



Statement of Licensing Policy

Conwy County Borough Council and
Denbighshire County Council

January 2011



Statement of Licensing Policy



FOREWORD



The first joint Statement of Licensing Policy for Conwy County Borough Council and Denbighshire County Council was adopted in January 2008, and this Policy is the first review that has taken place. Establishing a joint Policy has provided consistency at our boundaries, clarity for all of our stakeholders and contributed to a better informed decision making process.

We are pleased that the successful collaboration of our two Licensing functions has translated into a wider collaboration of the Regulatory Services department of Conwy County Borough Council and the Planning and Public Protection department of Denbighshire County Council. We see this as key in establishing a level playing field for licence holders and stakeholders and ensuring the wider regulation of the entertainment industry and late night economy.

The Licensing Act set out four statutory licensing objectives, which must be taken into account by the Licensing Authority in dealing with their responsibilities. The objectives, which remain key to our aims and objectives, are:

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

This Policy continues to set down how applications will be dealt with in order to promote the four licensing objectives. It is a guide for both applicants and those other parties who have an interest in these matters. However, whilst the policy provides framework guidance the Authority will ultimately determine every individual application on its own merits.

The hard work and effort of all those engaged in the Licensing Regime has continued over the three years since our last statement and we would like to express our thanks for the continued development, commitment and hard work demonstrated by all.



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Conwy and Denbighshire are both attractive Counties in which to live and work. Both benefit from excellent transport links by road and rail. Our local economy relies upon tourism, in which many premises licensed for the sale of alcohol and entertainment play a prominent and increasingly important part.

Conwy County Borough Council's vision is of **'Working with others to build on Conwy's location at the centre of North Wales and to revitalise our communities so that they can play an active part in making Conwy County an even better place to live in, work in and visit.'**

The mission of Denbighshire County Council - **'We will efficiently deliver fair and flexible services for everyone, while making sure that we meet the priorities set out in our community strategy.'**

There are a number of corporate aims, many of which complement this joint Statement of Licensing Policy. These include:

- Regenerate the Economy of the area
- Promoting the Late Night Economy
- Make the area a Safe, Healthy and Clean place to live
- Protecting and Enhancing Conwy and Denbighshire's Heritage

- 1.1 The aim of the Policy is to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment industry. Both Conwy County Borough Council and Denbighshire County Council recognise the need of residents for a safe and desirable environment to work and live in, and the importance of well-run licensed premises in a vibrant and diverse local economy.
- 1.2 In partnership, Conwy County Borough Council and Denbighshire County Council will promote a 'Late Night Economy Strategy' which will ensure residents and visitors are safe whilst out at night and on their journey home.
- 1.3 To achieve this, the Councils are committed to working in partnership with North Wales Police, North Wales Fire and Rescue Service, local businesses, residents and others towards ensuring the continued success of this Policy in achieving the statutory objectives of the Act.
- 1.4 The Policy provides information and guidance to applicants and any interested party in the manner in which Conwy and Denbighshire will approach matters relating to licensing. Although each application will of course be considered on its own merits, each Council in adopting this Policy is indicating the wider considerations that it will take into account when determining any licence application.
- 1.5 In preparing this joint Statement of Licensing Policy, Conwy County Borough Council and Denbighshire County Council have given due regard to the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- 1.6 In accordance with Statutory Procedures, a review of this Policy will take place in three years and will take into full account any relevant information

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received by way of consultation or otherwise and any initiatives relating to alcohol and entertainment.

Tourism

1.7 The Councils recognise that licensed premises are a major contributor to the local economy. Any licence application will be considered by taking certain factors into account. These include:

- The general impact in attracting visitors to the area
- Any enhancement the proposal might have on the attractiveness of the wider area
- Employment opportunities

Live Music, Dancing and Theatre

1.8 In accordance with the Guidance issued by the Secretary of State, the Councils recognise the need to encourage and promote live music, dancing and theatre for the wider cultural benefits of our communities. A natural concern to prevent disturbance in the neighbourhood will always be balanced with the wider cultural benefits of our communities.

1.9 The Councils have obtained premises licenses for public spaces, such as promenades, in order to encourage community activities to take place.

Amenity

1.10 The Licensing Authority has a duty to protect the amenity of the residents living in both areas. This extends to the business community, who can expect the Councils to ensure that the environment is attractive and sustainable for the conduct of their business. In considering any application for a premises licence, the Councils will take certain factors into consideration, these will of course focus on the four statutory Licensing Objectives.

1.11 This Policy seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move to, remain or invest in either Conwy or Denbighshire with some measure of certainty.

Notes

The content of this Policy should not be interpreted as an indication that any requirement of the Licensing Act 2003 or other law may be disregarded or overridden.

Where any conditions have been applied to a Premises Licence or Club Premises Certificate an Authorised Officer of the Council's may inspect at any reasonable time for the purpose of checking that the conditions are being complied with.

The Licensing Act 2003 makes provision for this Policy to be consulted on and reviewed at least every three years. Accordingly, this Policy must be reviewed no later than January 2014.

2 Scope and Extent

2.1 The Statement of Licensing Policy has been reviewed in accordance with the Guidance issued by the Secretary of State, and shall be applied by each Licensing Authority when dealing with any application that relates to those licensable activities identified by the Licensing Act 2003, which are:

- 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 late night refreshment (supply of hot food or drink from a premises between 23:00 and 05:00 hours)
- The provision of regulated entertainment (Regulated entertainment is defined as any of the following which take place in the presence of an audience for the entertainment of that audience and are provided by members of the public or exclusively for the members of a qualifying club and/or their guests or for consideration and with a view to profit, this includes raising money for charity):
 - a performance of a play
 - an exhibition of a film
 - an indoor sporting event
 - a boxing or wrestling entertainment (indoor and outdoor)
 - any playing of recorded music
 - any performance of live music
 - a performance of dance
 - entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance.

There are certain exemptions from this definition, which relate to incidental live and recorded music, and spontaneous music, singing and dancing, these are set out in full in the Act.

2.3 It should be noted that where reference is made to the Licensing Authority within this Policy document, that this takes into account the joint working arrangements between the Licensing Authorities of Conwy County Borough Council and Denbighshire County Council.

