

# HIGH PEAK BOROUGH COUNCIL

# LICENSING POLICY 2010

High Peak Borough Council  
Regulatory Services  
Buxton Town Hall  
Market Place  
Buxton  
SK17 6EL

0845 129 77 77



**High Peak Borough Council**

[www.highpeak.gov.uk](http://www.highpeak.gov.uk)



<b>INDEX</b>	<b>PAGES</b>
<b>Executive Summary</b>	<b>4</b>
<b>Purpose and Scope of the Licensing Policy</b>	<b>5</b>
<b>The Licensing Authority's approach to applications for premises licences, club premises certificates and temporary event notices</b>	<b>7</b>
<b>Right to make representation</b>	<b>8</b>
<b>Duplication with other Statutory Provisions</b>	<b>10</b>
<b>Crime Prevention</b>	<b>10</b>
<b>Cultural Strategies</b>	<b>11</b>
<b>Live music, dancing and theatre</b>	<b>11</b>
<b>Integrating Strategies</b>	<b>12</b>
<b>Planning</b>	<b>12</b>
<b>Cumulative Impact and Special Policies</b>	<b>13</b>
<b>Licensing Hours</b>	<b>16</b>
<b>Children</b>	<b>16</b>
<b>Conditions</b>	<b>18</b>
<b>Review of a Premises Licence or Club Premises Certificate</b>	<b>19</b>
<b>Enforcement</b>	<b>20</b>
<b>Designated Premises Supervisors and Personal Licence holders</b>	<b>20</b>
<b>Administration, Exercise and Delegation of Functions</b>	<b>21</b>
<b>Promotion of Racial Equality</b>	<b>21</b>
<b>Human Rights Act 1998</b>	<b>21</b>
<b>Contact Details</b>	<b>22</b>
<b>Responsible Authorities</b>	<b>23</b>
<b>Appendix A - delegation of functions and decisions</b>	<b>24</b>
<b>Appendix B – List of Consultees</b>	<b>25</b>

## **1.0 Executive Summary**

- 1.1 Under the provisions of the Licensing Act 2003 (the Act), High Peak Borough Council (the Council) is the licensing authority for the administration and enforcement of the Act and associated orders and regulations within its area.
- 1.2 In exercising its duties and responsibilities under the terms of the Licensing Act 2003, the Council will operate within the statements and procedures mentioned in this policy statement. Notwithstanding this statement, all applications will be treated on their merits and judged accordingly. The Council will have regard to any relevant guidance issued by the Secretary of State in exercising its powers under the Act.
- 1.3 High Peak Borough Council has an overall aim to improve the quality of life in the High Peak. The Council has four main aims around which it has centred its ambitions for the community. These aims are:-
- Supporting people: to promote social inclusion and enable communities and individuals to participate in improving the quality of life in the High Peak.
  - Creating jobs and prosperity: to create a thriving local economy which is responsive to the needs of local communities.
  - Protecting the environment: to enhance the quality of the local and global environment.
  - Improving the Council: to be considered a high-performing Council by our local community, partners and peers.
- 1.4 This policy sets out how the licensing authority will deal with applications made under the Act. It sets out in detail who can make a representation under the Act. The policy contains a clear commitment not to use licensing provisions to duplicate other legislation.
- 1.5 The policy refers to the impact of licensing on cultural strategies and the possible impact on live entertainment. The policy also sets out the licensing authority's approach to integrating licensing with respect to other local plans and strategies, and to cumulative impact and special policies.
- 1.6 The licensing authority's approach to licensing hours and the presence of children on licensed premises is set out. The policy states that standard conditions will not be applied to licences. The policy considers the process of reviewing a premises licence or club premises certificate, and sets out the approach to enforcement.
- 1.7 The Licensing Act 2003 gives the Council additional opportunities to further its four corporate aims. The powers and duties contained within the Act will complement and reinforce the Council's aims. The Council

will be able to build on its existing excellent record of working with and consulting with partners to help to achieve the objectives of the Act.

## **2.0 Purpose and scope of the Licensing Policy**

2.1 The aim of the statement of licensing policy (“the policy”) is to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural industry within the scope of the Licensing Act 2003. In adopting this policy the licensing authority recognises the need to:

- secure the safety and amenity of our communities
- facilitate a safe and sustainable licensed trade that contributes to the economy and vibrancy of the Borough
- reflect the needs of the Borough’s community in relation to its cultural needs and diversity by supporting licensable activities, including live music, dancing, theatre and the other cultural experiences offered by such activities.

