's operating schedule.

7. The prevention of crime and disorder

7.1. When addressing the issue of crime and disorder in the operating schedule, the applicant should show that measures to prevent crime and disorder have been fully considered.

7.2. Applicants should address all or any of the following in their operating schedule where relevant to their particular premises:

- Action to prevent the use or supply of illegal drugs on the premises and to ensure that staff are properly trained in relation to drug issues
- The physical security systems at the premises, including external lighting and CCTV, as appropriate. CCTV systems should comply with best practice
- Policies and initiatives implementing best practice or codes of practice in the industry, including those supporting sensible drinking. Examples include Safer Clubbing, the National Harm Reduction Strategy Toolkit and the Portman Group Code of Practice on the Naming, Packaging and the Promotion of Alcoholic Drinks. Locally the licensing authority recommends the Challenge 21/25 policy and local Pubwatch schemes
- Means to prevent potential disorder if outside areas become a focal point for people to congregate after the premises have closed
- Arrangements for appropriate instruction and training of staff in dealing with crime and disorder issues

7.3. The authority recognises that training is a key factor for applicants to demonstrate and evidence how they will monitor and maintain standards to promote the licensing objectives. Applicants are recommended to use specialised accredited training providers where appropriate.

7.4. The steps proposed and the extent to which they need to be addressed will depend on the individual style and characteristics of the premises, proposed events and activities.

7.5. Where previous licence conditions have not been adhered to, the applicant must demonstrate that any previous issues have been resolved. If relevant representations are received, applications are likely to be refused where there are significant outstanding issues.

Security staff

7.6. Employees carrying out security activities must be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001 or be entitled to carry out that activity by virtue of section 4 of that Act.

7.7. The responsible authorities may consider that certain premises require strict supervision to support the licensing objectives. Where relevant representations are received, the licensing authority may impose a condition that licensed door supervisors must be employed either at all times or when certain events are taking place. As a general guide the licensing authority will expect to see a minimum of 2 supervisors up to 100 patrons and 1 supervisor per 100 patrons thereafter.

8. Public safety

- 8.1. The licensing authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. Members of the public have a right to expect, when visiting licensed premises, that due consideration has been taken of their needs with respect to public safety. Applicants should be able to demonstrate that they have considered and put into effect measures to protect members of the public as well as the interests of neighbouring premises. This Policy recognises the importance of public health and the role of partner agencies in minimising the effects of alcohol misuse. The police and Licensing Authority have worked together under the police and Community Safety Partnership to monitor accident and emergency data and the number of persons taken into custody where alcohol is a contributory factor (using the Cardiff Model) to target resources to improve public safety in those premises where poor management has a negative effect on public safety.
- 8.2. Applicants should address all or any of the following in their operating schedule where relevant to their particular premises:
- Arrangements to ensure the safety of customers and staff in the event of fire or other emergency
 - The nature of the activities to be provided, in particular the sale or supply of alcohol, and including whether those activities are of a temporary or permanent nature.
 - The customer profile (e.g. age, disability etc.)
 - The measures to be employed to monitor the occupancy of the premises so that maximum capacities are not exceeded
 - Risk assessments and safety procedures in the event that the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines etc. is proposed
 - The number of people employed or engaged to secure the safety of everyone attending the premises or event and the implementation of appropriate crowd management measures
 - Arrangements for the appropriate instruction, training and supervision of staff
 - Arrangements to ensure that litter does not create a fire hazard
 - Arrangements for the safe storage of bottles and glasses
 - The use of plastic or polycarbonates instead of glass bottles and glasses
 - Arrangements for the availability of free potable drinking water
 - Arrangements to deny access to persons who are drunk and the welfare of those who have drunk alcohol to excess whilst on the premises and where appropriate their safety beyond the perimeter of the premises
- 8.3. The authority recognises that training is a key factor for applicants to demonstrate and evidence how they will monitor and maintain standards to promote the licensing objectives. Applicants are recommended to use specialised accredited training providers where appropriate.
- 8.4. The extent to which the above matters need to be addressed will be dependent on the individual style and characteristics of the premises, proposed events and activities.

Door supervisors

- 8.5. Where relevant representations are received, the licensing authority will consider the attachment of a condition to the licence requiring the use of door supervisors, licensed under the Private Security Industry Act 2001 or entitled to carry out that activity by virtue of section 4 of that Act, to control access to and egress from the premises during events in order to ensure public safety.

Capacity

- 8.6. Where no safe capacity limit has been imposed on premises through other legislation and relevant representations are received, capacity limits may be imposed as a condition of the premises licence if considered appropriate for the promotion of public safety or the prevention of disorder.

Fire safety

- 8.7. Applicants should note that the Regulatory Reform (Fire Safety) Order 2005 requires a Fire Safety Risk Assessment to be carried out. Cheshire Fire and Rescue Service are responsible for enforcing this legislation.

9. The prevention of public nuisance

- 9.1. The licensing authority recognises the need to prevent public nuisance to residents, visitors and businesses which may arise due to their proximity to licensed premises, whilst balancing the rights of premises licence holders to operate and develop their business.
- 9.2. Public nuisance includes noise nuisance, light pollution, noxious smells, vermin and pest infestations, accumulations of refuse and litter, fly posting and anti-social behaviour. Public nuisance will be considered where these matters impact upon those residing, working or otherwise engaged in normal activity and are, or are likely to be, affected by the licensed premises.
- 9.3. The licensing authority 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. It is, however, a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.
- 9.4. Applicants should address all or any of the following in their operating schedule where relevant to their particular premises:
- Measures taken or proposed to be taken to prevent noise and vibration escaping from the premises, bearing in mind the location of the premises and proximity to residential and other noise sensitive premises (e.g. hospitals, hospices and places of worship); This would include music, ventilation equipment, noise and human voices, whether or not amplified, and the removal of empty bottles or other noisy procedures carried out after closing

- Measures taken or proposed for the management and supervision of the premises and associated open areas to minimise unreasonable disturbance by customers and staff arriving or departing from the premises and the delivery of goods and services
- The control of opening hours for all or part (e.g. garden areas) of the premises.
- Measures taken to control light to ensure that it does not stray outside the boundary of the premises so as to give rise to problems to residents in the vicinity
- Steps taken to lessen the impact of parking in the local vicinity
- Measures taken to prevent someone who has consumed excess alcohol from entering the premises and to manage individuals on the premises who have consumed excess alcohol
- Arrangements for the collection and disposal of litter and refuse, including packaging used for takeaway food and drink, and for carrying out regular inspections in the vicinity of the premises
- Arrangements for the prompt removal of food waste and litter in and around alfresco dining areas
- Arrangements for the control of pests
- Where smokers are likely to congregate in public areas outside the licensed premises, suitable arrangements should be made for the collection and disposal of cigarette ends from those areas and to minimise disturbance to local residents e.g. preventing drinks being taken outside late at night and measures to control noise from patrons..
- Arrangements for ensuring that adequate and suitably maintained sanitary provision and washing facilities are provided for the number of people expected to attend any premises or event
- For licensed premises open after 11pm, a ‘wind down time’ after the last service of alcohol, during which time the venue may offer for sale non-alcoholic beverages.
- A ‘last admission time’ policy
- Arrangements for any proposed use of bonfires, fireworks and other pyrotechnics.
- Arrangements for the appropriate instruction and training of staff in dealing with noise, disorder and antisocial behaviour

9.5. The authority recognises that training is a key factor for applicants to demonstrate and evidence how they will monitor and maintain standards to promote the licensing objectives. Applicants are recommended to use specialised accredited training providers where appropriate.