3 Statutory Licensing Objectives

3.1 It is the duty of Conwy County Borough Council and Denbighshire County Council as the Licensing Authority for their respective geographical areas to carry out the functions under the Act with a view to promoting with **equal importance** the Licensing Objectives as set out in the Act, which are:

- **Prevention of Crime and Disorder**
- **Public Safety**
- **Prevention of Public Nuisance**
- **Protection of children from Harm**

3.2 It is recognised that the licensing function is only one means of securing the delivery of these objectives. The Licensing Authority will therefore continue to

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work in partnership with its Local Communities, the Responsible Authorities, local businesses and all other relevant stakeholders and partners.

3.3 If its discretion is engaged, when considering the type of activities for which licenses may be sought, the Licensing Authority will have proper regard to amongst other issues:

- Location of and environmental impact of the proposed activity
- Suitability of the applicant
- Suitability of the premises to the application
- Operation and management of the premises
- Monitoring, review and enforcement

3.4 Whilst these factors will be given due consideration as part of any application, it should be noted that the following principles will apply in all cases:

- The right of any individual or body to apply for a variety of permissions is not undermined and that each application shall be determined on its own merits.
- The statutory right of Responsible Authorities or Interested Parties to make relevant representations or to seek a review of any licence or certificate.

3.5 The licensing regime is primarily concerned with the regulation of persons, premises and temporary events and consequently any conditions will focus on:

- Matters within the control of individual licensees and others who are granted relevant permissions.
- The premises and places being used for licensable activities and the immediate vicinity.
- The direct impact of the activities taking place at licensed premises, on members of the public, living or engaged in normal day-to-day activity in the vicinity of the licensed premises.

3.6 In undertaking its statutory licensing function, each Licensing Authority may have regard to:

- Section 17 of the Crime and Disorder Act 1998 and the requirement that a local authority do all that it reasonably can to prevent crime and disorder in its locality.
- The European Convention on Human Rights, which is given effect by the Human Rights Act 1998, places a duty on public authorities to protect the rights of individuals in a variety of circumstances.
- Health and Safety at Work Regulations 1999
- Health and Safety at Work etc Act 1974
- Environmental Protection Act 1990
- Disability Discrimination Act 1995
- Regulatory Reform (Fire Safety) Order 2005
- The Anti-social Behaviour Act 2003
- The Local Authorities (Alcohol Consumption in Designated Public Places Regulations) 2001
- Violent Crime Reduction Act 2006
- The Health Act 2006
- The Clean Neighbourhoods and Environmental Act 2005

Where existing law already places statutory obligations on applicants the Licensing Authority will not impose the same or similar duties by way of condition.

3.7 The Licensing Authority will seek to discharge its responsibilities identified by other Government Strategies, so far as they impact on the objectives of the Licensing Act. Examples of these Strategies are set out below:

- In accordance with Guidance, the Licensing Authority will seek to establish a Safe Scheme, so that proper liaison and partnership working with all relevant stakeholders will ensure that appropriate Action Plans for Tackling Alcohol Related Crime, Disorder and Nuisance are in place.
- Safer Clubbing
- Local Authorities Coordinators of Regulatory Services and Trading Standards Institute Code of Best Practice on Test Purchasing.
- Alcohol Harm Reduction Strategy
- Crime and Disorder Reduction Strategy
- Enforcement Concordat

3.8 The Licensing Authority would also draw attention to initiatives that are relevant to licensing, for example:

- *Proof of Age Schemes - It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes it may be necessary to require a policy to be established at certain licensed premises requiring the production of 'proof of age' before such sales take place. It is expected that where such a policy apply, the premises will request the production of a photo-driving licence, passport or any recognised proof of age document. The Licensing Authority and North Wales Police endorse the current 'Challenge 21' and 'Challenge 25' policies which have been adopted by many licensed premises, and consider it to be an extremely beneficial approach in dealing with problems of underage drinking.*
- CCTV coverage of town centres
- Exclusion Orders from town centres
- Safer Clubbing Guide
- *Pub Watch / Off Watch -The Licensing Authority and North Wales Police recognise that in order for such schemes to achieve maximum impact and success that they provide appropriate and relevant support and guidance at all times. Where alcohol is supplied, licence holders are expected to actively participate, support and adhere to any such schemes and decisions borne out of such initiatives.*
- *Think Safe / Drink Safe (Coordinated by the Licensing Authority in consultation with the Police and other relevant stakeholders)*
- *Best Bar None –The Licensing Authority is committed to facilitating this scheme with a view to providing an incentive for licence holders to raise and improve standards.*
- *Purple Flag – The Licensing Authority recognises that this scheme provides an excellent incentive for improving the late night economy.*

3.9 The objective of the licensing process is to allow the retail sale of alcohol and the provision of licensable activities in a manner that ensures the public's

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safety and which is neither to the detriment of residents, nor gives rise to loss of amenity. It is the Licensing Authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of their premises on local residents.

- 3.10 In accordance with Guidance, the Licensing Authority does not regard this Policy as a mechanism for the general control of anti-social behaviour by individuals once they have left the immediate vicinity of the club, business or licensed premises holding the relevant licence, certificate or permission.
- 3.11 Following Relevant Representations the Licensing Authority will only depart from this Policy, if the applicant provides satisfactory evidence / information that the Licensing Objectives will be met in full. In cases where a departure occurs, the Licensing Authority shall as part their decision making process provide reasons for the departure.
- 3.12 The Licensing Authority may select appropriate conditions from the Department of Culture, Media and Sport pool of Conditions, where it is deemed necessary when considering the content of the Operating Schedule in ensuring that it reflects the four Licensing Objectives. This Policy applies to:
- **Premises Licence**
 - **Club Premises Certificate**
 - **Temporary Event Notice**

4

Planning

- 4.1 Any premises for which a licence is required should have an authorised use under the planning legislation.
- 4.2 Welsh Assembly planning policy is set out in Planning Policy Wales and associated Technical Advice Notes.
- 4.3 Conwy County Borough Council Planning Policies are set out in the Clwyd Structure Plan Second Alteration, Gwynedd Structure Plan, Colwyn Structure Plan and Llandudno Conwy District Plan (to be superseded when the Draft Conwy Local Development Plan is adopted).
- 4.4 Denbighshire County Council's planning policies are set out in the adopted Unitary Development Plan UDP. New planning policy issues for the Council will be contained in the emerging Local Development Plan (LDP) as it goes through the various stages towards full adoption, which is unlikely to be before 2011.
- 4.5 The Snowdonia National Park is the Local Planning Authority for those parts of Conwy County Borough within the National Park. Their planning policies are currently set out in the Eryri Local Plan, adopted in 1999. A Unitary Development Plan will eventually replace this.