2.2 The licensing authority will seek to promote the four licensing objectives contained in the Licensing Act 2003 when carrying out its licensing functions. These objectives are:

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

2.3 The Licensing Act 2003 regulates the following activities:

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club
- The provision of regulated entertainment
- The provision of late night refreshment
- Temporary events

2.4 “Regulated entertainment” means: the performance of a play, film exhibitions, indoor sporting events, boxing or wrestling events, performing live music and playing recorded music (except incidental music), dance performances, and entertainment of similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance

2.5 “Late night refreshment” means: the supply of hot food or hot drink to members of the public on or from any premises at any time between the hours of 11pm and 5am.

- 2.6 The licensing authority recognises that each licence application must be dealt with on its own individual merits, taking into account the four licensing objectives. Unless relevant representations are received from responsible authorities or interested parties (see sections 4.3 and 4.4), the licensing authority cannot impose conditions on a licence other than those proposed within the application. Only conditions which have been volunteered by the applicant or which have been determined at a Licensing Panel hearing can be attached to a licence or certificate. Also, there is no provision for a licensing authority itself to make representations. If no relevant representations are made in respect of an application, the licensing authority is obliged to issue the licence on the terms sought.
- 2.7 The licensing authority will take this statement of licensing policy into account at Licensing Panel hearings held following representations being made to the licensing authority.
- 2.8 The licensing authority recognises that the 2003 Act is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the control of the individual, club or business holding the licence, certificate or permission concerned. The licensing authority will not, therefore, attempt to control such through its exercise of licensing functions. The licensing process can only seek to control those measures within the control of the designated premises supervisor, and “in the vicinity” of the premises. 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 each individual case. The licensing authority will focus primarily 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.
- 2.9 The licensing authority may depart from this policy if the individual circumstances of any case merit such a decision, in the interests of promoting the licensing objectives. Full reasons should be given to justify any departure from this policy.
- 2.10 This Statement of Licensing Policy is the third such statement to be adopted under the provisions of the Licensing Act 2003.
- 2.11 Those persons and bodies who were consulted on this policy are listed in Appendix B. Letters were sent to each consultee inviting comments on the policy. The policy was also placed on the consultations section of the Council’s website. The consultation took place between 11 June and 3 Sept 2010. Due consideration was given to all the responses.
- 2.12 This policy was reviewed between September and November 2010, and the policy will come into force on 7 January 2011.

### **3.0 The licensing authority's approach to applications for premises licenses, club premises certificates and temporary event notices**

- 3.1 The licensing authority recognises that each licensing application must be dealt with on its own individual merits.
- 3.2 Applicants should set out their proposals for addressing the licensing objectives, particularly in their Operating Schedules. These proposals should reflect the necessary safeguards capable of being attached to licences. With respect to underage alcohol sales, the proposals would normally be expected to take into account guidance issued by Derbyshire County Council Trading Standards.
- 3.3 The details provided in the Operating Schedule accompanying any application for a premises licence, club premises certificate or variation thereto represent the key provisions for an applicant to demonstrate to the licensing authority and the responsible authorities the steps he/she intends to take to promote the four licensing objectives. The applicant should provide suitable and sufficient details, based on the licensable permissions he/she seeks and the location, character, condition, nature & extent of the proposed use. A scale plan of the premises should normally be provided.
- 3.4 Any application which is not appropriately made in accordance with the 2003 Act and this policy will not be accepted by the licensing authority. The application will be returned to the applicant and the time-scale contained in the 2003 Act will not begin until an appropriately made application is received.
- 3.5 Nothing in the policy will prevent any person from applying for a variety of permissions.
- 3.6 A temporary event notice must be given to the licensing authority in the prescribed form as set out in section 100 (4) of the 2003 Act in duplicate, together with the fee, and evidence that the notice has also been sent to the police. Applications not made correctly will be rejected.
- 3.7 The 2003 Act stipulates that at least 10 working days notice must be given to the licensing authority before a temporary event is to take place. The licensing authority would encourage applicants for a temporary event notice to give at least 28 days prior notice of the intended event, and preferably longer. The Licensing Authority would prefer not to receive a temporary event notice more than six months prior to the date of the event.