9.6. The steps proposed and the extent to which they need to be addressed will depend on the individual style and characteristics of the premises, proposed events and activities. In general, however, more comprehensive measures should be in place at late night entertainment venues or in premises with a history of public nuisance issues. Applicants are advised to have regard to any Special Policy on Cumulative Impact applying to the area in which they propose to apply for the grant of a premises licence, club premises certificate or variation of an existing licence. See paragraph 11

9.7. Applicants should propose practical steps to prevent disturbance to local residents. Applicants should have regard to the “Good Practice Guide on the Control of Noise from

Pubs and Clubs” produced by the Institute of Acoustics or guidance produced by the British Beer and Pub Association entitled “Effective Management of Noise from Licensed Premises”. In relation to noise from within the building, applicants should have sound tests carried out to ascertain whether there is sound leakage. Noise could relate not only to music but also from air handling equipment or from customers. If there is sound leakage, this should be addressed in practical ways such as:

- Keeping doors and windows closed and providing adequate mechanical ventilation or, if necessary, air conditioning
- Reducing sound levels and installing a sound limiting device to prevent sound exceeding the appropriate level
- Installing soundproofing measures to contain sound and vibration.

9.8. In premises where customers leave the premises particularly late at night or early in the morning, applicants should include in the operating schedule practical steps for reducing noise disturbance, such as:

- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors, and to respect the rights of nearby residents
- At appropriate times making announcements to the same effect
- Instructing door staff to ask customers leaving the premises to leave the area quietly and ensuring they do so without bottles and glasses
- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down
- Working with local transport providers to improve availability of licensed taxis or private hire vehicles to take customers from the premises
- In appropriate cases, arrangements for door staff to monitor levels of noise and disturbance in nearby streets, to assess whether there is a problem and how best to deal with it
- Refusing entry to the premises of people who regularly leave in a noisy manner
- The supervision of any queues formed late in the evening so as to keep noise and disturbance to a minimum

9.9. Where relevant representations are made, conditions will focus on matters within the control of the premises licence holder and may include restrictions on the times when music or other licensable activities may take place and technical restrictions on sound levels at the premises.

9.10. In considering an application, the licensing authority will take into account previous noise and nuisance complaints. The licensing authority will also take account of the fact that premises have been previously well run.

Public Space Protection Orders

9.11. The Council recognises that persons drinking in public places can be intimidating, often as a result of anti-social behaviour. Following a wide consultation exercise in 2017 a Public Space

Protection Order became effective on 20 October 2017 across the whole Borough in accordance with the Anti-social Behaviour Crime & Policing Act 2014.

- 9.12. The order does not ban drinking in public places, but enables Police Officers, Police and Community Safety Officers and Community Safety Wardens to ask people to stop drinking where they have reason to believe that alcohol-related nuisance and annoyance is likely to occur. The Police can also confiscate alcohol.
- 9.13 These powers are not intended to disrupt peaceful activities. They are only used to tackle nuisance or annoyance associated with drinking alcohol in a public place.
- 9.14 The Public Space Protection Order must be reviewed before it expires on 19 October 2020.

10. The protection of children from harm

- 10.1. The licensing authority is committed to protecting children from harm and views this as an important licensing objective. The Council's licensing team works with Children's Services during the development of licensing policy where the protection of children is concerned. Intelligence sharing and the exchange of current strategy developed by the Council's Local Safeguarding Children Board ensure that the protection of children from harm remains key. The Licensing Authority is aware that alcohol use, misuse and abuse is one of the recurring key 'parental factors' in child protection and safeguarding, often contributing to parental neglect of children and domestic abuse and violence within families.
- 10.2 Alcohol is also often a factor in child sexual exploitation, where young people may be encouraged or coerced to drink, or alcohol may be a factor in risk taking behaviour by young people who drink irresponsibly and then get involved in activities that otherwise they would not. Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises, or licensed premises being used for the purposes of grooming and enticement.

The Local Safeguarding Children Board (LSCB) works with other statutory authorities and the licensing trade to promote risk management in relation to child sexual exploitation. The LSCB can provide advice to assist licensees to identify risk and report concerns at different types of licensed premises so that children remain safe and businesses operate responsibly.

The Licensing Authority encourages license holders and operators of licensed premises to:

- Ensure that they are fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a crime
- Raise the awareness of their staff about child sexual exploitation and provide intelligence to the appropriate authorities about concerns and about perpetrators who may be operating in their areas

The West Cheshire Safeguarding Children Board has a webpage dedicated to providing local information about child sexual exploitation policies and procedures including risk factors and signs and symptoms: www.cheshirewestlscb.org.uk

- 10.3 Nevertheless, the licensing authority has taken account of the view of the Government that the use of licensed premises by children should be encouraged.
- 10.4. The licensing authority recognises the wide variety of premises for which licences may be granted. There are many circumstances where it is appropriate for children to be present on licensed premises and the licensing authority seeks to encourage their access to constructive leisure pursuits which support the social fabric of the District. There are also circumstances where it is appropriate to limit or prevent access by children for the prevention of harm.
- 10.5. Applicants should address all or any of the following in their operating schedule where relevant to their particular premises:
- Arrangements to prevent children from acquiring or consuming alcohol
 - Arrangements for the appropriate instruction, training and supervision of staff to prevent children from acquiring or consuming alcohol
 - Steps to prevent children from being exposed to drugs, drug taking or drug dealing;
 - Arrangements to prevent children from being exposed to gambling
 - Steps to prevent children from being exposed to entertainment of an adult or sexual nature
 - Steps to prevent children from being exposed to incidents of violence or disorder;
 - Measures to prevent children from being exposed to environmental pollution such as excessive noise
 - Measures to prevent children from being exposed to special hazards such as falls from height
 - Arrangements for appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
 - Restrictions on the access by children to the whole or any part of the premises, including times when children may not be present
 - Means for ensuring that nominated persons supervising children are suitable. To include training in supervising adults in safeguarding principles and where necessary disclosure from the Disclosure and Barring Service
- 10.6. The licensing authority recognises that training is a key factor for applicants to demonstrate and evidence how they will monitor and maintain standards to promote the licensing objectives. Applicants are recommended to use specialised accredited training providers where appropriate.