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- 4.6 Planning permission for an entertainment use, for example may cover activities that can have a wide range of different impacts in the locality. The precise nature of the impacts of the specified activities proposed by an applicant for a premises licence is a matter for the Licensing Authority and this will need to be considered when the application is made.
- 4.7 The Licensing Authority expects each applicant to have already gained planning consent in respect of the application and must submit details (which should include details of any restrictions that may have been imposed), so as to avoid any unnecessary duplication.
- 4.8 The Licensing Authority recognises that in certain circumstances it may be necessary to consider and determine an application that does not have authorised use under planning legislation. In such cases, it may be appropriate for the applicant to invite the Licensing Authority to limit the 'life' of the Premises Licence if, for any reason, planning permission were not forthcoming.
- 4.9 There may be circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. The Licensing Authority will endorse any licence to this effect, where this might apply.
- 4.10 Proper integration shall be assured by the Licensing Authority and Committee where appropriate to provide reports to the Planning Committee regarding the situation surrounding Licensed Premises in the area, including the general impact of alcohol related crime and disorder. The Planning Committee having regard to such matters when making any decisions will prevent any unnecessary overlap between the Licensing and Planning functions.

Building Control

- 4.11 It should be borne in mind that Building Regulations govern a variety of issues, which directly contribute to the Licensing Objectives, including means of escape, structural integrity, accessibility and public safety. Building Regulation Approval and Completion Certificates may be required prior to the use of the premises for licensable activities.

5 Prevention of Crime and Disorder

- 5.1 The Licensing Authority will have regard to the Crime and Disorder Act 1998, under which it has a duty to prevent/reduce crime and disorder in the area. Any Conditions attached to Premises Licence or Club Premises Certificate should reflect any local crime prevention strategy or initiative. In accordance with Guidance, measures such as the installation of CCTV, utilisation of SIA Registered Door Supervisors and participation in a Pub Watch or Off Watch scheme at certain premises might be necessary in order to meet with and promote the Licensing Objectives.
- 5.2 One of the key priorities of the Community Safety Strategy is to reduce the level of crime in specified areas. Therefore, this Policy will have regard to the

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likely impact of licensing on related crime and disorder in these areas. Particularly when considering the location, impact and the operation and management of all proposed licence applications and variations of conditions.

5.3 The Licensing Authority will give due regard and apply appropriate weight to:

- Relevant Representations
- Guidance issued under Section 182 of the Licensing Act 2003
- Statement of Licensing Policy
- The steps necessary to promote the Licensing Objectives

Safer Clubbing

5.4 The Licensing Authority wishes to promote the principles of 'Safer Clubbing'. It will recommend the current Home Office Guidance on the subject to relevant Premises Licence and Club Premises Certificate holders. If its discretion is engaged, appropriate licensing conditions may be imposed to control the environment at relevant premises in support of the 'Safer Clubbing' objectives.

Drugs

5.5 Following Relevant Representations, conditions may need to be imposed for certain types of venues to reduce the possibility of sale and consumption of drugs and to create a safer environment for those who may have taken them. These conditions will take into account the above-mentioned "Safer Clubbing" advice issued by the Home Office. In all cases where conditions are to be imposed, advice will be sought from the local Substance Misuse Action Team and North Wales Police.

5.6 The Licensing Authority, Police and Licensees need to be aware that following its commencement on 20 January 2004, power is available under the Anti-Social Behaviour Act 2003 which allows for the closure of a licensed premises by the Police where there is production, supply or use of class A drugs and / or serious nuisance or crime and disorder. This provides an extra tool to the Police in enabling instant action with regards to premises where there is a Class A drug problem.

Door Supervisors

5.7 The Security Industry Authority (SIA) plays an important role in preventing crime and disorder by ensuring that door supervisors are properly trained and licensed. Specific enquiries or premises visits may occur in order to ascertain that SIA Licenses are being executed in the correct manner and not as a tool for crime and disorder such as fronts for serious and organised criminal activity. Intelligence led operations by the SIA, Licensing Authority, and / or North Wales Police will be conducted without notice.

5.8 If its discretion is engaged, the Licensing Authority may consider that certain premises require supervision for the purpose of promoting the reduction of crime and disorder, and to generally provide a safer operation of the premises. In such cases licensed door supervisors (registered by the SIA) must be employed at the premises either at all times or at such times as certain licensable activities are taking place, at a number and ratio to be determined by the Licensing Authority. (This excludes stewards / glass collectors who are not involved in the security of the premises and do not therefore require to be registered with the SIA).

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CCTV

- 5.9 Licence Holders may wish to install cameras for the protection of staff, customers and for the prevention of crime on or in the vicinity of the premises. If its discretion is engaged, the Licensing Authority may for the purpose of promoting of any of the Licensing Objectives, impose as a condition of licence the installation of a CCTV system. It should be noted that in such cases the Licensing Authority may take into account the type and quality of recordings, the location of cameras, storage and the availability of recordings to the Licensing Authority and Police.

6

Public Safety

- 6.1 The Licensing Authority wishes to promote high standards of public safety in relation to premises and activities within the scope of the Licensing Act 2003.
- 6.2 The Licensing Authority recognises that the Public Safety Objective is concerned with the physical safety of the customers using the relevant premises and not with Public Health – this is dealt with by other legislation.
- 6.3 The relevant officers of the Council who enforce Health and Safety requirements, together with Licensing Officers, may act as Authorised Persons for enforcement purposes under the Licensing Act 2003.
- 6.4 Following Relevant Representations, where the Licensing Authority considers that general health and safety duties do not adequately cover certain licensable activities, conditions may need to be attached to the licence to ensure public safety.
- 6.5 Where activities are organised by volunteers or a committee of a club or a society the Licensing Authority considers it good practice that the same level of Health and Safety protection is provided as if an employer / employee relationship existed, irrespective of whether there are strict legal duties applicable under Health and Safety legislation.
- 6.6 Where any conditions have been applied to a Premises Licence or Club Premises Certificate an Authorised Officer of the Council may inspect the premises at any reasonable time for the purpose of checking that the conditions are being complied with.