- 3.8 Where applications fall outside the criteria set down in Part 5 of the Act, e.g. the applicant has already served the maximum number of notices for that year, then the licensing authority will serve a counter notice which will prevent the licensable activities at the event from taking place.
- 3.9 If the police object to the notice on the basis that the event would undermine the crime prevention objective, then the licensing authority will hold a hearing to decide whether or not the licensable activities at the event should take place (unless the applicant, licensing authority and police all decide that a hearing is not necessary). The licensing authority must serve a counter notice if it considers it necessary for the promotion of the crime prevention objective.
- 3.10 Applicants should be aware that the serving of a temporary event notice does not remove their obligations under other legislation. The licensing authority recommends that applicants familiarise themselves with their obligations in respect of the following:
- Planning permission
  - Health & Safety
  - Noise pollution
  - The use of pyrotechnics
  - Road closures.

#### **4.0 Right to make representation**

- 4.1 In relation to premises licenses and club premises certificates, the licensing authority must consider relevant representations as part of its determination. Relevant representations can only be made by interested parties or responsible authorities within prescribed time periods. Where the licensing authority is of the opinion that representations are frivolous or vexatious, the 2003 Act prohibits them being considered as relevant representations.
- 4.2 Relevant representations may only relate to:
- matters about the likely effect of the grant of the premises licence or club premises certificate on the promotion of the licensing objectives; or
  - a proposed designated premises supervisor if made by the Chief Constable.
- 4.3 Interested Party means any of the following:
- a person living in the vicinity of the premises;
  - a body representing persons who live in the vicinity;
  - a person involved in a business in the vicinity;

- a body representing persons involved in such businesses;
- a member of the relevant licensing authority. i.e. elected councillors of the licensing authority for the area in which a premises is situated.

4.4 Responsible Authority means any of the following:

- The Chief Officer of Police;
- The local fire and rescue authority;
- The local enforcement authority for the Health and Safety at Work etc Act 1974;
- The local authority with responsibility for environmental health;
- The local planning authority;
- A body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm;
- The local weights and measures authority (trading standards); and
- Any licensing authority, other than the relevant licensing authority, in whose area part of the premises are situated.

In relation to a vessel:

- A navigation authority having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is or is proposed to be navigated at a time when it is used for licensable activities;
- The Environment Agency;
- The British Waterways Board;
- The Secretary of State for Transport, acting through the Maritime and Coastguard Agency;

4.5 In promoting the licensing objectives, the licensing authority will, for reasons of appropriateness and efficiency, refer complaints about licensed premises/club premises/temporary events or licensed individuals to its own appropriate service team (e.g. Health and Safety, Pollution Control) or to another agency (e.g. Derbyshire Constabulary, Derbyshire Fire and Rescue Service) for their consideration, in accordance with any enforcement protocols.

4.6 Councillors may make representations in writing and at a hearing on behalf of interested parties such as a resident or a local business if specifically requested to do so. They can also make representations as an interested party in their own right if they live, or are involved in a business, in the vicinity of the premises in question. Local councillors can also, as elected members of the licensing authority, make representations in their own right if they have concerns about any premises, regardless of whether they live in the area or run a business in the vicinity of the premises. Councillors have a duty to act in the interests of all their constituents. Their role as community advocate

must therefore be balanced with their ability to represent specific interests.

- 4.7 Nothing in this policy will override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.

## **5.0 Duplication with other statutory provisions**

- 5.1 The licensing authority will only impose conditions on premises licences and club premises certificates which are necessary and proportionate for the licensing objectives. If other existing law already places certain statutory responsibilities on an employer or operator of premises (e.g. the Health and Safety at Work etc Act 1974 and the Regulatory Reform (Fire Safety) Order 2005), it cannot be necessary to impose the same or similar duties.
- 5.2 Where other legislation does not cover the unique circumstances of some licensable activities, the licensing authority will consider attaching conditions to premises licences and club premises certificates where these are necessary for the promotion of the licensing objectives.

