

Council

Agenda and Reports

For consideration on

Tuesday, 5th April 2011

In the Council Chamber, Town Hall, Chorley

At 6.30 pm



PROCEDURE FOR PUBLIC QUESTIONS/SPEAKING AT COUNCIL MEETINGS

- Questions should be submitted to the Democratic Services Section by midday, two working days prior to each Council meeting to allow time to prepare appropriate responses and investigate the issue if necessary (12 Noon on the Friday prior to the meeting).
- A maximum period of 3 minutes will be allowed for a question from a member of the public on an item on the agenda. A maximum period of 30 minutes to be allocated for public questions if necessary at each ordinary Council meeting, excluding the Annual Meeting.
- The question to be answered by the Executive Member with responsibility for the service area or whoever is most appropriate.
- On receiving a reply the member of the public will be allowed to ask one supplementary question.
- Members of the public will be able to stay for the rest of the meeting should they so wish but will not be able to speak on any other agenda item upon using their allocated 3 minutes.

25 March 2011

Dear Councillor

COUNCIL - TUESDAY, 5TH APRIL 2011

You are invited to attend a meeting of the Chorley Borough Council to be held in the Council Chamber, Town Hall, Chorley on Tuesday, 5th April 2011 commencing at 6.30 pm for the following purposes.

AGENDA

1. **Apologies for absence**
2. **Minutes of the last Council meeting held on Tuesday, 1st March 2011. (Pages 1 - 10)**
3. **Declarations of Any Interests**

Members are reminded of their responsibility to declare any personal interest in respect of matters contained in this agenda. If the interest arises **only** as result of your membership of another public body or one to which you have been appointed by the Council then you only need to declare it if you intend to speak.

If the personal interest is a prejudicial interest, you must withdraw from the meeting. Normally you should leave the room before the business starts to be discussed. You do, however, have the same right to speak as a member of the public and may remain in the room to enable you to exercise that right and then leave immediately. In either case you must not seek to improperly influence a decision on the matter.

4. **Mayoral Announcements**
5. **Public Questions**

Members of the public who have requested the opportunity to ask question(s) on any item(s) on the agenda will be asked to put their question(s) to the Council. Members of the public will be allowed to ask one supplementary question within their allocated 3 minutes.

6. **Executive Cabinet (Pages 11 - 18)**

To consider the enclosed general report of Executive Cabinet covering meetings held on 11 November and 9 December 2010 and 17 February 2011. A report of the meeting held on 31 March will follow.

The following items from Executive Cabinet also require Council approval.

- a) Review of Licensing Policy Statement under the Licensing Act 2003 (Pages 19 - 96)

To consider the enclosed report of the Director of People and Places, and adopt the reviewed Licensing Policy.

- b) Review of Member Allowances (Pages 97 - 98)

To consider the enclosed report of the Chief Executive and confirm the membership of the Independent Remuneration Panel.

- c) Capital Programme, 2010/11 to 2012/13 - Monitoring Report (Pages 99 - 110)

To consider the enclosed report of the Director of Transformation.

7. **Overview and Scrutiny Committee and Task and Finish Groups** (Pages 111 - 116)

To consider the enclosed general report of Overview and Scrutiny Committee meetings, held on 8 November and 6 December 2010 and 14 February 2011. A report of the meeting held on 28 March 2011 will follow.

8. **Audit Committee** (Pages 117 - 120)

To consider the enclosed general report of the Audit Committee meeting held on 20 January 2012. A report of the meeting held on 17 March 2012 will follow.

9. **Amendments to the Constitution** (Pages 121 - 150)

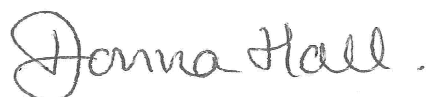
To consider the enclosed report of the Monitoring Officer on changes to the Constitution.

10. **Questions asked under Council Procedure Rule 8**

11. **To consider the Notices of Motion given in accordance with Council Procedure Rule 10**

12. **Any other item(s) the Mayor decides is/are urgent**

Yours sincerely



Donna Hall CBE
Chief Executive

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Distribution

To all Members of the Council and Directors.

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આ માહિતીનો અનુવાદ આપની પોતાની ભાષામાં કરી શકાય છે. આ સેવા સરળતાથી મેળવવા માટે કૃપા કરી, આ નંબર પર ફોન કરો: 01257 515822

ان معلومات کا ترجمہ آپکی اپنی زبان میں بھی کیا جاسکتا ہے۔ یہ خدمت استعمال کرنے کیلئے براہ مہربانی اس نمبر پر ٹیلیفون

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COUNCIL**Tuesday, 1 March 2011**

Present: Councillor Ken Ball (Mayor), Councillor Pat Case (Deputy Mayor), Councillors Nora Ball, Eric Bell, Julia Berry, Judith Boothman, Alistair Bradley, Terry Brown, Henry Caunce, Alan Cullens, Magda Cullens, Mike Devaney, David Dickinson, Doreen Dickinson, Dennis Edgerley, Christopher France, Anthony Gee, Peter Goldsworthy, Marie Gray, Alison Hansford, Pat Haughton, Harold Heaton, Catherine Hoyle, Keith Iddon, Kevin Joyce, Hasina Khan, Roy Lees, Laura Lennox, Adrian Lowe, Marion Lowe, Peter Malpas, June Molyneaux, Greg Morgan, Simon Moulton, Mick Muncaster, Beverley Murray, Mark Perks, Alan Platt, Debra Platt, Geoffrey Russell, Rosie Russell, Edward Smith, Joyce Snape, Ralph Snape, John Walker, Stella Walsh and Peter Wilson

11.C.159 APOLOGIES FOR ABSENCE

There were no apologies for absence.

11.C.160 MINUTES OF PREVIOUS MEETINGS**(a) Minutes of the meeting of Tuesday, 7th December 2010.**

RESOLVED – That the minutes of the meeting of the Council held on 7 December 2010 be confirmed as a correct record for signature by the Mayor.

(b) Minutes of the meeting of Tuesday, 22nd February 2011

RESOLVED – That the minutes of the extraordinary meeting of the Council held on 22 February 2011 be confirmed as a correct record for signature by the Mayor.

11.C.161 DECLARATIONS OF ANY INTERESTS

There were no declarations of interest by any Members in relation to matters under consideration at the meeting.

11.C.162 MAYORAL ANNOUNCEMENTS

The Mayor thanked all Members who had supported his Charity Ball in February. The event had been very well attended and had raised almost £3000 towards his Charity Appeal.

On behalf of all Members of the Council, the Mayor formally congratulated the Chief Executive, Donna Hall on her being awarded the CBE. All political party leaders joined in paying tribute to Donna's achievements which has been recognised by the awarding of one of the most prestigious of honours.

11.C.163 PUBLIC QUESTIONS

There had been no requests from any members of the public to speak at the meeting on any of the agenda items.

11.C.164 GENERAL FUND REVENUE AND CAPITAL BUDGET AND COUNCIL TAX 2011/2012

Members of the Council considered a report of the Executive Member (Transformation) seeking approval to the General Fund Revenue and Capital Budget and Council Tax level for 2011/12.

The report was presented by the Executive Member (Transformation) Councillor Kevin Joyce and set out the Executive's overriding objective which was to protect frontline services and to deliver a budget strategy based on a number of key principles, including:

- To continue to be a high performing Council
- To contain Council Tax increases
- To protect the Chorley community from the impact of the current economic situation
- Continuing to provide value for money
- Safeguarding frontline services and focusing on the removal of bureaucracy and managerial posts
- Looking for opportunities to share services and generate additional revenue
- Preparing for the future and the uncertainty over public finances
- To look to reduce debt and the consequent financing charges.

The Council had already achieved budget savings of £0.903m from restructures which had previously been approved. The key proposals now were to achieve further savings in the 2011/12 budget amounting to £0.294m to enable additional investment in the town centre.

This would be achieved by the following initiatives:

1. Uplifting fees and charges by an inflationary rate (excluding car parking and building control fees).
2. Increasing income from planning fees.
3. Realising cost savings by undertaking more work in house in policy and communications.
4. Reducing the scope of the Mayoralty.
5. Reducing the costs of providing Shared Assurance Services.
6. Continuing to reduce borrowing and the subsequent impact on the budget.
7. Introducing new car parking machines to maximise income received within the current price structure.

The report included a number of appendices with the detailed bases of the proposals. These were

- Appendix A – Fees and Charges for 2011/12 and the Formal Council Tax Resolution.
- Appendix B (1 - 4) – Capital Programme information
- Appendix C – Treasury Strategy and Prudential Indicators
- Appendix D – Statutory Finance Officer's Report
- Appendix E – Medium Term Financial Strategy
- Appendix F – Significant Budget Movements
- Appendix G – Special Expenses and Parish Precepts
- Appendix H – Budget Consultation
- Appendix I – Equality Impact Assessment

Councillor Alistair Bradley, Leader of the Labour Group circulated an alternative budget report which proposed no increase in Council tax; and included:

- Further savings from the Council's management and back office functions
- More targeted investment in filling the vacant shop space in the town centre

- A more flexible pricing and charging policy on car parking to promote town centre usage
- Extra and significant investment in front line spending based on the principle of its “your money in your streets”
- Reduction in Members Allowances
- Investment to fund economic regeneration.

There was a lengthy debate on the proposals contained within both budgets, in particular, the budget reductions for the Mayoralty and town centre investment including market rent rises, shop frontage improvements and car parking charges.

Councillor Alistair Bradley proposed and Councillor Peter Wilson seconded, the adoption of the Labour Group’s alternative budget.

The proposal was put to the vote which was recorded as follows

FOR: Councillors N Ball, J Berry, A Bradley, T Brown, D Edgerley, C France, A Gee, C Hoyle, H Khan, R Lees, L Lennox, A Lowe, M Lowe, J Molyneaux, B Murray, J Snape, R Snape, P Wilson.

AGAINST: Councillors E Bell, J Boothman, P Case, H Counce, A Cullens, M Cullens, M Devaney, David Dickinson, P Goldsworthy, M Gray, A Hansford, P Haughton, H Heaton, K Iddon, K Joyce, P Malpas, G Morgan, S Moulton, M Muncaster, M Perks, A Platt, D Platt, G Russell, R Russell J Walker, S Walsh.

ABSTENTION : K Ball.

The Mayor declared the vote LOST.

The Executive Member (Transformation), Councillor Kevin Joyce then proposed and the Executive Leader, Councillor Peter Goldsworthy seconded, the adoption of the Executive’s budget proposed for 2011/12 and it was

RESOLVED -

1. That the budget proposals set out in the report be approved as follows:

1.1 The inflationary increase in fees and charges be approved as set out in Appendix A1.

1.2 That the Councils Capital Programme be approved as set out in Appendix B.

1.3. That the Treasury Management Strategy and its core principles be approved as set out in Appendix C.

1.4. That the advice of the Statutory Finance Officer in relation to the robustness of the budget and the risks contained in the budget be noted as set out in Appendix D.

1.5. That the Council’s Medium Term Financial Strategy be approved as set out in Appendix E.

1.6. That the significant budget movements from the 2010/11 budget be approved as set out in at Appendix F.

1.7 That the Special Expenses and Parish Precepts be noted as set out in Appendix G.

1.8. That the Budget Consultation Response be noted as set out in Appendix H; and

1.9 The Equality Impact Assessment be noted as set out in Appendix I.

2. That the level of Council Tax remain at the levels set in 2010/11 as formally set out below:

1. That it be noted that acting under delegated powers the Director of Finance calculated the amount of 35,565.80 as its Council Tax Base for the year 2011/12 in accordance with Regulation 3 of the Local Authorities (Calculation of Council Tax Base) Regulations 1992 made under Section 33(5) of the Local Government Finance Act 1992.

(a) 35,565.80 being the amount calculated by the Council, in accordance with Regulation 3 of the Local Authorities (Calculation of Council Tax Base) Regulations 1992, as its Council Tax Base for the year.

(b) being the amounts calculated by the Council, in accordance with Regulation 6 of the Regulations, as the amounts of its Council Tax Base for the year for dwellings in those parts of its area to which one or more special items relate.

	(b)Part of the Council's area	2011/12
		£
Parish of:	Adlington	1,941.40
	Anderton	494.50
	Anglezarke	17.30
	Astley Village	1,094.00
	Bretherton	290.60
	Brindle	459.70
	Charnock Richard	672.40
	Clayton le Woods	4,735.80
	Coppull	2,345.80
	Croston	1,027.80
	Cuerden	39.00
	Eccleston	1,566.60
	Euxton	3,527.20
	Heapey	378.50
	Heath Charnock	799.70
	Heskin	344.50
	Hoghton	363.80
	Mawdesley	750.60
	Rivington	50.20
	Ulnes Walton	255.50
	Wheelton	396.10
	Whittle Woods	2,005.00
	Withnell	1,247.60
	All other parts of the Council's area	10,762.20
	Total	35,565.80

2. That the following amounts be now calculated by the Council for the year 2011/12 in accordance with Sections 32 to 36 of the Local Government Finance Act 1992:
- (a) £53,447,660 being the aggregate of the amounts which the Council estimates for the items set out in Section 32(2)(a) to (e) of the Act;
 - (b) £39,704,540 being the aggregate of the amounts which the Council estimates for the items set out in Section 32(3)(a) to (c) of the Act;
 - (c) £13,743,120 being the amount by which the aggregate at 2(a) above exceeds the aggregate at 2(b) above, calculated by the Council, in accordance with Section 32(4) of the Act, as its budget requirement for the year;
 - (d) £6,766,960 being the aggregate of the sums which the Council estimates will be payable for the year into its general fund in respect of redistributed non-domestic rates, Revenue Support Grant, increased by the amount of the sums which the Council estimates will be transferred in the year from its collection fund to its general fund in accordance with Section 97(3) of the Local Government Finance Act 1988;
 - (e) £196.15 being the amount at 2(c) above less the amount at 2(d) above, all divided by the amount at 1(a) above, calculated by the Council, in accordance with Section 33(1) of the Act, as the basic amount of its Council Tax for the year;
 - (f) £1,286,015 being the aggregated amount of all special items referred to in Section 34(1) of the Act;
 - (g) £159.99 being the amount at 2(e) above less the result given by dividing the amount at 2(f) above by the amount at 1(a) above, calculated by the Council, in accordance with Section 34(2) of the Act, as the basic amount of its Council Tax for the year for dwellings in those parts of its area to which no special items relates;

(h)Part of the Council's area		
		£
Parish of:	Adlington	173.83
	Anderton	171.34
	Anglezarke	159.99
	Astley Village	205.70
	Bretherton	191.39
	Brindle	179.48
	Charnock Richard	201.11
	Clayton le Woods	222.73
	Coppull	202.41
	Croston	189.57
	Cuerden	197.91
	Eccleston	191.15
	Euxton	208.16
	Heapey	201.04
	Heath Charnock	188.01
	Heskin	195.30
	Hoghton	178.78
	Mawdesley	194.65
	Rivington	199.83
	Ulnes Walton	180.98
	Wheelton	188.09
	Whittle le Woods	198.38
	Withnell	191.96
	All other parts of the Council's area	187.15

being the amounts given by adding to the amount at 2(g) above to the amounts of the special item or items relating to dwellings in those parts of the Council's area mentioned above divided in each case by the amount at 1(b) above, calculated by the Council in accordance with Section 34(3) of the Act, as the basic amounts of its Council Tax for the year for dwellings in those parts of its area to which one or more special items relate;

(i)Part of the Council's area								
Valuation Bands								
	A	B	C	D	E	F	G	H
	£	£	£	£	£	£	£	£
Parish of:								
Adlington	115.89	135.21	154.51	173.83	212.45	251.09	289.72	347.66
Anderton	114.23	133.26	152.30	171.34	209.42	247.49	285.57	342.68
Anglezarke	106.66	124.44	142.21	159.99	195.54	231.10	266.65	319.98
Astley Village	137.13	160.00	182.84	205.70	251.40	297.13	342.83	411.40
Bretherton	127.59	148.86	170.12	191.39	233.92	276.46	318.98	382.78
Brindle	119.65	139.60	159.54	179.48	219.36	259.25	299.13	358.96
Charnock Richard	134.08	156.42	178.76	201.11	245.80	290.49	335.19	402.22
Clayton le Woods	148.49	173.23	197.98	222.73	272.23	321.72	371.22	445.46
Coppull	134.94	157.44	179.92	202.41	247.38	292.37	337.35	404.82
Croston	126.38	147.44	168.51	189.57	231.70	273.82	315.95	379.14
Cuerden	131.94	153.93	175.92	197.91	241.89	285.87	329.85	395.82
Eccleston	127.43	148.68	169.90	191.15	233.62	276.11	318.58	382.30
Euxton	138.77	161.91	185.03	208.16	254.41	300.68	346.93	416.32
Heapey	134.02	156.37	178.70	201.04	245.71	290.40	335.06	402.08
Heath Charnock	125.34	146.23	167.12	188.01	229.79	271.58	313.35	376.02
Heskin	130.20	151.90	173.60	195.30	238.70	282.11	325.50	390.60
Hoghton	119.19	139.05	158.92	178.78	218.51	258.24	297.97	357.56
Mawdesley	129.77	151.40	173.02	194.65	237.90	281.16	324.42	389.30
Rivington	133.22	155.43	177.62	199.83	244.23	288.65	333.05	399.66
Ulnes Walton	120.65	140.77	160.87	180.98	221.19	261.42	301.63	361.96
Wheelton	125.39	146.30	167.19	188.09	229.88	271.69	313.48	376.18
Whittle le Woods	132.26	154.30	176.34	198.38	242.46	286.55	330.64	396.76
Withnell	127.97	149.31	170.62	191.96	234.61	277.28	319.93	383.92
All other parts of the Council's area	124.77	145.56	166.35	187.15	228.74	270.33	311.92	374.30

being the amounts given by multiplying the amounts at 2(g) and 2(h) above by the number which, in the proportion set out in Section 5(1) of the Act, is applicable to dwellings listed in a particular valuation band divided by the number which in that proportion is applicable to dwellings listed in valuation band D, calculated by the Council, in accordance with Section 36(1) of the Act, as the amounts to be taken into account for the year in respect of categories of dwellings listed in different valuation bands.

- That it be noted that for the year 2011/12 the Lancashire County Council, Lancashire Police Authority, and the Lancashire Combined Fire Authority have stated the following amounts in precepts issued to the Council, in accordance with Section 40 of the Local Government Finance Act 1992, for each of the categories of dwellings shown below:

Valuation Bands								
	A	B	C	D	E	F	G	H
	£	£	£	£	£	£	£	£
Precepting authority								
Lancashire County Council *	738.87	862.01	985.16	1,108.30	1,354.59	1,600.88	1,847.17	2,216.60
Lancashire Combined Fire Authority *	42.43	49.51	56.58	63.65	77.79	91.94	106.08	127.30
Lancashire Police Authority*	97.51	113.77	130.02	146.27	178.77	211.28	243.78	292.54

4. That, having calculated the aggregate in each case of the amounts at 2(i) and 3 above, the Council, in accordance with Section 30(2) of the Local Government Finance Act 1992, hereby sets the following amounts as the amounts of Council Tax for the year 2011/12 for each of the categories of dwellings shown below:

(i)Part of the Council's area								
	Valuation Bands							
	A	B	C	D	E	F	G	H
Parish of:	£	£	£	£	£	£	£	£
Adlington	994.70	1,160.50	1,326.27	1,492.05	1,823.60	2,155.19	2,486.75	2,984.10
Anderton	993.04	1,158.55	1,324.06	1,489.56	1,820.57	2,151.59	2,482.60	2,979.12
Anglezarke	985.47	1,149.73	1,313.97	1,478.21	1,806.69	2,135.20	2,463.68	2,956.42
Astley Village	1,015.94	1,185.29	1,354.60	1,523.92	1,862.55	2,201.23	2,539.86	3,047.84
Bretherton	1,006.40	1,174.15	1,341.88	1,509.61	1,845.07	2,180.56	2,516.01	3,019.22
Brindle	998.46	1,164.89	1,331.30	1,497.70	1,830.51	2,163.35	2,496.16	2,995.40
Charnock Richard	1,012.89	1,181.71	1,350.52	1,519.33	1,856.95	2,194.59	2,532.22	3,038.66
Clayton le Woods	1,027.30	1,198.52	1,369.74	1,540.95	1,883.38	2,225.82	2,568.25	3,081.90
Coppull	1,013.75	1,182.73	1,351.68	1,520.63	1,858.53	2,196.47	2,534.38	3,041.26
Croston	1,005.19	1,172.73	1,340.27	1,507.79	1,842.85	2,177.92	2,512.98	3,015.58
Cuerden	1,010.75	1,179.22	1,347.68	1,516.13	1,853.04	2,189.97	2,526.88	3,032.26
Ecclestone	1,006.24	1,173.97	1,341.66	1,509.37	1,844.77	2,180.21	2,515.61	3,018.74
Euxton	1,017.58	1,187.20	1,356.79	1,526.38	1,865.56	2,204.78	2,543.96	3,052.76
Heapey	1,012.83	1,181.66	1,350.46	1,519.26	1,856.86	2,194.50	2,532.09	3,038.52
Heath Charnock	1,004.15	1,171.52	1,338.88	1,506.23	1,840.94	2,175.68	2,510.38	3,012.46
Heskin	1,009.01	1,177.19	1,345.36	1,513.52	1,849.85	2,186.21	2,522.53	3,027.04
Hoghton	998.00	1,164.34	1,330.68	1,497.00	1,829.66	2,162.34	2,495.00	2,994.00
Mawdesley	1,008.58	1,176.69	1,344.78	1,512.87	1,849.05	2,185.26	2,521.45	3,025.74
Rivington	1,012.03	1,180.72	1,349.38	1,518.05	1,855.38	2,192.75	2,530.08	3,036.10
Ulnes Walton	999.46	1,166.06	1,332.63	1,499.20	1,832.34	2,165.52	2,498.66	2,998.40
Wheelton	1,004.20	1,171.59	1,338.95	1,506.31	1,841.03	2,175.79	2,510.51	3,012.62
Whittle le Woods	1,011.07	1,179.59	1,348.10	1,516.60	1,853.61	2,190.65	2,527.67	3,033.20
Withnell	1,006.78	1,174.60	1,342.38	1,510.18	1,845.76	2,181.38	2,516.96	3,020.36
All other parts of the Council's area	1,003.58	1,170.85	1,338.11	1,505.37	1,839.89	2,174.43	2,508.95	3,010.74

5. That the Statutory Finance Officer and his officers be authorised to take any action necessary to ensure collection and recovery of the Council Tax and Non-Domestic Rates.

EXPLANATION OF COUNCIL TAX SETTING RESOLUTION

RESOLUTION 1

- (a) Before we can calculate the Council Tax to be charged, we first have to calculate the Council Tax base. The Council Tax base is the amount which a Band D Council Tax of £1.00 would raise. For 2011/12 we estimate that a £1.00 Council Tax at Band D would raise £35,565.80 in the Chorley area.
- (b) This shows the “base” figure for each Parish in the area. For example, a £1.00 Band D Council Tax in Adlington would raise £1,941.40.

RESOLUTION 2

- (a) This is the grand total of money which the Council estimates it will spend on all services in 2011/12. It also includes £589,260 which Parish Councils need to run their services.
- (b) This is the grand total of money which the Council estimates it will receive from various sources in the year. This includes, for example, car park charges, investment income, government grants in respect of benefits, etc.
- (c) This is the difference between 2(a) and 2(b) and is in effect the Council’s and Parishes net spending on services.
- (d) This is the amount that the Government will contribute towards the cost of our services. Also included is extra Council Tax resulting from new properties and expected collection rates in previous years.
- (e) The difference between 2(c) and 2(d) is £6,976,160 and this is the amount we need to charge Council Taxpayers. This is divided by the base (see 1(a) above) and the resulting figure of £196.15 is the average Band D Council Tax for all Borough and Parish services.
- (f) The total of all the amounts needed from Council Taxpayers by the Parish Councils in the area and for Chorley Borough Special Expenses.
- (g) This is the Band D Council Tax for Chorley Borough Council’s own services, ie excluding Parish Council spending and Special Expenses
- (h) This table shows the Band D Council Tax for all parishes including the cost of the Parish Councils and Chorley Borough Council. For example, Adlington’s Band D Council Tax is £159.99 for Chorley Borough services and £9.01 for Adlington Town Council services and £4.83 for Chorley Borough Special Expenses.

(i) The rate for each property Band is calculated by reference to the Band D charge. The following ratios apply:

Band A	$\frac{6}{9}$ ths of Band D
Band B	$\frac{7}{9}$ ths of Band D
Band C	$\frac{8}{9}$ ths of Band D
Band D	$\frac{9}{9}$ ths of Band D
Band E	$\frac{11}{9}$ ths of Band D
Band F	$\frac{13}{9}$ ths of Band D
Band G	$\frac{15}{9}$ ths of Band D
Band H	$\frac{18}{9}$ ths of Band D

For Adlington Band A, for example, the charge is $\pounds 173.83 \times 6 \div 9 = \pounds 115.89$; for Band B it is $\pounds 173.83 \times 7 \div 9 = \pounds 135.21$.

RESOLUTION 3

Lancashire County Council, Lancashire Fire Authority and Lancashire Police Authority are separate bodies who have worked out their own estimates of spending and income for 2011/12 and have set taxes in a similar way to Chorley Borough Council. This resolution notes their final decision.

RESOLUTION 4

This pulls together the Council Taxes for Lancashire County Council, Lancashire Fire Authority, Lancashire Police Authority, Chorley Borough Council and the Parish Councils. For example, the Band D for Adlington is $\pounds 1,492.05$ made up as follows:

	£
Lancashire County Council (as in 3 above)	1,108.30
Lancashire Fire Authority (as in 3 above)	63.65
Lancashire Police Authority (as in 3 above)	146.27
Chorley Borough Council (as in 2(g) above)	159.99
Adlington Town Council	9.01
Special Expenses	4.83

RESOLUTION 5

Formally authorise the necessary staff to take legal action to collect arrears as and when this is necessary. ***For the vast majority of taxpayers, this is not needed***

Mayor

REPORT OF EXECUTIVE CABINET**GENERAL REPORT**

1. The Executive Cabinet has met three times on 11 November 2010, 9 December 2010 and 17 February 2011 since the last ordinary Council meeting on 2 November 2010. This report summarises briefly the principal items considered and decisions taken at the three meetings. The Cabinet's recommendations on the reports that require Council decisions appear as separate items on the Council agenda.

Meeting held on 11 November 2010**Chorley Council Performance Monitoring Report – Second Quarter of 2010/11**

2. The Executive Cabinet considered a report of the Director of Partnerships, Planning and Policy reviewing the Authority's performance in respect of the key projects and performance measures included in the Corporate Strategy, together with a number of other national indicators measured locally, during the second quarter of 2010/11.
3. The report revealed a positive performance, with 91% of the key projects either having been completed or on track for completion. The report explained the reasons for the delays in the two projects rated "amber" and the one project rated "red", each of which were expected to be brought back on track during the second quarter period.
4. 93% of the measures identified in the Corporate Strategy were performing either above target or within the 5% tolerance and action plans had been put in place to improve performance in relation to the four specific measures.
5. The report also clarified the circumstances affecting the four performance indicators measured locally, indicating that a full complement of staff within the Development Control Section should assist in the Section's performance in the processing of planning applications.

Chorley Partnership – Performance Monitoring Report for Second Quarter of 2010/11

6. The Director of Partnerships, Planning and Policy presented a report on the activities of the Chorley Local Strategic Partnership (LSP), particularly through the delivery of the objectives of the Lancashire Area Agreement and the 2007 Sustainable Community Strategy, over the second quarter of 2010/11.
7. The Executive Member (Policy and Performance) highlighted the following significant statistics and trends revealed in the report:
 - The overall level of crime had reduced by 6.5% compared to the same period in 2009/10, with reductions in most categories of crime.
 - The target for the establishment of 26 new businesses during the quarter had been exceeded by 7.
 - 7 of the 9 projects commissioned by the Chorley Partnership in 2010/11 were proceeding on or ahead of schedule. The "amber" rated project to develop the Cotswold Community Kitchen was expected to be progressed following the recent appointment of a Co-ordinator. Following delays caused by problems arising with the premises proposed to be used by Help the Homeless for the Chorley Help Hub, further discussions were taking place on ways of progressing the project.

Lancashire Food Waste Collection Scheme

8. Following consideration of a report from the Director of People and Places, the Executive Cabinet approved for implementation a scheme for the collection of food waste separately for composting from households in the Borough.
9. Under the scheme, residents provided with a brown bin for garden waste will be requested to place food waste within the brown bin for collection on a fortnightly basis. Terraced, and other properties without gardens, will be provided with a brown 23 or 25 litre outdoor caddie for food waste, which will be collected on a weekly basis.
10. The scheme, which represents the lowest cost option, will entail an initial one-off capital cost of £30,000, with collection costs having already been factored into the current 10 year contract with Veolia.

Revenue Budget, 2010/11 – Monitoring Report

11. We received a report of the Director of Transformation monitoring the Council's financial performance during the second quarter of 2010/11 in comparison with the budgetary and efficiency savings targets for the financial year.
12. The report revealed that savings of £225,000 had already been achieved in the first half of the financial year and that it was anticipated that additional savings would be made during the year sufficient to meet the expected annual overall saving of £360,000. The projected outturn showed a forecast underspend of around £153,000, which would be added to the Council's working balances.
13. We accepted the report and agreed to use the additional planning fee income received in 2010/11 to finance the one-off software upgrade to the Idox system in use in the Planning and Building Control Sections.