Underage drinking

- 10.7. All premises licensed to sell or supply alcohol must be able to demonstrate that satisfactory arrangements are in place to prevent such sales/supply of alcohol to children, including measures to prevent proxy purchasing.
- 10.8. The licensing authority will expect the Challenge 21/25 proof of age scheme to be implemented which requires the production of any of the following:

- Passport
- Photo Card driving licence issued in the European Union
- Proof of Age Standards Scheme Card e.g. Citizen Card or Validate UK
- New type' driving licences with photographs
- Official ID card issued by the HM Forces or by a European Union country bearing a photo and date of birth of holder

Specified cut off time

- 10.9. The licensing authority will not impose conditions which restrict or prevent access by children unless relevant representations are made and this is appropriate in order to promote the 'licensing objectives'. Where relevant representations are received, the licensing authority may seek to ensure that children are not permitted to enter or remain on licensed premises after a 'specified cut off time' by attaching an appropriate licence condition.
- 10.10. In determining a 'specified cut off time', the licensing authority will take into account:
- The concerns raised by responsible authorities and other persons
 - The steps set out in the operating schedule which the applicant will take to protect children from harm on such premises
 - The type of event for which no age restriction may be needed e.g. family entertainment; non-alcohol events
- 10.11. The licensing authority recommends that children under the age of 12 should always be accompanied by a nominated/responsible adult in premises where alcohol is supplied for consumption on the premises. In any event children under 12 years should not be permitted to enter or remain on the premises after 7pm. This is suggested as an upper limit and does not imply that this limit will be appropriate for all applications.
- 10.12. The licensing authority recommends that persons under the age of 18 should not be present on premises after 11pm where the premises are primarily used for the sale and consumption of alcohol after that time.
- 10.13. The licensing authority recommends that there should be no access by persons under 18 to premises where any of the following apply:
- Convictions for serving alcohol to minors or premises with a reputation for, or inadequate arrangements to deter underage drinking
 - A known association with, or inadequate arrangements to deter, drug taking or dealing
 - A strong element of gambling on the premises (but not, for example, the presence of a small number of cash prize gaming machines)
 - Entertainment of an adult or sexual nature is provided
 - Inadequate arrangements to protect children from the supply and use of other products which it is illegal to supply to children
 - There are inadequate controls on the times during which children may be present on the premises

- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises

10.14. Where relevant representations are received, conditions may include:

- Limitations on the hours when children may be present
- Age limitations below 18
- Limitations or exclusions when certain activities are taking place
- Access limited to parts of the premises
- Requirements for accompanying adults
- Full exclusion of under18s from the premises when any licensable activities are taking place

10.15. Conditions will not be imposed to the effect that children must be admitted to licensed premises. This will be at the discretion of the premises licence holder.

Children and film exhibitions

10.16. Where premises are used for film exhibitions, applicants should include in their operating schedules arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification.

10.17. In the case of a film exhibition that has not been classified, the licensing authority will expect the premises licence holder to submit the film to the authority at least 28 days before it intends to show it. The authority will then conduct an assessment of the suitability of the film for exhibition to children and classify the film accordingly so that the premises licence holder can implement appropriate measures to restrict viewing by children if necessary.

10.18. The licensing authority will impose a mandatory condition restricting access only to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or any classification made by the authority.

10.19. Premises licence holders must ensure that any age restrictions for cinema exhibitions are properly complied with.

10.20. In considering applications where relevant representations have been received, the licensing authority will take into account any evidence that age restrictions for cinema exhibitions are not being properly observed.

Children and public entertainments

10.21. Children and young people of compulsory school age who take part in entertainment are safeguarded by legislation which aims to secure their health, proper treatment and education.

This is achieved, in certain circumstances, by the legal requirement for the person or company who wishes to engage the child to apply for and obtain an Entertainment Licence from this Council. The Council may endorse the licence with the requirement that the applicant must employ a Matron (chaperone) and/or Tutor to look after, and/or teach the

child, during the term of the licence. It is the responsibility of the applicant to find a suitable Matron and/or Tutor but in each case the Matron and the Tutor must be approved by the Local Authority. Further information can be obtained from the Children's Licensing Officer at: childlicensing@cheshirewestandchester.gov.uk

- 10.22. Where there is provision of entertainment specifically for children (e.g. a children's disco or supervised play area) the licensing authority recommends that a sufficient number of adult supervisors (with sufficient experience) are present to control the access and egress of the children and secure the protection of children from harm, bearing in mind the number and ages of the children involved and any other issues such as disabilities that the children may have. As a guide there should be one adult member of staff per 100 children. Applicants should comply with all children's safeguarding legislation and where appropriate ensure that adults supervising children have a current disclosure from the Disclosure and Barring Service. Further advice on child safeguarding issues can be obtained by contacting the Local Safeguarding Children Board (LSCB) – details can be found on the council's website or contact LSCB general enquiries on: 0151 356 6614.

Sex related activities

- 10.23. Where activities at the premises are of a sex related nature the operator is advised to ensure that he holds the appropriate licence or authorisation. Operators are advised to discuss with the Licensing Team any proposal to put on entertainment of a sexual nature.

11. Cumulative impact

- 11.1 Cumulative Impact is defined as the "potential impact upon the Licensing Objectives of a significant number of licensed premises concentrated in an area," and is a proper matter for consideration by the Licensing Authority.
- 11.2 The Council has introduced a Cumulative impact Policy for the Chester City area to address the potential impact on the promotion of the licensing objectives of the number of licensed premises in this area. See map at appendix 4 detailing the extent of the Cumulative Impact Policy
- 11.3 The Council introduced the Cumulative Impact Policy in parts of Chester because of the impact on the promotion of the licensing objectives of the number, type and density of licensed premises in the area defined in the Special Policy. The concentration of licensed premises in this area has led to problems of noise, nuisance, crime and disorder outside of, or a distance from licensed premises particularly late at night or early in the morning. Licensed Premises include pubs, clubs, bars, nightclubs restaurants and entertainment venues as well as off licences (alcohol sold but not consumed on the premises) and late night refreshment (selling hot food and hot drink after 11.00pm for consumption on and off the premises).
- 11.4 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can

demonstrate in the operating schedule that there will be no negative cumulative impact relevant licensing objectives.

- 11.5 Despite the presumption against grant or variation, responsible authorities and other persons will still need to make a relevant representation before the Council may lawfully consider giving effect to its Cumulative Impact Policy i.e. where there are no representations, the application must be granted (subject to such conditions that are consistent with the operating schedule and any mandatory conditions required by the Act).
- 11.6 The Cumulative Impact Policy was reviewed in accordance with S.182 guidance and Council decided to maintain the Special Policy at its meeting on 20 July 2017. In line with statutory guidance the Council will review this Special Policy on a regular basis to assess whether it is needed any longer or if the special policy should be amended.