## **6.0 Crime Prevention**

- 6.1 Conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies. The licensing authority will expect the applicant to detail in the operating schedule the steps he/she proposes to take to ensure the deterrence and prevention of crime and disorder. The following issues are given to assist applicants who may need to comment on them as necessary in their Operating Schedule
- The applicant's intention to engage with recognised local liaison groups, such as pub watch, and/or other groups/organisations (e.g. the licensing authority, Derbyshire Constabulary, the Community Safety Partnership) working to promote the licensing objectives in the Borough. Applicants might express their intention to adopt reasonable safeguards promoted by the recognised groups/organisations e.g. music wind-down at the end of the night, restrictions on "happy hours", barring individuals from premises, door supervisors wearing high visibility jackets, restrictions on taking drinks in open containers away from the premises.
  - Ensuring that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older

- Provision of CCTV for inside and outside the premises and recording equipment
- Radio network communication
- Search facilities, including, as appropriate, metal detection equipment for concealed weapons etc.
- Use of plastic containers and/or toughened glass, safety/shatter resistant or polycarbonate glasses/receptacles;
- Responsible pricing policies for alcoholic drinks
- Measures to address the incidence, supply and consumption of drugs
- Proof of age monitoring arrangements (e.g. Proof of Age Standards Scheme, photo driving licence or passport)
- Signage and crime prevention notices
- Door supervision
- Recording of incidents
- Capacity limits
- Any other relevant matter(s)

## **7.0 Cultural Strategies**

- 7.1 The licensing authority will monitor the impact of licensing on the provision of regulated entertainment, particularly live music and dancing. Only necessary, proportionate and reasonable licensing conditions will be applied.

## **8.0 Live music, dancing and theatre**

- 8.1 The Council recognises the rich cultural benefit of live entertainment/performances. The Council promotes the enjoyment, involvement and celebration of cultural experiences. As part of implementing the Council's cultural strategies, proper account will be taken of the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre. The potential for limited disturbance in neighbourhoods will be balanced with these benefits, particularly for children.
- 8.2 In determining what conditions should be attached to licences and certificates, the licensing authority is aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a disproportionate nature. The licensing authority is aware that the absence of cultural provision can itself lead to young people being diverted into anti-social behaviour.
- 8.3 The Council, and a number of Parish and Town Councils, have obtained premises licences for a variety of public spaces within the

Borough. Details can be found at the [DCMS register of local authority licensed register of public spaces](#). However, permission should be sought from the premises licence holder before holding any event, as it is an offence to carry on, or attempt to carry on a licensable activity without, or not in accordance with the relevant authorisation. Doing so can result in a fine of up to £20,000, or up to six months' imprisonment, or both.

## **9.0 Integrating strategies**

- 9.1 The licensing authority will ensure its licensing function promotes the licensing objectives through its decision making process and by appropriate use of its powers (under the 2003 Act and more widely), observance of its responsibilities and through liaison and partnership work. The licensing authority will secure proper integration with the Local Plan, local crime prevention, planning, community safety, transport, tourism and cultural strategies and plans in carrying out its licensing functions. Applicants will be expected to have taken into account the Council's strategies when making applications and determining their operating schedules.
- 9.2 The licensing authority recognises the importance of attaching licence conditions that reflect local crime prevention strategies.
- 9.3 Where the licensing authority has concerns or receives valid representations from Derbyshire Constabulary, it will, as necessary, liaise with Derbyshire County Council's Public Transport Unit and, where necessary, other bodies in relation to the need for the swift and safe dispersal of people to avoid concentrations which produce disorder and disturbance.
- 9.4 Arrangements will be made for the Licensing Committee to receive reports on the following to ensure these are reflected in their considerations:
- the needs of the local tourist economy and cultural strategy for the Borough; and,
  - the employment situation in the Borough and the need for investment and employment where appropriate.

## **10.0 Planning**

- 10.1 The planning, building control and licensing regimes will be properly separated. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority. Applications for licences should not be a re-run of the planning application and should

not cut across decisions taken by the Planning Committee. Licensing Panels are not bound by decisions made by a planning committee, and vice versa. The licensing authority recognises that applications for a provisional statement may not have progressed beyond outline planning consent. The Licensing Panel may refuse to grant a licence following representations from the Local Planning Authority if the activity to be authorised would amount to an unlawful use of the premises - it will be for the applicant to demonstrate any special circumstances to justify a departure from this policy.