Organisational Restructures:**(a) Revenues and Benefits Shared Services**

14. We considered a confidential report of the Director of Transformation and approved for consultation purposes with staff and trade unions the recommended proposals for a phased implementation of a shared Revenues and Benefits service between Chorley and South Ribble Councils, including Benefit Fraud and residual Exchequer functions.
15. The aim of the restructure proposals, compiled in close collaboration with affected staff from both authorities, is to create a leaner, flexible and sustainable shared service that will be responsive to customer needs, whilst generating significant financial savings to both Councils.

(b) Shared Financial Services Restructure

16. The Executive Cabinet approved for consultation purposes with affected staff and trade unions the proposals contained in the Director of Transformation's confidential report on proposals to restructure the Chorley/South Ribble Shared Financial Services, following a review of the efficiency of the current partnership since its inception in early 2009.
17. The review had entailed an assessment of the level of resources required to ensure that the structure of the service was "fit for purpose" and able to address future challenges and customer requirements. The need to focus on core activity and establish structures and procedures that would ensure that the service was delivered in the most efficient and cost

effective manner as possible had been paramount in the compilation of the recommendations.

(c) Restructure of People and Places Directorate; Strategic Housing Section; Policy and Communications Section; and Administrative and Transactional Services

18. We considered a confidential report of the Chief Executive on the responses received from staff and UNISON to the proposals to restructure teams within the People and Places Directorate; Strategic Housing section; Policy and Communications Section; and Administrative and Transactional Services, which we had approved for consultation purposes on 14 October.
19. The report summarised the principal concerns, issues and arguments which had been raised within the representations, and recommended that, following a careful assessment of the responses, no changes be made to the proposed new structures.
20. The Chief Executive's report was circulated at the meeting and, in order to allow all Members to assimilate the contents of the report on the outcome of the consultation exercise, the Executive Cabinet granted delegated authority to the appropriate Executive Members responsible for the respective portfolios to make the ultimate decisions on the restructure proposals, after allowing a short period for other Members to make known their views.

Meeting held on 9 December 2010

Allotments – Action Plan Update

21. The Executive Cabinet considered a report of the Director of People and Places on the progress of plans to create three new allotments sites within the Borough from the £40,000 allocated in the 2010/11 revenue budget.
22. The Executive Cabinet had at its meeting on 12 August 2010, authorised public consultation on plans to provide additional allotment plots on potential sites at Rothwell Road, Anderton and Manor Road, Clayton-le-Woods, together with investigations into the feasibility of land at Duke Street, Chorley being converted into allotments.
23. Since then, the imposition of a weight restriction had rendered the Rothwell Road land as unfeasible, resulting in Council owned land at The Common, Adlington being identified as a potentially viable site on which to develop 40 allotment plots. Following the consultation exercise on land at Manor Road, Clayton-le-Woods, work was due to commence on the site once an access rights issue had been resolved.
24. We accepted the report and agreed the commencement of the public consultation process on the plans to provide additional allotment plots on the potential sites at The Common, Adlington and Duke Street, Chorley.

Abbey Village and Brindle Conservation Areas – Appraisal and Management Proposals

25. We received and considered two reports of the Director of Partnerships, Planning and Policy on the principal findings of separate appraisals of the Abbey Village Conservation Area and the Brindle Conservation Area.
26. The comprehensive reviews had resulted in the compilation of an Appraisal and Management Plan for each area which highlights the opportunities and challenges facing each Conservation Area and contains a number of objectives and associated projects/actions to enhance the appearance of both areas.

27. The Executive Cabinet endorsed both Appraisal and Management Proposal Documents in relation to the Abbey Village and Brindle Conservation Areas and approved for adoption the actions contained in the respective Documents as the basis for future improvement and control of development, subject to the availability of funding.

Coppull Leisure Centre

28. The Director of People and Places presented a report informing the Executive Cabinet of Coppull Parish Council's plans to sell the Coppull Leisure Centre and outlining the consequent impact on the operating arrangements.
29. Chorley Council held a lease on the Parish Council owned Centre which was due to expire on 31 March 2011. The Centre was operated by Active Nation, with a management fee being paid by the Borough Council.
30. The Borough Council had recently been notified that Coppull Parish Council had agreed to sell the Leisure Centre to Big Air Limited. The sale was envisaged to be completed on 7 February 2011, at which time the Borough Council's and Active Nation's direct involvement would cease.
31. Chorley Council were required to return the premises in a good condition and, with the endorsement of Liberata, the Cabinet authorised a £50,000 dilapidation payment on completion of the sale, in resolution of any outstanding matters, which would be reimbursed, pro rata, over a 4 year period, should the Centre cease to operate as a leisure facility during this period. We were assured that covenants will ensure that the facility will remain in leisure use.

Core Funding, 2011/12 – Review of Process

32. We considered a report of the Director of Partnerships, Planning and Policy proposing changes to the current process for the allocation of Core Funding grants, in order to ensure that the management and monitoring of the grants was effective and provided value for money.
33. The Council receives various applications for different amounts and for a variety of purposes, making it more complex both to allocate the funding and arrange appropriate contractual arrangements.
34. We, therefore, approved changes to the process of allocating Core Funding grants in 2011/12 which will effect:
- a review of the accommodation aspects of Core Funding;
 - the introduction of three new funding schemes (ie Small Core Funding grants up to £2,000; Large Core Funding grants over £2,000, which will be monitored quarterly; Funding of projects commissioned to deliver the Sustainable Community Strategy;
 - a review of the application, contractual and monitoring processes for all Core Funding requests to ensure that they are proportional and will ensure better value for money.
35. The changes we have agreed will not impact on the budget provision, but will improve the Core Funding processes to be adopted in the allocation and monitoring of Core Funding grants in 2011/12.

General Budget Principles for 2011/12

36. The Executive Cabinet approved, for consultation purposes, a set of general principles around which the budget framework for 2011/12 would be constructed, in advance of the draft budget being presented to the Council on 1 March 2011.

Performance of Key Partnerships – 2010/11 Mid-Term Progress Report

37. The Executive Cabinet considered a confidential report of the Director of Transformation providing Members with a corporate update on the performance of the Council's key partnership arrangements during 2010/11.
38. The report outlined information required by the Council's framework for partnership working, including the performance of the Council's key partnerships against targets set for 2010/11 and an assessment of the partners' financial strengths and stability.
39. We were assured that the partnerships continue to operate and deliver effectively and noted an improved position in respect of Active Nation and Chorley Community Housing. However, each of the partnerships will continue to be monitored stringently to ensure that any action required to address evident concerns can be instigated as early as possible.

Organisational Restructures – Shared Revenues and Benefits Services/Shared Financial Services

40. We considered confidential reports of the Chief Executive on the responses received from staff and UNISON to the proposals (i) for a phased implementation of a shared Revenues and Benefits service between Chorley and South Ribble Councils; and (ii) to restructure Chorley/South Ribble Shared Financial Services, which had each been approved for consultation purposes on 11 November 2010.
41. The report, along with the separate note circulated by UNISON, summarised the principal concerns, issues and arguments contained within the representations received, together with a summary of the Management's comments in response.
42. In order to allow the respective Executive Members the opportunity to assess the feedback from staff and UNISON on each of the two restructure proposals, the Executive Cabinet granted delegated authority to the appropriate Member(s) responsible for the respective portfolios to make the ultimate decisions on the separate restructure plans.

Meeting held on 17 February 2011**Overview and Scrutiny Inquiry Report and Executive's Response - Allotments**

43. We received a report of the Director of People and Places outlining a suggested response to the inquiry report which we received as the first agenda item.
44. The report outlined each of the Overview and Scrutiny Task Group's recommendations and contained a suggested response to each recommendation. All of the recommendations have been accepted, at least in part. The recommendations are cost neutral and some of the actions will, in fact, recover expenditure the Council currently incurred.
45. Members discussed the recommendations made in respect of planning permission required for buildings on allotments, the provision of allotments by private land owners and the benefits of varying the size of allotment plots.

Food Waste Collections - Update

46. The Director of People and Places submitted a report advising that the introduction of food waste collections to non-garden properties has been delayed by a minimum of 12 months. Lancashire County Council have now indicated that separate food waste collections are not required until 2012/13.

47. It will still be possible to phase in the introduction of food waste collections to properties who currently receive a fortnightly garden waste collection as proposed in the Executive Cabinet Report of November 2010. The roll out costs of this scheme will be met by existing budgets and no additional vehicles or containers are required.
48. A report will be presented to Executive Cabinet once a date requiring the Council to collect food waste separately from all properties has been provided by LCC.

Section 106 Funding for Youth and Community Activities at Buckshaw

49. The Executive Cabinet approved recommendations within the report of the Director of People and Places relating to Section 106 funding. As part of the Buckshaw Section 106 agreement Chorley Council are due to receive a contribution towards youth and community activities/development in Buckshaw.
50. The developers had recently been invoiced for £64,000. The funding will be used for youth and community activities/development for the whole of Buckshaw Village; the Chorley and South Ribble areas. Youth and community activities were initiatives, activities and/or events that encouraged participation and involvement in community life.

Chorley Council Performance Monitoring Report - Third Quarter of 2010/11

51. We considered a report of the Director of Partnerships, Planning and Policy which set out and reviewed the Authority's performance in respect of the key projects and performance measures included in the Corporate Strategy, together with a number of other national indicators measured locally, during the third quarter of 2010/11.
52. Performance of key projects continues to be good, with the majority of the projects either on track, closed or completed. The two projects rated amber (develop a community engagement strategy) or red (carry out energy audit of all remaining council buildings) are expected to be brought back on track over the next quarter.
53. Overall performance for key measures in the Corporate Strategy and key performance indicators is strong, with all of the Corporate Strategy measures performing above target or within the 5% tolerance. Indicators performing better than target includes street and environmental cleanliness – litter, detritus, graffiti and fly posting and new businesses established.
54. Three of the key performance indicators relating to processing of planning applications are below target. In these cases, action plans have been developed to outline what action will be taken to improve performance.

Chorley Partnership Performance Monitoring Report - Third Quarter of 2010/11

55. The Director of Partnerships, Planning and Policy presented a report of on the activities of the Chorley Local Strategic Partnership (Chorley Partnership) in achieving the targets set in the Sustainable Community Strategy for 2010/2011. Key measures and targets for the new Sustainable Community Strategy are currently being developed and will be reported from April onwards.
56. Overall crime has reduced by 3.8% compared to this period last year and reductions have been seen in most crime categories. The number of new businesses established is performing well with 51 new businesses being established last quarter against a target of 39. Unemployment has remained constant at 2.3% at the end of September to the end of December.

57. Performance is excellent on progress made in the delivery of the key projects commissioned by Chorley Partnership in 2010/2011, with all of the projects currently rated 'green'.

Revenue Budget, 2010/11 - Monitoring Report

58. We considered a report of the Director of Transformation which set out the current financial position of the Council as compared against the budgets and efficiency savings targets it set itself for 2010/11 for the General Fund.
59. The Council has achieved the overall target savings of £360,000 in 2010/11 made up of £300,000 from management of the establishment, £50,000 from the review of administrative and transactional services, and £10,000 from the review of the car leasing scheme. Any further savings made during the remainder of the year as a result of additional vacancies will contribute towards increasing general balances.
60. The projected outturn showed a forecast underspend of around £92,000 against the budget for 2010/11. A number of areas will be monitored closely as the year progresses, including major income streams, in particular car parking fees, planning/building control fees and concessionary travel and benefit costs.
61. An area likely to generate a saving is the Consultants Fees budget in Policy and Performance. The budget for 2010/11 has been set to cover the cost of various corporate reviews, assessments and surveys. A recent partnership working agreement has been set up with ValueAdding.com Ltd. who conduct VFM reviews and this should help to reduce future costs. The Place Survey due to take place in 2010/11 has been cancelled by the Government and it is unlikely that any significant further costs will be incurred before the year-end. This should result in a budget under spend of around £15,000 for 2010/11.
62. Another area where the Council has achieved a saving against budget is in relation to the 2010 elections. As a result of the local elections being combined with the General Election the Council managed to reduce costs and this achieved a saving of around £12,000 this financial year.
63. An area the Council is likely to under achieve against its income budgets is in relation to tolls for the general and flat iron markets. Whilst the covered market continues to attract permanent stall holders, income levels for the flat iron market has suffered as casual stall holders had reduced. This might be partly as a result of the current pressures in the economic climate but is more likely as a direct result of the recent bad weather over the Christmas period. The position will be monitored closely over the remainder of the year.

Overview and Scrutiny Inquiry - Asset Management

64. We received and considered a report on the findings and recommendations of the Overview and Scrutiny Task and Finish Group that had been set up by the Overview and Scrutiny Committee to examine asset management.
65. The Chair of the Task Group, Councillor Alan Cullens, thanked the Task Group's Members and Officers for their involvement and commended the findings report's recommendations for adoption by the Executive Cabinet.
66. We agreed that the findings and recommendations of the Overview and Scrutiny Task Group be received and that the Executive's response to the recommendations be determined at a future meeting.

Recommendation

67. That the report be noted.

COUNCILLOR PETER GOLDSWORTHY
Executive Leader

There are no background papers to this report.

AU/RR

Report of	Meeting	Date
Director People and Places Introduced by the Executive Member for Places	Executive Cabinet	17 February 2011

LICENSING POLICY (LICENSING ACT 2003) REVIEW

PURPOSE OF REPORT

1. To advise Members of the outcome of the statutory review of the Councils Licensing Policy Statement made under the Licensing Act 2003 and to seek adoption of the Policy Statement.

RECOMMENDATION(S)

2. Members are asked to approve the reviewed Licensing Policy Statement (Licensing Act 2003), noting the consultation comments and the respective responses to them, and to recommend its approval and adoption by the full Council. The revised Policy Statement is attached at Appendix A and the List of Consultation Responses is attached at Appendix B

EXECUTIVE SUMMARY OF REPORT

3. The Council has a statutory duty under the Licensing Act 2003 to produce a Licensing Policy Statement which details how the Council will determine applications for licenses determined under the Act.
4. This duty also requires a periodic review of the Licensing Statement on a date prescribed by the Secretary of State which is on or before 7 January 2011.
5. The current Licensing Policy Statement has served the Council well over the past 3 year period and has been approved by the Councils Licensing and Public Safety Committee subject to amendments required as a result of the consultation period which ran from 1 November 2010 to 31 December 2010.
6. At the close of the consultation period only one letter of representation had been received from the Director of Public Health NHS Central Lancashire. The detail and the Councils response is attached as Appendix B.
7. Only minor changes have been made to the original draft in the light of consultation responses and these have been agreed with the Chair of Licensing and Public Safety Committee and Head of Environment in line with the delegation granted by the Licensing and Public Safety Committee at its meeting on 1 December 2010.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

8. Approval of the Licensing Policy Statement (Licensing Act 2003) is required to meet the Councils statutory obligations with regard to its licensing function and the requirement to undertake a three yearly review of the Policy Statement.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

9. No alternatives have been considered.

CORPORATE PRIORITIES

10. This report relates to the following Strategic Objectives:

Strong Family Support		Education and Jobs	
Being Healthy	X	Pride in Quality Homes and Clean Neighbourhoods	
Safe Respectful Communities	X	Quality Community Services and Spaces	
Vibrant Local Economy	X	Thriving Town Centre, Local Attractions and Villages	X
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			

IMPLICATIONS OF REPORT

11. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	X	No significant implications in this area	

COMMENTS OF THE DIRECTOR OF TRANSFORMATION (HEAD OF GOVERNANCE)

12. No comments save to agree with those made within the body of the report.

JAMIE CARSON
DIRECTOR PEOPLE AND PLACES

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Simon Clark	5732	7 January 2010	policyreviewexec

Statement of Licensing Policy

(Licensing Act 2003)

For 3 year period commencing 7 January 2011



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The Borough of Chorley

The Borough of Chorley is set in attractive countryside between the West Pennine Moors and the Lancashire Plain. It has been an important market and trading centre since medieval times. Its location at the centre of the North West and its excellent road and rail links has meant that we have been able to develop a thriving economic base without sacrificing the appeal of rural life.

The Borough has a population of just over 105,000 and extends over an area of 80 square miles. It has a workforce of around 49,000 and attracts some three million visitors a year. Two wards are eligible for Transitional Area funding. Independent research has shown that the general quality of life in Chorley is 20% better than the average for the UK. As such Chorley stands out as one of the top 15 districts to live in the whole of the North of England, with low unemployment, high owner-occupancy, and academic achievement above average. Property prices in many parts of the Borough are very reasonable. A map of the area is given at Appendix 1

Because of its position on the edge of the West Pennine Moors, the informal leisure and recreation opportunities in Chorley are superb and England's longest canal, the Leeds and Liverpool, winds its way through the Borough, with facilities for boating and other activities along the route. The Borough also has four leisure centres and four golf courses, not to mention numerous public parks and open spaces. Other attractions include Hoghton Tower, a historic fortified hill top mansion, and Camelot Theme Park, where Arthurian jousting tournaments are held alongside thrilling white knuckle rides.

Chorley is just a short distance from the coast and within easy reach of the Lake District and Yorkshire Dales. The commercial, shopping, cultural and sporting attractions of the regional capital of Manchester are close by and there is a frequent direct train service to the city and also to Manchester International Airport.

The town of Chorley itself is famous locally for its "Flat Iron" and covered markets. The weekly Flat Iron market, originating from 1498, developed from an agricultural produce market into one of the best open-air markets in the North West. Throughout the Borough, several craft galleries and antiques markets can be found and in the Town Centre there is the Market Walk shopping complex which features many high street names.

There are approximately 375 premises licensed to sell alcohol ranging from off licences to public houses, members only clubs, restaurants and nightclubs.

The Council's vision in its cultural strategy is to improve the economic viability for performing artists and local creative industries. The Council aims to extend and develop opportunities for the culture and leisure sectors that will help sustain regular employment. The Council aims to assist through helping promote and market creative events locally, regionally and nationally, by working with cultural and leisure employers to raise the profile of the sector, assisting with the training needs of artists and developing a festival programme to celebrate local talent. The Council recognises that local pubs and clubs provide a valuable training ground for musicians and performers as well as providing a support network for young artists.

The Council wishes for this to continue and develop. The challenge for the future is to find more creative and innovative ways to develop partnership working to produce more exciting and dynamic cultural experiences for customers and visitors alike.

The Council seeks to maintain a balance between the business operating in its area, the residents living within its area and cultural, entertainment and tourist interests. Full consideration has been given to all these issues in formulating this Policy Statement.

1. EXECUTIVE SUMMARY

- 1.1 The Licensing Act 2003 (“the Act”) introduces a licensing system for alcohol, entertainment and late night refreshment.
- 1.2 Section 5 of the Act imposes a statutory duty on Chorley Borough Council (“the Council”) to produce a statement of licensing policy for a three year period, beginning with such day as the Secretary of State may by order appoint and each subsequent period of 3 years. The next subsequent period of 3 years will commence on 7 January 2011. A Glossary of terms is given at Appendix 2.
- 1.3 This document sets out the Council’s policy, which will guide the Council when considering applications under the Act. The policy provides guidance on the general approach the Council, as the Licensing Authority within the meaning of the Act, will take in terms of licensing. However, each licence application will be considered separately on its individual merits.
- 1.4 The aim of this policy is to set out how the Licensing Objectives will be achieved and to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural industry. The Council in adopting this policy recognises both the needs of residents for a safe and healthy environment to live and work and the importance of safe and well run entertainment premises to the local economy and vibrancy of the Borough. However, the Council also recognises that balancing these interests will not always be straightforward and it will be guided by the four licensing objectives as set out in this policy.
- 1.5 This policy does not seek to undermine the right of any individual to apply under the Act for a variety of permissions and as stated above each application will be considered on its individual merits. Nor does the Policy seek to override the right of a person to make representations on an application or seek a review of a licence or certificate. However, the Council in adopting this policy is indicating that a wide range of considerations will be taken into account.
- 1.6 The Council will use its powers to promote best practice in relation to the operation of licensed premises. It is also committed to partnership working with police, fire, local businesses, licensed trade, residents and others to ensure that they have a clear understanding of the legislation.
- 1.7 The Council has had regard to the guidance issued by the Secretary of State under Section 182 of the Act when developing this statement of Licensing Policy. The Council may deviate from the guidance but would need good reasons, which it can justify, to do so.
- 1.8 The Act covers the licensing of individuals for the retail sale of alcohol (personal licences) the licensing of premises for the retail sale of alcohol, provision of regulated entertainment or late night refreshment (premises licence), the supply of alcohol or the provision of regulated entertainment to certain clubs (club premises certificates) and the holding of certain licensable activities on a temporary basis (temporary event notices).
- 1.9 The scope of this policy covers new applications, renewal of personal licences, transfers and variations of licences and certificates including temporary event licences. It also includes the review of licences and certificates which could lead to a range of sanctions including the revocation of a licence or a certificate.

2. LICENSING OBJECTIVES

- 2.1 The Act requires the Council to carry out its licensing function so as to promote the four licensing objectives:

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

2.2 Accordingly, the Council has prepared its statement of licensing policy in accordance with these objectives.

2.3 Each of the licensing objectives is of equal importance for the purposes of this policy.

2.4 This policy statement is designed to deal with matters within the control of the licensee. It focuses on the premises in which each business is carried on and the effect that has on members of the public living, working or engaged in normal activity in the vicinity.

2.5 Licensing law is not envisaged by the Licensing Authority as a mechanism to control anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. Therefore any terms and conditions imposed will be focused on matters within the control of individual Licensees and others granted relevant permissions. These matters will centre on the premises and places used for licensable activities and in the vicinity of the places.

2.6 The Licensing Authority considers that every holder of a licence, certificate or permission and designated premises supervisor is responsible for minimising the impact of their activities and anti-social behaviour by their customers within the vicinity of their premises.

3. LICENSABLE ACTIVITIES

3.1 The policy relates to the following activities that are required to be licensed under the Act:

- retail sale of alcohol (including via the internet or mail order)
- wholesale of alcohol to the public
- supply of alcohol or provision of regulated entertainment to members of a registered club
- provision of regulated entertainment to the public or with a view to a profit
- a theatrical performance
- a film exhibition
- an indoor sporting event
- boxing or wrestling matches
- live music performers
- playing of recorded music (except incidental music)
- dance performances
- entertainment of similar descriptions
- provision of facilities for making music
- provision of dancing facilities
- supply of hot food between 11.00pm and 5.00am (late night refreshment)

4. CONSULTATION PROCESS

4.1 This policy statement has been developed after proper consultation with statutory consultees, as required by the Act together with other interested parties. A list of consultees is attached as Appendix 4.

4.2 This policy has not been developed in isolation. It has been developed in conjunction with Lancashire Authorities and takes account of the position in adjoining Authorities whilst being specifically tailored to the needs of the area of the Council.

4.3 The Licensing Authority shall also endeavour to continue to work with Lancashire Authorities to ensure a consistent approach is taken to licensing matters whilst continuing to respect the differing needs of the individual communities within the County.

5. GENERAL PRINCIPLES

5.1 Each application will be determined on its individual merits.

5.2 The policy will not seek to introduce 'zones' or staggered closing times within the Borough where specific activities are concentrated. In general terms, a flexible approach will be adopted and arbitrary restrictions avoided.

5.3 The policy will not fix the hours during which alcohol can be sold. The Licensing Authority considers that stricter controls regarding noise nuisance may be necessary in more densely populated areas. The grant of a licence will be dependent on the impact of an activity on the licensing objectives.

5.4 In general, the Licensing Authority considers that the shops, stores and supermarkets should be able to sell alcohol for consumption off the premises during the hours they are normally open for trade. However, where representations have been received identifying premises as a focus for disorder and disturbance, the Licensing Authority may consider it appropriate to impose limitations..

5.5 The policy does not seek to regulate matters provided for in any other legislation e.g. planning, employment rights, health and safety, fire safety.

5.6 The Licensing Authority would encourage licence holders to provide a wide range of entertainment activities throughout their opening hours and to promote activities which provide a wider cultural benefit for the community.

5.7 The Licensing Authority will also encourage the Council to seek premises licences for Council owned facilities and public spaces. In this way, performers and entertainers will be able to seek permission to use them from the relevant council department. The Licensing Authority will consider such applications from a neutral standpoint and will balance the potential for limited disturbance in neighbourhoods against the wider benefits for the community.

5.8 The Licensing Authority recognises that conditions can only be imposed if relevant representations are made. In the absence of such representations, licences must be granted subject only to those conditions consistent with the operating schedule and the mandatory conditions.

5.9 The Licensing Authority will not impose conditions relating to the promotion of price fixing. If relevant representations are received which relate to irresponsible drinks promotions undermining the licensing objectives then a review of the premises licence will be undertaken. In these circumstances the Licensing Authority may consider the imposition of a condition prohibiting irresponsible sales or the discounting of prices of alcoholic beverages.

6. CRIME AND DISORDER

- 6.1 Licensed premises, especially those offering late night entertainment, alcohol and refreshment can be a source of crime and disorder problems.
- 6.2 The Council is committed to reducing crime and disorder across the Borough through its statutory duty under the Crime and Disorder Act 1998 and the Community Safety Strategy. Statistics from the Community Safety Partnership regarding Crime and Disorder in the Licensing Authority area are given in Appendix 4.
- 6.3 The Community Safety Partnership will regularly monitor and review crime statistics within the Borough and their association with alcohol and provide reports to the Licensing Authority where appropriate. The Licensing Authority will give due consideration to any submissions made concerning the impact on crime and disorder of alcohol related problems. The Council may review this Policy where it considers it appropriate to do so.
- 6.4 The Council will have particular regard to the likely impact on licensing of related crime and disorder in the Borough particularly when considering the location, impact and the operation and management of all proposed licensed premises and applications for variations.
- 6.5 The promotion of the crime and disorder licensing objective, places a responsibility on licence holders to try and achieve this objective. Applicants will therefore be required to address, in their operating schedules, where appropriate, those measures that have been identified and will be implemented and/ or maintained to reduce or prevent crime and disorder in the vicinity of their premises. The Licensing Authority considers that best practice will be exemplified by the night safe initiative and would recommend that licence holders join this initiative.
- 6.6 Where relevant representations are received on the crime and disorder objective, the Licensing Authority may have regard to the following where relevant: (though this is not an exhaustive list) :
- crime prevention measures
 - physical security features installed in the premises, (this may include CCTV both inside and outside the premises, where alcohol is stored in relation to off licences, the use of toughened drinking glasses).
 - weapon detection and search facilities.
 - procedures for risk assessing promotions and events such as 'happy hours', drinks promotions, for the potential to cause crime and disorder, and the plans to minimising such risks.
 - adoption of best practice guidance in relation to safer clubbing guide
 - measures to prevent the use or supply of illegal drugs including search and entry policies
 - employment of licensed door supervisors
 - participation in other appropriate schemes e.g. pub watch scheme
 - measures to be taken for the prevention of violence or disorder.
- 6.7 The Licensing Authority where relevant representations are made, will consider attaching conditions to deter and prevent crime and disorder, if appropriate and necessary and these may include conditions from the model pool of conditions at Appendix 3. Certain premises may be required to install CCTV system to an evidential standard should the Council be satisfied it is necessary and /or appropriate to meet the licensing objectives.

- 6.8 The Council reserves its right to use its powers to designate areas where alcohol may not be consumed in a public place to meet the Public Safety and Crime and Disorder objectives.
- 6.9 Lancashire Constabulary operate a Best Bar None accreditation scheme. This promotes the development and operation of well-managed night time venues and incorporates multi-agency inspections. The licensing authority recognises the benefits of accreditation and encourages premises to apply.
- 6.10 It is advisable that licensed premises have procedures in place for risk assessing drinks promotions and events such as 'happy hours' on the basis of preventing crime and disorder.

7. LICENSING HOURS

- 7.1 The policy recognises that longer (more flexible) licensing hours can contribute to easing crime and disorder problems by ensuring that concentrations of customers leaving premises simultaneously are avoided thus helping to reduce friction at taxi ranks, private hire offices, fast food outlets etc.
- 7.2 Individual applications will be considered on their merits and in general terms a flexible approach will be adopted. Fixed predetermined closing times for particular areas will not form part of the policy and restrictions on trading hours will be considered only where necessary to meet the licensing objectives. The four licensing objectives will be paramount considerations at all times.
- 7.3 The Licensing Authority, however, considers that the risk to disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning as the ambient noise levels will be lower. The Licensing Authority may impose stricter conditions with regard to noise control in areas which have denser residential accommodation but each premises will be considered on its individual merits.
- 7.4 The Licensing Authority recognises that in principle shops, stores off licences and supermarkets selling alcohol should generally be permitted to match the hours during which they sell alcohol with their normal trading hours except where relevant representations have identified a particular outlet as a focus for disorder and disturbance. In such circumstances, the Licensing Authority may consider it necessary and /or appropriate to impose limitations on opening hours as one mechanism of combating such problems.
- 7.5 The Licensing Authority also recognises the principle of 24 hour opening of all licensed premises. However, it considers that longer opening hours may be more acceptable in commercial areas with high levels of public transport. The grant of a licence, will in all cases be dependent on the impact of an activity in relation to the licensing objectives.
- 7.6 Where relevant representations are received, the Licensing Authority may have regard to the following where relevant (though this is a non exhaustive list);
- the nature of the area where the premises are located (e.g. commercial, residential)
 - arrangements to ensure adequate availability of taxis and private hire vehicles, public transport.
 - whether appropriate car parking is readily accessible to premises and whether the use/parking of vehicles would cause a demonstrable adverse impact on the amenity of residents.
 - whether the licensable activities are likely to cause adverse impact especially on local residents and whether appropriate measures will be put in place to prevent any adverse impact

- in relation to the grant of a new premises licence whether the premises will give rise to a negative cumulative impact on one or more of the licensing objectives

In assessing the impact of the activity proposed the Licensing Authority may consider a number of factors inter alia,

- the type and scale of activity, the number and nature of clientele likely to attend.
- the levels of noise from the premises, which may be acceptable later in the evening.
- the proposed hours of operation
- the levels of public transport accessibility for customers and the likely means of public or private transport that will be used, access to private hire/taxi's
- the means of access to the premises e.g. whether on principal pedestrian routes.
- the level of car parking demand on surrounding residential streets and its effect on local residents, and movement of traffic.
- the cumulative impact of licensed premises in an area and scope for mitigation.
- frequency of the activity.