Fire Safety

- 6.7 The Licensing Authority will have due regard to the representations of North Wales Fire and Rescue Service regarding licensing applications.
- 6.8 Following Relevant Representations, the Licensing Authority may impose necessary and appropriate conditions in relation to fire safety matters in consultation with North Wales Fire and Rescue Service.
- 6.9 The Regulatory Reform (Fire Safety) Order 2005 repealed previous Fire Safety Legislation. The Licensing Authority will not seek to impose fire safety conditions where an Order applies, but would expect all licence holders to comply fully with this important legislation.

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- 6.10 The Licensing Authority will include on a Premises Licence or Club Premises Certificate an occupant capacity condition where there is a genuine fear or a genuine problem with overcrowding and it is considered necessary for public safety. This figure will be arrived at in consultation with North Wales Fire and Rescue Service. If a Fire Certificate already exists in relation to the premises and specifies an occupant capacity, that figure will be used.
- 6.11 Where the special provisions of Section 177 of the Act (dancing, amplified and unamplified music in premises with a capacity of no more than 200 persons) are utilised, the Licensing Authority reserves the right to confirm with the North Wales Fire and Rescue Service the safe capacity of the premises.

7 Prevention of Public Nuisance

- 7.1 If its discretion is engaged the Licensing Authority, when making objective judgments about what constitutes a nuisance in respect of an application or review of a premises licence or certificate, will take a broad common law meaning when considering matters such as:
- Noise from premises
 - Waste
 - Litter
 - Car Parking
 - Light pollution
 - Noxious odours
- 7.2 In considering the potential impact of licensed premises on the surrounding locality the Licensing Authority, when in receipt of any Relevant Representations will take into account the type of entertainment activity, proposed hours of operation, the capacity of the premises, the character of the area and the proximity to local residents.
- 7.3 In order to enforce the provisions of the Environmental Protection Act 1990, which relate to noise nuisance, joint working procedures and protocols between the Police, Environmental Health Officers and Licensing Officers will ensure that adequate control measures are properly used to protect the local environment.
- 7.4 If its discretion is engaged, the Licensing Authority will use the Department of Culture Media and Sport's (DCMS) pool of licence conditions to control noise from existing premises and to advise developers on the required noise attenuation for new premises (*reference may be made to the 'Good Practice Guide on the Control of Noise from Pubs and Clubs'*). Stricter conditions with regard to noise control may be required in areas where the premises are adjacent to residential property.
- 7.5 The Department of Environment, Food and Rural Affairs (DEFRA) report entitled 'Implications for Noise Disturbance Arising from the liberalisation of Licensing Laws' may also be taken into account.
- 7.6 The Licensing Authority will not impose conditions on licensed premises that the licensee cannot directly control, or on matters not related to the immediate vicinity of the premises.

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- 7.7 North Wales Police also have powers under the Licensing Act 2003 to control noise from premises. In the event that they have to invoke these powers they should liaise, where practicable, with a Licensing Enforcement Officer in accordance with the enforcement protocol.
- 7.8 If it is considered that the noise emanating from within the curtilage of a licensed premises is causing a public nuisance, under the provisions of the Anti-Social Behaviour Act 2003, an Authorised Officer can require its immediate closure for a period of up to 24 hours. It should be noted that the 'test' is a lesser one than that required to determine a Statutory Noise Nuisance and the statutory defence of 'best practicable means' is not available.

8 Protection of Children from Harm

- 8.1 Protection of Children from Harm includes the protection of children from moral, psychological and physical harm. The key element is to protect children from premature exposure to strong language and sexual expletives.
- 8.2 The Licensing Authority recognises the great variety of premises for which licenses may be sought. These include; theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-aways, community halls and schools.
- 8.3 The Licensing Act does not prevent children having free access to premises selling alcohol for consumption on those premises, although the Licensing Authority when in receipt of Relevant Representations may impose conditions restricting the access of children to premises, where it is considered necessary for the prevention of harm to children. Where there are matters that give rise to serious concerns and the restriction of access may not ensure adequate protection of children from harm, children should be excluded. Examples of what may give rise to these concerns include:
- Where there have been convictions for serving alcohol to minors or where the premises has a reputation/evidence for underage drinking (to include any action undertaken regarding test purchases in relation to the supply of alcohol).
 - There is a known association with drug taking or dealing
 - There is a strong element of gambling on the premises
 - Entertainment of an adult or sexual nature is provided

The Licensing Act 2003 makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises used exclusively or primarily for the supply of alcohol for consumption on those premises.

The Licensing Act 2003 provides an exemption relating to 16 and 17 year olds consuming beer, wine and cider in the company of adults during a table meal)

- 8.4 Where Relevant Representations have been received and it is considered necessary that the access of children should be restricted to protect them

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from harm then conditions may be attached to the licence. These may include:

- Limitation on the hours when children may be present
- Restrictions to the age of persons on a premises (eg to over 18's only)
- Restrictions on access to certain parts of the premises
- Limitations or exclusions when certain activities may take place
- Require an accompanying adult to be present at all times

8.5 Where large numbers of children are likely to be present on any licensed premises, for example a children's show or pantomime, then the Licensing Authority may require the presence of an appropriate number of adult staff (who will have provided a satisfactory Criminal Records Bureau Disclosure) to ensure their safety and protection from harm. The exact ratio is to be assessed against each particular application and is dependent on the type and size of the premises and the control measures in place as outlined within the operating schedule, and importantly the particular group of children likely to visit the premises in question.

8.6 The Licensing Authority will not impose conditions that specifically require that children have access to premises, and where no conditions or restrictions apply, the access of children to any premises still remains a matter of the discretion of the individual premises.

Cinema Exhibitions

8.7 Where the exhibition of films is permitted the Licensing Authority will expect age restrictions to be complied with in accordance with the British Board of Film Classifications recommendations. *Only in exceptional cases will the authority consider variations of this general rule.*

8.8 In considering applications, the Licensing Authority will take into account any evidence that age restrictions for cinema exhibitions have not been adhered to.

8.9 No film shall be exhibited at a licensed premises which is likely to:

- Lead to disorder
- Incite hatred or violence towards any section of the public on grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender.

9

Cumulative Impact

9.1 The Licensing Authority does not consider that there are areas where Cumulative Impact occurs presently nor is there a need at this time for the Licensing Authority to adopt a special policy relative to designating 'Stress Areas'.