12. Licensing hours

- 12.1. The licensing authority recognises that varying licensing hours between premises in close proximity to one another with regard to the sale of alcohol is important to ensure that concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which can lead to disorder and disturbance.
- 12.2. Licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for investment and employment locally and attractive to domestic and international tourists. Providing consumers with greater choice and flexibility is an important consideration.
- 12.3. Balanced against this is the need to ensure that disturbance to local residents is minimised. It is self-evident that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example the risk of disturbance to residents sleep is greater at 2am than at 11pm. The licensing authority also appreciates that many licensed premises will not remain open for 24 hours even if their licence permits it.
- 12.4. In general terms the licensing authority will adopt a flexible approach and avoid arbitrary restrictions. Restrictions will only be considered where appropriate for the promotion of the licensing objectives.
- 12.5. The licensing authority will not fix closing times for particular areas or zones as this could lead to a significant movement of people from one area to another. The licensing authority will not seek to engineer “staggered” closing times by setting quotas for particular closing hours. Both are contrary to the spirit of the legislation.

Late night venues

- 12.6. Applicants for operating hours beyond midnight will be expected to show in their operating schedule that they will take all reasonable measures to prevent significant disturbance to local residents, as well as those working or otherwise engaged in normal activity in the

vicinity of the licensed premises. When specifying proposed trading hours in their operating schedule applicants should consider:

- Whether the premises are located in predominantly residential or commercial areas
- The nature of the proposed activities to be provided at the premises
- Whether there are arrangements for ensuring adequate availability of taxis and private hire vehicles or public transport and appropriate places for picking up and setting down passengers
- Whether there is an appropriate amount of car parking, readily accessible to premises and in places where the parking and use of vehicles will not cause a nuisance to local residents
- The likely impact of the licensable activities on local residents and if adverse, the measures proposed to prevent it
- The provision of measures to ensure that persons wishing to enter the premises are not drunk and alcohol is not served or purchased for anyone who is drunk

Shops, stores and supermarkets

- 12.7. With regard to shops, stores and supermarkets, the norm will be for such premises to be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are very good reasons for restricting those hours. The applicant will also need to demonstrate how they will ensure that persons who are drunk are prevented from purchasing alcohol.

13. Integrating strategies

- 13.1. The licensing authority will secure the proper integration of its licensing policy with Public Health priorities, health and wellbeing priorities, local crime prevention, planning, transport, tourism, race equality schemes and cultural strategies and any other plans introduced for the management of town centres and the night-time economy.
- 13.2. This will be achieved by ensuring that the licensing authority's Licensing Committee receives appropriate reports on all relevant strategies and policies. Many of these strategies are not directly related to the promotion of the four licensing objectives, but, indirectly, impact upon them. Coordination and integration of such policies, strategies and initiatives are therefore important.

Live music, theatre and dancing

- 13.3. As part of implementing its cultural strategies, the licensing authority will seek to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community. As far as possible, the licensing authority will avoid measures that may deter live music, dancing and theatre by, for example, imposing indirect costs of a disproportionate nature.
- 13.4. The licensing authority will monitor the impact of licensing on regulated entertainment in the District, particularly live music, dancing and theatre. If such events are being deterred by

licensing requirements, this policy will be revisited with a view to investigating how the situation can be reversed.

14. Planning

- 14.1. Planning and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with appropriate planning consent for the property concerned.
- 14.2. Licensing applications will not be a re-run of the planning application nor cut across decisions taken by the Planning Committee or following appeals against decisions taken by that Committee. The Licensing Authority is not bound by decisions made by the Planning Authority and vice versa.
- 14.3. Similarly, the granting by the Licensing Committee of any licence or variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 14.4. When exercising its licensing functions the Licensing Authority will not be influenced by the question of need. The issue of whether or not there is a need for particular premises is a commercial matter, which is not relevant to the Licensing Authority's considerations.

15. Building control

- 15.1. Building regulations cover a variety of issues, which will directly contribute to the licensing objectives including means of escape, structural integrity, accessibility and public safety.
- 15.2. Where building control approval is required, applicants are encouraged to ensure that such approval is obtained before applying for a premises licence.

16. Human rights

- 16.1. The Human Rights Act 1998 incorporated the European Convention on Human rights into English law. It makes it unlawful for a local authority to act in a way which is incompatible with a Convention right.
- 16.2. The licensing authority will have particular regard to the following rights in determining licence applications:
 - Article 6 – in determination of civil rights and obligations everyone is entitled to a fair 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 family life
 - Article 1 of the first protocol – every person is entitled to peaceful enjoyment of his or her possessions.

17. Promotion of equality

- 17.1. Cheshire West & Chester Council recognises that:

- There is a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between members of different groups
- Local authorities are also required, to produce equality schemes, assess and consult on the likely impact of proposed policies on equality, monitor policies for any adverse impact on the promotion of equality, and publish the results of such consultations, assessments and monitoring

17.2 An assessment will be undertaken with the Council's Equality and Diversity Officer to confirm that the policy meets the Council's Equality and Diversity Objectives. The assessment will be made available as a public document on the Council's website.

17.3 Applicants should have due regard to the protected characteristics contained within the Equality Act 2010:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

18. Conditions

18.1. There are three types of conditions which may be attached to premises licences or club premises certificates:

- Mandatory conditions prescribed in regulations made by the Secretary of State which must be attached
- Conditions consistent with the Operating Schedule
- Conditions imposed by the licensing authority

18.2. The conditions attached to premises licences or club premises certificates will be focused on:

- Matters which are within the control of individual premises licence holders and others in possession of relevant authorisations
- The premises being used for licensable activities and the vicinity of those premises
- The direct impact of the licensable activities on members of the public living, working or engaged in normal activity in the vicinity of the licensed premises

18.3. 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.

18.4. Conditions will only be imposed on premises licences or club premises certificates where they are appropriate for the promotion of one or more of the licensing objectives.

Conditions will be tailored to the individual style and characteristics of the premises and events concerned.

- 18.5. The starting point in deciding what conditions are appropriate for the promotion of the licensing objectives is the applicant's risk assessment, which should be carried out before submitting an application. The risk assessment will be translated into steps included in the operating schedule which forms part of the application.
- 18.6. Responsible authorities consulted on the application may make representations about the suitability of the steps proposed in the operating schedule, as may other persons, such as local residents. Where relevant representations are received, additional conditions may be attached to the licence to address the concerns raised in the representations. Where no representations are received, the licensing authority will grant the application subject only to such conditions as are consistent with the operating schedule, and any mandatory conditions imposed by the Act.
- 18.7. The steps set out in the operating schedule will be translated into licence conditions. The licensing authority will endeavour to ensure that all conditions are unequivocal and unambiguous so that licence holders are clear about their responsibilities.
- 18.8. The licensing authority recommends that applicants consult with responsible authorities when preparing their operating schedules to minimise problems with their applications.