Operating Schedules (see section 28) will be required and will set out the measures to be taken to ensure that the licensing objectives are addressed. Applicants are also referred paragraph 6.6.

8. CUMULATIVE IMPACT

- 8.1 The Licensing Authority will not seek to limit the number of licensed premises that will be permitted because it considers that there are already enough licensed premises to satisfy demand. The "need" for a particular venue is a matter which will be governed by commercial demand and throughout the council's planning powers. Therefore the "need" for a venue is not a matter to be addressed in this policy statement.
- 8.2 In areas where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from licensed premises. Where this occurs it has been described as the cumulative impact on the licensing objectives of a large concentration of licensed premises in one part of the Licensing Authority's area. It is therefore possible that the impact on the surrounding areas by the behaviour of customers taken together is greater than the usual impact from customers of individual premises.
- 8.3 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter that the Licensing Authority may take into account, when considering any licence application, if a relevant representation is made.
- 8.4 The Licensing Authority may receive representations from a responsible authority or interested party, indicating that the cumulative effect of new licences is leading to an area becoming saturated with premises of a certain type leading to exceptional problems of nuisance or disorder in the area, or some distance from the licensed premises. The Licensing Authority may consider whether the grant of further licences would undermine one or more of the licensing objectives. However, the Licensing Authority will always consider the individual merits of an application.
- 8.5 The Licensing Authority will, in such circumstances, not operate a quota of any kind, which would restrict the consideration of any application on its individual merits, nor will it seek to impose general limitations on trading hours in particular areas. The Licensing Authority will give due regard to the individual characteristics of the premises concerned within a given area (as it is recognised that licensed premises have contrasting styles and characteristics) and the impact that the premises is likely to have on the local community.

9. SATURATION CONTROLS

- 9.1 Where the Council considers that an area has become saturated with licensed premises it may adopt a “Special Policy” for that particular area and thus refuse licences in that area. However, the Council will consider each application on its individual merits and additional licences may be approved, if it is considered that such an application is unlikely to add significantly to such saturation.
- 9.2 In determining whether to adopt a Special Policy within this statement of licensing policy, the Council will follow the steps outlined below:
- 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 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 licences or club premises certificate applications from that area within the terms of this Guidance in the Statement of Licensing Policy
 - publication of the special policy as part of the statement of licensing policy .
- 9.3 It is not currently anticipated that a special policy will be required. However, the absence of a special policy does not prevent any responsible authority or interested party making representations on an 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.

10. PROTECTION OF CHILDREN FROM HARM

- 10.1 The policy does not seek to prevent or limit the access of children to licensed premises unless it is necessary for the prevention of physical, moral or psychological harm to them. The Licensing Authority is committed to protecting children from harm and activities associated with premises that sell alcohol or provide regulated entertainment, may in certain circumstances, give rise to concerns for the health and welfare of children. For the purpose of this Policy, a ‘child’ is defined as any person who is under the age of 16
- 10.2 The Licensing Authority will not impose any conditions that specifically require access of children to premises and where no limitation is imposed this should remain a matter for the individual licence holder or club premises certificate holder. The Licensing Authority will consider the individual merits of each application. However, the Licensing Authority will have particular concern in respect of children :
- where there have been convictions of the current management for serving alcohol to minors or those where there is a reputation of under age drinking.
 - where there is reputation of 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 entertainment of an adult or sexual nature is provided (see paragraph 29 for additional information).
 - where the supply of alcohol is the exclusive or primary purpose of the services provided at the premises.

- 10.3 The Licensing Authority, in such circumstances as outlined above, may consider it necessary to impose a complete prohibition; it is envisaged that this would be rarely imposed. The Licensing Authority would normally be likely to impose requirements such as:
- limitations on the hours when children may be present.
 - age limitations for persons under 18
 - limitations or exclusions when certain activities are taking place
 - requirements for accompanying adults
 - limitations of access to certain parts of the premises when particular licensable activities are taking place
 - provision of suitable signage
 - such other conditions or restrictions as may be necessary to achieve the licensing objectives.
- 10.4 Licensees are not to provide alcohol except as provided for by the Act. The Council expects applicants to consider child access in their operating schedules and volunteer appropriate conditions where relevant. The Council recommends that the following documents should be used as evidence of age:
- Passport
 - Photo Card Driving licence issued in the European Union
 - Proof of Age Scheme Card and schemes which carry the Proof of Age Standard Scheme logo
 - Citizen Card supported by the Home Office
 - Official ID Card issued by HM Forces or a European Union Country bearing a photograph and date of birth of the holder.
- 10.5 It is best practice for all staff to receive training on how to refuse under age sales of alcohol.
- 10.6 The Licensing Authority requires applicants to consider, where relevant, those factors that impact on the protection of children objective, and identify where necessary and appropriate, suitable measures to promote this objective. Applicants may wish to consider, where appropriate:
- arrangements to prevent children acquiring or consuming alcohol including reducing the risk of proxy sales of alcohol to adults for the consumption by children
 - arrangements to prevent children being exposed to drugs, drug taking, or drug dealing
 - arrangements to prevent children being exposed to gambling, or activities of an adult or sexual nature
 - steps to be taken to prevent children being exposed to violence or disorder
 - arrangements for training staff in relation to the protection of children
 - steps to be taken to prevent children purchasing cigarettes from vending machines and preventing access to Amusement with Prize Machines (except in accordance with the Gaming Legislation).
- 10.7 Applicants may volunteer prohibitions and restrictions on their Operating Schedules as a result of their own risk assessments determining that the presence of children is undesirable or inappropriate. Where no relevant representations are made to the Licensing Authority these volunteered prohibitions and restrictions will become conditions attached to the licence or certificate. The Licensing Authority may impose conditions where relevant

representations are made if it considers it necessary and/or appropriate including those drawn from the Model Pool of Conditions shown at in Appendix 3.

- 10.8 The Licensing Authority will also expect applicants, where relevant, to consider how they intend to provide for the supervision of children as unaccompanied customers and as performers providing regulated entertainment. Licence holders should give consideration to the welfare of children as performers in such cases. As a minimum requirement the Licensing Authority will require an adult to be nominated to be responsible for such child performers.
- 10.9 Where large numbers of unaccompanied children are to be present e.g. children's show or pantomime, conditions may be imposed, where relevant representations are received, requiring the presence of an appropriate number of adult staff to ensure public safety and protection of children from harm. The Licensing Authority requires applicants to address those matters in their operating schedules. See paragraph 12.1 for further guidance.
- 10.10 The Licensing Authority recognises Lancashire County Council Social Services Department or a future body with the relevant legislative functions of a social services department as being competent to advise on matters relating to the protection of children from harm.

11. CHILDREN AND CINEMAS

- 11.1 Where the exhibition of films is permitted the Licensing Authority requires admission to children to be restricted in accordance with the British Board of Film Classification (BBFC) or any other body designated under section 4 of the Video Recordings Act 1984 .
- 11.2 Where it is proposed to exhibit films not classified by the BBFC, the Licensing Authority will, provided 28 days notice has been given, classify the films concerned using the guidelines published by the BBFC.
- 11.3 Where a film is shown that has an age restriction, advertisements before and after the film will not publicise age-restricted products that cannot be legally purchased by young people watching the film

12 CHILDREN AND PUBLIC ENTERTAINMENT

- 12.1 Where there is entertainment specifically provided for children (e.g. children's disco) the Licensing Authority would recommend as a minimum:
- an adult member of staff to be stationed in the vicinity of each of the exits, a minimum of one member of staff per 50 children or part thereof
 - no standing to be permitted in any part of an auditorium during the performance
 - no child unless accompanied by an adult to be permitted in the front row of any balcony.
- 12.2 Where relevant representations are made, the Licensing Authority may, if it considers it necessary and/or appropriate attach conditions to licences and permissions to prevent harm to children, these may include those drawn from the Model Pool of Conditions at Appendix 3 relating to the Protection of Children from Harm.

13. PREVENTION OF PUBLIC NUISANCE

- 13.1 Licensed premises have significant potential to adversely impact on communities through public nuisances arising from their operation.

- 13.2 The Licensing Authority is aware of the importance of the licensed trade to the local economy as well as in cultural and social terms. The Licensing Authority is also concerned to protect the amenity of residents and businesses in the vicinity of licensed premises. 'Vicinity' is not defined in the Act or Guidance issued by the Secretary of State. Whether or not incidents can be regarded as 'in the vicinity' of licensed premises is a question of fact and will depend on the particular circumstances of the case.
- 13.3 The Licensing Authority will interpret 'public nuisance' in its widest sense and include such matters as noise emanating from the premises, light, litter, odour and anti social behaviour where these matters impact on those living or working in an area.
- 13.4 Activities that involve public entertainment, drinking or eating, have the potential to impact adversely on their surrounding areas due to noise, litter, and odours. There is also the potential for disturbance caused by those attending licensable activities. Late at night the impact of licensed activities is likely to be more objectionable to residents living close to a licensed activity, as the ambient noise levels are often lower so noise disturbance becomes more noticeable.
- 13.5 The policy allows for later opening hours except where there will be an adverse impact on the licensing objectives. In general the Licensing Authority will expect more comprehensive measures to be proposed at late night venues and/or where there has been a history of public nuisance.
- 13.6 On receipt of relevant representations, the Licensing Authority will assess the likelihood of it causing an adverse impact, by generally considering the following factors where relevant:
- the location of the premises (in particular proximity to residential and other noise sensitive premises, e.g. hospitals, nursing homes, hospices and places of worship).
 - the type of activities, the number and nature of clientele likely to attend at the time of the application
 - the proposed hours of operation
 - levels of public transport accessibility for customers either arriving or leaving the premises (including taxis and private hire)
 - means of access to premises (whether on principal pedestrian routes)
 - the level of car parking demand on any surrounding residential streets and its effect on local residents
 - the cumulative impact on licensed premises in an area
 - the scope for mitigating an impact i.e. CCTV, door supervisors
 - the frequency of an activity
 - the design and layout of the premises
 - measures taken or proposed to be taken to prevent noise or vibration escaping from the premises e.g. sound proofing, air conditioning and sound limitation devices.
 - measures taken to prevent unreasonable disturbance by customers/staff arriving and leaving the premises, goods deliveries etc.
 - measures taken to lessen the impact of parking in the vicinity.
 - control of operating hours for all or parts of the premises (e.g. gardens, last admission times and 'wind down' periods).
 - measures to be taken to prevent drunkenness on the premises
 - measures to ensure collection and disposal of litter and waste outside their premises.

- 13.7 The Licensing Authority when considering an application will take into account previous substantiated nuisance complaints particularly when a statutory notice has been served. Applicants may wish to have regard to the Good Practice Guide on the Control of Noise from Pubs & Clubs produced by the Institute of Acoustics and the British Beer and Pub Association
- 13.8 On receipt of relevant representations, the Licensing Authority, where it considers it necessary and/or appropriate may attach conditions to a licence to prevent public nuisance including those drawn from the Model Pool of Conditions - see Appendix 3. In particular, it may attach a condition requiring the use of door supervisors licensed by the Security Industry Authority.
- 13.9 The Licensing Authority requires Operating Schedules, where relevant to satisfactorily address the issue of public nuisance.
- 13.10 The Licensing Authority would also recommend applicants highlight local public transport links and taxi and private hire services within their premises, (including agreeing arrangements with nominated taxi and private hire firms for dropping off and collecting customers).
- 13.11 The Licensing Authority, will in accordance with the Guidance, focus on matters within the control of the individual Licence holder. The Licensing Authority accepts that the difficulty that a licence holders has in preventing anti-social behaviour by individuals once they are beyond the direct control of the Licence holder. However, the licensing objection of preventing public nuisance will not be achieved if customers from a premises regularly conduct themselves in an anti social manner to the detriment of local residents or businesses. In addition, the Council has a duty to do all it can to prevent crime and disorder in the Borough under the Crime & Disorder Act 1998.
- 13.12 The Licensing Authority's aim is to achieve a balanced approach to these difficult issues.

14. PUBLIC SAFETY

- 14.1 The Licensing Authority considers that members of the public when visiting licensed premises, have a right to expect that due consideration has been given to public safety. The Licensing Authority notes that the public safety objective is concerned with the physical safety of people using premises and not with public health which is dealt with in other legislation.
- 14.2 The Licensing Authority is committed to ensuring public safety across the Borough by working in partnership with Lancashire Police, Lancashire Fire & Rescue and Licence Holders.
- 14.3 Applicants should carefully consider the safety of the premises having regard to the licensable activities that are proposed and to address in the operating schedule, where relevant, how public safety will be achieved. Such measures may include, where relevant to the premises:
- the occupancy capacity of the premises
 - age, design and layout of the premises including means of escape
 - nature of the licensable activities to be provided, in particular the sale and supply of alcohol
 - hours of operation
 - customer profile (e.g. age)
 - use of special effects e.g. lasers, pyrotechnics, smoke/foam machines.

- 14.4 The Act requires a plan of the premises to be supplied with operating schedules showing prescribed information.
- The Licensing Authority will take notice of a health and safety risk assessment submitted with an operating schedule.
- 14.5 All licensed premises will be risk related according to a Protocol agreed with Lancashire Fire and Rescue. Inspections will be carried out by Lancashire Fire & Rescue in accordance with the Protocol. A copy is attached at Appendix 6.
- 14.6 The Licensing Authority may inspect premises where it considers it appropriate on public safety grounds.
- 14.7 On receipt of relevant representations the Licensing Authority may, where it considers it necessary and/or appropriate, impose conditions to secure the public safety objective including those drawn from the Model Pool of Conditions attached at Appendix 3. Any conditions imposed will relate to the particular circumstances of the individual premises and will not duplicate other requirements of the law.
- 14.8 It is recommended that all premises licensed to sell alcohol display materials regarding the benefits of safe drinking.
- 14.9 It is advisable that alcohol licensed premises promote the safety of the public after they leave the premises by providing public health messages on the premises, addressing issues such as getting home safely, sexual health etc.

OTHER REGULATORY SYSTEMS

15. PLANNING CONTROL

- 15.1 Care will be taken to ensure that there is a separation of the planning and licensing regimes and that licensing applications should not be a re-run of the planning application.
- 15.2 Planning permission is usually required for the establishment of new premises and the change of use of premises.
- 15.3 In some cases where an application is made for a licence the planning use will already be authorised by a previous planning permission or because the premises has a long-standing lawful use. Therefore a new application is often not required. However, the following points must be made:
- Planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with 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.
 - The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

- The granting by a licensing committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- There are also 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.

15.4 In general, the Licensing Authority acknowledges that applicants may seek a provisional statement without having first obtained planning permission. The Licensing Authority will issue Provisional statements in accordance with the Act.

15.5 The Licensing Authority will ensure that reports are sent from the Licensing Act 2003 Committee to the Development Control Committee and Head of Planning services advising them of the situation regarding licensed premises in the Borough, including the general impact of alcohol related crime and disorder to assist them in their decision making.

16. BUILDING CONTROL

16.1 The building regulations cover a variety of issues including means of escape in case of fire, emergency lighting, structural integrity, accessibility, sanitary accommodation and public safety. The granting by the Licensing Authority of any new licence, certificate or variation to an existing licence under the Act that involves a new building or an extension, change of use or structural alteration to a building does not relieve the applicant of the need to seek Building Regulation approval.

17. STATUTORY REQUIREMENTS

17.1 The Council has responsibilities for health and safety including food safety and nuisance control. The Council also has general statutory duties relating to crime and disorder, human rights and disability discrimination.

18. DISABILITY DISCRIMINATION ACT 1995

18.1 The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered against disabled people in areas of employment, access to goods, facilities and services, and the management, buying or renting of land and property. For service providers such as Licensees:

- since December 1996 it has been unlawful to treat disabled people less favourably than other people for a reason related to their disability.
- since October 1999 they have had to make reasonable adjustments for disabled people, such as providing extra help or making changes to the way they provide their services
- from October 2004 they will have to make reasonable adjustments to the physical features of their premises to overcome physical barriers to access.

19. HUMAN RIGHTS ACT 1998

19.1 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way that is incompatible with the European Convention on Human Rights. The Council will have particular regard to the following convention Rights:

- **Article 6:** that in the determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law;
- **Article 8:** that everyone has the right to respect for his home and family life;
- **Article 1 of the First Protocol:** that every person is entitled to the peaceful enjoyment of his/her possessions including for example, possession of a licence.

20. OTHER STRATEGIES

- 20.1 There are many stakeholders in the leisure industry. Many are involved directly or indirectly in the promotion of the licensing objectives. Many of their strategies deal in part with the licensing function and the Licensing Authority will establish proper liaison arrangements to ensure proper integration of strategies and seek to reflect the aims of those strategies and plans when exercising its licensing function.
- 20.2 The Licensing Act 2003 Committee will receive, when appropriate reports on the needs of the local tourist economy and cultural strategy to ensure that these are reflected in their considerations. In addition the Licensing Act 2003 Committee will be appraised of the employment situation in their area and the need for new investment where appropriate.
- 20.3 Applicants for licences will be encouraged to have taken local crime prevention strategies, planning and transportation and tourism and cultural policies, into account when determining their operating schedules.
- 20.4 The Alcohol Harm Reduction Strategy identifies initiatives and priorities which may help promote one or more of the Licensing Objectives. The Licensing Authority is committed to working in partnership with relevant agencies such as the Primary Care Trust regarding this strategy and health action plans. Where appropriate and available, local health profiles will be sought in order to assist decision making where a health impact is a consideration.
- 20.5 The Licensing Act 2003 Committee will report to and receive reports from such other committees and panels of the Council and external appropriate bodies in order to monitor the impact of this Policy on the licensing objectives.

21. ENFORCEMENT

- 21.1 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act. The Licensing Authority will make arrangements to monitor premises and take appropriate enforcement action to ensure this.
- 21.2 Enforcement, where necessary, will be taken in accordance with the principles of the Enforcement Concordat and due regard will be given to the Hampton Principles of inspection and enforcement. To this end the key principles of consistency, transparency and proportionality will be maintained.
- 21.3 Enforcement will be targeted at problem and high risk premises which require greater attention while a lighter touch will be applied in respect of low risk premises which are shown to be well managed and maintained.
- 21.4 The Licensing Authority will work closely with the appropriate agencies to establish protocols to ensure an efficient deployment of Police, Fire and Rescue and Council Officers in enforcing relevant legislation.

- 21.5 The Council will take account of its powers to make a closure order under the provisions of the Anti Social behaviour Act 2003 where it reasonably believes there is a public nuisance being caused by premises and the closure is necessary to prevent that nuisance and will also take account of any additional powers such as those introduced under The Violent Crime Reduction Act 2006, The Health Act 2006 and the Clean Neighbourhoods and Environment Act 2005.

LIVE MUSIC, DANCING AND THEATRE

- 22.1 In its role of implementing local authority cultural strategies, the Licensing Authority recognises the need to encourage and promote a wide range of entertainment, particularly live music, dance and theatre for the wider cultural benefit of the community, particularly for children.
- 22.2 The Licensing Authority will balance the potential for limited disturbance in neighbourhoods with the wider cultural benefits.
- 22.3 Consideration will be given to the particular characteristics of any event including the type and scale of the proposed entertainment especially where limited disturbance only may be caused.
- 22.4 The Licensing Authority will avoid measures that deter entertainment. The Licensing Authority recognises that live music and dance performances are central to the development of a cultural diversity and vibrant and exciting communities. The Licensing Authority acknowledges that the absence of a cultural provision in any area can lead to young people being diverted into anti-social activities that damage communities as well as themselves.
- 22.5 On receipt of relevant representations the Licensing Authority may attach conditions that are reasonable, proportionate and necessary for the promotion of the licensing objectives. The Licensing Authority will monitor the impact of licensing on regulated entertainment in the Borough. If there is evidence that licensing requirements deter such activities, the Licensing Authority will review this policy.

22. PROMOTION OF RACIAL EQUALITY

- 23.1 This policy recognises that the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and good relations between persons of different racial groups.
- 23.2 The policy also recognises that the Council is required to produce a race equality scheme assessing the impact of proposed policies on race equality and to monitor policies for only adverse impact on the promotion of race equality.
- 23.3 The Licensing Authority, when determining licence applications, will have regard to the above legislation so as to avoid any possible indirect discriminatory impact on particular ethnic groups.

23. BYELAWS - TEMPORARY STRUCTURES

- 24.1 For the information of applicants, the Council has adopted the provisions of Section 35 of the County of Lancashire Act 1980, which relate to temporary structures. Applicants will still be required to comply with byelaws made under Section 35 of the County of Lancashire Act 1980 in relation to temporary structures e.g. marquees.

25 PERSONAL LICENCES

- 25.1 If an applicant has a relevant conviction, as determined by the Act, the Police can oppose the application. If an objection is lodged by Lancashire Police due to a relevant conviction, the Licensing Authority will hold a hearing.
- 25.2 The Act requires applicants for a personal licence to produce a Criminal Record Bureau certificate to the Council. Applicants from foreign jurisdictions will be required to make a clear statement as to whether they have been convicted outside England and Wales of a relevant offence or an equivalent offence.
- 25.3 The Licensing Authority, where relevant convictions exist, will consider carefully whether the grant of the licence will be in the interests of the Crime Prevention Objective. It will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The Licensing Authority will reject applications on the basis of relevant convictions only where it considers it necessary to promote the licensing objectives.
- 25.4 The above paragraphs also apply where a notice of objection has been made by Lancashire Police to vary a premises licence covering the sales of alcohol by specifying a new designated premises supervisor.

26. DESIGNATED PREMISES SUPERVISORS

- 26.1 The main purpose of the designated premises supervisor is to ensure that there is one specified individual, who can be readily identified at the premises where a premises licence is in force. The premises licence holder would normally have given that person the day to day responsibility for running the premises.
- 26.2 Lancashire Police are able to object to the designation of a new designated premises supervisor where, in exceptional circumstances, they believe the appointment would undermine the Crime Prevention objective as set out in the Act.
- 26.3 Where the police do object, the Licensing Authority will hold a hearing as required by the Act. The Act provides that the applicant may apply for the individual to take his post up immediately and in such cases, the issue will be whether the individual should be removed.

The Licensing Authority will confine their consideration to the issue of crime and disorder and give comprehensive reasons for their decision.

- 26.4 Where a designated premises supervisor is to be newly specified, the normal course of action will be for the premises licence holder to apply to the Licensing Authority (including an application for immediate effect). This should be accompanied by a form of consent by the individual concerned and, Lancashire Police must be notified of the application.

27. PREMISES LICENCE

- 27.1 An application can be made to the Licensing Authority for any place used for licensable activities or recognised club activities within its area and the application must be accompanied by:
- a) The required fee;
 - b) An Operating Schedule;
 - c) A plan of the premises; and
 - d) If it is intended to sell alcohol a form of consent given by the person the applicant wishes to have specified in the Premise Licence as the Premises Supervisor.

- 27.2 The Operating Schedule must include a statement of:
- a) The relevant licensable activities;
 - b) The time during which the applicant proposes that the relevant licensable activities are to take place;
 - c) Any other times during which the applicant proposes that the premises are to be open to the public;
 - d) Where the applicant wishes the licence to have effect for a limited period, that period;
 - e) Where the relevant licensable activities include the sale by retail of alcohol, the name and address of the individual whom the applicant wishes to have specified as the Designated Premises Supervisor and a copy of his or her Personal Licence;
 - f) Where the relevant licensable include the sale by retail of alcohol, whether such sales are proposed to be for consumption on the premises or off the premises, or both;
 - g) The steps which the applicant proposes to take to promote the licensing objectives; and
 - h) Any other prescribed matters.
- 27.3 The Licensing Authority will not normally accept an application which includes unspecified times when licensable activities are to take place such as “twelve special events per year” as events can be specifically covered by Temporary Event Notices. (See Para 39)
- 27.4 In considering the steps to be taken to promote the licensing objectives the applicant should give consideration to the pool of model conditions attached at Appendix 3 and will be expected to undertake a thorough risk assessment with regard to the licensing objectives when preparing their applications.
- 27.5 Wholesale of Alcohol - Sales of alcohol made to traders for the purpose of their trade, holders of club premises certificates, premises licence holders, personal licences or premises users who have given temporary event notice are not licensable.
- 27.6 Where application is made for a premises licence involving Internet or mail order sales and the place where the sale of alcohol takes place is different from the place from which the alcohol is despatched/selected for the particular purchase, the sale is treated as being made at the premises from which the alcohol is selected/despatched.
- 27.7 The Act restricts the ability to use premises for the sale or supply of alcohol, if they are used as a service area or primarily as a garage or form part of premises which are primarily so used. Premises are used as a garage if they are used for one or more of the following:
- the retailing of petrol
 - the retailing of derv
 - the sale of motor vehicles
 - the maintenance of motor vehicles.
- The Licensing Authority will decide in the light of the facts whether or not any premises are used primarily as a garage. The Licensing Authority will adopt the approach approved by the Courts to establishing primary use based on the intensity of the use by customers of the premises.
- 27.8 Designated sports grounds are the subject of separate legislation with regard to health and safety and fire safety.

The Licensing Authority will limit consideration of applications for premises licences to those activities that are licensable under the Act and will not duplicate any conditions relating to health and safety and fire safety.

- 27.9 The Act applies to a vessel which is not permanently moored or berthed as if it were premises situated in a place where it is usually moored or berthed.

Where a premises licence is sought in connection with a vessel which will be navigated whilst licensable activities take place, the Council will be concerned with the promotion of the licensing objectives on-board the vessel.

The Licensing Authority recognises that matters such as safe navigation, operation of the vessel, general safety of passengers and emergency provision are not within its remit. If the Maritime and Coastguard Agency is satisfied that the vessel complies with Merchant Shipping Standards for a passenger ship the premises will normally be accepted as meeting the public safety objective. The Licensing Authority will give particular weight to any representations made by the Maritime and Coastguard Agency in respect of other public safety aspects of the application.

- 27.10 Whilst alcohol may not be sold from a moving vehicle. However, applications may be made in respect of vehicles which are parked or stationary. Any permission granted in these circumstances will relate solely to the place where the vehicle is parked and where sales are to take place.
- 27.11 Where entertainment or entertainment facilities are provided on premises consisting of or forming part of any vehicle while it is in motion and not permanently or temporarily parked, such entertainment is not to be regarded as regulated entertainment for the purposes of the Act.
- 27.12 Games such as pool, darts, table tennis and billiards may fall within the definition of indoor sports under the Act. If played for the private enjoyment of the participants they would not normally constitute regulated entertainment and the facilities provided (even if provided for a profit) do not fall within the list of entertainment facilities. However, where such games take place in the presence of an audience and are provided to, at least in part, entertain that audience, that activity would become licensable.
- 27.13 Casinos and bingo clubs are the subject of separate legislation. When granting, varying or renewing licences authorising the sale of alcohol for consumption on the premises and/or the provision of regulated entertainment, the Licensing Authority will not duplicate any conditions imposed by the virtue of such legislation.

Where applicants wish to carry out licensing activities they will need to prepare and submit an operating schedule but in detailing the steps to be taken in promoting the licensing objectives, the applicant may refer to the statutory conditions imposed on his Gaming Licence where relevant. The Licensing Authority will not impose conditions that would prevent the licence holder complying with the requirements of the Gaming Act 1968.

28. OPERATING SCHEDULE

- 28.1 The Operating Schedule will form part of the completed application for a premises licence. The Operating Schedule should include all information that is necessary to enable any responsible authority or interested party to assess whether the steps taken to promote licensing objectives are satisfactory.
- 28.2 The Operating Schedule must include:

- the licensable activities to be conducted on the premises. It would be valuable to include a description of the style and character of the business, the type of dancing in broad terms (striptease or lap dancing must be disclosed), the type of music to be provided
- the times during which it is proposed that licensable activities are to take place
- any other times when the premises are open to the public
- where the licence is required only for a limited period, that period must be specified.
- where the licensable activities include the supply of alcohol, the name and address of the person specified as the Designated Premises Supervisor
- where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises (or both). If for consumption on the premises, the extent to which seating will be provided.
- the steps which the applicant proposes to take to promote the licensing objectives. Specific guidance on the licensing objectives can be found in sections paragraphs 6, 10-12, 13 and 14.

28.3 Applicants should have regard, when preparing Operating Schedules to this Statement of Licensing Policy. Applicants may find it sensible to seek the views of the key responsible authorities e.g. Police, Environmental Officers before formally submitting applications.

28.4 It is essential that applicants address in the Operating Schedule that measures for the protection of children from harm are precise and clear. Therefore plans for regulated entertainment of an adult nature or with sexual content should be detailed.