9.2 Where there is a concentration of licensed premises this can lead to serious problems of nuisance and disorder arising in the area itself and even some distance away from the premises. In such circumstances the impact of those premises when taken as a whole can be far greater than that arising from individual premises and it may not be possible to distinguish individual

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premises as being the sole cause, or even a major contributing factor, of a particular problem. It is the CUMULATIVE IMPACT of all of the premises, which causes problems for the wider area.

9.3 It is clear however, that the vicinity within which licensed premises are or may be located is a major consideration in determining whether a licence should be granted and what conditions should be attached to it should representation be received. Due consideration will be given to the direct impact of the operation of the premises on members of the public living, working or engaged in normal activity in the vicinity of the premises.

9.4 The Guidance states that the Licensing Act is not a mechanism for the general control of the anti-social behaviour of patrons once they have left licensed premises. Other mechanisms outlined in Section 3 of this Policy should be utilised.

Note: *“Cumulative Impact” should not be confused with the issue of ‘need’, which relates to commercial demand for licensed premises. ‘Need’ is not a matter to be taken into account by the Licensing Authority.*

9.5 Where a particular area becomes saturated with licensed premises making it a focal point for large groups of people to congregate, this might create exceptional problems of disorder, noise and other nuisance and in such circumstances the grant of further Premises Licences or Club Premises Certificates may undermine the Licensing Objectives.

9.6 Notwithstanding these concerns each application has to be considered on its own individual merits. Where an objector is seeking to establish that the grant of a licence or certificate would result in a cumulative impact which undermines one or more of the Licensing Objectives, the following shall apply:

Objections on the grounds of Cumulative Impact

9.7 In cases where objectors seek to establish that an application should be refused on the grounds that it would result in or further contribute to cumulative impact which would undermine one or more of the Licensing Objectives the objector shall:

- Identify the boundaries of the area from which it is alleged problems are arising.
- Provide full details and evidence as to the seriousness of the nuisance and disorder caused in the area.
- Identify the licensing objective(s) which it is alleged will be undermined with specific regard to:
 - The occupancy figure for the proposed premises
 - The nature of the licensed activity to be carried on at the premises and its patrons.

Identifying Stress Areas

9.8 Where as a result of an objection under paragraph 9.6 above and the Licensing Authority is satisfied that there is a serious or chronic concern about nuisance and disorder in a particular area and has refused an application on the grounds of Cumulative Impact the area shall be declared as a ‘Stress Area’. In doing so the Licensing Authority shall:

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- Follow the statutory procedures outlined within Guidance issued under Section 182 of the Licensing Act 2003.
- Identify the boundaries of the area
- Identify the licensable activities causing the nuisance and/or disorder
- Monitor and review the 'Stress Area'

Applications for a New Premises Licence in a Stress Area

9.9 New premises licenses will not be granted for the activities identified as causing nuisance and/or disturbance in Stress Areas except where:

- No objections are received to the application, or
- The grant of the licence will not undermine the Licensing Objectives.

9.10 In considering such applications the Licensing Authority will have particular regard to:

- The occupancy figure for the proposed premises.
- The proximity of the premises to others in the Area licensed for similar activities and the occupancy figures for those other premises.
- Whether the proposed premises will act as a replacement for others in the Area that no longer has a licence.
- The proposed methods of management outlined in the applicants' operational plan.
- The proposed hours of operation.
- Transport provision for the Area.

Existing Premises Licenses in Stress Areas

9.11 The above factors cannot be used as a justification for removing an existing licence. If representations are received about existing licensed premises relating to matters other than cumulative impact and which undermine the Licensing Objectives then appropriate action may be taken.

Applications for variations to existing Premises Licenses in Stress Areas

9.12 Applications for variations to existing Premises Licenses in Stress Areas will not be granted unless those modifications directly affect the issue of Cumulative Impact in the Stress Area or otherwise undermine the Licensing Objectives (An example of where a modification may directly affect the issue of cumulative impact would be where an application was received to extend the premises and significantly increase the occupancy level of the premises).

10 Applications for New Grants and Variation of existing Terms and Conditions

10.1 In the absence of any Relevant Representations in respect of any application made to the Licensing Authority, it is the duty of the Authority to grant the licence or certificate subject only to conditions that are consistent with the Operating Schedule, and any Mandatory Conditions prescribed in the Licensing Act 2003. This will also apply to any applications made in respect of premises within an identified Stress Area.

10.2 In considering all new or variation applications, if not volunteered by the applicant in their Operating Schedule and following Relevant

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Representations, the Licensing Authority will assess them in light of the Licensing Objectives and may consider any of the following:

- 10.2.1 The steps the applicant has taken or proposes to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies or sound limitation devices.
 - 10.2.2 The steps the applicant has taken or proposes to prevent disturbance by patrons arriving at or leaving the premises.
 - 10.2.3 The steps the applicant has taken or proposes to take to prevent queuing, or, if queuing is inevitable, to divert queues away from neighbouring premises, or otherwise to manage the queue to prevent disturbance or obstruction.
 - 10.2.4 The steps the applicant has taken or proposes to ensure staff leave the premises quietly.
 - 10.2.5 The arrangements made or proposed for parking by patrons, and the effect of parking on local residents.
 - 10.2.6 Whether there is sufficient provision for public transport for patrons.
 - 10.2.7 Whether taxis and private hire vehicles serving the premises are likely to disturb local residents.
 - 10.2.8 Whether routes to and from the premises on foot or by car or service or delivery vehicles pass residential premises.
 - 10.2.9 Whether other measures to prevent nuisance have been considered, such as the use of CCTV or the employment of SIA registered door supervisors.
 - 10.2.10 The measures proposed to prevent the consumption or supply of illegal drugs, including any search procedures.
 - 10.2.11 Where necessary and appropriate, the measures proposed to comply with Disability Discrimination legislation.
 - 10.2.12 The likelihood of any violence, public disorder or policing problem arising if a licence was to be granted.
 - 10.2.13 If the applicant has previously held a licence within the County Borough or County, the details of any enforcement action arising from that premises.
 - 10.2.14 Whether the premises would result in increased refuse storage or disposal problems, or additional litter in the vicinity of the premises.
- 10.3 The Licensing Authority will take into account any non-compliance of other statutory requirements brought to its attention. Particularly where these undermine the Licensing Objectives, as non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the

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activities proposed or that the management of the premises is not adequate to protect the public from harm or nuisance.

- 10.4 Whether any appropriate measures have been put into effect by the applicant to mitigate any adverse impacts.