Duplication

- 18.9. The licensing authority will avoid duplication with other regulatory regimes so far as possible. For example, legislation governing health and safety at work and fire safety will place a range of general duties on the self-employed, employers and operators of venues both in respect of employees and of the general public when on the premises in question. Similarly, many aspects of fire safety will be covered by existing and future legislation.
- 18.10. Such regulations will not however always cover the unique circumstances that arise in connection with licensable activities at specific premises and tailored conditions may be appropriate.

19. Personal licences

- 19.1. A personal licence is required by individuals in making or authorising the sale or supply of alcohol in accordance with a premises licence. Not every person retailing alcohol at licensed premises needs to hold a personal licence, but every sale or supply of alcohol must be at least authorised by a personal licence holder.
- 19.2. The licensing authority must grant an application for a personal licence if the criteria set down in the Act are satisfied, namely that he or she has a recognised qualification and does not have certain serious criminal convictions.
- 19.3. Personal licences are portable from one premise to another. An applicant can apply for a personal licence whether or not they have current employment or business interests associated with the use of the licence.

Disclosure

- 19.4. The licensing authority will expect the applicant to produce a Disclosure Certificate from the Disclosure and Barring Service to the licensing authority. All applicants will also be expected to make a clear statement as to whether they have been convicted outside of England and Wales of a relevant or equivalent foreign offence.
- 19.5. The police may oppose an application in exceptional circumstances. If an objection is made then the application will be heard by the Licensing Act Sub-committee.
- 19.6. The Licensing Act Sub-committee will consider:
- The seriousness and relevance of the conviction(s)
 - The period that has elapsed since the offence(s) were committed
 - Any mitigating circumstances
- 19.7. The Licensing Act Sub-committee will normally refuse an application where the police make an objection unless there are compelling reasons to grant the licence.

Designated premises supervisor

- 19.8. Each premises licence which authorises the sale of alcohol requires a personal licence holder to be the Designated Premises Supervisor to ensure there is always one individual who can be readily identified in cases of emergency. The Designated Premises Supervisor should have day to day responsibility for running the premises and should be on the premises on a frequent and regular basis. Suitable arrangements should be in place to provide cover where the Designated Premises Supervisor is absent due to holidays, sickness or similar circumstances.
- 19.9. The management committee of a community premises (e.g. premises that form part of a church hall, chapel hall or other similar building; or a village hall, parish hall or community hall or other similar building) may apply (as the licence holder) to the licensing authority to dis-apply the requirement for a Designated Premises Supervisor/personal licence holder. The effect of the disapplication is that the management committee as the licence holder is responsible for the supervision and authorisation of all alcohol sales authorised by the licence. All such sales will have to be made or authorised by the licence holder. There will be no requirement for a Designated Premises Supervisor or for alcohol sales to be authorised by a personal licence holder.

20. Temporary Event Notices

- 20.1. Certain temporary events are not required to be licensed but must be notified to the licensing authority using the temporary event notice procedure. This part of the policy covers the arrangements for the carrying on of licensable activities which are not authorised by a premises licence or club premises certificate.
- 20.2. The maximum duration of an event authorised by a temporary event notice is 168 hours (7 days) and the maximum number of persons attending the event at any one time is limited to 499 persons. A personal licence holder can give up to 50 temporary event notices in a

calendar year and other persons may give up to 5 temporary event notices in a calendar year. Not more than 15 temporary event notices can be given in respect of each premises in a calendar year. Examples of temporary events include village fetes, music festivals or amateur dramatic productions organised by charities, schools, churches and hospitals to raise funds.

- 20.3. Many of those who give temporary event notices will not have commercial backgrounds or ready access to legal advice. Guidance notes on the restrictions on temporary event notices and the procedure for giving such notices are available on the Cheshire West and Chester Council website.
- 20.4. Depending on the nature and location of the temporary event, there can be serious crime and disorder implications. Legally, 10 working days' notice must be given to the licensing authority but organisers are encouraged to give the licensing authority at least 28 days' notice of proposed events to allow the licensing authority to help organisers plan their events safely – any lesser period means the planning may be rushed and haphazard and may make it more likely that the police will raise objections.
- 20.5. "Working Day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales. "Ten Working Days" notice means ten working days, exclusive of the day on which the event is to start and exclusive of the day on which the notice is given.
- 20.6. The most important aspect of the system of temporary event notices is that only the police or the Environmental Health Department of the Council may intervene to prevent the event or modify the arrangements for it to take place. The licensing authority's role is to ensure that the limits on the number of notices that may be given by a person or in respect of each individual premises are not exceeded.
- 20.7. If a relevant representation is received the Licensing Act Sub-committee will hold a hearing not less than 24 hours before the event is due to take place to consider those representations.
- 20.8. Within the Licensing Act there is provision for a "Late TENS", these are intended to assist premises users who are required for reasons outside of their control to, for example, change the venue for an event at short notice. However, late TENS may be given in any circumstances providing the limits specified at 20.2 above are not exceeded. Late TENS can be given up to 5 working days but no earlier than 9 working days before the event is due to take place. If either the police or Environmental Health Department of the Council make an objection to the Late TEN then the event cannot take place.

21. Complaints

- 21.1. The licensing authority will pass on all complaints against premises licensed by the licensing authority to the most relevant responsible authority. Complainants will, in the first instance, be encouraged to raise the complaint directly with the premises licence holder or business concerned.

22. Full variations and minor variations

- 22.1. Where an applicant wishes to make any changes to a premises licence or club premises certificate such as extending the hours during which a licensable activity is permitted, adding other licensable activities or amending a condition, a variation application may be made under s34 of the Act.
- 22.2. Where structural alterations are made to a premises, a variation application will only be accepted if the alterations do not have any impact on the licensing objectives. Where significant structural alterations are made e.g. which change the capacity of the premises or alter the means of escape, an application for the grant of a new premises licence will be required.
- 22.3. Variations to premises licences or club premises certificates that do not adversely impact on the licensing objectives are subject to the simplified minor variation process. Examples where a minor variation may be appropriate include:
- The reduction in licensing hours for the sale or supply of alcohol or, in some cases to move (without increasing) the licensing hours between 07.00 and 23.00
 - The removal of a condition on a licence that is no longer required due to changes in circumstances or legislation
 - The revision of the wording of a condition attached to a licence for the sake of clarity
- 22.4. Each case will be considered on its own merits. If applicants are in any doubt, they should consult the Licensing Team for further advice regarding whether a full or minor variation application is required or a new grant application is appropriate given the circumstances of the proposed changes.