28.5 It is recommended that operating schedules will include proposals, where relevant to the operation, in relation to safer clubbing contained in the publication "Safer Clubbing".

28.6 Applicants are advised that the steps to be taken to promote the licensing objectives should be realistic and within the control of the applicant and management of the premises. If a licence is granted with conditions attached requiring the implementation of such steps, the conditions would be enforceable in law and it will be a criminal offence to fail to comply with them

29. ENTERTAINMENT/SERVICES OF AN ADULT OR SEXUAL NATURE

29.1 Notwithstanding the provisions of Schedule 3 of the local Government (Miscellaneous Provisions) Act 1982 relating to Sexual Entertainment Venues, where the activities proposed under any premises licence include those of an adult or sex related nature (see Section 10, 11 and 12 relating to Children also) e.g. lap dancing, striptease, topless waitresses, the Licensing Authority would take into account the increased risk to the licensing objectives.

29.2 The Licensing Authority will have particular regard to the location of the premises and their vicinity when considering applications involving entertainment of an adult or sexual nature.

29.3 Where licences are granted for entertainment or service that involves exposure of private parts (striptease) or the sexual stimulation of customers, conditions will be imposed designed to ensure that children are not admitted to and cannot observe such activities and to prevent public nuisance and crime and disorder problems.

For example:

- the area proposed for striptease shall be in a position where the performance cannot be seen from outside the licensed premises
- the area proposed for striptease shall be in a designated area of the premises

- the area proposed for striptease shall be in a position where the performers will have direct access to a dressing room
- whilst a striptease performance is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect shall be displayed at each entrance to the premises in a prominent position so it can be easily read by persons entering the premises
- no external advertising of the striptease entertainment either at the premises or in its immediate vicinity except with the consent of the Licensing Authority.

30. TABLE AND CHAIRS OUTSIDE PREMISES

- 30.1 The Act applies to the whole of licensed premises but will not include beer gardens and other areas unless they form part of the licensed area. For applicant's information, the placing of tables and chairs on the public highway will need the consent of the Council, by way of a licence under Section 115 of the Highways Act 1980. It may also require planning permission. On private land, planning permission may sometimes be required or a planning condition may prevent/restrict such use. The Council, as Local Planning Authority, will require a consistently high standard quality of external furniture of a style to be agreed by the Council on all street venues. For details, refer to the Council's Pavement Café Design Guide.
- 30.2 The Licensing Authority recognises that in some circumstances, tables and chairs outside premises can enhance the attractiveness of a venue and encourage a continental café style culture. However, late at night there is the possibility that they can contribute to noise problems as customers may loiter rather than disperse.
- 30.3 The Council's Pavement Café Design Guide covers all aspects of licences issued by the Highways Act.
- 30.4 Applicants will be required to specify in the Operating Schedule the hours sought, the nature of the activities proposed in any such area and the steps proposed to be taken to prevent nuisance and crime and disorder in relation to the operation of such areas.
- 30.5 The Licensing Authority will consider carefully the impact in terms of safety, amenity and public nuisance. On receipt of relevant representations, if the Licensing Authority considers that there will be an adverse impact on the licensing objectives then it may consider imposing a limitation on hours and/ or restriction on the activities

31. PRIVATE EVENTS

- 31.1 Private events can involve licensable activities where certain conditions pertain.

Entertainment at a private event to which the public are not admitted becomes regulated entertainment and therefore licensable only if it is provided for consideration with a view to a profit.

For example, a mere charge to those attending a private event to cover the costs of the entertainment, and no other purpose, would not make the entertainment licensable as this would not be with a view to a profit. It would be irrelevant if a profit might inadvertently be made as long as there had not been an intention to make a profit.

32. INCIDENTAL MUSIC

- 32.1 The Act provides that in certain circumstances the incidental performance of live music and incidental playing of recorded music may not be regarded as the provision of regulated

entertainment activities. This is where they are incidental to another activity which is not in itself entertainment or entertainment facilities.

- 32.2 The Act contains no definition of “incidental” and the Licensing Authority will judge whether music of this kind is incidental to other activities on a case by case basis. One factor that will be relevant is volume, and if the volume of live or recorded music predominates over activities, the Licensing Authority will generally form a view that it is not to be regarded as incidental.

33. APPLICATIONS FOR NEW AND MAJOR VARIATIONS OF PREMISES LICENCES

- 33.1 The Licensing Authority will consider a major variation to be one that does not relate simply to a change of the name or address of someone named in the licence or an application to vary the licence to specify a new individual as the designated premises supervisor.

- 33.2 Applicants for new and major variations of premises licences will be expected to:

- conduct a thorough risk assessment with regard to the licensing objectives when preparing their applications
- specify any steps in the Operating Schedule to be taken to promote the licensing objectives.

- 33.3 The Licensing Authority in considering such applications will aim to ensure that the licensing objectives are promoted in the wider interests of the community.

- 33.4 Where an application has been lawfully made and no responsible authority or interested party makes a representation, the application will be granted in the terms sought subject only to conditions which are consistent with the Operating Schedule and relevant mandatory conditions in the Act.

- 33.5 Where a responsible authority and/or an interested party makes a relevant representation i.e. one which is not frivolous or vexatious and relates to the licensing objectives, the Licensing Authority will hold a hearing. The need for a hearing can be dispensed with if the Licensing Authority, the applicant and all of the parties who made relevant representations agree.

- 33.6 Where the Licensing Authority hold a hearing, a responsible authority or interested party may choose to rely on their written representation which gave rise to the hearing. They may not add further representations to those disclosed to the applicant prior to the hearing, but may amplify their existing representation.

- 33.7 In determining the application, the Licensing Authority with a view to promoting the licensing objectives in the overall interests of the local community, will give appropriate weight to:

- the representations presented by all the parties
- the Guidance issued by the Secretary of State for Culture, Media and Sport
- the Council’s Statement of Licensing Policy; and
- the steps that are necessary to promote the licensing objectives.

- 33.8 The Council, after considering all relevant issues may:

- grant the application subject to such conditions that are consistent with the Operating Schedule
- refuse the application on the grounds that refusal is necessary for the promotion of the licensing objectives;

- refuse to allow certain requested licensable activities on the grounds that refusal is necessary for promotion of the licensing objectives;
- refuse to specify a designated premises supervisor on the crime prevention objective
- grant the application subject to those conditions modified to such an extent as the Licensing Authority considers necessary for the promotion of the licensing objectives.

33.9 Where a representation is made by an interested party, there is a preliminary stage at which the Licensing Authority must consider whether the representation is relevant. This is dealt with in more detail in paragraph 40

33.10 Where variations involve structural alterations or change of use of a building, the decision in relation to the application will not exempt an applicant to apply for building consent where appropriate

34. TRANSFERS OF PREMISES LICENCES

34.1 The Act provides for any person who may apply for a premises licence to apply for a transfer of a premises licence. Where the applicant is an individual he or she must be aged 18 years or over. Notice of the application must also be given to Lancashire Police.

34.2 A transfer of a premises licence only changes the identity of the holder and does not alter the licence in any other way.

34.3 The Licensing Authority expects that in the vast majority of cases, a transfer application will be a simple administrative process. If Lancashire Police raise no objection to the application, the Licensing Authority will transfer the licence, amend the licence accordingly and return it to the new holder.

34.4 The Chief Officer of Lancashire Police may in exceptional circumstances, object to a transfer on the grounds that it undermines the crime prevention objective.

Where such an objection is made the Licensing Authority will hold a hearing to consider the objection. The Licensing Authority will confine its consideration to the issue of the crime prevention objective. The burden would be on Lancashire Police to demonstrate to the Licensing Authority that there were good grounds for believing that the transfer of the licence would undermine the crime prevention objective.

34.5 The Licensing Authority will give clear and comprehensive reasons for its determination. The Licensing Authority will expect that objections will only arise in truly exceptional circumstances.

35. CLUB PREMISES CERTIFICATES

35.1 The Licensing Authority may issue a "Club Premises Certificate" to a qualifying Club. The Certificate will specify that the premises may be used for one or more of the 'recognised Club activities' and that the Club is a qualifying Club in relation to each of those activities.

35.2 Recognised Club activities are:

- (a) The supply of alcohol by or on behalf of the Club to or to the order of a member of the Club;
- (b) The sale by retail of alcohol by or on behalf of a Club to a guest or a member of the Club;
- (c) The provision of regulated entertainment where that provision is by or on behalf of the Club for members of the Club or members of the Club and their guests.

- 35.3 The Club is a qualifying Club in respect of the recognised activities provided that, under the rules of the Club, a person may not be admitted to membership, or be admitted, as candidates for membership, to any of the privileges of membership, without an interval of at least two days between their nomination or application for membership and their admission. People becoming members without nomination or prior application may not be admitted to the privileges of membership without an interval of two days between them becoming members and their admission.
- 35.4 The Club must be established and conducted in good faith as a Club and have a minimum of 25 members.
- 35.5 A Club can apply for a Club Premises Certificate in respect of premises, which are occupied by, and habitually used for the purposes of the Club. The application must be accompanied by:
- (a) The relevant fee;
 - (b) The Club Operating Schedule
 - (c) A plan of the premises;
 - (d) A copy of the rules of the Club;
 - (e) Evidence that the Club is a qualifying Club in relation to each of the recognised Club activities to which the application relates.
- 35.6 The Club Operating Schedule must contain the following:
- (a) Detail of the recognised Club activities to which the application relates;
 - (b) The times during which it is proposed the recognised Club activities take place;
 - (c) Any other times during which it is proposed the premises are open to members and their guests;
 - (d) The steps which it is proposed to take to promote the licensing objectives; and
 - (e) Any other prescribed matters.
- 35.7 In considering the steps to be taken to promote the licensing objectives the applicant should give consideration to the pool of model conditions in Appendix 3 and will be expected to undertake a thorough risk assessment with regard to the licensing objectives when preparing their applications.
- 35.8 Club Premises Certificates will be dealt with in a similar manner as applications for Premise Licences.
- 35.9 The grant of a Club Premises Certificate means that a qualifying club is entitled to certain benefits. These include:
- authority to supply alcohol to members and to sell it to guests on the premises to which the certificate relates without the need for any member or employee to hold a personal licence.
 - the absence of a requirement to specify a designated premises supervisor
 - more limited rights of entry for the police and authorised persons.
- 35.10 Any qualifying club may choose to obtain a premises licence if it decides it wishes to offer its facilities commercially for the use by the general public, including the sale of alcohol.
- 35.11 An individual on behalf of a club may give a temporary event notice in respect of the premises to cover a period of up to 96 hours on up to 12 occasions each calendar year. On each occasion the maximum number of people permitted under a temporary notice should

not exceed 499 and the premises may not be used for more than 15 days in any calendar year.

35.12 The 2003 Act now makes it unlawful to sell or supply alcohol to children in qualifying clubs.

36. LATE NIGHT REFRESHMENT

36.1 Schedule 2 to the 2003 Act provides a precise definition of what constitutes late night refreshment. Generally, a person will be providing late night refreshment if between 11.00pm and 5.00am he supplies hot food or drink to members of the public for consumption on or off the premises.

36.2 The legislation impacts on premises such as night cafes, restaurants and take away food outlets where people may gather between 11.00pm and 5.00am giving rise to the possibility of disorder and disturbance.

36.3 Premises selling immediately consumable food such as bread milk and cold sandwiches will not require licensing. Similarly, where premises have a vending machine supplying hot drink, it will not require licensing if the public have access to the machine, the public operate the machine without any involvement of staff on the premises and the payment is inserted in the machine. However, this exemption does not apply to hot food. Premises supplying hot food for charge by vending machine will be licensable when the food has been heated for the purposes of supply, even though no staff on the premises may have been involved in the transaction.

36.4 The supply of hot food or drink free of charge is not a licensable activity. However, where any charge is made either for admission to the premises or for some other item in order to obtain the hot food or drink, this is not regarded as free of charge.

36.5 The supply of hot food or drink from a vehicle that is permanently or temporarily parked requires licensing.

36.6 The Licensing Authority does not anticipate that the provision of late night refreshment as a secondary activity in licensed premises open for other purposes, for example, public houses, cinemas or night-clubs will give rise to a need for significant additional conditions.

36.7 In premises where the provision of late night refreshment is the primary activity the Licensing Authority considers that the prevention of crime and disorder and the prevention of public nuisance will be the key licensing objectives. Applicants should give careful consideration to these objectives in their operating schedules.

36.8 Supplies of hot food and drink are exempt from the provisions of the Act if there is no admission of the public to the premises involved and they are supplied to:

- members of a recognised club supplied by the club
- persons staying overnight in a hotel, guest house, hostel, caravan or camping site or any other premises whose main purpose is providing overnight accommodation.
- staff canteen
- a person who is engaged in a particular profession or who follows a particular vocation e.g. tradesman carrying out work at a particular premises
- guest of the above

37. PROVISIONAL STATEMENTS

37.1 A person may apply for a Provisional Statement if they are interested in the premises, and are an individual aged 18 or over. An application for a Provisional Statement applies to

premises which are being or are about to be constructed for the purpose of being used for one or more licensable activities, or are being or about to be extended or otherwise altered for that purpose (whether or not they are already being used for that purpose).

37.2 An application for a Provisional Statement must be accompanied with a schedule of following details:

- details of the premises
- the works to be done
- licensable activities proposed
- plan of the premises
- any such other information as may be prescribed.

37.3 Applications for Provisional Statements will be dealt with in a similar manner as applications for Premises Licences regarding holding of hearings if relevant representations are made.

37.4 If relevant representations are received and a hearing is held, the Licensing Authority will decide whether, if the premises were constructed or altered in the way proposed in the Schedule of Works and if a premises licence were sought for those premises, it would consider it necessary for the promotion of the licensing objectives to:

- attach conditions to the licence;
- rule out any of the licensable activities applied for;
- refuse to specify the person nominated as the premises supervisor;
- reject the application.

37.5 If a Provisional Statement has been issued and the person subsequently applies for a premises licence in respect of the premises (or a part of the premises or premises which are substantially the same) representations by responsible authorities and interested parties will be excluded in certain circumstances. These are where:

- the application for a licence is in the same form as the licence described in the provisional statement; and
- the work in the Schedule of Works has been satisfactorily completed;
- given the information in the application for a Provisional Statement, the person objecting could have made the same, or substantially the same representations about the application but had failed to do so without reasonable excuse; and
- there has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.

37.6 Applicants are advised that whilst there is no limit to the duration of a Provisional Statement, the longer there is a delay before a premises licence is applied for the greater the potential is for representations not to be excluded due to genuine and material changes in circumstances occurring.

37.7 Applicants are also advised that any decision on an application for a premises licence does not relieve the applicant of the need to apply for building consent.

38. INTERIM AUTHORITIES

38.1 Generally, a premises licence will remain in force for as long as the licence holder continues to operate the business unless it is specified it has effect for a limited period and that period expires or the licence is revoked.

- 38.2 If a Licence holder dies, becomes bankrupt or mentally incapable, then the Licence will lapse. However, if within a seven day period of such circumstances (beginning with the day after the Licence lapsed), a person who had an interest in the premises or who is connected to the former holder of the licence, gives the Licensing Authority an 'Interim Authority Notice', the premises licence will be re-instated for a period of two months.
- 38.3 Interim Authority Notices must also be served on the Police within the seven day period. Lancashire Police may, within 48 hours of being served with a copy of the Interim Authority Notice if satisfied that the grant of the Interim Authority Notice would undermine the crime prevention objective, give the LA an objection Notice to the Licensing Authority. The Licensing Authority will then hold a hearing to consider the objection.
- 38.4 The Licensing Authority recognises the need to consider any objections in these circumstances quickly
- 38.5 A person is connected to the former holder of a Premises Licence if and only if:
- the person is the personal representative in the event of the holder's death;
 - in respect of someone who has become mentally incapable is acting under Section 6 of the Enduring Powers of Attorney Act 1985; or
 - in the event of insolvency/bankruptcy is acting as an Insolvency Practitioner
 - any other person prescribed by regulation.

39. TEMPORARY EVENT NOTICES

- 39.1 The most important aspect of the system of permitted temporary activities is that no permission as such is required for these events from the Council. The system involves the notification of an event to the Licensing Authority and Lancashire Police, subject to fulfilling certain conditions. In general, only Lancashire Police may intervene on the prevention of crime and disorder licensing objective to prevent such an activity taking place or to modify the arrangements for such an event. The Licensing Authority may only intervene if the limits on the number of Temporary Event Notices (TEN'S) that may be given have been exceeded.
- 39.2 The Act imposes the following limitations in respect of TEN's:
- the number of times a person ("the premises user") may give a TEN - a personal licence holder is limited to 50 in one year, an ordinary person to 5 per year;
 - the number of times a TEN may be given in respect of any particular premises - 12 times in a calendar year;
 - the length a temporary event may last for these purposes - 96 hours
 - the maximum aggregate duration of the periods covered by TEN at any individual premises - 15 days; and
 - the scale of the events in terms of the maximum number of people attending at any one time - less than 500 people.
- 39.3 In any other circumstances, a full premises licence or club premises certificate would be required for the period of the event involved. The procedures for applying and granting a licence will be the same as for a premises licence. A person may also choose to apply for a premises licence or club premises certificate if they do not wish to take advantage of the TEN system.
- 39.4 As many users giving TEN's will not have commercial backgrounds or ready access to legal advice, the Licensing Authority will ensure that guidance is clear and understandable and will aim to keep arrangements manageable and user friendly for these groups.

39.5 Where a personal licence holder is involved, they will be able to give a TEN in relation to licensable activities (including the sale of alcohol) on up to 50 occasions per year for up to 96 hours on each occasion. This is subject to the limitations for each premises (see paragraph 33.2 above), subject to informing the Council and Lancashire Police of relevant details.

These details are:

- the licensable activities to take place during the event;
- the period during which it is proposed to use the premises for licensable activities;
- the times during the event period that the premises user proposes that the licensable activities shall take place;
- the maximum number of persons (being less than 500) which it is proposed should, during those times, be allowed on the premises at the same time;
- where the licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises or both; and
- any other matters prescribed by the Secretary of State or by regulation.

39.6 On each occasion at least 10 working days notice must be given, but there is nothing to prevent simultaneous notification of multiple events at a single time so long as the first event is at least ten days away. However, this would only be possible where all the events are to take place in the Borough of Chorley.

39.7 Ten working days are the minimum possible notice that may be given. However, organisers of temporary events are encouraged to submit their notification as soon as it is reasonably practicable to enable the Licensing Authority and, Lancashire Police to work with them to identify and reduce the risk of crime and disorder.

39.8 The Licensing Authority recommends that at least 28 days and no more than 3 months notice be given to hold such events, to allow it to help organisers plan their events safely. A longer period than this may mean that all relevant details are not available and any lesser time may mean that the planning may be rushed; this may increase the likelihood of Lancashire Police objecting.

39.9 The Licensing Authority will not seek to impose any terms, limitations or restrictions on such events covered by a TEN. However, the Licensing Authority will provide local advice about proper respect for the concerns of residents, legislative requirements regarding health and safety, noise pollution, temporary structures. It will also provide advice about other permissions e.g. road closures, pyrotechnics in public places, local byelaws and the need to prevent anti social behaviour.

39.10 The Licensing Authority will also remind notice givers of relevant offences under licensing law, including:

- the sale of alcohol to minors,
- the sale of alcohol to a person who is drunk,

The Licensing Authority will also advise notice givers of the police powers to close down an event with no notice on grounds of disorder or because of public nuisance caused by noise emanating from the premises.

39.11 Where the application is not within the parameters described above, the Licensing Authority will issue a Counter Notice to the person giving the TEN.

- 39.12 The Act provides that the Police may, in exceptional circumstances, issue an objection notice because they believe that the event would undermine the crime prevention objective set out in the Act.
- 39.13 The Police must issue any objection notice within 48 hours of being notified, but they can subsequently withdraw their counter notice. If Lancashire Police do not intervene they will still be able to rely on their powers of closure should disorder or disturbance subsequently arise.
- 39.14 Where an objection notice is issued by Lancashire Police, the Licensing Authority will hold a hearing to consider the objection. The Licensing Authority will confine its consideration to the crime prevention objective and will not, for example, uphold an objection notice on the grounds of public nuisance.
- 39.15 At any such hearing the Licensing Authority may hear from Lancashire Police, and the premises user. A hearing would not be necessary if Lancashire Police withdraw the objection notice.
- 39.16 The Licensing Authority would encourage event organisers not to rely on giving the minimum amount of notice given the possibility of police intervention. Event organisers are encouraged to contact local Lancashire Police Licensing Officers as early as possible about their proposed event(s).
- 39.17 The act provides that any individual aged 18 or over may give a TEN whether or not they hold a personal licence. As many events will involve combinations of licensable activities, the Act limits the number of TEN given by any non-personal licence holder to 5 per year. In every other respect, the guidance set out above applies.
- 39.18 TEN may also be given in respect of club premises covered by club premises certificates by non-personal licence holders. However, only 12 such notices may be given in respect of the same club premises in any calendar year and the maximum aggregate duration of 15 days will also apply.
- 39.19 The Licensing Authority, on receiving TEN, will also check that other requirements of the Act are met e.g. a TEN will be void unless there is a minimum of 24 hours between events notified by the premises user in respect of the same premises. This is to prevent evasion of the 96 hour limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. A TEN is treated as being from the same premises user if an associate gives it. The Act defines associate as:
- the spouse of that person;
 - a child, parent, grandchild, grandparent, brother or sister of that person or their spouse; or;
 - an agent or employee of that person or their spouse;

A person living with another person as his or her husband or wife is treated for these purposes as a spouse.

40. RELEVANT, FRIVOLOUS VEXATIOUS REPRESENTATIONS

- 40.1 A representation is only 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. A representation that fails to do so is not 'relevant' for the purposes of the 2003 Act.

A relevant representation also has to be made by an interested party or responsible authority, see Appendix for glossary of terms.

40.2 It will be for the Licensing Authority to determine whether any representation by an interested party is frivolous or vexatious. The decision as to determining whether a representation is relevant, frivolous or vexatious has been delegated to an Officer of the Council in accordance with the Guidance.

40.3 The decision will be made on the basis of what might ordinarily be considered to be vexatious or frivolous. An interested party may challenge a decision to reject their representation on these grounds by way of judicial review.

41. REVIEWS

41.1 The Act 2003 makes provision for the review of premises licences where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.

41.2 At any stage following the grant of a premises licence, a responsible authority or an interested party (such as a resident living in the vicinity of the premises), may request the Licensing Authority review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

41.3 A review of a premises licence will follow any action by Lancashire Police to close down premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a Magistrates' Courts' determination sent to the Licensing Authority.

41.4 The Licensing Authority does not have the power to initiate its own review. However, officers of the Council who are specified as responsible authorities under the Act such as Environmental Health Officers, may request the Licensing Authority for a review on any matter which relates to the promotion of one or more of the licensing objectives. Any such representations will be treated in the same way as representations made by any other body or individual.

41.5 In all cases, the representation must relate to a particular premises for which a premises licence is in force and must be relevant to the promotion of the licensing objectives.

41.6 Representations must be made in writing and may be amplified at the subsequent review or may stand in their own right. Additional representations, which do not amount to an amplification of the original representation, may not be heard at the hearing.

41.7 Where the request for a review originates from an interested party e.g. a local resident, residents' association, the Licensing Authority has first to consider whether the complaint made is not relevant, vexatious, frivolous or repetitious. Relevance, vexatious and frivolous complaints were dealt with in paragraph 40.

41.8 A repetitious complaint is one that is identical or substantially similar to:

- a ground for review made in respect of the same premises licence which has already been determined; or
- representations considered by the Licensing Authority when the premises licence was granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and
- in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of a licence.

41.9 The Licensing Authority recognises the need to prevent attempts to review licences, following the failure of representations on earlier occasions. The Licensing Authority will judge what is to be regarded as a reasonable interval in these circumstances. The Licensing Authority has regard to the recommendation in the guidance, that more than one review originating from an interested party should not be permitted within a period of 12 months on similar grounds except in compelling circumstances or where it arises following a Closure Order.

41.10 The Licensing Authority recognises that the promotion of the licensing objectives relies heavily on a partnership approach. The Licensing Authority would encourage authorised persons and responsible authorities to give licence holders warning of their concerns about problems identified at premises and of the need for improvement.

The Licensing Authority advises licence holders that a failure to respond to such a warning may lead to a responsible authority to request a review.

41.11 The Licensing Authority will hold a hearing following a request for a review from a responsible authority, interested party or after closure procedures described earlier.

The Licensing Authority will make the licence holder fully aware of the representations received together with supporting evidence in order for the licence holder or his legal representatives to be able to prepare a response.

41.12 In determining a review, the Licensing Authority has a range of powers it may exercise where it considers them necessary for the promotion of the licensing objectives:

- no action necessary as no steps required to promote the licensing objectives;
- issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time; The Licensing Authority regards such warnings as important mechanisms for ensuring that the licensing objectives are effectively promoted and any warning issued will be in writing to the licence holder.
- to modify the conditions of the premises licence (including adding new conditions, altering/omitting an existing condition);
- excluding a licensable activity from the licence;
- remove the designated premises supervisor,
- suspend the licence for a period of three months;
- to revoke the licence

41.13 The Licensing Authority in determining what action to take will seek to establish the cause(s) of concern and any action taken will be directed at these causes. Any action taken to promote the licensing objectives will be necessary and proportionate.

42 ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS

42.1 The Licensing Authority will be involved in a wide range of licensing decisions and functions and will administer them through its Licensing and Public Safety Committee and its Licensing Sub-Committees.

42.2 The Licensing and Public Safety Committee consists of 17 members and the Licensing Sub-Committees will consist of three members.

42.3 Many of the decisions and functions will be purely administrative in nature. Therefore to ensure that the Licensing Authority provides an efficient cost-effective service, the delegation of decisions and functions is set out in the table below.

- 42.4 All matters dealt with by officers will be reported for information only to the next Licensing and Public Safety Committee.
- 42.5 Decisions on whether a representation is valid or whether it is repetitious, frivolous or vexatious will be delegated to the Head of Governance.
- 42.6 Any Sub-Committee will refer any matter that it is unable to deal with because of the number of Members who are unable to take part in the consideration or discussion of any matter or any question with respect to it, to another Sub- Committee or to the Licensing and Public Safety Committee.

DELEGATION OF FUNCTIONS			
Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection made	If no police 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		If a relevant representation made	If no relevant representation made
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 premise licence		If a Police Objection	All other cases
Applications for interim authorities		If a Police Objection	All other cases
Application to review premise 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	

43. APPEALS

- 43.1 Schedule 5 to the 2003 Act sets out the entitlements to appeals for parties aggrieved by decisions of the Licensing Authority.

- 43.2 Other than in the case of personal licences, an appeal has to be made to the Magistrates' Court. In the case of personal licences, the appeal must be made to the Magistrates' Court for the area in which the Licensing Authority (or any part of it) is situated.
- 43.3 An appeal has to be commenced by the giving of a Notice of Appeal by the Appellant to the Justices' Chief Executive for the Magistrates Court within a period of 21 days beginning with the day on which the Appellant was notified by the Licensing Authority of the decision appealed against.
- 43.4 The Licensing Authority will always be a Respondent to the appeal. In cases where a favourable decision has been made for an applicant against the representations of a responsible authority or an interested party, the holder of the premises licence or club premises certificate will also be entitled to act as Respondent.
- 43.5 On determining an appeal, the court may:
- dismiss the appeal;
 - substitute for the decision appealed against any other decision which could have been made by the Licensing Authority; or
 - remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court.
- 43.6 The Court may make such order as to costs as it thinks fit. The Court, on hearing the appeal, may therefore review the merits of the decision on the facts and consider points of law or address both.
- 43.7 In anticipation of appeals, the Licensing Authority will give comprehensive reasons for its decisions.
The Licensing Authority will also address the extent to which the decision has been made with regard to its statement of licensing policy and the Guidance.
- 43.8 The Licensing Authority will not delay the implementation of a decision of the Magistrates Court and necessary action will be taken forthwith unless ordered by a higher court to suspend such action. The 2003 Act, except in relation to Closure Orders, does not provide for a further appeal against the decision of a Magistrates' Court and normal rules of challenging decisions of Magistrates' Courts will apply.

44. POLICY REVIEW

- 44.1 The policy takes effect on 7 January 2011 and will remain in force for not more than three years. It will be subject to periodic reviews and further consultation.
- 44.2 The Council is required to review its policy statement every three years.
- 44.3 The Council may review its policy at any time within those three years should it consider it appropriate to do so.
- 44.4 The process of on-going reviews will be incorporated into the business of the Licensing Act 2003 Committee.
- 44.5 Changes to the policy will be subject to consultation as set out in the Secretary of State's guidance.

45. PROCEDURAL REQUIREMENTS RELATING TO THE HEARING OF APPLICATIONS OF SUB-COMMITTEE

- 45.1 The Licensing Authority will draw up the procedures to be followed in hearings.