11 Operating Schedule

- 11.1 The Licensing Authority is committed to partnership working with licence/certificate holders, North Wales Police, other Responsible Authorities, and Interested Parties to ensure collectively that the statutory objectives are met and promoted.
- 11.2 As Operating Schedules must contain sufficient information so that a proper assessment of the application can be made, it would seem sensible that applicants should seek appropriate advice before submitting any application. There by reducing the possibility of disputes, Relevant Representations and / or the necessity of a Hearing. Where necessary the Licensing Authority might request a risk assessment from the Partnership Crime Analyst to ensure that any application received promotes the licensing objectives.
- 11.3 Guidance notes will be provided to all those making applications. This will provide recommendations and suggestions that applicants or licence holders may adopt as part of the Operating Schedule.
- 11.4 The Licensing Authority will expect individual applicants to address the Licensing Objectives in their Operational Plan having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 11.5 Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies and local crime prevention initiatives and to have taken these into account where appropriate when formulating their Operational Plan.
- 11.6 The steps identified within an Operating Schedule that deal with and promote the Licensing Objectives, will form part of the licence conditions attached to any relevant licence, certificate or notice.
- 11.7 Where any control measure(s) is/are not relevant in respect of particular premises or activities, there is no particular requirement for them to be mentioned in the Operating Schedule.

12 Hours of Operation

- 12.1 The Licensing Authority recognises that fixed and artificially early closing times in certain areas can lead to disorder and disturbance on the streets where large numbers of people tend to leave licensed premises at the same time.
- 12.2 The Licensing Authority in accordance with Guidance will aim, by means of longer licensing hours, to achieve a gradual dispersal of people leaving

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licensed premises. Fixed pre-determined closing times for particular areas will not form part of the Policy and restriction on trading hours will only be considered on receipt of Relevant Representations, in order to meet with and promote the Licensing Objectives.

- 12.3 Shops, stores and supermarkets will be permitted to sell alcohol for consumption off premises at times when they are normally open in the course of their business. Hours may be restricted when representations are received from the Police or resident(s) in the case of individual shops, which are known to be a focus of disorder and disturbance.
- 12.4 When considering applications for Premises Licences and Club Premises Certificates, the Licensing Authority will take into account applicants requests for terminal hours (the close of business) in the light of the:
- Residential amenity
 - Character or function of a particular area
 - Nature of the proposed activities to be provided at the premises
- 12.5 Terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect any of the above. If its discretion is engaged, the Licensing Authority may set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area.
- 12.6 Where premises are situated adjacent to residential areas then stricter conditions with regard to noise control may apply, but this should not limit opening hours provided the required conditions are complied with. In considering this, it should be borne in mind that the times that the premises are open are not necessarily the times when a licensable activity might take place.
- 12.7 Although the Licensing Authority will not seek the holder of a Premises Licence or Club Premises Certificate to remain open for the entire period permitted, premises should advertise the core hours that they do intend to operate, so that visitors and tourists to the area have the benefit of this knowledge before arranging a visit.

13

Enforcement and Review

- 13.1 It is the intention of the Licensing Authority to establish and maintain both proactive and reactive enforcement protocols with the North Wales Police and other enforcement agencies. Proportionate targeting of agreed problem and high-risk licensed activities needing greater attention and a corresponding lighter touch for well run, lower risk premises in the area will be applied.
- 13.2 The Review of licences or certificates provides a key protection for the community where the Licensing Objectives are not being met in full. It is the existence of the Review system, which should allow the Licensing Authority to apply a light touch bureaucracy to the grant or variation of a licence or certificate, when problems relating to the Licensing Objectives arise later in respect of any premises.

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- 13.3 A review may be initiated by a Responsible Authority or Interested Party. The Licensing Authority shall refer to Guidance when assessing whether any Relevant Representations from Interested Parties are irrelevant, vexatious, frivolous or repetitious.
- 13.4 Authorised Persons and Responsible Authorities will be expected to be able to demonstrate in particular cases, that warnings and advice has been ignored before any decision is made to instigate a Review of the licence or certificate.
- 13.5 Although the 2003 Act does not require premises inspections to be undertaken, they will take place at the discretion of the Licensing Officers charged with this role and will take place if judged necessary. Premises recognised as 'high risk' will be subject to regular inspection. This will ensure that the Licensing Authority manages resources efficiently and 'effective enforcement' is directed at 'problem premises'.
- 13.6 Where necessary, enforcement action will be taken in accordance with the Regulatory Services Enforcement Policy and any Memorandum of Understanding. The Licensing Authority has also established protocols with the North Wales Police and other Responsible Authorities on enforcement issues to provide for an efficient deployment of local authority staff and Police Officers who are commonly engaged in the enforcement of Licensing law and the inspection of licensed premises.
- 13.7 Clear and concise flowcharts (attached at Appendix 'A') have been developed by the Licensing Authority and Responsible Authorities which will be followed in the event of a complaint being made or a problem premises being identified. This will be followed in all circumstances to ensure continuity and fairness to all Licence holders.

14

The Licensing Process

Conditions of Licence

- 14.1 The Licensing Authority will, as far as it is reasonably practicable, avoid imposing disproportionate and over burdensome conditions on premises unless it is considered necessary to do so.
- 14.2 If its discretion is engaged the Licensing Authority may refer to the model pool of conditions issued by the Department of Culture, Media and Sport (DCMS) and attach conditions as appropriate given the circumstances of each individual case. The model conditions will deal with issues surrounding:
- Crime and disorder
 - Public safety
 - Fire safety
 - Public nuisance
 - Protection of children from harm
- 14.3 When attaching conditions the Licensing Authority will also be aware of the need to avoid measures, which might deter live music, dancing or theatre by imposing indirect costs of a substantial nature.

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- 14.4 The Licensing Authority acknowledges the advice received from DCMS that the views of vocal minorities should not be allowed to predominate over the general interests of the community.