- 10.2 To enable the Planning Committee to have regard to such matters when taking its decisions and avoid unnecessary overlap, the Licensing Committee will, where appropriate, provide reports to the Planning Committee on the situation regarding licensed/club premises in the area. Reports to the Planning Committee may include information concerning the general impact of alcohol-related crime and disorder.

## **11.0 Cumulative Impact and Special Policies**

- 11.1 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority or its licensing policy and the licensing authority will not consider the question of “need” in determining an application.
- 11.2 The licensing authority does, however, recognise that in exceptional circumstances the cumulative impact of the number, type and density of licensed/club premises<sup>1</sup> in a given area, may undermine the licensing objectives. Saturated areas are those which experience exceptional problems of disorder and nuisance over and above the impact of the individual premises. Licence conditions may only relate to matters which the designated premises supervisor can be expected to control.
- 11.3 Before being able to consider whether individual new applications relating to a saturated area should not be approved on grounds that they will adversely impact on the relevant licensing objectives, the Council is obliged to adopt a Special Policy.
- 11.4 Where relevant representations are received from a responsible authority or interested party seeking to establish that an area is saturated, as described in the section 182 guidance, the onus would be on the responsible authority or interested party to submit evidence.

---

<sup>1</sup> The term “club premises” is not to be confused with “night clubs”. The 2003 Act defines club premises as those premises which are a “qualifying” member club to which public access is restricted and where alcohol is supplied other than for profit.

- 11.5 In order for the licensing authority to consider whether to adopt a Special Policy there should be an evidential basis. The steps to be followed in considering whether to adopt a Special Policy within the statement of licensing policy are:
- identification of concern about crime and disorder or public nuisance;
  - consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
  - consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole statement of licensing policy;
  - subject to that consultation, inclusion of a Special Policy about future premises licence or club premises certificate applications from that area within the terms of Secretary of State's Guidance in the statement of licensing policy;
  - publication of the Special Policy as part of the statement of licensing policy required by the 2003 Act.
- 11.6 A Special Policy would not prevent the licensing authority considering further applications for premises licences, as these would need to be assessed on their individual merits, taking into account the foreseeable impact on the saturated area. It would be incumbent on the applicant to provide the proportionate level of detail to address these special circumstances.
- 11.7 The effect of adopting a Special Policy is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants would need to address the Special Policy issues in their operating schedules in order to rebut such a presumption. However, it must be stressed that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before the Council may lawfully consider giving effect to its Special Policy. If no representation is received, it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted.

- 11.8 The absence of a Special Policy does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 11.9 At present the Council is not proposing to adopt a Special Policy about cumulative impact, but will keep this position under review.
- 11.10 There are a number of other mechanisms which exist that can be used to address behaviour that can lead to crime, disorder or public nuisance. These include:
- planning controls
  - positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council
  - the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
  - powers of the licensing authority to introduce Designated Public Places Orders to areas within the borough that have experienced alcohol-related disorder or nuisance
  - enforcement of the law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices and Anti-Social Behaviour Orders
  - the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
  - the confiscation of alcohol from adults and children in designated areas
  - Derbyshire Constabulary's powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
  - the licensing authority's power to close noisy licensed premises where permitted under the Anti-Social Behaviour Act 2003
  - the power of Derbyshire Constabulary, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.

11.11 Quotas, which pre-determine the individual merits of any application, even in respect of premises selling alcohol for consumption on those premises, will not be used by the licensing authority as they have no regard to the individual characteristics of the premises concerned. Proper regard will be given to those differences and the differing impact they will have on the local community.

## **12.0 Licensing Hours**

12.1 The licensing authority will determine licensing hours on the individual merits of each application. The licensing authority recognises that longer licensing hours for the sale of alcohol can avoid large numbers of people leaving premises at the same time, which in turn reduces the friction at late night fast food outlets, taxi ranks and other sources of transport, which can lead to disorder and disturbance. The licensing authority will not impose conditions that artificially fix opening hours for any premises or area of the Borough (referred to as “zoning”).

12.2 The licensing authority may, following the making of relevant representations, impose stricter conditions with regard to noise control in areas which have denser residential accommodation, although this will not prejudice consideration of individual applications where the licensing objectives are addressed in the operating schedule.