46. ADVICE AND GUIDANCE

46.1 Advice and guidance can be obtained by contacting the Council.

Telephone: 01257 515151

Email: contact@chorley.gov.uk

Website: www.chorley.gov.uk

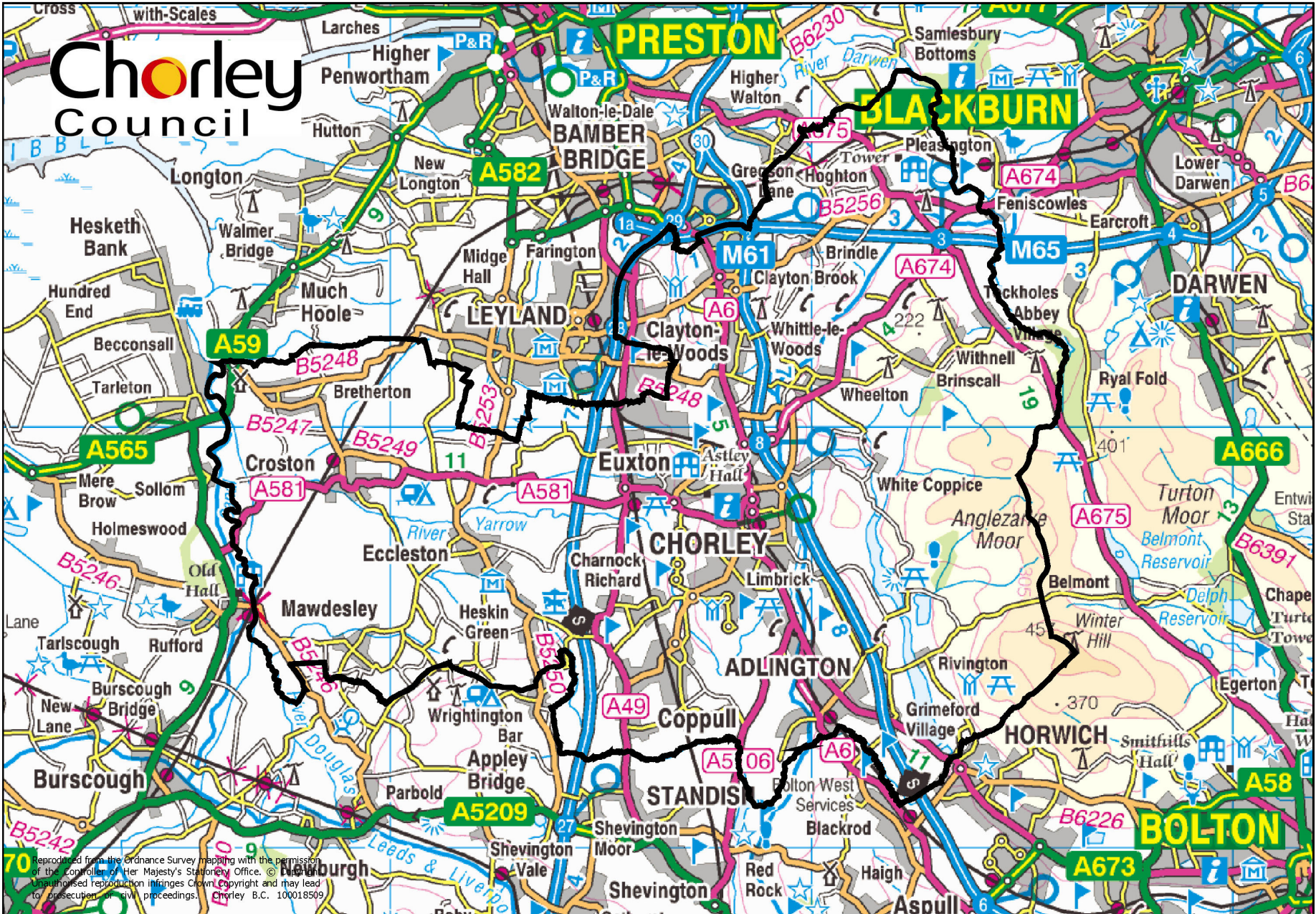
46.2 Further general advice on the Licensing Act 2003 can be obtained from the Governments Home Office website:

www.homeoffice.gov.uk

46.3 Contact details for responsible authorities can be found in Appendix 6.

46.4 Informal discussions to resolve potential problems and avoid unnecessary hearings and appeals will be encouraged.

Chorley Council



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GLOSSARY OF TERMS**Appendix 2****Licensable activities and qualifying club activities are defined in the Licensing Act as:**

- (i) the sale by retail of alcohol
- (ii) the supply of alcohol by or on behalf of a club, or to the order of, a member of the club
- (iii) the provision of regulated entertainment
- (iv) the provision of late night refreshment for those purposes the following licensable activities are also qualifying club activities
 - the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club for consumption on the premises where the supply takes place
 - the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place
 - the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests.

Regulated Entertainment is defined as:

- (a) a performance of a play
- (b) an exhibition of a film
- (c) an indoor sporting event
- (d) a boxing or wrestling entertainment
- (e) a performance of live music
- (f) any playing of recorded music
- (g) a performance of dance
- (h) entertainment of a similar description to that falling with paragraph (e), (f) or (g) where the entertainment takes place in the presence of an audience and is provided for the purpose, or for the purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).

Entertainment Facilities are defined as:

Facilities for enabling persons to take part in entertainment of a description falling within those mentioned above for the purpose, or for the purposes which include the purpose, of being entertained. The descriptions of entertainment are making music, dancing, and entertainment of a similar description to that falling within those mentioned above. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).

Interested Party is defined as:

- (i) a person living in the vicinity of the premises
- (ii) a body representing persons who live in that vicinity
- (iii) a person involved in a business in that vicinity
- (iv) a body representing persons involved in such business

Responsible Authority is defined as:

- (i) the Chief Officer of Police for any Police area in which the premises are situated
- (ii) the Fire Authority for any area in which the premises are situated
- (iii) the enforcing authority within the meaning given by Section 18 of the Health and Safety at Work etc. Act 1974 for any area in which the premises are situated
- (iv) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated
- (v) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- (vi) a body which:
 - represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
 - is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters
- (vii) in relation to a vessel:
 - a navigation authority (within the meaning of Section 221(1) of the Water Resources Act 1991 (C.57) 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, or
 - the Secretary of State
 - a person prescribed for the purpose of this subsection

Temporary Event is defined as:

the use of premises for one or more of the licensable activities during a period not exceeding 96 hours usually where a premises licence covering the licensable activity is not in place.

Provision of late night refreshment is defined as:

the provision of hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises between 11pm and 5am
or

at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.

Hot food or hot drink is defined as:

Food or drink supplied on or from any premises is 'hot' for the purposes of Schedule 2 to the Act if the food or drink, or any part of it:

- (i) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature,
or
- (ii) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature

Private Event The Licensing Authority defines this as:

An event, where a licensable or other activity takes place, to which the public do not have access. Such an event would be defined as regulated entertainment, and therefore licensable, only if it is provided for consideration and with a view to a profit. For example, a charge to those attending a private event to cover the costs of the entertainment, and no other purpose, would not make the entertainment licensable, as this would not be with a view to a profit. It would be irrelevant if a profit might inadvertently be made as long as there had not been an intention to make a profit.

Incidental music The Licensing Authority defines this as:

Where in certain circumstances the performance of live music, or the playing of recorded music is incidental to another activity, which is not in itself entertainment or entertainment facilities. If the volume of the live or recorded music predominates over the other activities, this would generally not be regarded as incidental.

As the Act does not define “incidental” the Licensing Authority will judge whether music of this kind is incidental to other activities on a case by case basis.

Relevant representation

A representation would only be ‘relevant’ if it relates to the likely effect of the grant to the licence on the promotion of at least one of the four Licensing Objectives.

For example, a representation from a local businessman which argues that his business would be commercially damaged by a new business for which an application is being made under Part 3 of the Act would not be relevant - this is a commercial matter.

However, if a representation to the effect that nuisance caused by the new business would deter customers from entering the area and the steps proposed by the applicant to control the nuisance are inadequate would amount to a relevant representation.

Repetitious representation

This matter is decided on its own merits, however a ‘repetitious representation’ would be categorised as being similar, or of a similar nature, to a previous representation which has already been decided upon.

Frivolous representation

This matter is decided on its own merits, however these representations are categorised by a lack of seriousness. A trivial complaint may not always be frivolous, but it would have to be pertinent to be relevant.

Vexatious representation

This matter is decided on its own merits, however vexation may arise because of disputes between rival businesses or persons.

POOL OF STANDARD AND MANDATORY CONDITIONS

Conditions relating to the prevention of crime and disorder

It should be noted in particular that it is unlawful under the 2003 Act:

- knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk
- knowingly to allow disorderly conduct on licensed premises
- for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
- to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol

Conditions enforcing these arrangements are therefore unnecessary.

1. Pool of Standard Conditions - General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, when responsible authorities are considering such applications and when licensing authorities are considering applications following the receipt of any relevant representations from a responsible authority or interested party, the following options should be considered as measures which, if necessary, would promote the prevention of crime and disorder.

Whether or not any risk assessment shows these options to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved. It should also be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance.

Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

Text/Radio pagers

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Such pagers provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behavior who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate and necessary in other areas for the prevention of crime and disorder.

It is recommended that a condition requiring the text/radio pager links to the police should include the following elements:

- a requirement that the text/pager equipment is kept in working order at all times;
- a requirement that the pager link be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- a requirement that any police instructions /directions are complied with whenever given; and
- a requirement that all instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

Door supervisors

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside of venues prone to such queuing.

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety.

Bottle bans

Glass bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises.

It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption on the premises should be expressed in clear terms and include the following elements:

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off sales also take place);
- In appropriate circumstances, the condition could include exceptions, for example, as follows:
- but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

Plastic containers and toughened glass

Glasses containing drinks may be used as weapons during incidents of disorder and in untoughened form, can cause very serious injuries. Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries where considered necessary. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Annex E).

CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise sighting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

Open containers not to be taken from the premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises that would be entirely lawful. However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Restrictions on drinking areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

Capacity limits

Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

Proof of age cards

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 applied at certain licensed premises requiring the production of "proof of age" before such sales are made. This should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo driving licences, student cards and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports.

It should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors - even those looking older - would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

Crime prevention notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

Drinks promotions

As from April 2010 a Mandatory Licensing Condition exists which deals with irresponsible promotions. This paragraph should be read in conjunction with the condition and any current associated guidance to ensure effective enforcement of irresponsible promotions.

However, standardised conditions (other than the mandatory condition) should not be attached to premises licences or club premises certificates which promote fixed prices for alcoholic drinks. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind. This can risk creating cartels. Using conditions to control the prices of alcoholic drinks in an area may also breach competition law. Conditions tailored to the individual circumstances of particular premises which address irresponsible drinks promotions may be permissible provided they are necessary for the promotion of the licensing objectives, but licensing authorities should take their own legal advice before a licence or certificate is granted in that form. Judgments may be subjective, and on occasions, there will be a very fine line between responsible and irresponsible promotions but an even greater distinction to whether the promotion in question can be subject to the imposition of a condition. It is therefore vital that such matters are considered objectively in the context of the licensing objectives and with the benefit of appropriate legal advice.

In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or discounting and levels of crime and disorder on or in the vicinity of the premises, it would be appropriate for the licensing authority to consider whether the imposition of a new condition prohibiting irresponsible sales promotions or discounting of prices of alcoholic beverages is necessary at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

Signage

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

Large capacity venues used exclusively or primarily for the "vertical" consumption of alcohol (HVVDs)

Large capacity "vertical drinking" premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons.

Where necessary and appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations on such grounds) which require adherence to:

a prescribed capacity;

an appropriate ratio of tables and chairs to customers based on the capacity; and

the presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

2. Pool of Standard Conditions Relating to Public Safety (including fire safety)

It should be noted that conditions relating to public safety should be those which are necessary, in the particular circumstances of any individual premises or club premises, and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act **1974**, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations **1999** and the Fire Precautions (Workplace) Regulations **1997** to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.

General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote public safety. Additional matters relating to cinemas and theatres are considered in Annex F. It should also be recognised that special issues may arise in connection with outdoor and large-scale events.

Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

In addition, to considering the points made in this Annex, those preparing operating schedules or club operating schedules, licensing authorities and responsible authorities should consider:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press - ABTT Publications)
- The Event Safety Guide - A guide to health, safety and welfare at music and similar events (HSE 1999)("The Purple Book") ISBN 0 7176 2453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) ("The Green Guide") ISBN 0 11 3000962
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through: www.streetartsnetwork.org.uk/pages/publications.htm
- The London District Surveyors Association's "Technical Standards for Places of Public Entertainment" ISBN 0 9531229 2 1

The following British Standards should also be considered:

- BS 5588 Part 6 (regarding places of assembly)
- BS 5,588 Part 9 (regarding ventilation and air conditioning systems)
- BS 5588 Part 9 (regarding means of escape for disabled people)•BS 5839 (fire detection, fire alarm systems and buildings)
- BS 5266 (emergency lighting systems)

However, in consulting these texts, which were prepared prior to the coming into force of the Licensing Act 9,003, those creating operating schedules or club operating schedules, licensing authorities and responsible authorities should again note that under no circumstances should any conditions be regarded as standard for all premises.

Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

Disabled people

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and
- disabled people on the premises are made aware of those arrangements.

Escape routes

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- all exits doors are easily opened without the use of a key, card, code or similar means;
- doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;
- all fire doors are maintained effectively self-closing and shall not be held open other than by approved devices (for example, electromagnetic releases operated by smoke detectors);
- fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut; and the edges of the treads of steps and stairways are maintained so as to be conspicuous.

Safety checks

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- safety checks are carried out before the admission of the public; and
- details of such checks are kept in a Logbook.

Curtains, hangings, decorations and upholstery

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- hangings, curtains and temporary decorations are maintained in a flame-retardant condition; any upholstered seating meets on a continuous basis the pass criteria for smoldering ignition source 0, flaming ignition source 1 and crib ignition source 5 when tested in accordance with section 5 of BS 5852:1990;
- curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire-fighting equipment; and
- temporary decorations are not used without prior notification to the licensing authority/fire authority.

Accommodation limits

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded; and
the licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.

Fire action notices

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration.

Outbreaks of fire

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- the fire brigade must be called at once to any outbreak of fire, however slight, and the details recorded in a Fire Log-book.

Loss of water

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- the local Fire Control Centre are notified as soon as possible if the water supply to any hydrant, hose reel, sprinkler, drencher or other fire extinguishing installation is cut off or restricted.

Access for emergency vehicles

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- access for emergency vehicles is kept clear and free from obstruction.

First aid

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- adequate and appropriate supply of first aid equipment and materials is available on the premises;
- if necessary, at least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined.

Lighting

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;
- fire safety signs are adequately illuminated;
- emergency lighting is not altered;
- emergency lighting batteries are fully charged before the admission of the public, members or guests; and
- in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 9,0 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

Temporary electrical installations

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- temporary electrical wiring and distribution systems are not provided without [notification to the licensing authority at least ten days before commencement of the work] [prior inspection by a suitable qualified electrician];
- temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909; and
- where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.

With regard to the first bullet above, it should be recognised that ten days notice may not be possible where performances are supported by outside technical teams. For example, where temporary electrical installations are made in theatres for television show performances. In such circumstances, the key requirement is that conditions where necessary should ensure that temporary electrical installations are only undertaken by competent qualified persons, for example, employed by the television company.

Indoor sports entertainments

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- if necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature;
- where a ring is involved, it is constructed and supported by a competent person and inspected by a competent authority and any material used to form the skirt around the ring is flame-retardant;
- at any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring; and
- at water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming Pools issued jointly by the Health and Safety Commission and Sport England).

Alterations to the premises

Premises should not be altered in such a way as to make it impossible to comply with an existing licence condition without first seeking a variation of the premises licence proposing the deletion of the condition relating to public safety in question. The applicant will need to propose in a new operating schedule reflecting the proposed alteration to the premises how he or she intends to take alternative steps to promote the public safety objective. The application for variation will enable the responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

Special effects

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff

Specials effects which should be considered include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] the fire authority.

Theatres, cinemas, concert halls and similar places (promotion of public safety)

In addition to the points made in Annex E, there are particular matters in the context of public safety and fire safety which should be considered in connection with theatres and cinemas. The principle remains that conditions must be necessary and should be established through risk assessment and standardised conditions should be avoided. The points which follow are for consideration and do not represent a mandatory list.

Premises used for closely seated audiences

Attendants

- (a) The number of attendants on each floor in a closely seated auditorium should be as set out on the table below:

Number of members of the audience present on a floor,	Minimum number of attendants required to be present on that floor
1-100	One
101-250	Two
251-500	Three
501-750	Four
751 -1000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

- (b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
- (c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
- (d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.
- (e) No article shall be attached to the back of any seat which would reduce the clear width of seat ways or cause a tripping hazard or obstruction.
- (f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

Standing and sitting in gangways etc.

- (a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
- (b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
- (c) In no circumstances shall anyone be permitted to:
 - (i) sit in any gangway;
 - (ii) stand or sit in front of any exit; or
 - (iii) stand or sit on any staircase including any landings.

Drinks

Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.

Balcony Fronts

Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

Special effects

Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Specials effects include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;

- lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] fire authority.

Scenery

Any scenery should be maintained flame-retardant.

Safety curtain

Where a safety curtain is provided, it should be arranged so as to protect the audience from the effects of a fire or smoke on stage for sufficient time to enable the safe evacuation of the auditorium.

Where a stage with a proscenium arch is not equipped with a safety curtain, any curtains provided between the stage and the auditorium should be heavyweight and be made of non-combustible material or inherently or durably treated flame-retardant fabric.

Ceilings

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person who will decide when a further inspection would be necessary and a certificate concerning the condition of the ceilings forwarded to the licensing authority.

Seating

Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.

Premises used for film exhibitions

Attendants - premises without a staff alerting system

Where the premises are not equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty
1-250	Two
And one additional attendant for each additional 250 members of the audience present (or part thereof)	
Where there are more than 150 members of an audience in any auditorium or on any floor	At least one attendant shall be present in any auditorium or on any floor

Attendants - premises with a staff alerting system

- (a) Where premises are equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of other staff on the premises who are available to assist in the event of an emergency
1-500	Two	One
501-1000	Three	Two
1001-1500	Four	Four
1501. or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500(or part thereof) persons over 2000 on the premises

- (b) Staff shall not be considered as being available to assist in the event of an emergency if they are:
 - (i) the holder of the premises licence or the manager on duty at the premises; or
 - (ii) a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
 - (iii) a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.
- (c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- (d) The staff alerting system shall be maintained in working order.

Minimum lighting

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

Flammable films

No flammable films should be allowed on the premises without the prior notification of the licensing authority/fire authority.

2. Pool of Standard Conditions Relating to the Prevention of Public Nuisance

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote the prevention of public nuisance.

Whether or not any risk assessment shows them to be necessary -in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for licences and certificates will also depend on local knowledge of the premises.

Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003) by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which results from artificially early fixed closing times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

Restrictions might be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

Noise and vibration

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises;
- prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted; and
- the placing of refuse - such as bottles - into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

Noxious smells

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

Light pollution

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

4. Pool of Standards Conditions Relating to the Protection of Children from Harm

It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore, unnecessary.

Access for children to licensed premises - in general

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the licensing authority considers it necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by licensing authorities on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
 - explain their reasons; and
 - outline in detail the steps that they intend to take to protect children from harm on such premises.
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating

schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:

- explain their reasons; and
- outline in detail the steps that they intend to take to protect children from harm on such premises.
- in any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

Age Restrictions –specific

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities following relevant representations made by responsible authorities and interested parties will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary. Licensing authorities are expected to consider:

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity in respect of which no age restrictions may be needed, for example;
 - family entertainment; or
 - non-alcohol events for young age groups, such as under 18s dances,
- Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
 - during "Happy Hours" or on drinks promotion nights;
 - during activities outlined in the first bullet point in the first paragraph above.

Age restrictions – cinemas

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of section 20, requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the licensing authority itself, conditions restricting the admission of children to film exhibitions should include:

- a condition that where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- a condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:

- U Universal. Suitable for audiences aged four years and over
 - PG Parental Guidance. Some scenes may be unsuitable for young children.
 - 12A Passed only for viewing by persons aged 12 years or older or persons younger than 19, when accompanied by an adult.
 - 15 Passed only for viewing by persons aged 15 years and over.
 - 18 Passed only for viewing by persons aged 18 years and over.
- that conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film.
 - a condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

"Where a programme includes a film recommended by the licensing authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms –

PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person's parent or legal guardian has first been obtained."

Theatres

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency (See Annex F).

Performances especially for children

Where performances are presented especially for unaccompanied children in theatres and cinemas conditions are anticipated to be needed which require:

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

Licensing authorities are expected, having regard to any representations made by responsible authorities on the issue, to also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

Children in performances

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. Licensing authorities should familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below:

- Venue - the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- Fire safety - all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- Special effects - it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- Care of children - theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

Where appropriate and necessary, consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

Proof of Age cards

Proof of age cards are discussed under Annex D in connection with the prevention of crime and disorder. However, where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm. Any such requirement should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences, student cards and passports. As for conditions relating to crime and disorder, it should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors - even those looking older - would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.

5 . Statutory Qualifying Conditions for Clubs

The following qualifying conditions for clubs are extracted from the Licensing Act 2003.

Licensing Act 2003 section 62 -The general conditions

- (1) *The general conditions which a club must satisfy if it is to be a qualifying club in relation to a qualifying club activity are the following.*
- (2) *Condition 1 is that under the rules of the club persons may not –*
 - (a) *be admitted to membership, or*
 - (b) *be admitted, as candidates for membership, to any of the privileges of membership, without an interval of at least two days between their nomination or application for membership and their admission.*
- (3) *Condition 2 is that under the rules of the club persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission.*
- (4) *Condition 3 is that the club is established and conducted in good faith as a club (see section 63).*
- (5) *Condition 4 is that the club has at least 25 members.*
- (6) *Condition 5 is that alcohol is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club.*

Licensing Act 2003 section 63 - Determining whether a club is established and conducted in good faith

- (1) *In determining for the purposes of condition 3 in subsection (4) of section 62 whether a club is established and conducted in good faith as a club, the matters to be taken into account are those specified in subsection (2).*
- (2) *Those matters are -*
 - (a) *any arrangements restricting the club's freedom of purchase of alcohol;*
 - (b) *any provision in the rules, or arrangements, under which -*
 - (i) *money or property of the club, or*
 - (ii) *any gain arising from the carrying on of the club,*
Is or may be applied otherwise than for the benefit of the club as a whole or for charitable, benevolent or political purposes;
 - (c) *the arrangements for giving members information about the finances of the club;*
 - (d) *the books of account and other records kept to ensure the accuracy of that information;*
 - (e) *the nature of the premises occupied by the club.*
- (3) *If a licensing authority decides for any purpose of this Act that a club does not satisfy condition 3 in subsection (4) of section 62, the authority must give the club notice of the decision and of the reasons for it.*

Licensing Act 2003 section 64 - additional conditions for the supply of alcohol

- (1) *The additional conditions which a club must satisfy if it is to be a qualifying club in relation to the supply of alcohol to members or guests are the following.*
- (2) *Additional condition 1 is that (so far as not managed by the club in general meeting or otherwise by the general body of members) the purchase of alcohol for the club, and the supply of alcohol by the club, are managed by a committee whose members -*
 - (a) *are members of the club;*
 - (b) *have attained the age of 18 years; and*
 - (c) *are elected by the members of the club.*

This subsection is subject to section 65 (which makes special provision for industrial and provident societies, friendly societies etc.).

- (3) *Additional condition 2 is that no arrangements are, or are intended to be, made for any person to receive at the expense of the club any commission, percentage or similar payment on, or with reference to, purchases of alcohol by the club.*
- (4) *Additional condition 3 is that no arrangements are, or are intended to be, made for any person directly or indirectly to derive any pecuniary benefit from the supply of alcohol by or on behalf of the club to members or guests, apart from -*

- (a) *any benefit accruing to the club as a whole, or*
- (b) *any benefit which a person derives indirectly by reason of the supply giving rise or contributing to a general gain from the carrying on of the club.*

Licensing Act 2003 Section 65 Industrial and provident societies, friendly societies etc.

- (1) *Subsection (2) applies in relation to any club which is -*
 - (a) *a registered society, within the meaning of the Industrial and Provident Societies Act 1965 (c. 12)(see section 74(1) of that Act),*
 - (b) *a registered society, within the meaning of the Friendly Societies Act 1974 (c. 46) (see section 111(1) of that Act), or*
 - (c) *a registered friendly society, within the meaning of the Friendly Societies Act 1992 (c. 40) (see section 116 of that Act).*
- (2) *Any such club is to be taken for the purposes of this Act to satisfy additional condition 1 in subsection (2) of section 64 if and to the extent that -*
 - (a) *the purchase of alcohol for the club, and*
 - (b) *the supply of alcohol by the club, are under the control of the members or of a committee appointed by the members.*
- (3) *References in this Act, other than this section, to -*
 - (a) *subsection (2) of section 64, or*
 - (b) *additional condition 1 in that subsection, are references to it as read with subsection (1) of this section.*
- (4) *Subject to subsection (5), this Act applies in relation to an incorporated friendly society as it applies in relation to a club, and accordingly -*
 - (a) *the premises of the society are to be treated as the premises of a club,*
 - (b) *the members of the society are to be treated as the members of the club, and*
 - (c) *anything done by or on behalf of the society is to be treated as done by or on behalf of the club.*
- (5) *In determining for the purposes of section 61 whether an incorporated friendly society is a qualifying club in relation to a qualifying club activity, the society is to be taken to satisfy the following conditions –*
 - (a) *condition 3 in subsection (4) of section 62,*
 - (b) *condition 5 in subsection (6) of that section,*
 - (c) *the additional conditions in section 64.*
- (6) *In this section "incorporated friendly society" has the same meaning as in the Friendly Societies Act 1992 (see section 116 of that Act).*

Licensing Act 2003 Section 66 - Miners' Welfare Institutes

- (1) *Subject to subsection (2), this Act applies to a relevant miners' welfare institute as it applies to a club, and accordingly -*
- (a) *the premises of the institute are to be treated as the premises of a club,*
 - (b) *the persons enrolled as members of the institute are to be treated as the members of the club, and*
 - (c) *anything done by or on behalf of the trustees or managers in carrying on the institute is to be treated as done by or on behalf of the club.*
- (2) *In determining for the purposes of section 61 whether a relevant miners' welfare institute is a qualifying club in relation to a qualifying club activity, the institute is to be taken to satisfy the following conditions -*
- (a) *condition 3 in subsection (4) of section 62,*
 - (b) *condition 4 in subsection (5) of that section,*
 - (c) *condition 5 in subsection (6) of that section,*
 - (d) *the additional conditions in section 64.*
- (3) *For the purposes of this section -*
- (a) *"miners' welfare institute" means an association organised for the social well-being and recreation of persons employed in or about coal mines (or of such persons in particular), and*
 - (b) *a miners' welfare institute is "relevant" if it satisfies one of the following conditions.*
- (4) *The first condition is that -*
- (a) *the institute is managed by a committee or board, and*
 - (b) *at least two thirds of the committee or board consists -*
 - (i) *partly of persons appointed or nominated, or appointed or elected from among persons nominated, by one or more licensed operators within the meaning of the Coal Industry Act 1994 (c. 21), and*
 - (ii) *partly of persons appointed or nominated, or appointed or elected from among persons nominated, by one or more organisations representing persons employed in or about coalmines.*
- (5) *The second condition is that -*
- (a) *the institute is managed by a committee or board, but*
 - (b) *the making of -*
 - (i) *an appointment or nomination falling within subsection (4)(b)(i), or*
 - (ii) *an appointment or nomination falling within subsection (4)(b)(ii), is not practicable or would not be appropriate, and*
 - (c) *at least two thirds of the committee or board consists -*
 - (i) *partly of persons employed, or formerly employed, in or about coal mines, and*

- (ii) *partly of persons appointed by the Coal Industry Social Welfare Organisation or a body or person to which the functions of that Organisation have been transferred under section 12(3) of the Miners' Welfare Act 1952 (c. 23).*

(6) *The third condition is that the premises of the institute are held on trusts to which section 2 of the Recreational Charities Act 1958 (c. 17) applies.*

6. Mandatory Conditions

Mandatory conditions are imposed by Government by way of statutory instrument and Orders.

Mandatory conditions applied to licences and club premises Certificates

Mandatory conditions where licence authorises the supply of alcohol

- (1) No supply of alcohol may be made under the premises licence –
- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(2) The supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory Condition where the licence permits the performance of Films

Where a programme includes a film in the 12A, 15 or 18 category, as classified by the British board of Film Classification, no person appearing to be under the age of 12 (and unaccompanied in that case), 15 or 18 as appropriate shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms-

PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE
ADMITTED TO ANY PART OF THE PROGRAMME

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on duty provided the prior written consent of the person's parents or legal guardian has first been obtained.

Mandatory conditions where Door Supervisors are provided

All individuals who carry out security activities must be licensed by the Security Industry Authority (SIA)

Mandatory Conditions for club Premises with off sales

1) The supply of alcohol for consumption off the club premises must be made at a time when the premises are open for the purposes of supplying alcohol, in accordance with the club premises certificate, to members of the club for consumption on the premises.

2) Any alcohol supplied for consumption off the premises must be in a sealed container.

3) That any supply of alcohol for consumption off the premises must be made to a

member of the club in person.