Temporary Event Notices/Large Scale Events

- 14.5 The Licensing Authority will provide advice about, among other things, public safety. Organisers of temporary / large scale events will be encouraged to seek advice/information from their local Safety Advisory Groups.
- 14.6 Legislation states that a minimum of ten working days notice should be given to the Licensing Authority of temporary events. 'Working day' excludes Saturday, Sunday, and Bank Holidays.
- 14.7 The Licensing Authority acknowledges that in exceptional circumstances, some Temporary Events may and do have an impact upon crime and disorder. Therefore, in cases of large scale events, organisers should consider providing as much notice as is possible. The Licensing Authority considers two months notice to be advisable in relation to such events.
- 14.8 In relation to Temporary Events applicants should consider giving at least 28 days notice, as this would where necessary, enable District Inspectors to re-allocate staff or possibly obtain extra resources to cover the event.
- 14.9 Although the Licensing Authority is unable to attach any limitations or restrictions in respect of Temporary Events, it fully expects organisers to give due consideration to local residents and those attending events, in areas such as:
- Health and Safety
 - Noise Pollution
 - Use of Temporary Structures
 - Road Closures
 - Use of Pyrotechnics or Fireworks
 - Controlling Anti-Social Behavior
- 14.10 The Licensing Authority may advise applicants to consult with North Wales Fire and Rescue Service and the Ambulance Service for guidance with regards to assessing possible risks.
- 14.11 Applicants will also be reminded that giving a Temporary Event Notice does not relieve the premises user from any planning law for the appropriate planning permission where it is required.

15

Delegation and Decision Making

- 15.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated at an appropriate level to ensure an efficient and cost effective service.
- 15.2 The Licensing Authority is committed to the principle of delegating its powers to ensure that these objectives are met and has arranged for its licensing functions to be discharged in accordance with the Guidance issued by the Secretary of State.

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- 15.3 The Act itself creates a presumption that applications will be granted unless a Relevant Representation (objection) is raised. Where a function is delegated to an officer that officer will be responsible for liaising between the applicants, Interested Parties and the Responsible Authorities to ensure that any licence granted is subject any agreed or mandatory conditions.
- 15.4 Where objections are made then an officer of the Licensing Authority may liaise with the applicant, Interested Parties and the Responsible Authorities to see if a 'settlement' is possible to overcome any objections, without the need for the matter to go before the Committee or Sub Committee. Only where objections are raised which cannot be reconciled will matters be referred through to either the Sub Committee or the Full Committee for determination.
- 15.5 Whilst contested Licensing Applications and Review Hearings are quasi judicial in nature the (Sub) Committee will try to keep the proceedings as informal as possible. Some degree of formality is needed to ensure that all parties receive a fair hearing. Procedural requirements will be established to ensure that all parties are able to express their views openly and fairly. The (Sub) Committee procedure is inquisitorial rather than adversarial and, whilst applicants, Interested Parties, and Responsible Authorities are entitled to bring legal representation with them if they wish, this is by no means a requirement, or a necessity.
- 15.6 Whilst the (Sub) Committee usually meets in public, it does have power to hear certain applications in private. The Committee, however, will always reach its decision in private. A public announcement of the decision is normally made at the end of the Hearing together with an outline for of the reasons for that decision.

16

Exclusions

- 16.1 In formulating this Statement of Licensing Policy in accordance with Guidance and recognising the need to treat each application on its individual merits the Licensing Authority makes specific exclusions, which are detailed below.

Commercial Demand

- 16.2 The commercial demand for additional premises licenses (as distinct from cumulative impact) will not be a matter for the Licensing Authority, such matters being a specific consideration for the Planning Authority.

Zoning and licensing hours

- 16.3 Fixed predetermined closing times for particular areas will not form part of the Policy and restriction on trading hours will be considered only where necessary to meet the Licensing Objectives.
- 16.4 All residents living in the vicinity of any licensed premises have equal rights to make representations concerning applications for premises licenses (and hours of trading) and to receive appropriate consideration to their representations. Irrelevant, frivolous and vexatious representations will be disregarded.

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Children

- 16.5 Nothing in this Statement of Policy shall limit or require access of children to premises unless there is an overriding necessity to prevent harm to children. Areas that will give rise to particular concern are highlighted elsewhere in this Policy.

Standardised Conditions

- 16.6 The Policy does not provide for 'standard conditions' to be imposed so as to avoid the imposition of disproportionate and burdensome requirements. Conditions attached to licenses or certificates if deemed necessary in particular circumstances will be tailored to reflect the individual operation of the premises in question. Conditions will not be imposed which are beyond the responsibility or control of the licence holder.

17

Consultation

- 17.1. In reviewing this Policy the Licensing Authority has consulted widely to ascertain an appropriate licensing framework for its area. Various bodies have been consulted, including:

- North Wales Police
- North Wales Fire and Rescue Service
- Current licence holders
- Representatives of the local licensing trade
- Representatives of local businesses and residents

- 17.2. In addition the Licensing Authority has also consulted:

- Community Safety Partnership
- County Borough and County Councillors
- Town and Community Councils
- Council officers

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Conwy County Borough Council and Denbighshire County Council welcomes any comments upon any aspect of the Statement of Licensing Policy.

Please direct any comments or suggestions to:

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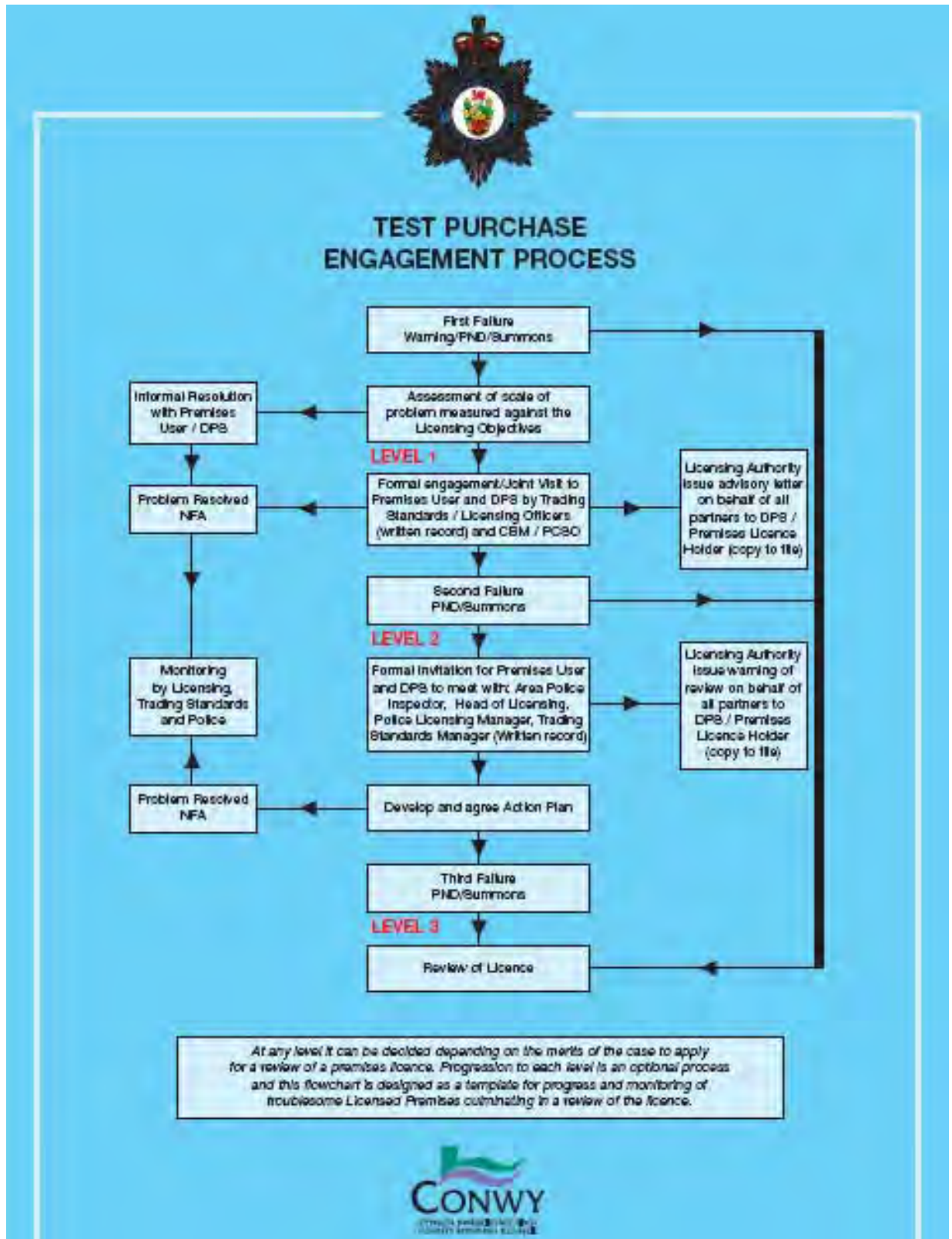
Telephone: 01492 576626

www.conwy.gov.uk/licensing

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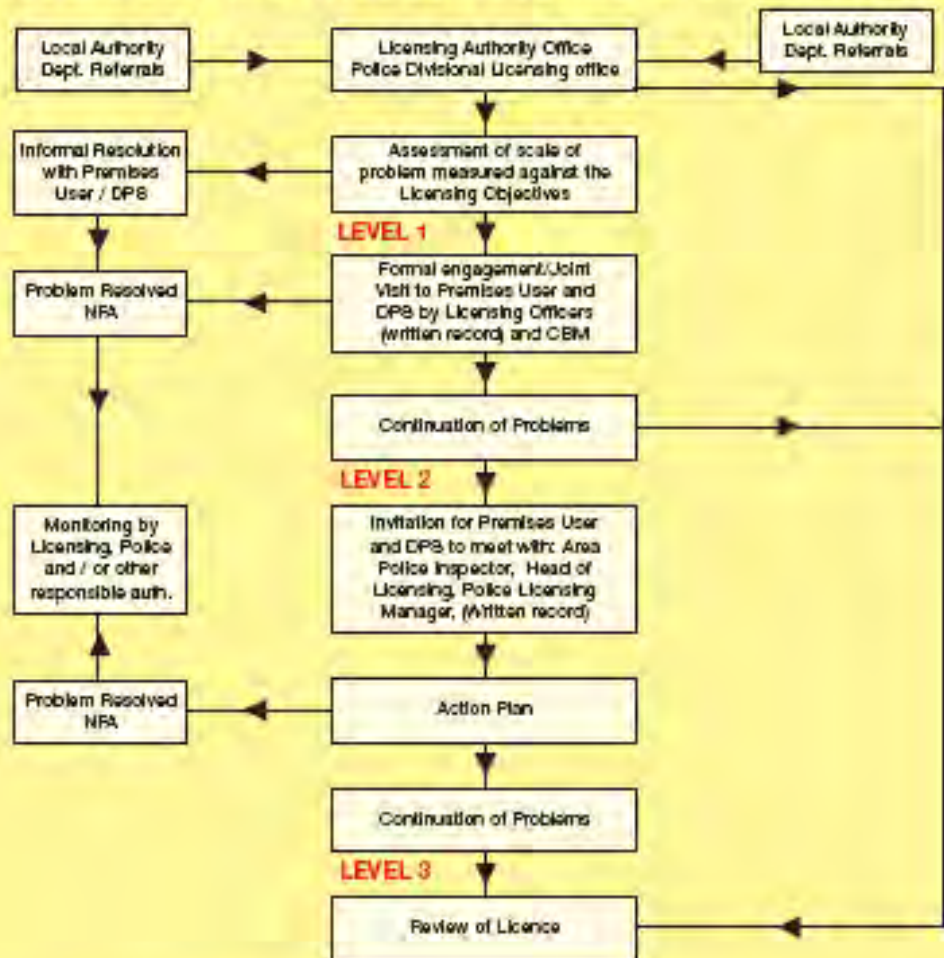
Delegation of functions

Matter to be dealt with	Committee	Sub Committee	Officers
Application for personal licence		If a representation made	If no representation Made
Application for personal licence with unspent convictions		All cases	
Application for premises licence / club premises certificate	If representation relates to Cumulative Impact	If a representation is made	If no representation is made
Application for provisional statement	If representation relates to Cumulative Impact	If a representation is made	If no representation is made
Application to vary premises licence / club premises certificate	If representation relates to Cumulative Impact	If a representation is made	If no representation is made
Application to vary designated personal licence holder		If a police representation is made	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police representation is made	All other cases
Applications for Interim Authorities		If police representation	All other cases
Application to review premises licence / club premises certificate		All cases	
Decision on whether a complaint 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 to a temporary event notice		All cases	





LICENSED PREMISES REVIEW PROCEDURE INCORPORATING PROBLEM SOLVING GROUP APPROACH



At any level it can be decided depending on the merits of the case to apply for a review of a premises licence. Progression to each level is an optional process and this flowchart is designed as a template for progress and monitoring of troublesome Licensed Premises culminating in a review of the licence.