23. Provisional statements

- 23.1. Where premises are being constructed, extended or otherwise altered and are to be used for one or more licensable activities, a person over 18 years of age with an interest in the premises may apply for a provisional statement.
- 23.2. Applications for provisional statements will be dealt with in a similar manner to applications for a premises licence.
- 23.3. If a provisional statement has been issued and the person subsequently applies for a premises licence for those premises, any representations will not be considered if:
- Given the information in the application for a Provisional Statement, the person objecting could have made the same, or substantially the same, representations about the application but had failed to do so without reasonable excuse; and
 - There has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.
- 23.4. The licence will not become effective until the start date stipulated by the licensing authority.

24. Reviews of licences

- 24.1. The Act provides a mechanism for reviewing premises licences where problems associated with achieving the licensing objectives occur. However, no more than one review will normally be permitted within any 12 month period on similar grounds, except in exceptional and compelling circumstances or where it arises following a closure order.
- 24.2. Responsible authorities and other persons can trigger a review of a premises licence but must provide evidence to the licensing authority that one or more of the licensing objectives are not being met. The licensing authority must reject any request for a review if the reason does not relate to one or more of the licensing objectives.
- 24.3. Requests for reviews will also be rejected if the grounds are, in the opinion of the licensing authority, frivolous, vexatious or repetitive. Repetitive grounds are those which are identical to, or substantially the same as, those considered at a previous hearing within the last 12 months.
- 24.4. Any review of a licence will take place before the Licensing Act Sub-committee.

25. Early morning alcohol restriction orders (EMRO's)

- 25.1 The Licensing Authority has the power to make an EMRO prohibiting the sale of alcohol for a specified period between the hours of midnight and 06:00. EMRO's are designed to address recurring problems with licensed premises, serious public nuisance and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 25.2 The Licensing Authority will consider evidence that such a decision is appropriate for the promotion of the Licensing Objectives. Consideration will be given to evidence provided by partners, Responsible Authorities and the Local Community Safety Partnership as well as evidence the Licensing Authority has gathered (including local crime and disorder statistics, anti-social behaviour statistics and health related statistics) to determine whether an EMRO would be appropriate for the promotion of the licensing objectives. An EMRO will only be introduced if the step is considered to be reasonable, justified and proportionate.
- 25.3 The Licensing Authority acknowledges that an EMRO is a powerful, restrictive tool that can be implemented to address recurring problems of alcohol-related crime and disorder, serious public nuisance and alcohol-related anti-social behaviour. Prior to making an EMRO the Licensing Authority will consider whether any other measures (implemented by themselves or with partners) may address the problems that have been identified in particular other measures might include:
 - Introducing or widening a Cumulative Impact Policy
 - Reviewing the licenses of specific problem premises
 - Encouraging the creation of business-led practice schemes
 - The confiscation of alcohol in designated areas
 - Planning controls
 - Positive measures to create safe and clean town centres by working in partnership with businesses, other council departments and stakeholders

- Police enforcement of the general law concerning disorder and anti-social behaviour
- Prosecution for the offence of selling (or allowing such a sale) alcohol to a person who is drunk
- Use of police powers to close down any licensed premises instantly for up to 24 hours in respect of which a TEN has effect

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

26. Late night levy

26.1 Under the provisions of the Police Reform and Social Responsibility Act 2011 the Council can adopt a Late Night Levy. The implementation of the Late Night levy allows the Council to charge an additional fee to any licensed premises that has a licence for the sale of alcohol (on and off sales) after midnight and up to 06:00 in order to cover the additional costs associated with late night alcohol trading. Legislation allows this to start from midnight but it is up to the Council to decide when they wish to apply it.

26.2 Any income raised by the Levy must be split between the Licensing Authority and the police. The police will receive at least 70% of the net levy revenue. The licensing authority can retain up to 30% of the net levy revenue to fund other activities besides policing. There are restrictions on the types of services that licensing authorities can fund with the levy revenue to ensure that levy is spent on tackling alcohol-related crime and disorder and services connected to the management of the night-time economy. The licensing authority is able to deduct permitted administration, collection and enforcement costs from the gross levy revenue.

26.3 Before introducing any late Night Levy the Council must undertake a process of statutory consultation. The Council will consider implementing a Late Night Levy if appropriate.

27. Purple Flag

ADD RELEVANT INFORMATION

28. Enforcement

28.1. The Council will adopt a risk based inspection programme and will comply with its own enforcement policies and protocols which will be available on the Council's website.

28.2. The licensing authority has established a Joint Enforcement Protocol with Cheshire Constabulary Western Area, Cheshire Fire and Rescue Service and Cheshire Trading Standards. This provides for the effective use of resources in enforcing licensing law and the inspection of licensed premises, as well as consistency of approach.

28.3. In particular, the Protocol allows for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run.

27.4 Initial enforcement action may include the provision of advice and guidance to premises licence holders and designated premises supervisors. In the case of problem premises, firmer action may be required, including a review of the premises licence, prosecution or, in extreme cases, a closure order.

29. The licensing committee

29.1. The Licensing Committee consists of 15 members of the licensing authority. Hearings take place before the Licensing Act Sub-committee which is made up of 3 members of the Licensing Committee.

29.2. The purpose of a hearing before the Licensing Act Sub-committee is to allow all contentious issues relating to an application to be heard and considered.

30. Delegation

30.1. The licensing authority delegates its functions in accordance with the Act and Guidance. Wherever it is appropriate to do so, matters will be dealt with by officers in the interests of speed, efficiency and cost-effectiveness. The proposed scheme of delegation is set out in appendix 5.

30. Advice and contact points

30.1 Advice for applicants and members of the public can be obtained during office hours from the following office:

Licensing Team 4 Civic Way, Ellesmere Port, CH65 0BE

Telephone 0300 123 7737

Email; Licensing@cheshirewestandchester.gov.uk

Website; www.cheshirewestandchester.gov.uk

A copy of the guidance issued by the Department of culture, Media and Sport on behalf of the Home Office may be viewed via www.gov.uk