Mandatory conditions effective from 6 April 2010 where the licence or club premises certificate permits the sale or supply of alcohol for consumption on the premises

1.—(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

- (i) the outcome of a race, competition or other event or process, or
- (ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

Mandatory conditions effective from 1 October 2010 where the licence or club premises certificate permits the sale or supply of alcohol for consumption on the premises

4 (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be

under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5 The responsible person shall ensure that–

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures–

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures

LIST OF CONSULTEES

Appendix 4

CONSULTEES

Premises Licence Holders (10% random sample)	Local Pubwatch Group
All Parish Councils	Personal License Holders (5% random sample)
All Council Members	Lancashire Constabulary
Chorley and District Chamber of Trade	Lancashire Fire & Rescue Service
Chorley Council Planning Services	LCC Trading Standards
Chorley Council Environmental Services	LCC Directorate for Children & Young People
Chorley Council Health and Safety Services	Equity
NHS Central Lancashire	Cinema Exhibitors Assn
British Waterways	

PROTOCOL WITH LANCASHIRE FIRE AND RESCUE

Appendix 5

Inspection protocol between Local Authority licensing committees and Lancashire Fire and Rescue Service.

1 INTRODUCTION

1.1 The Licensing Act 2003 makes Local Authorities responsible for granting Licences for the sale of alcohol and carrying on certain other activities. Magistrate's court will not grant licences but will hear any appeals for failure to grant licences.

Local Authorities must register and regulate these premises. Each Local Authority must create its own Licensing policy in line with the statutory requirements.

There will effectively be two licences:

a) Personal licences held by a person to sell alcohol.

They must be operated in accordance with the Premises Licence. They will last for 10 years unless surrendered, revoked or suspended. This creates a responsible person for the operation of the business.

b) A premises licence, which will permit the premises to carry out anything they are licensed for.

This Licence authorises the holder (Licensed person) to use the premises for the purposes stated in the licence. This will last until revoked, or for a limited period. It will lapse if the holder dies, becomes insolvent, has the business dissolved or ceases to be a club. It can be surrendered.

They can be licensed for:

- Sale of alcohol for retail
- Supply of alcohol by or on behalf of a club or to a member of a club
- The provision of regulated entertainment
- The provision of late night refreshment

Examples of activities requiring a licence:

- The provision of entertainment to the public or members of a club
- A theatrical performance
- A film exhibition
- Any indoor sporting event (boxing, snooker, pool, darts.)
- The provision of warm refreshments between 2300 and 0530
- The playing of recorded music
- A dance performance
- The provision of facilities for dancing or for making music

- 1.2 When making a policy, Local Authorities must expressly consult with the Fire Authority, Police and other interested parties such as Brewery associations and local residents.

Licences will only be granted if the four licensing objectives can be met:

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

1.3 Objections

For licensing applications objections can be made by interested parties and Responsible Authorities within a specified time period (not yet known).

Responsible Authorities:

- Police
- Fire Service

Temporary Event Notices

This is a way of avoiding having to apply for either a premises licence or a personal licence (to sell alcohol). They replace Occasional Licences and Occasional Permissions.

They are intended to allow a simple way of permitting people unfamiliar with the Law to obtain temporary authorisation to hold one off events involving the sale of alcohol and/or the provision of public entertainment.

A personal licence holder can have 50 events a year, any person over the age of 18 can have 5 per year. With a maximum of 12 per year on the same premises and a minimum of 96 hours between events.

There is a maximum attendance of 499 at any one time.

A minimum of 10 working days notice must be given to the Licensing Authority and the Police.

The Police are the only responsible Authority able to object to the Temporary Event and this must be on the grounds of crime prevention and within 48 hours of receiving the notice.

If the Police and user disagree regarding the objection the Local Authority must hear the objection at least 24 hours before the event begins.

On receipt of a temporary event notice the Local Authority will inform Lancashire Fire and Rescue Service. For effective inspections to take place, the earlier the Fire Service Officer is informed the easier it will be to ensure adequate fire precautions are provided.

Fire safety provisions must still be provided for temporary events under current Fire Safety Legislation. Lancashire Fire and Rescue Service will enforce the Fire Safety Legislation independently to the Temporary Event Notice if notified of any temporary event taking place.

Fire Safety Advice**The Fire Precautions Act 1971**

Under the Fire Precautions (Workplace) Regulations 1997, as amended and the Management of Health and Safety at Work Regulations 1999, the employer has a duty to ensure that an assessment of risk from fire to employees and other people using the premises is carried out. If there are five or more employees, the significant findings of the risk assessment must be recorded.

Consolidation and extension of the principles enshrined in the Fire Precautions (Workplace) Regulations 1997, as amended is expected to continue with the introduction of the Fire Safety Order under the Regulatory Reform.

The Fire Services Act 1947, Section 1(1)(f), requires Fire Authorities to make efficient arrangements for the giving, when requested, of advice in respect of buildings and other property:

"...As to fire prevention, restricting the spread of fires, and means of escape in case of fire".

2 WORKING ARRANGEMENTS

- 2.1 This protocol sets out the framework for working arrangements between Lancashire's fourteen Local Authorities and Lancashire Fire and Rescue Service by establishing the responsibilities of each partner organisation.

3 WHAT LANCASHIRE FIRE AND RESCUE SERVICE WILL UNDERTAKE

- 3.1 Lancashire Fire and Rescue Service will prioritise existing licensed premises and inspect under current fire safety legislation, utilising a risk-based regime allied to their available resources.
- 3.2 Lancashire Fire Rescue Service will undertake, on formal request from the Licensing Authority, inspections of new or significantly altered premises, immediately prior to licensing (new having never before had a licence).
- 3.3 Lancashire Fire and Rescue Service prior to taking any formal enforcement action (under existing fire safety legislation) will inform the Licensing Authority and call for a review of the licence.
- 3.4 Lancashire Fire and Rescue Service will investigate all substantive complaints regarding the fire safety provision in any licensed premises.
- 3.5 Lancashire Fire and Rescue Service will inspect jointly, any licensed premises where the Licensing Authority inspectors have serious concerns regarding the provision or management of fire safety.
- 3.6 Lancashire Fire and Rescue Service will provide a copy of any written enforcement report following an inspection of licensed premises to the relevant Licensing Authority.
- 3.7 Lancashire Fire and Rescue Service will send a written report to the License Holder or applicant and designated premises holder following an inspection.
- 3.8 Lancashire Fire and Rescue Service will not undertake fire risk assessments for the License Holder. But will on inspection audit the process the License Holder has gone through in producing the risk assessment.

- 3.9 Lancashire Fire and Rescue Service will provide the Licensing Authority with information about any policy issues that may affect any proposed working arrangements.

Summary of Inspection Criteria

Lancashire Fire and Rescue Service may inspect the licensed premises for the following reasons:

- Any complaint in respect of fire safety in the licensed premises
- A specific request by the Licensing Authority inspector regarding fire safety concerns
- Enforcement of Fire Safety Legislation
- Statutory consultations regarding building control applications
- Initial application (never had a licence before)
- The licensed premises which fall under the higher risk category under Lancashire Fire and Rescue Service inspection policy
- A themed inspection that may be introduced by Lancashire Fire and Rescue Service when targeting specific at risk premises
- Following a fire.

4 WHAT THE LICENSING AUTHORITY WILL UNDERTAKE

- 4.1 The Licensing Authority will, provide a list of the licensing applications to Lancashire Fire and Rescue Service.
- 4.2 The Licensing Authority will, provide further information to Lancashire Fire and Rescue Service about premises where there is a high life risk should a fire occur in the premises.
- 4.3 The Licensing Authority will provide information to Lancashire Fire and Rescue Service regarding all material alterations to the structure or layout of existing high life risk premises.
- 4.4 The Licensing Authority will, utilising a standard letter, inform licensees of their legislative responsibilities under the Fire Precautions (Workplace) Regulations 1997, as amended.
- 4.5 The following are examples of premises where Lancashire Fire and Rescue Service would not expect to inspect:
- Small providers of catering (chip shops, burger bars etc.)
 - Current supermarkets with licensed sections
 - Small licensed premises
 - Corner shops selling alcohol
 - Sit-down eateries
- 4.6 The Licensing Authority will provide information to Fire Authorities about any policy issues that may affect proposed working arrangements.
- 4.7 The Local Authority will provide information on any small premises where a license is proposed or exists on request of Lancashire Fire and Rescue Service for inspection purposes.

ADVICE

Recommendations and provisions for Fire Safety should be provided in accordance with the guidance contained in:

- British Standard 5588 Part 6
- British Standard 5588 Part 11
- Guide to Fire Precautions in Existing Places of Entertainment and Like Premises
- The Building Regulations 2000 Approved Document B
- Fire Safety; An Employers Guide

RESPONSIBLE AUTHORITIES

APPENDIX 6

<p>People and Places Directorate Chorley Council Civic Offices Union Street Chorley Lancashire PR7 1AL Telephone: 01257 515151 Email contact@chorley.gov.uk Web: www.chorley.gov.uk</p>	<p>Planning Policy and Performance Directorate Civic Offices Union Street Chorley Lancashire PR7 1AL Telephone: 01257 515151 Email contact@chorley.gov.uk Web: www.chorley.gov.uk</p>
<p>Lancashire Constabulary Licensing Unit: C Division Chorley Police Station St Thomas' Road Chorley Lancashire PR7 1DR Telephone: 01257 246215 Fax: 01257 246217 Email: southern-licensing@lancashire.pnn.police.uk</p>	<p>Lancashire Fire & Rescue Services Fire Safety Fire Station Weldbank Lane Chorley Lancashire PR7 3NQ Telephone: 01257 262919 Fax: 01257 234363</p>
<p>Lancashire County Council Lancashire Safeguarding Children's Board Manager Room B52, PO Box 61, County Hall Preston PR1 8RJ Telephone: 01772 536288 Email: lscb@cyp.lancscc.gov.uk</p>	<p>Lancashire County Council Trading Standards 58-60 Guildhall Street Preston PR1 3NU Telephone: 01772 533528 Email: feedback@ts.lancscc.gov.uk</p>
<p>For applications concerning larger establishments only. The health and safety responsible authority is : H.S.E. Marshall House Ringway Preston PR1 2HS Telephone 01772 836200 For queries on this please call 01257 515151</p>	<p>FOR VESSEL APPLICATIONS ONLY British Waterways Trafalgar House Birchwood Warrington WA3 6GD Telephone: 01925 847700</p>

Appendix B

Licensing Policy Statement – Review Consultation Responses

	Responder	Issue	Response/Comment/Action
1.	NHS Central Lancashire	NHS Central Lancashire incorrectly referenced as 'Central Lancashire PCT' in Appendix 4	Appendix 4 amended
2.	NHS Central Lancashire	Noted that list of consultees should include representatives of residents and business	List of consultees includes elected Members and Parish Councils who are deemed to be representatives of residents and business. (appendix 4)
3.	NHS Central Lancashire	Request to include 'protection of public health' as a licensing objective. Noted that NHS Central Lancashire as are lobbying widely for the inclusion of this objective in licensing legislation.	Current legislation and statutory guidance clearly defines the licensing objectives of the legislation and hence policy. It currently does not include 'protection of public health'. However Chorley Council are currently piloting the use of Health Impact Assessment methodology as applied to Licensing Policy with partners at Preston City Council. Therefore whilst it cannot be included as a specific licensing objective, health and public health will be considered in terms of the impact that licensing policy is likely to have on health.
4.	NHS Central Lancashire	Welcome detail regarding protecting children in Section 10 of the Policy but observed that could go further by specifically referencing activities relating to proxy sales of alcohol.	Section 10 amended to include specific reference to proxy sales of alcohol. (page 11 para 10.6)
5.	NHS Central Lancashire	Noted that the policy section on 'drinks promotions' (p45) is not directly linked to the Mandatory Condition on irresponsible promotions contained in Appendix 5	Section amended to link the policy reference to drinks promotions with the Mandatory Condition on irresponsible promotions. (p.45)
6.	NHS Central Lancashire	Concern expressed as to how residents as 'interested parties' are consulted on licensing applications.	All premises applications are posted by the applicant on the premises (legal requirement) and advertised via Council website.
7.	NHS Central Lancashire	Enquiry as to how the exposure of children to alcohol advertising in cinemas is restricted and enforced. (paragraph 11.3)	Legal powers would be utilised – noted that no cinemas currently in Chorley Council area.

Appendix B

	Responder	Issue	Response/Comment/Action
8.	Chorley Council – Environmental Health	Date in paragraph 1 page 1 is incorrect and should be 2011 not 2008. In addition the context of the paragraph is outdated with reference to LA 2003 being new legislation.	Date amended and context of the paragraph amended.
9.	Chorley Council – Environmental Health	Query whether the work done around the Multi Agency Licensing Team (MALT) should be referenced in the policy.	Partnership working in general is referenced but the specific reference to the operational work done by MALT is not necessary in this policy document.
10.	Brindle Parish Council	Consultation noted but no comments made	None required.
11.	Hoghton Parish Council	Consultation noted but no comments made	None required.

SC January 2011

Report of	Meeting	Date
Chief Executive (Introduced by the Leader of the Council)	Executive Cabinet	17 February 2011

REVIEW OF THE MEMBERS ALLOWANCES SCHEME

PURPOSE OF REPORT

- To advise Members that in line with the requirements of the Local Authorities (Members Allowances) (England) Regulations 2003 the Council is required to instruct the Independent Remuneration Panel to review the current Members Allowances Scheme and make recommendations on any changes to the Scheme for determination by a full Council meeting.

RECOMMENDATION(S)

- That the report be noted and any specific comments of the Executive Cabinet on the current Member Allowances Scheme be passed to the Independent Remuneration Panel.
- That Council be recommended to appoint Allan Jones, Chair of Chorley Partnership Board, as the third Member of the Independent Remuneration Panel for a period of three years with the existing Panel members, Dennis Benson and Tom Waring also being reappointed for the next three years.

CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Strong Family Support		Education and Jobs	
Being Healthy		Pride in Quality Homes and Clean Neighbourhoods	
Safe Respectful Communities		Quality Community Services and Spaces	
Vibrant Local Economy		Thriving Town Centre, Local Attractions and Villages	
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			✓

BACKGROUND

- The current Members Allowances Scheme was agreed in 2007 and the Local Authorities (Members Allowances) (England) Regulations 2003 state that schemes should be reviewed as a minimum every four years. Minor changes to the current scheme were agreed in 2008 to reflect changing Committee roles but a full review is now due. The process is that the Independent Remuneration Panel meet and make recommendations which are then put forward for full Council's consideration. They may consult Councillors on any suggested changes as part of the process.

INDEPENDENT REMUNERATION PANEL (IRP)

- 6. The current IRP is made up of three members of the public – Dennis Benson, John Cowdall and Tom Waring. All but John Cowdall are interested in continuing in this role and therefore a third member of the Panel needs to be appointed. The Regulations state that Panels should consist of a minimum of three people. It is suggested that the Chair of the Chorley Partnership Board be approached to sit on the Panel. He has some knowledge of the role and organisation of local government, has no strong political party links and represents the business sector within the borough. These criteria are in line with the Regulations which encourage participation from stakeholder representatives from the private and voluntary sectors.
- 7. The current Members Allowances Scheme has worked reasonably well although changes to Committee roles and responsibilities and the frequency of meetings means it is now appropriate and timely to review the scheme. The review will look at levels of remuneration as well as eligibility for travel, subsistence etc. It will also make comparisons with other Lancashire and CIPFA “nearest neighbour” authorities.

IMPLICATIONS OF REPORT

- 8. This report has implications in the following areas and the relevant Directors’ comments are included:

Finance	✓	Customer Services	
Human Resources		Equality and Diversity	
Legal	✓	No significant implications in this area	

COMMENTS OF THE DIRECTOR OF TRANSFORMATION (HEAD OF GOVERNANCE)

- 9. The review is required under Government regulations and the proposals for the review meet the requirements of good governance. It is timely in the current financial climate to consider the scheme and whether it still adequately reflects the roles and responsibilities of elected members.

**GARY HALL
DIRECTOR OF TRANSFORMATION**

Background Papers			
Document	Date	File	Place of Inspection
Local Authorities (Members Allowances) (England) Regulations 2003	2003		Democratic Services
Current Members Allowances Scheme	2010		Council Constitution

Report Author	Ext	Date	Doc ID
Carol Russell	5196	13 January 2011	

Report of	Meeting	Date
Director of Transformation (Introduced by the Executive Member for Transformation)	Executive Cabinet	17 February 2011

CAPITAL PROGRAMME MONITORING 2010/11 – 2012/13

PURPOSE OF REPORT

1. To update the capital programme to take account of expenditure rephased between financial years.
2. To add new projects that are to be financed by external contributions or virement from other existing capital budgets.
3. To increase or reduce other capital budgets for the specific reasons identified in the report.

RECOMMENDATION(S)

4. That the Council be recommended to approve the revised capital programme for 2010/11 as presented in Appendix 1.
5. That the Council be recommended to note the amendments to the provisional capital programme figures for 2011/12 and 2012/13 as presented in Appendix 1.

EXECUTIVE SUMMARY OF REPORT

6. The capital programme for 2010/11 to 2012/13 should be reduced from £13,760,420 to £11,583,100 as a result of the changes totalling £2,177,320 identified in Appendix 2. Of this total, resources to finance housing capital schemes are now expected to be £900,000 less than previously estimated due to reductions in grant funding and non-acceptance of a bid for additional resources.
7. There is a small increase in financing by borrowing, to add the previously approved purchase of food waste recycling receptacles to the 2011/12 programme at a cost of £30,000. However, to avoid any unplanned increase in borrowing, it is important that all budgeted resources are received, in particular VAT Shelter income from Chorley Community Housing and capital receipts from the disposal of surplus assets.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

8. To update the 2010/11 capital programme to take account of the rephasing of expenditure between financial years; and to add and vire budgets to take account of the estimated availability of capital resources.

9. To update the provisional capital programme figures for 2011/12 and 2012/13 to take account of the rephasing of expenditure and changes to the resources estimated to be available to finance the programme.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

10. None.

CORPORATE PRIORITIES

11. This report relates to the following Strategic Objectives:

Strong Family Support		Education and Jobs	
Being Healthy		Pride in Quality Homes and Clean Neighbourhoods	✓
Safe Respectful Communities		Quality Community Services and Spaces	✓
Vibrant Local Economy	✓	Thriving Town Centre, Local Attractions and Villages	✓
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			✓

BACKGROUND

12. The revised capital programme for 2010/11 to 2012/13 was approved by Council of 2nd November 2010, as follows:

	£
2010/11	10,367,350
2011/12	1,592,660
2012/13	1,800,410
Total 2010/11 – 2012/13	<u>13,760,420</u>

13. It is proposed to reduce the three-year programme .by a net total of £2,177,320, made up as follows:

	£
Estimated reduction in resources available for housing capital investment 2011/12 – 2012/13	(900,000)
Deletion of Market Street Improvements – to be implemented by ASDA	(1,025,000)
Deletion of element of Buckshaw Railway Station budget due to be financed by LCC – Network Rail to charge LCC directly	(225,000)
Addition of Food Waste Recycling Receptacles	30,000
Deletion of Improvements to Sports Pitches 2012/13 – would have been match funding if external grant funding had been available	(275,000)
Addition of Yarrow Valley Country Park Natural Play Zone – grant funded element	57,000
Transfer of various costs to revenue budget	(10,320)
Addition of Capitalised Pension Fund Costs relating to early retirements	171,000
Total	<u>(2,177,320)</u>

Further explanation is given below and the analysis of the proposals between virements, rephasing and other changes is presented in Appendix 2.

CAPITAL PROGRAMME 2010/11

14. The Project Design Fees budget for £41,440 from 2010/11 onwards should be transferred from the Head of Economic Development to the Head of Housing to reflect the transfer of the recharge income made in the revenue budget.
15. A budget for a Newbuild Specialist Adapted property should be added to the programme, to be financed from the affordable housing budget at a cost of £67,500. The uncommitted affordable housing budget should be rephased to 2011/12 together with other uncommitted housing budgets, making a total of £1,023,800. Most of this total would be financed with housing capital grant. It is proposed the rephasing of these budgets should be used to mitigate the effect of reduced capital resources for housing investment in 2011/12.
16. The budget for Town Centre Investment should be reduced by £1,025,000 because the Market Street improvements would be implemented by ASDA. This has no effect on net resources, because the S106 contribution that would have financed the expenditure should also be deleted.
17. A contractual arrangement between Lancashire County Council and Network Rail has been established in respect of Buckshaw Village Railway Station, so there is no need for this Council to act as an intermediary as envisaged in October. The budget should be reduced by £225,000, but resources should be reduced by the same amount so that there is no net effect. Of the remaining budget, it is estimated that £3,476,690 should be rephased to 2011/12. LCC would finance expenditure incurred during 2010/11 with 'CIF2' grant, so that this use of the S106 contribution held by this Council would be required in 2011/12 when the project is completed.
18. As approved by Executive Cabinet on 9th December 2010, a grant of £50,000 to deal with all dilapidation issues relating to Coppull Leisure Centre should be added to the programme. This could be vired from the budget for planned improvements to assets.
19. Grant funding of £57,000 has been secured to finance a Natural Play Zone in the Yarrow Valley Country Park. Match funding of £23,000 is required and this should be vired from the Eaves Green Play Development budget. The remaining £189,480 balance of that budget should be rephased to 2011/12.
20. The £11,320 for improvements to the Big Wood Reservoir area should be rephased to 2011/12. Additional S106 funding may be available in that year, with which to increase the scope of the improvements.
21. The final phase of the Replacement Benefits System will be implemented during 2011/12, so the £46,500 balance of the budget should be transferred to that year.
22. Various costs should be transferred to the revenue budget together with the resource to finance them. These include Cemetery Development (£6,450), CRM Implementation training (£2,270), and Legal Case Management System training (£1,600).

CAPITALISATION OF REVENUE EXPENDITURE

23. The Council has been allocated a direction to enable capitalisation of pension fund payments incurred during 2010/11. The maximum that could be capitalised is £171,000 and the expenditure must be financed with capital receipts. The application for the capitalisation direction was submitted before the conclusion of restructuring proposals. It is by no means certain that pension strain arising from early retirements in 2010/11 would be

as much as £171,000. At present there are no uncommitted capital receipts in hand with which to finance the expenditure if capitalised. If a potential disposal is not completed by 31st March 2011, the expenditure would have to be charged to the revenue budget, though payment could be phased.

CAPITAL PROGRAMME 2011/12 and 2012/13

- 24. Resources for housing capital investment in 2011/12 and 2012/13 are expected to be around £900,000 less than previously estimated. This is a combination of a reduction grant funding for housing investment and non-acceptance of the Council’s bid for additional resources.
- 25. In respect of funding for Disabled Facilities Grants (DFGs), the Government has indicated that councils should receive no less than the allocation for 2010/11 (£235,000) and that additional resources would be allocated according to need. It is suggested that the budget should be £250,000 per year but that the budget should be revised once the actual allocation has been confirmed.
- 26. Of the housing capital grant transferred from 2010/11, it is proposed that £803,520 remain unallocated pending further deliberation. This is shown as ‘Housing Renewal’ in Appendix 1 and the budget could be used to finance affordable housing or purchase and repair schemes, or other housing capital investment.
- 27. The new Food Waste Recycling scheme was reported to Executive Cabinet on 11th November 2010. As indicated, £30,000 would be required to purchase receptacles in 2011/12. If financed by borrowing, this would result in a £3,000 per year charge to the revenue budget over 10 years.

IMPLICATIONS OF REPORT

- 28. This report has implications in the following areas and the relevant Directors’ comments are included:

Finance	✓	Customer Services	
Human Resources		Equality and Diversity	
Legal		No significant implications in this area	

- 29. Financial implications are set out in the body of the report.

GARY HALL
DIRECTOR OF TRANSFORMATION

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Michael L. Jackson	5490	27 th January 2011	Capital Programme 2010-11-2012-13 Monitoring Report Feb 2011.doc

Capital Programme - 2010/11 to 2012/13

Scheme	2010/11 Current Estimate (1) £	Proposed Changes (2) £	2010/11 Revised Estimate (3) £	2011/12 Current Estimate (4) £	Proposed Changes (5) £	2011/12 Revised Estimate (6) £	2012/13 Current Estimate (7) £	Proposed Changes (8) £	2012/13 Revised Estimate (9) £	Total 2010/11 to 2012/13 (10) £
<u>Director of Partnerships, Planning & Policy</u>										
<u>Head of Economic Development</u>										
Chorley Market Improvements	22,290		22,290	46,500		46,500	59,300		59,300	128,090
Climate Change Pot	89,300		89,300	0		0	0		0	89,300
Project Design Fees	41,440	(41,440)	0	41,440	(41,440)	0	41,440	(41,440)	0	0
<u>Head of Economic Development Total</u>	153,030	(41,440)	111,590	87,940	(41,440)	46,500	100,740	(41,440)	59,300	217,390
<u>Head of Housing</u>										
Choice Based Lettings	20,000	(20,000)	0	0		0	0		0	0
Affordable Housing New Development Projects	976,300	(976,300)	0	239,850	150,280	390,130	90,000		90,000	480,130
- Crosse Hall Lane	80,000		80,000	0		0	0		0	80,000
- Devonport Way	78,000		78,000	0		0	0		0	78,000
- Newbuild Specialist Adapted property	0	67,500	67,500	0		0	0		0	67,500
Purchase and Repair	485,230		485,230	0		0	0		0	485,230
Disabled Facilities Grants	508,020		508,020	400,000	(150,000)	250,000	400,000	(150,000)	250,000	1,008,020
Housing Renewal				300,000	503,520	803,520	300,000	(300,000)	0	803,520
- Home Repair Grants/Decent Homes Assistance	91,790	(50,000)	41,790	0	50,000	50,000	0		0	91,790
- Energy Efficiency Grants	50,000	(40,000)	10,000	0	10,000	10,000	0	10,000	10,000	30,000
- Handyperson Scheme	22,000		22,000	0		0	0		0	22,000
- Landlord Accreditation	5,000	(5,000)	0	0		0	0		0	0
Project Design Fees	0	41,440	41,440	0	41,440	41,440	0	41,440	41,440	124,320
<u>Head of Housing Total</u>	2,316,340	(982,360)	1,333,980	939,850	605,240	1,545,090	790,000	(398,560)	391,440	3,270,510
<u>Head of Planning</u>										
Town Centre Investment	1,060,550	(1,025,000)	35,550	0		0	0		0	35,550
Eaves Green Link Road - contribution to LCC scheme	80,000		80,000	0		0	0		0	80,000
Buckshaw Village Railway Station (S106/LCC financed)	3,731,690	(3,701,690)	30,000	0	3,476,690	3,476,690	0		0	3,506,690
Buckshaw Village Cycle Network	77,360		77,360	0		0	0		0	77,360
Chorley Strategic Regional Site	391,200		391,200	0		0	0		0	391,200
<u>Head of Planning Total</u>	5,340,800	(4,726,690)	614,110	0	3,476,690	3,476,690	0	0	0	4,090,800
<u>Head of Policy</u>										
Performance Management	10,000		10,000	0		0	0		0	10,000
Performance Reward Grant (PRG) funded schemes	75,500		75,500	0		0	0		0	75,500
<u>Head of Policy Total</u>	85,500	0	85,500	0	0	0	0	0	0	85,500
<u>Director of Partnerships, Planning & Policy Total</u>	7,895,670	(5,750,490)	2,145,180	1,027,790	4,040,490	5,068,280	890,740	(440,000)	450,740	7,664,200

Capital Programme - 2010/11 to 2012/13

Scheme	2010/11 Current Estimate (1) £	Proposed Changes (2) £	2010/11 Revised Estimate (3) £	2011/12 Current Estimate (4) £	Proposed Changes (5) £	2011/12 Revised Estimate (6) £	2012/13 Current Estimate (7) £	Proposed Changes (8) £	2012/13 Revised Estimate (9) £	Total 2010/11 to 2012/13 (10) £
<u>Director of People and Places</u>										
<u>Head of Streetscene & Leisure Contracts</u>										
Leisure Centres/Swimming Pool Refurbishment	302,980		302,980	230,000		230,000	235,000		235,000	767,980
Coppull Leisure Centre Grant	0	50,000	50,000	0		0	0		0	50,000
Duxbury Park Golf Course capital investment	86,560		86,560	0		0	0		0	86,560
Village Hall & Community Centres Projects	13,060		13,060	0		0	0		0	13,060
Replacement of recycling/litter bins & containers	101,680		101,680	85,000		85,000	85,000		85,000	271,680
Food Waste Recycling Receptacles	0		0	0	30,000	30,000	0		0	30,000
Highway improvements - Gillibrand estate/Southlands	44,000		44,000	0		0	0		0	44,000
Improvements to Sports Pitches	0		0	0		0	275,000	(275,000)	0	0
Astley Park Improvements	27,210		27,210	0		0	0		0	27,210
Eaves Green Play Development (S106 funded)	212,480	(212,480)	0	0	189,480	189,480	0		0	189,480
Fairview Farm Play Facilities (S106 funded)	100,000		100,000	0		0	0		0	100,000
Coppull Leisure Park (S106 funded)	25,000		25,000	0		0	0		0	25,000
Play and Recreation Fund projects	113,000		113,000	0		0	0		0	113,000
YVCP Natural Play Zone (S106/Grant funded)	0	80,000	80,000	0		0	0		0	80,000
Cemetery Development	6,450	(6,450)	0	0		0	0		0	0
Common Bank - Big Wood Reservoir	11,320	(11,320)	0	0	11,320	11,320	0		0	11,320
Project Design Fees	29,870		29,870	29,870		29,870	29,870		29,870	89,610
<u>Head of Streetscene & Leisure Contracts Total</u>	1,073,610	(100,250)	973,360	344,870	230,800	575,670	624,870	(275,000)	349,870	1,898,900
<u>Director of People and Places Total</u>	1,073,610	(100,250)	973,360	344,870	230,800	575,670	624,870	(275,000)	349,870	1,898,900