12.3 With regard to shops, stores and supermarkets, the licensing authority will allow the sale of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there is a good reason for restricting them, such as disorder or disturbance. Derbyshire Constabulary would normally be asked to make comment on any alleged patterns of disorder or disturbance.

## **13.0 Children**

13.1 The licensing authority recognises the great variety of premises for which licences may be sought, for instance theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. The licensing authority will expect applicants to detail in the operating schedule the steps they propose to take to ensure the protection of children from harm.

13.2 The licensing authority will not impose conditions that restrict access to children to any type of premises unless it is considered necessary to protect them from harm. Examples of premises which would give rise for concern include those:

- where entertainment or services of an adult or sexual nature are commonly provided<sup>2</sup>
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
- with a known association with drug taking or dealing
- where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines)
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises

13.3 It would be unusual for the licensing authority to completely prohibit access of children from premises<sup>3</sup>. The following options may be appropriate for inclusion in the operating schedule in order to protect children from harm:

- limitations on the hours when children may be present
- age limitations
- limitations or exclusions when certain activities are taking place
- requirements for accompanying adult
- limitations of people under 18 years old from the premises when certain licensable activities are taking place.

---

<sup>2</sup> It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult of sexual nature. Applicants, responsible authorities and licensing authorities will need to apply common sense to this matter. However, such entertainment or services, for example, would generally include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

<sup>3</sup> It is an offence under section 145 of the 2003 Act for an unaccompanied child (under the age of 16 years) to be present in premises primarily or exclusively for the supply or sale of alcohol on those premises. Children must be accompanied by an adult.

- 13.4 The licensing authority will not impose any condition which requires the admission of children to any premises.
- 13.5 Where the licensing authority imposes no restriction on access by children, it is at the discretion of the individual premises licence holder or club premises certificate holder to ensure the licensing objectives are observed.
- 13.6 The licensing authority recognises that the Derbyshire Safeguarding Children Board is the responsible authority for advising the licensing authority on all those matters in relation to the protecting children from harm licensing objective.
- 13.7 The licensing authority will liaise with Derbyshire Constabulary and Derbyshire County Council Trading Standards about the extent of unlawful sale and consumption of alcohol to minors and, as appropriate, will be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions.
- 13.8 The licensing authority recognises the protection afforded to children under The Protection of Children Act 1999 (the 1999 Act”) which places obligations on Child Care Organisations. Additionally, other organisations are able to make use of the scheme set up to support the 1999 Act and the Criminal Records Bureau. The holder of a premises licence, a club premises certificate and premises users must take appropriate steps, including, where necessary, the use of these services to ensure the protection of children from harm.
- 13.9 In the case of premises giving film exhibitions, the licensing authority expects the prospective premises licence holder to include in the operating schedule conditions that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification.

#### **14.0 Conditions**

- 14.1 Any conditions that are attached to licences and certificates will be tailored to the individual style and characteristics of the premises and events concerned. Conditions will be drawn from the applicant’s Operating Schedule. Conditions (other than the statutory mandatory conditions) will only be imposed where relevant representations are made showing that there is a need to promote the licensing objectives, and following a Licensing Panel hearing. The licensing authority will not impose “blanket” standard conditions, but it may draw from the pools of conditions contained in annex D of the Department of Culture, Media & Sport (DCMS) Guidance under section 182 of the Act. Any conditions not listed in the pool may be specifically worded by the

licensing authority and attached to licences and certificates as appropriate.

## **15.0 Review of a Premises Licence or Club Premises Certificate**

- 15.1 The licensing authority recognises the importance of its ability to review premises licences. The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection concerning problems associated with crime and disorder, public safety, public nuisance and the protection of children from harm. Partnership working is important to achieve the promotion of the licensing objectives. Responsible authorities are encouraged to give premises licence holders early warning of any concerns identified at premises.
- 15.2 Only responsible authorities and interested parties can apply for the review of a licence or certificate. The licensing authority itself cannot initiate the review process. The licensing authority's role is to administrate the process and determine its outcome at a Licensing Panel hearing. At a Licensing Panel hearing, reasons should be given for any decisions and a pro-forma used to record any conditions attached to the licence. A copy of the decision notice will be kept on the relevant premises file.
- 15.3 The licensing authority must, having regard to the application and any relevant representations, take such of the steps mentioned below (if any) as it considers necessary for the promotion of the licensing objectives.