Appendices

Appendix 1 Map of borough

Appendix 2 List of consultees

Appendix 3 Regulated entertainment exemptions

Appendix 4 Map of cumulative impact area

Appendix 5 Delegations under the Licensing Act 2003

Appendices

Appendix 1 Map of borough

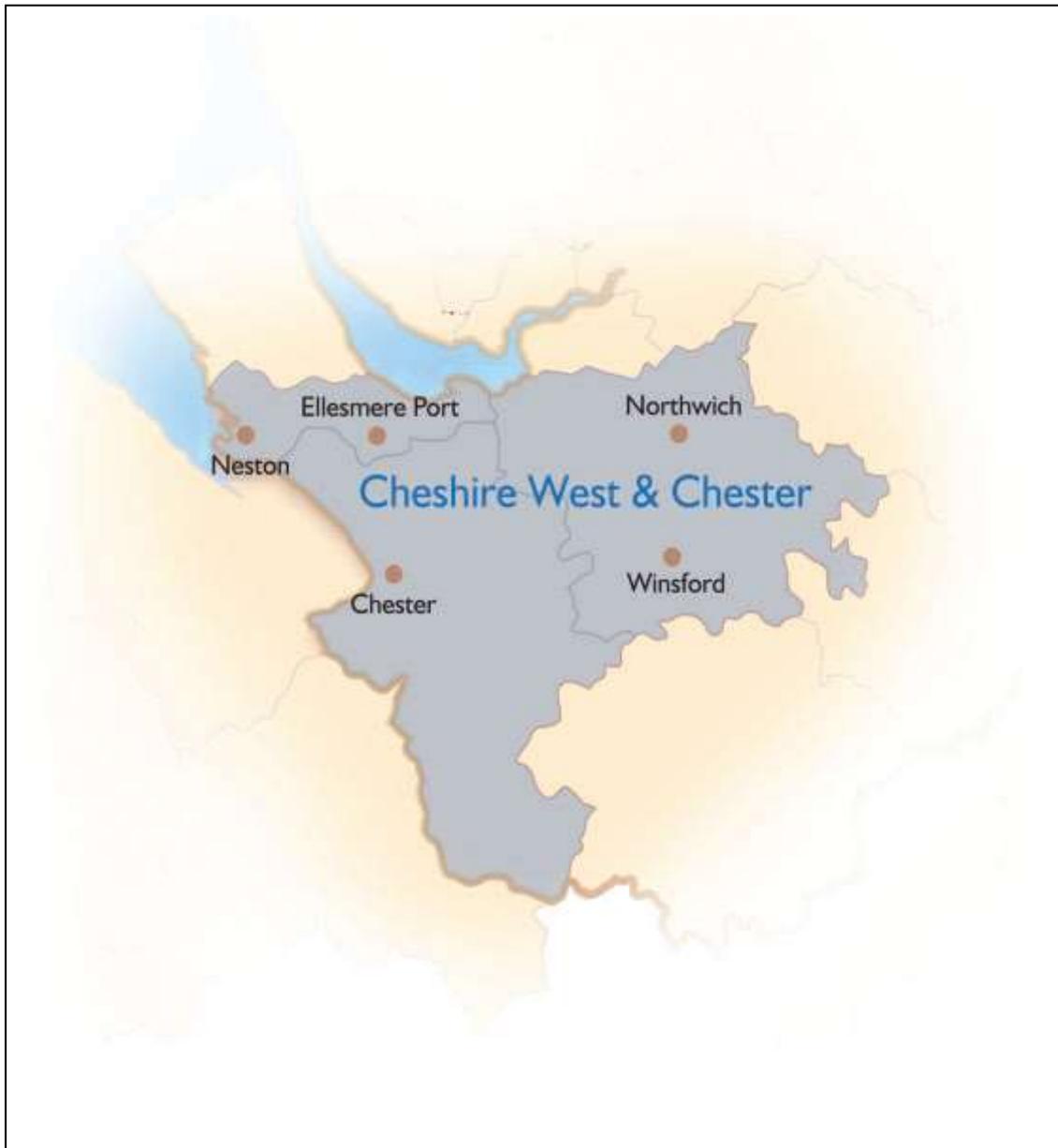
Appendix 2 List of consultees

Appendix 3 Regulated entertainment exemptions

Appendix 4 Map of cumulative impact area

Appendix 5 Delegations under the Licensing Act 2003

Map of Cheshire West and Chester



(Image showing a map of the Cheshire West and Chester Borough)

List of consultees

Express Duty: Statutory Guidance made under Section 182 of the Licensing Act 2003 requires the consultation to include all those individuals and organisations listed in Section 5(3) of the Licensing Act 2003, namely:

- (a) the chief officer of police for the Licensing Authority's area,
- (b) the fire and rescue authority for that area
- (c) such persons as the Licensing Authority considers to be representative of holders of premises licences issued by that authority,
- (d) such persons as the Licensing Authority considers to be representative of holders of club premises certificates issued by that authority,
- (e) such persons as the Licensing Authority considers to be representative of holders of personal licences issued by that authority, and
- (f) such other persons as the Licensing Authority considers to be representative of businesses and residents in its area.

More detailed list of direct consultees to be added after consultation

.

Regulated entertainment exemptions

You no longer need a special licence to stage a live music performance if:

- it takes place between 8am and 11pm
- it takes place at a licensed premises or workplace
- the audience is no more than 200 people

You don't need a licence to put on unamplified live music any place between the same hours.

Live music that doesn't need a licence

Examples of performances that generally don't need a licence under the Act are:

- karaoke
- busking
- spontaneous singing - eg people singing along to recorded music in a pub
- incidental music - live music that is incidental to other activities that aren't classed as regulated entertainment
- rehearsals and sound checks (unless members of the public are charged admittance for the purpose of making profit)
- the playing of some recorded music as part of a performance of live music performance. For example, a drum machine or backing track being used to accompany a vocalist or a band would be part of the performance of amplified live music.

The Live Music Act regulates live performances, not recorded music.

Exemptions under the Act

Changes that the Live Music Act made to licensing under the 2003 Licensing Act are outlined below.

1. It removed the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons on premises authorised by a premises licence or club premises certificate to supply alcohol for consumption on the premises (at a time when those premises are open for the purposes of being used for the supply of alcohol for consumption on the premises), subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence or club premises certificate.
2. It removed the licensing requirement for amplified live music taking place between 8am and 11pm in front of audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment).

3. It removed the licensing requirement for unamplified live music taking place between 8am and 11pm in any place, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises.
4. It removed the licensing requirement for the provision of entertainment facilities.
5. It widened the licensing exemption for live music that is integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applies to both live or recorded music instead of just unamplified live music in that instance.

Workplaces exemptions

You no longer need a licence to put on live music in a workplace if the performance takes place between 8am and 11pm to an audience of less than 200 people.

Schools, colleges, village and church halls are all classified as workplaces, though the workplace exemption doesn't apply if they have a licence to sell alcohol. But you can check with the venue if their licence allows for your performance.

Nightclubs and pubs

Amplified live music is allowed in pubs and clubs for up to 200 people before 11pm. Any nightclub / pub that puts on live music after 11pm needs a licence, even if they don't sell alcohol.

Nightclubs still need licences for recorded music and the supply of alcohol.

Where conditions of a licence have changed under the Act

If the conditions of your licence no longer apply since the Act, there's no need to have them removed from your licence or to have your licence reissued.

Breaches of the Act: who is held responsible

Someone commits an offence if '(a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or (b) he knowingly allows a licensable activity to be so carried on'.

If you're only involved as a performer or participant of a live music event, you won't be held responsible for any breach of the Act.