Capital Programme - 2010/11 to 2012/13

Scheme	2010/11 Current Estimate (1) £	Proposed Changes (2) £	2010/11 Revised Estimate (3) £	2011/12 Current Estimate (4) £	Proposed Changes (5) £	2011/12 Revised Estimate (6) £	2012/13 Current Estimate (7) £	Proposed Changes (8) £	2012/13 Revised Estimate (9) £	Total 2010/11 to 2012/13 (10) £
<u>Director of Transformation</u>										
<u>Head of Customer, ICT & Transactional Services</u>										
Website Development (incl. ICT salary capitalisation)	20,000		20,000	20,000		20,000	20,000		20,000	60,000
Thin Client/Citrix (started 2007/08)	46,490		46,490	0		0	64,800		64,800	111,290
Server Virtualisation / Data Storage Solution	190,750		190,750	0		0	0		0	190,750
Web Accessibility	10,080		10,080	0		0	0		0	10,080
Astley Hall network link	8,000		8,000	0		0	0		0	8,000
CRM Implementation	91,420	(2,270)	89,150	0		0	0		0	89,150
Unified Intelligent Desktop	290,130		290,130	0		0	0		0	290,130
Replacement Benefits System	186,000	(46,500)	139,500	0	46,500	46,500	0		0	186,000
<u>Head of Customer, ICT & Transactional Services Total</u>	842,870	(48,770)	794,100	20,000	46,500	66,500	84,800	0	84,800	945,400
<u>Head of Governance</u>										
Legal Case Management System	6,090	(1,600)	4,490	0		0	0		0	4,490
<u>Head of Governance Total</u>	6,090	(1,600)	4,490	0	0	0	0	0	0	4,490
<u>Head of Human Resources & Organisational Development</u>										
Integrated HR, Payroll and Training System	30,000		30,000	0		0	0		0	30,000
<u>Head of HR & Organisational Development Total</u>	30,000	0	30,000	0	0	0	0	0	0	30,000
<u>Director</u>										
Planned Improvements to Fixed Assets	519,110	(50,000)	469,110	200,000		200,000	200,000		200,000	869,110
Capitalisation of Restructuring Costs	0	171,000	171,000	0		0	0		0	171,000
<u>Director Total</u>	519,110	121,000	640,110	200,000	0	200,000	200,000	0	200,000	1,040,110
<u>Director of Transformation Total</u>	1,398,070	70,630	1,468,700	220,000	46,500	266,500	284,800	0	284,800	2,020,000
<u>Capital Programme Total</u>	10,367,350	(5,780,110)	4,587,240	1,592,660	4,317,790	5,910,450	1,800,410	(715,000)	1,085,410	11,583,100

Capital Programme - 2010/11 to 2012/13

Scheme	2010/11	Proposed	2010/11	2011/12	Proposed	2011/12	2012/13	Proposed	2012/13	Total 2010/11 to 2012/13
	Current Estimate (1) £	Changes (2) £	Revised Estimate (3) £	Current Estimate (4) £	Changes (5) £	Revised Estimate (6) £	Current Estimate (7) £	Changes (8) £	Revised Estimate (9) £	
<i>Financing the Capital Programme</i>										
Prudential Borrowing	744,560		744,560	506,310	30,000	536,310	614,800		614,800	1,895,670
Unrestricted Capital Receipts	77,000	141,200	218,200	0	29,800	29,800	100,000	(100,000)	0	248,000
Revenue Budget - VAT Shelter income	1,515,400	(68,820)	1,446,580	146,500	58,500	205,000	295,610	(175,000)	120,610	1,772,190
Chorley Council Resources										
Ext. Contributions - Developers	5,989,560	(4,810,970)	1,178,590	239,850	3,785,970	4,025,820	90,000		90,000	5,294,410
Ext. Contributions - Other	585,500	(168,000)	417,500	0		0	0		0	417,500
Government Grants - Disabled Facilities Grants	235,000		235,000	400,000	(150,000)	250,000	400,000	(150,000)	250,000	735,000
Government Grants - Housing Capital Grant	1,220,330	(873,520)	346,810	300,000	563,520	863,520	300,000	(290,000)	10,000	1,220,330
External Funding										
	8,030,390	(5,852,490)	2,177,900	939,850	4,199,490	5,139,340	790,000	(440,000)	350,000	7,667,240
Capital Financing Total	10,367,350	(5,780,110)	4,587,240	1,592,660	4,317,790	5,910,450	1,800,410	(715,000)	1,085,410	11,583,100

**Capital Programme - 2010/11 to 2012/13 -
Proposed Changes**

Scheme

Director of Partnerships, Planning & Policy

Head of Economic Development

Project Design Fees

Head of Economic Development Total

Head of Housing

Choice Based Lettings

Affordable Housing New Development Projects

- Newbuild Specialist Adapted property

Disabled Facilities Grants

Housing Renewal

- Home Repair Grants/Decent Homes Assistance

- Energy Efficiency Grants

- Landlord Accreditation

Project Design Fees

Head of Housing Total

Head of Planning

Town Centre Investment

Buckshaw Village Railway Station (S106/LCC financed)

Head of Planning Total

Director of Partnerships, Planning & Policy Total

	2010/11			2011/12			2012/13			Total (10) £
	Virement (1) £	Rephasing (2) £	Other Changes (3) £	Virement (4) £	Rephasing (5) £	Other Changes (6) £	Virement (7) £	Rephasing (8) £	Other Changes (9) £	
Project Design Fees	(41,440)			(41,440)			(41,440)			(124,320)
<u>Head of Economic Development Total</u>	(41,440)	0	0	(41,440)	0	0	(41,440)	0	0	(124,320)
Choice Based Lettings		(20,000)		(20,000)	20,000					(20,000)
Affordable Housing New Development Projects	(67,500)	(908,800)		(758,520)	908,800					(826,020)
- Newbuild Specialist Adapted property	67,500									67,500
Disabled Facilities Grants						(150,000)		(150,000)		(300,000)
Housing Renewal				803,520		(300,000)		(300,000)		203,520
- Home Repair Grants/Decent Homes Assistance		(50,000)			50,000					0
- Energy Efficiency Grants		(40,000)		(20,000)	30,000		10,000			(20,000)
- Landlord Accreditation		(5,000)		(5,000)	5,000					(5,000)
Project Design Fees	41,440			41,440			41,440			124,320
<u>Head of Housing Total</u>	41,440	(1,023,800)	0	41,440	1,013,800	(450,000)	41,440	10,000	(450,000)	(775,680)
Town Centre Investment			(1,025,000)							(1,025,000)
Buckshaw Village Railway Station (S106/LCC financed)		(3,476,690)	(225,000)		3,476,690					(225,000)
<u>Head of Planning Total</u>	0	(3,476,690)	(1,250,000)	0	3,476,690	0	0	0	0	(1,250,000)
<u>Director of Partnerships, Planning & Policy Total</u>	0	(4,500,490)	(1,250,000)	0	4,490,490	(450,000)	0	10,000	(450,000)	(2,150,000)

**Capital Programme - 2010/11 to 2012/13 -
Proposed Changes**

Scheme

Director of People and Places

Head of Streetscene & Leisure Contracts

Coppull Leisure Centre Grant

Food Waste Recycling Receptacles

Improvements to Sports Pitches

Eaves Green Play Development (S106 funded)

YVCP Natural Play Zone (S106/Grant funded)

Cemetery Development

Common Bank - Big Wood Reservoir

Head of Streetscene & Leisure Contracts Total

Director of People and Places Total

Director of Transformation

Head of Customer, ICT & Transactional Services

CRM Implementation

Replacement Benefits System

Head of Customer, ICT & Transactional Services Total

Head of Governance

Legal Case Management System

Head of Governance Total

	2010/11			2011/12			2012/13			Total (10) £
	Virement (1) £	Rephasing (2) £	Other Changes (3) £	Virement (4) £	Rephasing (5) £	Other Changes (6) £	Virement (7) £	Rephasing (8) £	Other Changes (9) £	
Coppull Leisure Centre Grant	50,000									50,000
Food Waste Recycling Receptacles						30,000				30,000
Improvements to Sports Pitches								(275,000)		(275,000)
Eaves Green Play Development (S106 funded)	(23,000)	(189,480)			189,480					(23,000)
YVCP Natural Play Zone (S106/Grant funded)	23,000		57,000							80,000
Cemetery Development			(6,450)							(6,450)
Common Bank - Big Wood Reservoir		(11,320)			11,320					0
<u>Head of Streetscene & Leisure Contracts Total</u>	50,000	(200,800)	50,550	0	200,800	30,000	0	0 (275,000)		(144,450)
<u>Director of People and Places Total</u>	50,000	(200,800)	50,550	0	200,800	30,000	0	0 (275,000)		(144,450)
CRM Implementation			(2,270)							(2,270)
Replacement Benefits System		(46,500)			46,500					0
<u>Head of Customer, ICT & Transactional Services Total</u>	0	(46,500)	(2,270)	0	46,500	0	0	0	0	(2,270)
Legal Case Management System			(1,600)							(1,600)
<u>Head of Governance Total</u>	0	0	(1,600)	0	0	0	0	0	0	(1,600)

**Capital Programme - 2010/11 to 2012/13 -
Proposed Changes**

Scheme	2010/11			2011/12			2012/13			Total (10) £
	Virement (1) £	Rephasing (2) £	Other Changes (3) £	Virement (4) £	Rephasing (5) £	Other Changes (6) £	Virement (7) £	Rephasing (8) £	Other Changes (9) £	
<u>Director</u>										
Planned Improvements to Fixed Assets	(50,000)									(50,000)
Capitalisation of Restructuring Costs			171,000							171,000
Director Total	(50,000)	0	171,000	0	0	0	0	0	0	121,000
<u>Director of Transformation Total</u>	(50,000)	(46,500)	167,130	0	46,500	0	0	0	0	117,130
<u>Capital Programme Total</u>	0	(4,747,790)	(1,032,320)	0	4,737,790	(420,000)	0	10,000	(725,000)	(2,177,320)
<u>Financing the Capital Programme</u>										
Prudential Borrowing						30,000				30,000
Unrestricted Capital Receipts		(29,800)	171,000		29,800			(100,000)		71,000
Revenue Budget - VAT Shelter income		(58,500)	(10,320)		58,500			(175,000)		(185,320)
Chorley Council Resources	0	(88,300)	160,680	0	88,300	30,000	0	0	(275,000)	(84,320)
Ext. Contributions - Developers		(3,785,970)	(1,025,000)		3,785,970					(1,025,000)
Ext. Contributions - Other			(168,000)							(168,000)
Government Grants - Disabled Facilities Grants						(150,000)		(150,000)		(300,000)
Government Grants - Housing Capital Grant		(873,520)			863,520	(300,000)		10,000	(300,000)	(600,000)
External Funding	0	(4,659,490)	(1,193,000)	0	4,649,490	(450,000)	0	10,000	(450,000)	(2,093,000)
Capital Financing Total	0	(4,747,790)	(1,032,320)	0	4,737,790	(420,000)	0	10,000	(725,000)	(2,177,320)

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REPORT OF OVERVIEW AND SCRUTINY COMMITTEE AND TASK AND FINISH GROUPS

1. This report summarises the business transacted at the meetings of the Overview and Scrutiny Committee held on 8 November and 6 December 2010 and 14 February 2011, as well as a brief summary of the recent activities and matters discussed at meetings that have taken place of the Task and Finish Groups.

OVERVIEW AND SCRUTINY COMMITTEE – 8 NOVEMBER 2010**Chorley Council Performance Monitoring Report – Second Quarter of 2010/11**

2. The Committee received a report of the Director of Partnerships, Planning and Policy setting out the performance against the Corporate Strategy and the Councils National Indicators for the second quarter of 2010/11.
3. The Corporate Strategy identified 33 key projects. The overall performance of the key projects remained excellent with 91% of projects being either completed, closed off, or rated 'green' and progressing ahead. This had been an improvement on the last quarter's performance. The 9% of projects that were rated 'red' or 'amber' were expected to be brought back on track over the next quarter.
4. Overall performance of the key measures in the Corporate Strategy remained strong, with 93% of measures performing about target or within the 5% tolerance. Where performance had been below target, action plans had been developed that outlined what action would be taken to improve performance.

Chorley Partnership – Performance Monitoring Report for Second Quarter of 2010/11

5. The Committee received a report of the Director of Partnerships, Planning and Policy updating Members on the performance of the Local Strategic Partnership for the second quarter of 2010/11.
6. The information provided had been based on performance against the 2007 Sustainable Community Strategy and the Local Area Agreement Targets and it was explained that measures would be developed in line with the new Sustainable Community Strategy 2010 – 2020, to be reported on, from April 2011.
7. Overall crime had reduced by 6.5% in comparison to this time last year and reductions had been seen in most categories of crime. The number of new businesses being established was now back on target and performing well, with 33 businesses being established against a target of 26.
8. Chorley Partnership had commissioned 9 projects for 2010/11. Seven of these projects had been rated green, indicated that performance is as planned or ahead of target.

Business Plan Monitoring Statements

9. The Committee received the Business Plan Monitoring Statements for the first six months of 2010/11.

Partnerships Planning and Policy Directorate

10. There had been a number of notable achievements for the Directorate that included:
 - The development of an Alcohol Improvement Programme aimed at reducing alcohol related admissions.
 - Another successful Chorley Picnic in the Park event that included the Chorley Smile Awards.
 - Working in partnership with the local voluntary sector businesses to secure 12 new vacancies in the Future Jobs Fund programme.
11. The report also highlighted those actions that were currently behind schedule, giving details for the delays and what action would be taken to get back on track.

People and Places Directorate

12. Key achievements for the directorate included:
 - A Civic Society Award for the Coach House Café at Astley Park
 - The retention of the Green Flags at Yarrow Valley Country Park and, Tatton Recreational Ground and Withnell Linear Park
 - Country Park accreditation for Yarrow Valley County Park
13. The majority of key actions in the Business Improvement Plan had been delivered on schedule and an explanation had been given for those currently off target.
14. It was noted that measures taken to improve performance against NI195b and NI195c, improved street and environmental cleanliness; levels of detritus and graffiti had been successful and there had been evidence to suggest that this would be back on target in the next quarter.

Transformation Directorate

15. Notable successes for the directorate included:
 - A 100% completion of staff Performance Appraisals.
 - Attaining an unqualified audit opinion on the statement of accounts.
 - Implementation of a cycle to work scheme.
16. The key focus for improvement in the first part of 2010 had been on evaluating options in respect of the Councils ICT infrastructure and network. Replacements had now been procured and the second half of the year would see the implementation phase.
17. It was also reported that the Council had introduced a single financial system across the shared service with South Ribble Council that would progress against the milestones and deliver further financial savings.

OVERVIEW AND SCRUTINY COMMITTEE – 6 DECEMBER 2010**2011/12 Budget Principles**

18. The Committee received a report of the Director of Transformation on Budget Principles that was presented by Councillor Kevin Joyce – Executive Member for Transformation.
19. The Executive would consider the Council's budget, based upon a set of core principles to be discussed and agreed at Executive Cabinet on 9 December 2010. The key principles to be adopted were:
 - To continue to be a high performing Council
 - To contain Council Tax increases
 - To protect the Chorley community from the impact of the current economic situation
 - Continuing to provide value for money
 - Safeguarding front line services and focusing on the removal of bureaucracy and managerial posts
 - Looking for opportunities to share services and generate additional revenue
 - Preparing for the future and uncertainty over public finances
 - To look to reduce debt and the consequent financing charges
20. There was continued uncertainty regarding the Concessionary Travel Scheme and there were a number of proposed changes to funding mechanisms including the new home bonus scheme and deregulation of planning fees, which were yet to be approved. It was hoped that some clarity would be given upon the publication of the draft revenue support grant figures that would be revealed shortly.

OVERVIEW AND SCRUTINY COMMITTEE – 14 FEBRUARY 2011

Executive Cabinet – 9 December 2010

21. Members considered the minutes of the last Executive Cabinet meeting and discussions took place in relation to the following items:

Coppull Leisure Centre

- Comments on the consultation processes.

Core Funding, 2011/12 – Review of process

- Comments on the process of allocation of the Core Funding grants and what monitoring procedures are in place to ensure there is no overlapping of funds by the various organisations.
- Comments about the publication of the Local Strategic Partnership's Board, Executive and Thematic Groups minutes.
- Comments on the restructure of the Local Strategic Partnership.

General Budget Principles for 2011/12 and Restructures

- Comments on what shared services the Council are exploring to continue driving efficiencies forward.

Executives Response to Overview and Scrutiny Inquiry into Allotment issues

22. The Committee were pleased to note that the Executive Cabinet was proposing to accept almost all of the findings and recommendations of the Overview and Scrutiny Inquiry into Allotments.

Scrutiny of Chorley Safety Partnership

23. The Committee received a report of the Director of Transformation on the proposed arrangements for the scrutiny of the work of the Community Safety Partnership to fulfil the statutory requirement on crime and disorder scrutiny.
24. It was proposed that the Committee concentrated the scrutiny on one particular aspect of the work of the Community Safety Partnership and anti social behaviour was identified as an area that affected everybody with strong links to the Neighbourhood Working agenda.
25. Arrangements had been tailored to make the meeting more interactive. Members would be invited to visit the Council's CCTV suite ahead of the meeting and two Members would be given the opportunity to experience first hand two of the initiatives currently taking place within the Borough to combat anti social behaviour.

Reports from the Task and Finish Groups

Overview and Scrutiny Task Group – Allotments

26. The Committee received and considered the final report of the Overview and Scrutiny Task Group – Allotments. The Chair, Councillor Julia Berry outlined the work that had been undertaken along with key findings and recommendations.
27. The recommendations had the capacity to increase revenue and minimise running costs, with no major budget implications to the Council, Some were organisational and would establish best practice under the following main headings:
 - Provision and demand for allotments
 - Tenancy agreements and monitoring and inspection reports
 - Allotments charges
 - Community Growing
 - Community management of allotments
28. The Overview and Scrutiny Committee approved the report of the Overview and Scrutiny Task Group for submission to the next meeting of the Executive Cabinet.

Overview and Scrutiny Task Group – Asset Management

29. The Committee received and considered the final report of the Overview and Scrutiny Task Group – Asset Management. The Chair, Councillor Alan Cullens, explained that the Group had recommended a set of strategic principles for the Executive's consideration.
30. The Overview and Scrutiny Committee approved the report of the Overview and Scrutiny Task Group for submission at the next meeting of the Executive Cabinet.

Overview and Scrutiny Task Group – Lancastrian

31. Following on from the recommendation of the Asset Management Task Group the Committee appointed Members to a Task and Finish Group to undertake an inquiry into the Lancastrian Suite.
32. The Task Group met in January to agree the key themes for the review and requested further information on past users of the Lancastrian, how South Ribble Borough Council manages its hospitality suite and the commercial market for the hire of function room facilities. It was intended to take the draft scoping document to the next meeting of the Overview and Scrutiny Committee in March.

Recommendation

33. The Council is recommended to note this report.

REPORT OF COUNCILLOR ADRIAN LOWE
Chair of Overview and Scrutiny Committee

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There are no background papers to this report.

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REPORT OF AUDIT COMMITTEE**GENERAL REPORT**

1. This report summarises briefly the items considered and decisions taken by the Audit Committee at its meeting on 20 January 2011.

Annual Audit Letter, 2009/10

2. The Engagement Lead and Audit Manager from the Audit Commission attended the meeting to present the Annual Audit Letter, which summarised the findings of the Audit Commission's audit of the Council's accounts for 2009/10 and its assessment of the authority's arrangements to secure value for money in its use of resources.
3. The only issues identified by the Audit Commission were primarily of a minor nature, involving mainly classification issues.
4. The auditors acknowledged the Council's maintained high performance in a difficult economic environment, continuing to deliver significant efficiencies whilst achieving an increase in customer satisfaction scores. The auditors are also aware of the Council's plans to address the implications of the spending review and have reminded the authority of the need to continually review priorities, service standards and the methods of service delivery.
5. The Audit Commission has, consequently, issued an unqualified opinion on the Council's Financial Statements for 2009/10 and an unqualified value for money conclusion, being satisfied that the Council has adequate arrangements in place.

Audit Plan for 2010/11

6. The Committee received and considered a document from the Audit Commission which outlined the work the Commission propose to undertake for the audit of the Council's 2010/11 financial statements and value for money conclusion, as based on the Commission's risk based approach to audit planning.
7. The Commission's scrutiny of the Council's arrangements be secure economy, efficiency and effectiveness will take into account the Council's arrangements for:
 - securing financial resilience by managing its financial risks;
 - challenging priorities and resources and improving productivity and efficiency.
8. A rebate has already been allowed on the Audit Commission's original scale fees for its 2010/11 audit, but the Commission envisaged that a further reduction of 1.5% would be made at the conclusion of a consultation exercise.
9. Chorley Council will be required to prepare the financial statements for 2010/11 by 30 June 2011, following which the Audit Commission will expect to complete its audit and issue an opinion and value for money conclusion by 30 September 2011.

Future External Audit Arrangements

10. The Engagement Lead with the Audit Commission updated the Committee on the likely impact on future external audits of the Council's accounts of the Government's plans to abolish the Audit Commission.

11. We were told that the original timetable has been delayed and that it is unlikely that the Audit Commission will be abolished until December 2013 at the earliest.
12. The implementation of the new audit framework will require legislation and a Parliamentary Select Committee has been established to examine and make recommendations on future audit criteria and framework. Whilst the Council will ultimately be able to select its own external auditors, the procurement of a new audit service will, as yet, be unnecessary until the new framework and procedures have been agreed. In the interim, the Audit Commission will continue to work positively with Chorley Council on the audit of its accounts up to at least 2011/12.

Treasury Management Activity 2010/11

13. The Committee received for information a report of the Director of Transformation on the Councils Treasury Management activity and performance up to 30 September 2010 which had been presented to the Executive Cabinet meeting on 11 November 2010.
14. The report confirmed that the Council continues to comply with the prudential indicators specified in the adopted Treasury and Investment Strategies and that investments continue to be made with only highly rated institutions.
15. The report also indicated that the Council, on average, had received a return of 0.66% on its surplus cash balances during the first half of 2010/11. Therefore, in order to achieve the maximum interest, the Executive Cabinet has agreed to recommend the Council to endorse an increase in the investment limits from £2m to £3m in some of the approved institutions within a general control framework.

Internal Audit Plan for 2010/11 – Interim Report for period up to 26 November 2010

16. The Head of Shared Assurance Services presented the Committee with a report on the progress of the work undertaken in respect of the 2010/11 Annual Audit Plan up to 26 November 2010.
17. Appendices to the report provided both a general overview of the overall progress made in relation to the Internal Audit Plan, and a more detailed analysis of the projects undertaken to date, clarifying the measures required to address identified key control issues.
18. Since the original Audit Plan for 2010/11 was compiled, a number of the Council's priorities have changed. Taking this and other developments that have occurred over the past few months into account, the Committee authorised the recommended revision of the Internal Audit Plan for the remainder of 2010/11. One of the agreed changes will entail the transfer of the resources allocated for a planned review of neighbourhood working to a review of fees and charges, as a review of neighbourhood working could not be justified in the light of the recent restructure of the neighbourhood working regime.

Shared Assurance Service – Implications of Proposed Budget for Service in 2011/12

19. The Committee considered a report of the Head of Shared Assurance Services on proposals to reduce the Internal Audit and Risk Management inputs from 2011/12.
20. The planned reductions have been recommended in the light of national policy changes and reduced audit input requirements from 2011/12 and will be achieved through increased efficiencies and more effective working practices. It is expected that the revisions will have minimal implications for staff, as currently recent posts have not been filled and the present arrangements with Lancashire County Council will be terminated. Similarly, it is not envisaged that the reduced programme will impact adversely on the current standards of

internal audit and risk management service, as national standards will still apply and there will be a sharper focus on financial management and monitoring.

21. We accepted the Officers' arguments and endorsed the plans to reduce the Internal Audit and Risk Management programme from 2011/12 and the consequent proposals for a revised Shared Assurance Service budget to be considered by the Shared Services Joint Committee in advance of recommendations to both Chorley and South Ribble Councils.

Recommendation

22. The Council is recommended to note this report.

COUNCILLOR ANTHONY GEE
Chair of Audit Committee

There are no background papers to this report

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Report of	Meeting	Date
The Monitoring Officer Introduced by the Executive Leader	Council	5 April 2011

AMENDMENTS TO THE CONSTITUTION

PURPOSE OF REPORT

1. This report contains proposals for the amendment of the Council's Constitution to reflect changes which have already been agreed or are appropriate for the improvement of the continued running of the Council.

RECOMMENDATIONS

2. That the Executive Cabinet recommend to full Council that:
 - a. That the Constitutional provision for the Strong Leader Model which is being adopted from May 2011 be approved under a revised Article 7 of the Constitution which is set out in Appendix 1 to this report.
 - b. That the provision for substitute members at Development Control and Licensing and Public Safety Committees be approved as set out in italics in paragraph 19.
 - c. That the revised Contract Procedure Rules be approved as set out in Appendix 2 of this report.

EXECUTIVE SUMMARY OF REPORT

3. This report addresses three areas of change within the constitution
 - a. The implementation of the strong leader model (formerly adopted by the Council on 13 April 2010) under the Local Government and Involvement in Public Health Act 2007.
 - b. Provision for substitute members to attend Development Control and Licensing and Public Safety Committees; and
 - c. The amendment of the Councils Contract Procedure Rules.
4. The changes are set out in the report and the appendices, however there will also be consequential changes to other parts of the Constitution and these will be picked up afterwards and a revised edition of the Constitution published electronically with hard copies in the Members Room.
5. The Executive Cabinet is requested to recommend these amendments to full Council for adoption.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

6. Amendments to the Constitution require Council approval.

7. The amendments relating to the adoption of the strong leader model are required to be adopted before the municipal year 2011/12. This is a requirement of the Local Government and Public Involvement in Health Act 2007.
8. The All Party Leaders Group had asked that there be some provision created for substitute members on certain committees and the proposal is based on their recommendations.
9. Proposed changes to the Contract Procedure Rules are to enable this Council to undertake a more co-ordinated approach to joint procurement work with South Ribble Council.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

10. Failure to adopt the amendments relating to the strong leader model would place the Council in breach of a statutory duty and as a result this option has been rejected.
11. The remaining proposed amendments can be rejected but this will impact on the business of the Council and this option has therefore been rejected for business reasons.

CORPORATE PRIORITIES

12. This report relates to the following Strategic Objectives:

Strong Family Support		Education and Jobs	
Being Healthy		Pride in Quality Homes and Clean Neighbourhoods	
Safe Respectful Communities		Quality Community Services and Spaces	
Vibrant Local Economy		Thriving Town Centre, Local Attractions and Villages	
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			X

BACKGROUND

13. There are three main areas of amendment to the Constitution. These are clearly separate and this report will deal with each in turn.

Strong Leader Model

14. On the 13 April 2010 the Council resolved to adopt the Strong Leader and Cabinet Executive model from May 2011. In order to action this resolution, consequential amendments to the Constitution are required. As a reminder, the key changes required as a result of this resolution are:-
 - a. The Leader is appointed by Council for a period 4 years (or the remainder of their term of office).
 - b. The Leader appoints their own Cabinet.
 - c. The Cabinet must consist of at least 2 but a maximum of 9 Executive Members one of whom must be a Deputy Executive Leader.
 - d. The Leader sets the Council’s scheme of delegation as it relates to Executive Functions.
15. In addition to the statutory requirements listed above, discussion at the Council meeting in April 2010 referred to the consequential changes needed to the Constitution as a result of

the introduction of the Strong Leader model and requested that there be provision for removal of the Strong Leader by resolution passed on a simple majority.

16. The key provisions of the Constitution to be amended are:-
 - a. Part 2, Article 7 – The Executive
 - b. Appendix 2, Part D – Executive Functions
17. A revised Article 7 has been drawn up and retitled the Executive Leader and the Executive. This includes all required changes and is attached as Appendix 1 for Members approval. Once changes have been agreed, Part D of Appendix 2 will be revised accordingly.

Substitute Members

18. The All Party Leaders Group has recently requested that this Council include some provision for substitute members on certain committees of the Council. This is in use in many other local authorities and provides more flexibility for members in balancing their many commitments and ensures that wherever possible, there is a full compliment of members taking decisions. The proposal is to include a substitute member provision on both the Development Control and Licensing and Public Safety Committees only. The provision cannot apply to Executive Cabinet and is less of an issue on Overview and Scrutiny Committee. It requires both a change to the Constitution and also an appropriate resolution at Annual Council when appointments are made at the start of the year.
19. It is a statutory requirement that members of the Licensing Committee receive training prior to making any decisions on such matters. Similarly, whilst it is not required by statute, the approach at Chorley in relation to Development Control Committee is to try to ensure that decisions are made by members who are seen to have sufficient knowledge and training on planning matters. This would need to continue to be the case.
20. It is proposed that an additional paragraph (paragraph 30) be inserted in Appendix 3 of the Constitution as part of the Council Procedure Rules as follows:

Members may decide to request that another appointed substitute Councillor will attend certain committee meetings on their behalf on the following basis;

- *This provision relates only to the Development Control and Licensing and Public Safety Committees*
- *Each political group may appoint one substitute member for each of those committees at the start of the Council year when the appointments to committees are made.*
- *It is the member's responsibility to contact the committees appointed substitute member if they wish them to attend on their behalf*
- *Substitute members have full voting rights*
- *Substitute members must have received sufficient training on planning and licensing matters so that they are equipped to serve on those committees.*
- *Substitute members must attend for full meetings and not just for selected agenda items or part meetings.*

Contract Procedure Rules

21. As part of a joint exercise with South Ribble Council, the Contract Procedure Rules have been redrafted. This is to provide a more co-ordinated approach and it is envisaged that it will result in greater efficiencies in joint procurements. The proposed Contract Procedure Rules are attached at Appendix 2 to this report.
22. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	/	Customer Services	
Human Resources		Equality and Diversity	
Legal	/	No significant implications in this area	

COMMENTS OF THE DIRECTOR OF TRANSFORMATION

The Constitution is a key working document for the governance of the Council. It is essential that it is regularly reviewed to ensure compliance with all legislative requirements and the business requirements of the Council.