The steps are:

- to modify the conditions of the licence;
- to exclude a licensable activity from the scope of the licence;
- to remove the designated premises supervisor;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence

- 15.4 In cases where the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – will be seriously considered.
- 15.5 Where there has been a request for a review, the licensing authority must advertise that an application for a review has been made. Further representations may then be made within 28 days from the original application for a review. A hearing must be held within 20 working days of the end of the 28 day period. Anyone who has made

a representation and who wants to attend the hearing must inform the licensing authority at least 5 working days before the day of the hearing.

## **16.0 Enforcement**

- 16.1 Any enforcement action taken by the licensing authority will be in accordance with its Regulatory Service's Enforcement Policy, and will take into account the Government's Enforcement Concordat and the Hampton principles of inspection and enforcement. The licensing authority will provide adequate resources to enforce the requirements of the 2003 Act in accordance with its Enforcement Policy.
- 16.2 In determining the most appropriate course of action to secure the licensing objectives, the licensing authority will be mindful of other legislation and other enforcement bodies' powers. Additionally, the licensing authority will take into account any enforcement protocols developed with these organisations and our partners, including Derbyshire Constabulary.

## **17.0 Designated Premises Supervisors and Personal Licence holders**

- 17.1 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment.
- 17.2 The licensing authority accepts that not every person retailing alcohol at premises licensed for that purpose needs to hold a personal licence, but every sale or supply of alcohol must be authorised by such a licence holder. The licensing authority would normally expect that personal licence holders give specific written authorisation to individuals that they are authorising to retail alcohol. This would assist personal licence holders in demonstrating due diligence. Although the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales made. The following factors would normally be relevant in considering whether or not an authorisation has been given:
- the person(s) authorised to sell alcohol at the premises should be clearly identified;
  - the authorisation should have specified the acts which may be carried out by the person being authorised;
  - there should be an overt act of authorisation e.g. a specific written statement given to the individual being authorised;

- there should be in place a sensible arrangement for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.

17.3 The requirements relating to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises where a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the Licensing Act 2003.

## **18.0 Administration, Exercise and Delegation of Functions**

18.1 The powers and duties of the licensing authority with regard to licensing may be carried out by the Licensing Committee, by a Sub-Committee or by officers acting under delegated authority. Since many of the licensing functions are administrative in nature, in the interests of speed, efficiency and cost-effectiveness, the licensing authority supports the principle of delegating routine matters to officers. Appendix A sets out the delegation of functions and decisions.

## **19.0 Promotion of Racial Equality**

19.1 The licensing authority recognises that the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places an obligation on all public authorities to have regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and good relations between persons and different racial groups.

## **20.0 Human Rights Act 1998**

20.1 The licensing authority will implement the 2003 Act in a manner consistent with the Human Rights Act 1998.

## 21.0 Contact details

- 21.1 The licensing authority will issue materials designed to offer guidance to applicants in respect of the Licensing Act 2003, the differing licences and certificates, the process of making an application and expectations in respect of observance of the licensing objectives. The Licensing Team can be contacted for advice or guidance via the following:

Our website: [www.highpeak.gov.uk/Licensing](http://www.highpeak.gov.uk/Licensing)

E-mail: [LA2003@highpeak.gov.uk](mailto:LA2003@highpeak.gov.uk)

Phone: 0845 129 7777 and ask for the Licensing Team

Fax: 01298 28483

By post: High Peak Borough Council  
Buxton Town Hall  
Market Place  
Buxton  
SK17 6EL

## Responsible Authorities

PC Sandra Barlow  
Derbyshire Constabulary  
Buxton Division  
Silverlands,  
Buxton  
Derbyshire SK17 6QJ

Mr B Tregunna  
Chief Fire Officer  
Derbyshire Fire & Rescue  
Service  
3 Compton Grove  
Buxton  
Derbyshire SK17 9DW

Environmental Health  
(Health & Safety)  
High Peak Borough Council  
Buxton Town Hall  
Market Place  
Buxton SK17 6EL

Development Control  
High Peak Borough Council  
Municipal Buildings  
Glossop  
Derbyshire  
SK13 8AF