Noise protections

Noise regulations still apply to live music. Environmental health officers from your local council can still intervene if there are complaints about noise.

Larger audiences

There is no limit on audience numbers for a performance of unamplified live music which doesn't take place on licensed premises.

In all other cases, you'll need a licence or Temporary Event Notice (TEN) if you're organising an event that might attract more than 200 people - or where it's difficult to restrict entry. You're responsible for making sure the audience doesn't exceed the numbers allowed, and you'll be breaking the law if this does happen.

If you have more than one performance going on at the same time, you should make sure there's a clear distinction between them - e.g. by holding them in separate rooms or on separate floors - so that it's not treated as a single performance that might exceed the audience numbers allowed.

Checking if you need a licence

You can check with the Licensing Section if you need a licence for your live music event. You may need a Temporary Event Notice (TEN) if you want to have your live music performance on unlicensed premises.

If you wish to hold a live music performance at licensed premises, you can check with the venue if they have the right licence.

Detailed Guidance

Further detailed guidance on the amendments to the licensing requirements of the Licensing Act 2003 made by The Live Music Act 2012, Licensing Act 2003 (Descriptions of Entertainment)(Amendment) Order 2014 and the Deregulation Act 2014 can be found in the current Revised Guidance issued under section 182 of the Licensing Act 2003. (Home Office).

Contacts

Licensing Section: licensing@cheshirewestandchester.gov.uk

Telephone: 0300 123 7737

Map of Cumulative Impact Area

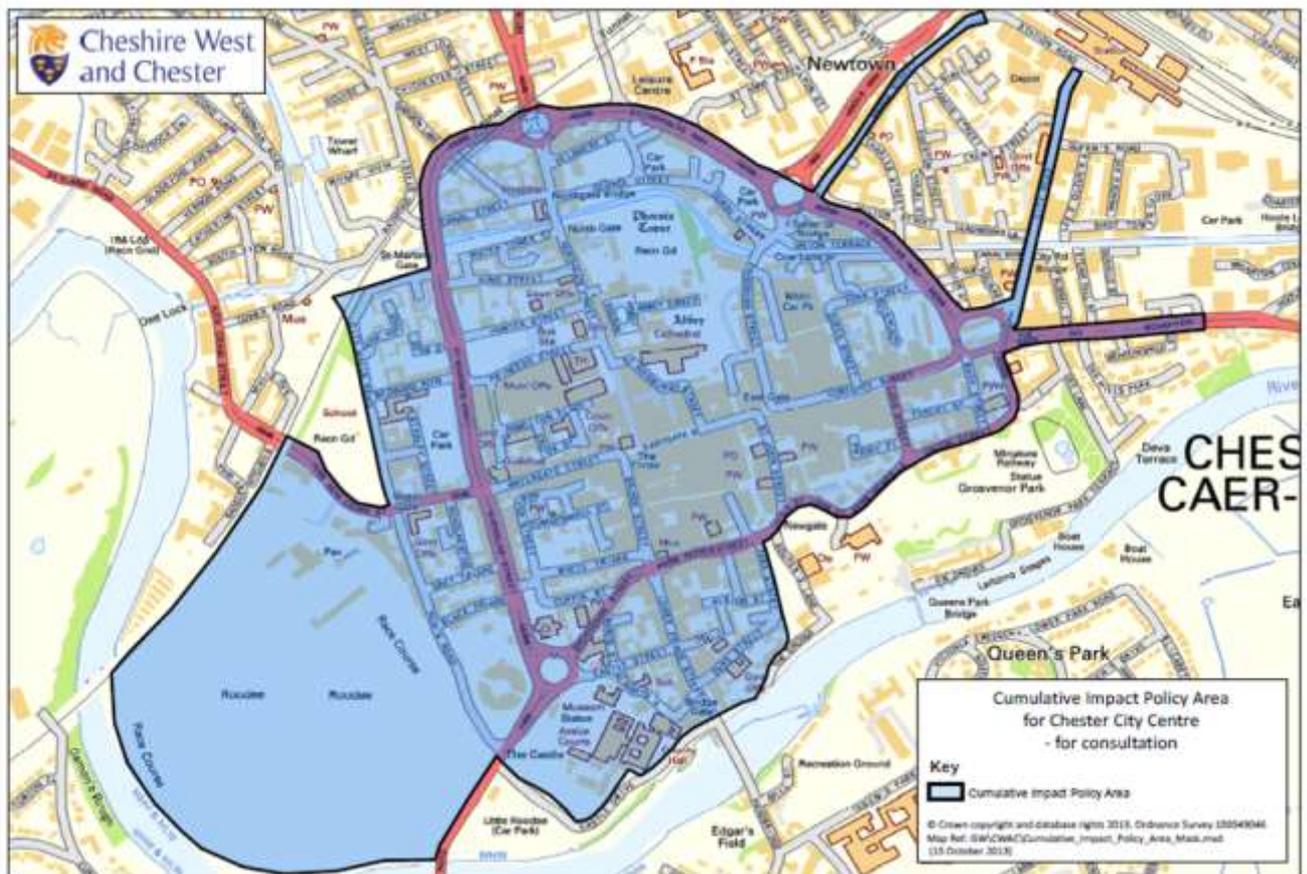


Image showing the centre of Chester with the Cumulative Impact Area highlighted

Appendix 5

Licensing committee
Scheme of delegation

Matter to be dealt with	Hearing before Licensing Act Sub-Committee	Officer delegation
Application for personal licence – S.120(7)	If a police objection	If no objection made
Application for renewal of a personal licence – S.121(6)	If a police objection	If no objection made
Conviction coming to light after the grant or renewal of a personal licence – S.124(4)	If a police objection	If no objection made
Application for premises licence – S.18(3) or club premises certificate – S.72(3)	If a relevant representation made	If no relevant representation made
Application for provisional statement – S.31(3)	If a relevant representation made	If no relevant representation made
Application to vary premises licence – S.35(3) or club premises certificate – S.85(3)	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor – S.39(3)	If a police objection	If no objection made
Request to be removed as designated premises supervisor – S.41		All cases
Application for transfer of premises licence – S.44(5)	If a police objection	If no objection made
Application for interim authorities – S.48(3)	If a police objection	If no objection made
Application to review premises licence – S.52(2) or club premises certificate – S.88(2)	All cases	

Matter to be dealt with	Hearing before Licensing Act Sub-Committee	Officer delegation
Decision to object when local authority is a consultee and not the relevant authority considering application – S.13(4)(g)	All cases	
Consideration of police objection to a temporary event - S.105(2)	All cases	
Application for review of premises licence following a closure order – S.167(5)	All cases	
Decision on whether a representation from an interested party is relevant or not within the applicable part of the Act		All cases
Decision whether a club is established and conducted in good faith – S.63		All cases