Derbyshire County Council  
Cultural & Community  
Services  
Trading Standards Service  
Chatsworth Hall  
Chesterfield Road  
Matlock DE4 3FW

Environmental Health  
(Pollution Control)  
High Peak Borough Council  
Buxton Town Hall  
Market Place  
Buxton SK17 6EL

Donna Womack  
Derbyshire Safeguarding Children  
Room 384 North Block  
County Hall  
Matlock DE4 3AG

Peak District National Park  
Authority,  
Aldern House  
Baslow Road  
Bakewell  
Derbyshire DE45 1DS

Health & Safety Executive  
Midlands Region  
Nottingham Office  
1<sup>st</sup> Floor, The Pearson Building  
55 Upper Parliament Street  
Nottingham NG1 6AU

British Waterways Board  
Trafalgar House  
Temple Court  
Birchwood  
Warrington  
WA3 6GD

Environment Agency  
South Area Office  
Appleton House  
430 Birchwood Boulevard  
Birchwood  
Warrington WA3 7WD

Environment Agency  
Trentside Offices  
Scarrington Road  
West Bridgeford  
Nottingham  
NG2 5FA

## Appendix A

The table below sets out the delegation of functions and decisions

Matter to be dealt with	<sup>4</sup> Sub Committee of the Licensing Panel	Officers
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for a minor variation to a premises licence/club premises certificate		All cases
Application to vary designated personal licence holder	If a police objection	All other cases
Request to be removed as designated personal licence holder		All cases
Application for transfer of premises licence	If a police objection	All other cases
Application for interim authority	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a police objection to a temporary event notice	All cases	
Power to issue counter notice in respect of a temporary event notice		All cases

<sup>4</sup> Except where the applicant, the Licensing authority and each person who has made relevant representations agree that a hearing is unnecessary, and, having regard to the representations, take such steps as mentioned in subsection 18(4) of the 2003 Act as the Licensing authority considers necessary for the promotion of the licensing objectives.

## **Appendix B: List of Consultees**

GALA  
High Peak Council for Voluntary Services  
Derbyshire Rural Officer  
British Waterways  
Buxton Festival  
Buxton Festival Fringe  
Cinema Exhibitors Association  
British Beer & Pub Association  
Business In Sport & Leisure  
Trading Standards (DCC)  
Safeguarding Children Board (DCC)  
High Peak Borough Council

- Elected Members
- Development Control
- Pollution Control
- Health and Safety

Environment Agency  
Peak District National Park Authority  
Cheshire East Council  
Derbyshire Dales District Council  
Staffordshire Moorlands District Council  
Tameside M B C  
Kirklees Metropolitan Council  
Oldham Council  
Barnsley Metropolitan Borough Council  
Stockport MBC  
Charlesworth Parish Council  
Bamford with Thornhill Parish Council  
Castleton Parish Council  
Chapel-en-le-Frith Parish Council  
Chinley, Buxworth & Brownside Parish Council  
Chisworth Parish Council  
Derwent & Hope Woodlands Parish Council  
Edale Parish Council  
Green Fairfield Parish Council  
Hartington Upper Quarter Parish Council  
Hayfield Parish Council  
Hope with Aston Parish Council  
New Mills Town Council  
Peak Forest Parish Council  
Tintwistle Parish Council  
Whaley Bridge Town Council  
Wormhill Parish Council

Derbyshire Constabulary  
Community Safety Strategy Team  
Derbyshire Fire & Rescue Service  
Buxton Pub Watch  
Glossop and Hadfield Pub Watch  
All licensed premises in the High Peak area  
Companies engaged in selling alcohol  
North Derbyshire Chamber of Commerce & Industry  
Buxton Volunteer Centre  
Citizens' Advice Bureau  
University of Derby  
Vision Buxton  
Buxton & District Civic Association  
Whitfield Residents Association  
Gamesley Residents Association  
Padfield Residents Society  
Howard Town Residents Association  
Old Glossop Residents Association  
South East Glossop Residents Association  
Fairfield Residents Association  
High Peak & Dales Primary Care Trust  
Stockport Health Authority  
Tameside & Glossop Primary Care Trust  
Derbyshire Family Health Services Authority  
Derbyshire Drug & Alcohol Action Team  
Derbyshire County Council Social Services