The changes relating to the implementation of the strong leader model are a legal requirement which implement a previous decision of the Council.

CHRIS MOISTER MONITORING OFFICER

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Chris Moister	5160	9 March 2011	

Background Papers			
Document	Date	File	Place of Inspection
Council Constitution	Last updated 2010		www.chorley.gov.uk

APPENDIX 1

ARTICLE 7 – THE EXECUTIVE LEADER AND THE EXECUTIVE

7.01 Role of the Executive

All of the Council's functions are exercised by the Executive arm of the Council unless the law makes specific provision to the contrary. Where the law provides the Council with a choice, this Constitution determines whether a function may be exercised by the Executive.

7.02 Form and Composition

The Executive Cabinet consists of an Executive Leader and a Deputy Executive Leader together with between two and eight other Councillors appointed as members of the Executive by the Executive Leader. The Executive Leader is also Leader of the Executive Cabinet. The Mayor and the Deputy Mayor may not be appointed as Executive Members.

In the event of the Executive Leader being unable to discharge his/her duties as Leader due to absence, the Deputy Leader shall assume those duties until the Leader is able to resume his/her duties or full Council appoints a new Executive Leader.

7.03 Executive Leader

The Executive Leader is a Councillor who is elected to the position by the Council for a term of four years at its Annual Meeting. The Executive Leader holds office for that term or until he or she:

- (a) resigns from office;
- (b) is suspended from being a Councillor under Part III of the Local Government Act 2000; or
- (c) ceases to be a Councillor;
- (d) is removed from the office by resolution of the Council

If the Executive Leader is suspended from being a Councillor the Council may re-appoint him as Executive Leader at the end of the suspension.

If the Office of Executive Leader becomes vacant, the Council shall fill the vacancy as soon as reasonably practicable and the person elected shall hold office in accordance with the provisions of this Article.

7.04 Other Executive Members

The other Executive Members are appointed each year by the Executive Leader. Every Executive Member holds office until he or she:

- (a) resigns from office;
- (b) is suspended from being a Councillor under Part III of the Local Government Act 2000;
- (c) ceases to be a Councillor or;
- (d) is removed from the office by the Executive Leader who must give written notice to the Chief Executive of any such removal.

Any vacancy in the office of an Executive Member (other than the Executive Leader), may be filled by the Executive Leader. The person appointed then holds office in accordance with the provisions of this Article. Written notice of any such appointment by the Executive leader must be given to the Chief Executive.

If there are fewer than two Executive Members (excluding the Executive Leader) then the Executive Leader must fill those vacancies as soon as practicable to ensure that there are at least two such Members.

7.05 Proceedings of the Executive

The Executive Cabinet may make Procedure Rules to govern its meetings and decision making processes. Those rules (if any) appear at Appendix 5 to this Constitution.

7.06 Responsibility for Functions

The functions of the Executive do not all have to be discharged by the full Executive Cabinet.

- (a) The Executive Leader can allocate any of the functions of the Executive among:
- i) the Executive Cabinet itself;
 - ii) particular Executive Members including the Executive Leader and Deputy Executive Leader positions;
 - iii) Committees of the Executive;
 - iv) Council Officers.
- (b) In the case of functions that have not been allocated by the Council, the Executive Leader may:
- i) exercise them himself or herself; or
 - ii) arrange for them to be discharged by:
 - the Executive Cabinet;
 - one or more other Executive Members ;
 - Committees of the Executive;
 - Council Officers.
- (c) Functions which are dischargeable by the Executive Cabinet may then be delegated by it to Committees of the Executive or to Council Officers.
- (d) Functions which are dischargeable by Committees of the Executive or by individual Executive Members may then be delegated by those Committees or Executive Members to Council Officers.

The functions of the Executive which have been delegated are set out in Appendix 2 part D of the Constitution.

7.07 Lead Members

The Council may also appoint such number of other Councillors as he/she may think fit to assist the Council and the Executive Members. These Councillors, known as Lead Members, are, however, not members of the Executive and may be members of the Overview and Scrutiny Committee.

Each Lead Member holds office until he or she:

- (a) resigns from office;
- (b) is suspended from being a Councillor under Part III of the Local Government Act 2000;
- (c) ceases to be a Councillor; or
- (d) is removed from the office by resolution of the Council,
whichever first occurs.

The specific responsibilities of Lead Members are set out in Part F of Appendix 2 to this Constitution.

7.08 Scheme of Delegation

The Executive Leader has responsibility for the Scheme of Delegation to Executive Members and the scheme of Delegation to Officers. Any changes to those delegations, must be the subject of a formal Executive Leader decision and reported to the next meeting of the Council as a Constitutional change. The carrying out of all delegated powers by individual members of the Cabinet or by officers of the Council must be in accordance with Council Procedure Rules and Financial Regulations.

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CONTRACT PROCEDURE RULES

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41. Waivers of Contract Procedure Rules
42. Non-Compliance
43. Review and Amendment of Contract Procedure Rules

Contract Procedure Rules

1. Introduction

- 1.1 These Rules form part of the Council's Constitution and are the Council's Contract Procedure Rules for purchasing goods, works and services for the Council. They do not apply to internal purchases or internal service provision, only where you need to buy something from outside the council.
- 1.2 The Rules apply to any contract that results in a payment being made by the Council as well as to some types of contracts where a service is being provided for the Council which results in some income being generated for the Council.
- 1.3 The Rules also apply to the disposal of surplus goods (see paragraph 40) and to Concession Contracts.
- 1.4 The Rules also apply when an external body, authority, company, consultant or other person has been engaged to carry out procurement or disposal on behalf of the Council.
- 1.5 The rules do not cover grants which the Council may make or receive (unless the grant is part of a contract for services).
- 1.6 The Rules have four main purposes:
 - to comply with the obligations that govern the spending of public money derived from the European Union (EU) procurement regime and applied in the UK through the Public Contracts Regulations (2006);
 - to obtain Best Value in the way we spend money, so that we may in turn offer better and more cost effective services to the public;
 - to avoid corruption and ensure high ethical standards;
 - to protect people who follow the Rules.
- 1.6 The Rules must be read in conjunction with the Council's Financial Procedure Rules, Procurement Guidance and any other internal controls laid down by the Council for example the Council's Anti-Fraud and Corruption Policy and whistle blowing policy.

2 Compliance

- 2.1 Every contract entered into by the Council shall be entered into pursuant to or in connection with the Council's functions and must comply with:
 - (a) all relevant statutory provisions;
 - (b) the relevant European procurement rules (i.e. the EC Treaty, the general principles of EC law and the EC public procurement directives implemented by the UK Regulations);
 - (c) the Council's Constitution including these Contract Procedure Rules, the Authority's Financial Regulations and Financial Procedure Rules and the Council's Scheme of Delegation

(d) the Council's vision, priorities, enabling strategies and policies (e.g. Sustainable Procurement Policy)

2.2 At all times during the contract award procedure, the Council, through its Members and officers, shall consider and implement the principles of non-discrimination, equal treatment and transparency.

2.3 The highest standards of probity are required of all officers and Members involved in the procurement, award and management of Council contracts. Members shall comply with the Code of Conduct for Councillors, and officers shall comply with the Code of Conduct for Officers.

2.4 Effective audit trails must be maintained at all stages throughout the procurement procedure, particularly when approval or agreement is required.

3. Conflicts of Interest

3.1 Every officer entitled to buy supplies, services or works must make a written declaration of interests and update it immediately when an interest changes.

3.2 Authorised Officers must declare any conflict of interest or potential conflict of interest to the Monitoring Officer and take no further part in the award of a contract by the Council.

3.3 Subject to the specific exception set out at paragraph 3.4 below, officers must not accept a gift from any contractor/bidder or potential contractor/bidder to any contract being let by the Council or from any firm or organisation with whom the Council has had, is having or may have dealings of any kind, and to do so is a disciplinary offence. Officers must always abide by the Council's Officer Code of Conduct and must declare in the Register of Gifts and Hospitality, if they have been offered such a gift when dealing with a contract for the Council.

3.4 Insignificant items of token value such as pens, calendars, diaries etc, may be accepted but, if there is any doubt as to whether an item is classed as insignificant, or if acceptance of the gift could be perceived to jeopardise the integrity of any subsequent decision by the Council, then the gift must be recorded for inclusion within the Register of Gifts and Hospitality.

3.5 If offered hospitality or travel assistance from any contractor/bidder, or potential contractor/bidder, to any contract being let by the Council that will in a particular procurement assist them to obtain the best value for money for the Council, (eg in connection with visits to reference or demonstration sites), Authorised Officers may accept this (subject to the specific exceptions set out at 3.6 below) but must declare it in the Register of Gifts and Hospitality.

3.6 In the circumstances set out at 3.5 above, Authorised Officers may accept, and need not declare, the following:

- a short lift in a private or company car, or a taxi, or reasonable refreshments in the course of duty (eg a modest working lunch)

3.7 Any other offers of hospitality or travel assistance from contractors/bidders or potential contractors/bidders should be refused. If such an offer is made, Authorised Officers must notify the Monitoring Officer and declare such offers in the Register of Gifts and Hospitality.

4. Procurement Plan

- 4.1 Prior to the start of each financial year, each Head of Service must prepare a procurement plan setting out their department's contracts to be procured (over £10,000) during that financial year, and where possible for forthcoming years. A copy of the plan must be supplied to the Procurement and Partnerships Manager who shall use this information to formulate and publish an Annual Procurement Plan for the Council.
- 4.2 At the beginning of each financial year, the Procurement and Partnerships Manager shall publish, as appropriate, a prior information notice (PIN) in the Official Journal of the European Union (OJEU). This notice will list the contracts for services and supplies which it expects to procure for the financial year. In relation to contracts for works, the Council shall publish a prior information notice in the OJEU when the works are approved by the Council.

5. Who has authority to carry out procurement on behalf of the Council?

- 5.1 Any procurement carried out on behalf of the Council may only be undertaken by officers with the appropriate delegated authority to carry out such tasks as set out in the Council's Constitution. Officers with delegated authority may only delegate to other officers who have the appropriate skills and knowledge appropriate to the task. Officers shall be informed by his/her Director/Service Head, in writing, of the extent of any delegated authority and any applicable financial thresholds for each procurement. These officers shall be known as Authorised Officers.
- 5.2 Within approved budgets Directors/Service Heads may authorise members of their staff to place orders against Framework Agreements which have been entered into by the Council.
- 5.3 For all High Value Procurements, prior approval of the proposed contract award procedure including the evaluation criteria to be applied, shall be sought from the relevant Executive Cabinet Portfolio Member.
- 5.4 Any contract awards above £75,000 or those which involve any potential transfer of the Council's employees to a Supplier shall be referred to the Executive Cabinet or relevant Executive Cabinet Portfolio Member for a decision, unless Cabinet have previously delegated that decision to the Director of the spending directorate.
- 5.5 Any contract awards which constitute a Key Decision (i.e. a contract of £100,000 or more) must be published in the Forward Plan prior to any decision being taken as described in the Council's Constitution.

6. Exempt Contracts

- 6.1 The Rules do not apply to the following types of Contract:
- (a) individual agency contracts for the provision of temporary staff (The arrangements with staffing agencies, however, should be subject to a competitive procurement process in accordance with these Contracts Procedure Rules);
 - (b) employment contracts and
 - (c) contracts relating solely to disposal or acquisition of an interest in land (including buildings)

If you are in any doubt about whether the Rules apply, you **must** always check with the Procurement Manager.

7. Pre-Procurement Procedure

7.1 Before commencing a procurement, it is essential that the Authorised Officer leading the procurement has identified the business need and fully assessed any options for meeting those needs. Consideration shall be given to the Council's Procurement Strategy, Sustainable Procurement Policy and procurement guidance, as appropriate.

7.2 Before undertaking a procurement the Authorised Officer shall:

- (a) consider all other means of satisfying the need (including recycling and reuse where appropriate);
- (b) prepare an estimate of expenditure in accordance with Rule 8;
- (c) undertake a risk assessment
- (d) complete an Equality Impact Assessment where any change in service provision is proposed that will have Equality Impacts
- (e) establish a business case for the procurement and consider whether the procurement should follow the Council's Project Management Framework/ Toolkit. Procurements which may benefit from use of the toolkit are usually higher value and are:
 - unique, new or complex leading to significant system, process or service changes,
 - impact on numerous services
 - have a significant reputational impact on the Council

If you are unsure as to whether the Project Management Framework should apply, you should consult the Policy and Performance Advisor for a decision.

The level of resource and detail deployed in carrying out the requirements of 7.1 and 7.2 shall be appropriate to the nature and the value of the Procurement.

8. Calculating the Contract Value

8.1 Prior to commencing any procurement you must estimate the total monetary value of the contract (exclusive of VAT) over its full duration, including any extension options (not the annual value). The estimated total value of the contract will determine which procedure you must then adopt.

8.2 Where the duration of a contract is for an indefinite period, or where it's term cannot be defined, the contract value should be taken to be the estimated value of the contract over a period of four years.

8.3 Circumstances may arise where a number of low value contracts for similar works/goods or services are given to one Contractor within a 12 month period. In this case, 12 months expenditure should be aggregated to determine which procedure should be followed. When the value of those contracts is aggregated the effect may be to move the total purchase from

one value band to another. This may mean that a different procurement method has to be followed to comply with these rules, or it may be necessary to seek a waiver of these rules in such circumstances.

- 8.4 Authorised Officers should make the best use of the Council's purchasing power by aggregating purchases wherever possible

8.5 Contracts must not be artificially split to avoid the Rules or the EU Regulations

- 8.6 If, following calculation of the estimated value, the intermediate route (below £75,000) is selected, and, after evaluating in accordance with the evaluation criteria, the preferred offer is valued at over £75,000, then the matter shall be referred to the Head of Governance for further advice. The Head of Governance shall be given full details including how the estimated value was calculated, the amount of the estimated value, the value of all quotations received and the evaluation model applied leading to selection of the preferred offer.
- 8.7 If, after following the intermediate route, some of the quotations received are valued at over £75,000, but the preferred quotation is less than £75,000, then the preferred quotation may be accepted in accordance with these Contracts Procedure Rules.

9. Low Value Procurement: Below £10,000

- 9.1 Where the estimated value or amount of the proposed contract is less than £10,000, The Authorised Officer shall ensure that best value is achieved and that the arrangements made secure the best available terms for the Council. Good practice would be to obtain written or electronic quotations, however, evidenced verbal quotations are acceptable.
- 9.2 The purchase order must be made on an official purchase order and shall specify the services, supplies or works to be provided and set out the price and terms of payments.
- 9.3 Two Authorised Officers must be involved in the ordering and receiving process.
- 9.4 Every purchase order (whether issued as a result of higher, intermediate or lower value procurements) must contain the current approved standard form of terms and conditions of contract between the Council and the supplier. A quotation and a purchase order will create a legally binding contract.

10. Intermediate Value Procurement: £10,000 to £75,000 (Quotations)

- 10.1 For procurements valued over £10,000 but at or below £75,000 at least 3 written Request for Quotations shall be invited before a formal purchase order is issued specifying the supplies, services or works to be provided. Quotations shall be received and opened in accordance with Rule 19.
- 10.2 Intermediate value procurements may be advertised on the Council's website. However, such advertising may be inappropriate if it is considered that this will result in a disproportionate response for the nature and value of the procurement. Advertisements on the website shall be replaced by advertisements on "The Chest" referred to at 10.3 below, when this software is rolled out and made available either through the Shared Procurement Team or to individual departments
- 10.3 It is anticipated that the regional e-procurement portal "The Chest" including software enabling

Authorised Officers to carry out all quotations electronically will be introduced during 2011/12, however until such a time that individual departments are rolled out to send and receive quotations and tenders electronically, then quotations must not be received electronically by those departments (also see CPR 20).

10.4. Invitations to quote shall:

- (a) specify or refer to a specification of the goods, materials, services or work required and
- (b) state the date and time by which quotation must be received and
- (c) state that no quotation will be considered unless it is received in accordance with the instructions for quoting and where this is submitted in writing (i.e. hardcopy) in an envelope addressed to the Procurement & Partnerships Manager. The Quotation envelope must not identify the quoter and must bear the word "Quotation" followed by the subject to which it relates.
- (d) have the evaluation criteria set out in the invitation to Quote. All quotations shall be evaluated in accordance with the evaluation criteria set out in the quotation documents. All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Economically Advantageous offer to the Council. The evaluation criteria shall be predetermined and listed in the invitation to Quote, in order of importance. In addition, the evaluation criteria shall be strictly observed at all times throughout the contract award procedure by any person involved in the evaluation.

10.5 Quotations should be stored securely and confidentially and shall remain unopened in the custody of the Procurement & Partnerships Manager until the appointed time for opening (See CPR 19)

10.6 The Authorised Officer must notify the Procurement and Partnerships Manager of the eventual outcome of the procurement exercise for entry into the Contracts Register.

10.7 Where the risk in a specific procurement is perceived to be high, then that procurement shall be treated as a High Value Procurement.

10.8 Any procurement that may involve a transfer of staff shall be treated as a High Value Procurement.

11. High Value Procurements: Above £75,000 (Tenders)

11.1 All Procurements with a cumulative value of over £75,000 shall be classed as High Value Procurements.

11.2 Additionally any contract where Council employees may be transferred to other bodies, or where risk in the procurement is perceived to be high shall be treated as a High Value Procurement.

11.3 All high value procurements must be advertised on the Council's website (Current Contract

Opportunities), and where considered appropriate and necessary in order to stimulate suitable and sufficient competition, a trade journal or, the local press. The requirement to advertise on the Council's web site shall be replaced by a requirement to advertise on "The Chest" referred to at 10.3, when this software is rolled out and made available, either through the Shared Procurement Team or to individual departments. The Council's web site shall include a link and signpost contractors to The Chest.

- 11.4 For all High Value Procurements, prior approval of the proposed contract award procedure including the evaluation criteria to be applied, shall be sought from the relevant Executive Cabinet Portfolio Member.
- 11.5 In addition to the contract award provisions at paragraph 25.4, any procurement over £100,000 in value constitutes a key decision and notification of the decision to be taken must therefore be included in the relevant Forward Plan at an early stage as described in the Council's Constitution, before the contract award decision is taken.
- 11.6 One of the four contract award procedures set out in Contract Procedure Rules 13,14,15 and 16 shall be used as appropriate for the particular procurement, i.e. open, restricted, negotiated or Competitive Dialogue.
- 11.7 Nothing in these Rules prevents you from adopting any aspect of the High Value Procurement procedures in the procurement of intermediate or lower value supplies, works or services.

12. Contracts Subject to the Regulations: Above the EU Threshold

- 12.1 Where the estimated value of a contract exceeds the current EU threshold then the contract shall be tendered in accordance with the Regulations. Under the Regulations, the contract may be tendered under the Open, Restricted, or, in exceptional circumstances exhaustively set out in the Regulations, the Negotiated or Competitive Dialogue (for particularly complex contracts) procedure. For each contract tendered in accordance with the Regulations, a contract notice shall be published in the prescribed form in the Supplement to the Official Journal to the European Union (OJEU) to invite tenders or expressions of interest for Part Services Contracts, Supplies and Works Contracts subject to the Regulations. Contracts for Part B services do not need to be advertised in OJEU. The full list of Part A and Part B services is available from the Procurement Team.

Advertisements published in addition to the OJEU notice must not appear in any form before a contract notice is submitted to OJEU and must not contain any information additional to that contained in the contract notice.

- 12.2 With effect from 1 January 2010 the main current EU thresholds are as follows:
 - (a) services contracts £156,442;
 - (b) supplies contracts £156,442; and
 - (c) works contracts £3,927,260.

The EU thresholds set out above are revised by the OJEU every two years.

- 12.3 The Regulations set out the minimum timescales for receipt of expressions of interest and tenders. Where the Council has published a Prior Information Notice announcing its forthcoming contracts for the year ahead, then the Council may rely on reduced timescales if appropriate.

- 12.4 The EU Directives and UK Regulations are long and complex, and only the principal requirements can be given here. Officers are advised to refer to the guidance on the Loop and to consult the Corporate Procurement and Legal Services departments prior to commencing any procurement which is subject to the Regulations.

13. Open Procedure

- 13.1 All suppliers applying in response to a notice by the published deadline are invited to tender. If publication of a notice in the OJEU is not required (i.e. when the value of the contract does not exceed the EU threshold) then a notice giving at least 14 days public notice shall be published on the Council's website (Current Contract Opportunities), and where considered appropriate and necessary in order to stimulate suitable and sufficient competition, a trade journal or , the local press. The requirement to advertise on the Council's web site shall be replaced by a requirement to advertise on the e-procurement portal "The Chest" referred to at 10.3 , when this software is rolled out and made available either through the Shared Procurement Team or to individual departments. The Council's web site shall include a link and signpost contractors to The Chest

14. Restricted Procedure

- 14.1 Only those suppliers selected by the Council are invited to tender. Suppliers shall be selected on the basis of published pre-qualification criteria related to those matters set out in Contract Procedure Rule 17.
- 14.2 If publication of a notice in the OJEU is not required then the notice requirements are the same as in the open procedure (see Contract Procedure Rule 13.1 above) except that the notice shall state that the restricted procedure is being used. The notice shall contain details of the proposed contract and specify a time limit which shall be no less than fourteen days from the date of publication of the notice within which interested parties may register to express their interests. All persons who have registered their interest will be furnished with a pre-qualification questionnaire. The Council will only invite to tender those suppliers selected on the basis of the pre-qualification questionnaire.
- 14.3 If the EU Regulations apply then a notice in OJEU is required and a minimum of five suppliers shall be invited to tender, or, where less than five suppliers meet the selection criteria, such number as do meet the selection criteria.
- 14.4 Where the EU Regulations do not apply a minimum of three suppliers shall be invited to tender, or, where less than three suppliers meet the selection criteria, such number as do meet the selection criteria.

15. Negotiated Procedures

- 15.1 Only those suppliers selected by the Council are invited to negotiate. Suppliers are selected on the basis of published pre-qualification criteria relating to those matters set out in Contract Procedure Rule 17.
- 15.2 The negotiated procedure is not recommended for contracts valued at below EU thresholds. The negotiated procedure will only be applicable in limited circumstances, usually where the Council is unable to ascertain prior overall pricing of the services or is unable to draw up specifications which are sufficiently specific. Advice from Legal Services and the Procurement Team must be sought on all occasions prior to the use of the negotiated procedure.

16 Competitive Dialogue

- 16.1 This is a three stage process under EU Consolidated Procedures that may be used for complex purchases where requirements are defined in output terms. Subject to certain qualifying requirements purchasers may seek initial proposals from economic operators (Stage1) and then have dialogue with some or all applicants in successive stages (Stage 2), prior to requesting final bids from the economic operators that can meet the output specification (Stage 3). This facility for dialogue that facilitates changes to initial proposals is not allowed under the open or restricted procedures.
- 16.2 Only those suppliers selected by the Council are invited to participate. Suppliers are selected on the basis of published pre-qualification criteria relating to those matters set out in Contract Procedure Rule 17.
- 16.3 The Competitive Dialogue procedure is not recommended for contracts valued at below EU thresholds. The procedure will only be applicable in limited circumstances, usually where the Council is unable to ascertain prior overall pricing of the services or is unable to draw up specifications which are sufficiently specific. Advice from Legal Services and the Procurement Team must be sought on all occasions prior to the use of the Competitive Dialogue procedure

17. Pre-qualification

- 17.1 The Council shall only enter into a contract with a Supplier if it is satisfied as to the Suppliers –
- (a) eligibility;
 - (b) economic and financial standing.
 - (c) technical and /or professional ability.
- 17.2 Technical and/or professional ability includes:
- (a) the supplier's performance in respect of recent contracts providing similar works services and supplies;
 - (b) the educational and professional qualifications of the supplier and/or its managerial staff or those providing the services or managing the work;
 - (c) quality management systems including human resources, health and safety and environmental management systems, where relevant to the performance of the contract. This is in relation to the tools, plant or technical equipment available to the supplier for carrying out the contract and the proportion of the contract which the supplier intends possibly to subcontract.
 - (d) the appropriate arrangements are in place to eliminate any unlawful discrimination and the promotion of equality of opportunity and good relations between persons of different racial groups.
- 17.3 Any procurements subject to the Regulations shall be in full compliance with those Regulations.

18 The Invitation to Tender

- 18.1 The ITT or ITN shall include details of the Authority's requirements for the particular contract including:
- (a) a description of the services, supplies or works being procured;

- (b) the procurement timetable including the tender return date and time, which shall allow a reasonable period for the applicants to prepare their tenders;
- (c) instructions for completing and returning the tender documentation
- (d) notification that tenders received after the closing date and time will not be considered
- (e) a specification and instructions on whether any variants are permissible;
- (f) the Council's terms and conditions of contract
- (g) the evaluation criteria including any weightings as considered appropriate;
- (h) pricing mechanism and instructions for completion;
- (i) whether the Council is of the view that TUPE may apply;
- (j) form and content of method statements to be provided
- (k) rules for submitting of tenders and whether tenders may be submitted electronically;
- (l) any further information which will inform or assist tenderers in preparing tenders.

19. Submission, Receiving and Opening of Tenders/Quotations

- 19.1 Every response to an invitation to tender/quote for a transaction valued over £10,000 should be delivered to the Procurement & Partnerships Manager, C/O Customer Services (Tenders), Civic Offices, Union Street, Chorley, PR7 1AL
- (i) no later than the time and date specified for submission of tenders/quotations in the invitation to tender/quotation document
 - (ii) with no labelling or marking indicating the identity of the sender on the envelope or packet
 - (iii) clearly marked in large bold letters with the subject matter to which the tender/quotation relates.
- 19.2 The Tenders/Quotations shall be recorded on the Record of Tenders/Quotes received form, recording the date and time the submission was received.
- 19.3 Tenders and Quotations shall be stored securely and confidentially and shall remain unopened in the custody of the Procurement & Partnerships Manager until the appointed time for opening.
- 19.4 All Tenders and Quotations received shall be numbered, dated and time stamped on receipt and recorded consecutively in a register maintained for this purpose.
- 19.5 A minimum of two persons shall be present at the opening of intermediate and higher value quotations, including a member of the Shared Services Procurement Team, and a representative from the Procuring department. Upon opening a summary of the main terms of the submission received shall be recorded in the Tender and Quotation Register, together with the name of the Bidder and the date and time of quotation opening
- 19.6 No quotations or tenders may be opened after the appointed time unless the Council has received documentary evidence which demonstrates beyond all reasonable doubt that the quotation/tender left the possession of the tenderer in sufficient time to permit, in normal circumstances, its receipt prior to the due date and time specified, provided no quote/tender shall be considered which has been received after other quotes have been opened. In such circumstances, it shall entirely be the tenderers responsibility to track their tender submission, notify the Council and provide the aforementioned evidence, prior to the tender closing date. Any quote/tender which is not considered will be kept by the Authorised Officer and a record kept until a quote/tender is accepted, subject to the preparation of a formal contract. The

Authorised Officer will then destroy the unopened quotation three months after the contract award (if any) or quotation/tender opening whichever is later

19.7 The closing date for the receipt of tenders/quotations may be extended, in appropriate circumstances, at the discretion of the Head of Governance.

19.8 Tenders and Quotations shall not be opened until the deadline has passed for their receipt.

20. Electronic Tendering

20.1 It is anticipated that the regional e-procurement portal “ The Chest” including software enabling Authorised Officers to carry out all tenders and quotations electronically will be introduced during 2011/12. Following implementation all procurement in excess of £10,000, must be procured through the Chest, by the appropriate Authorised Officer. This will include making requests for quotation or tender documents electronically available.

20.2 Quotation responses and responses to tender invitations and invitations to negotiate above £10k must be submitted to the Councils e-tendering software as this provides a full audit trail including :

- (a) evidence that the transmission was successfully completed is obtained and recorded;
- (b) that tenders submitted electronically are kept in a separate, secure and locked “electronic box” which is not opened until the deadline has passed for receipt of tenders.

20.3 Rules for opening electronic quotations and tenders will mirror those outlined in CPR 19 save that the opening process and recording process will be electronic not manual.

21. Tender Evaluation

21.1 Tenders subject to the EU Regulations shall be evaluated in accordance with the relevant regulations and the evaluation criteria set out in the OJEU notice and invitation to tender. All other tenders and quotations shall be evaluated in accordance with the evaluation criteria notified to tenderers in the contract notice and/or invitation to tender.

21.2 All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Economically Advantageous Tender to the Council (MEAT).

21.3 MEAT evaluation involves scoring tenders objectively by a panel of officers and/or independent experts using criteria which should:

- be pre-determined and listed in the invitation to tender/ quotation documentation in order of importance;
- be strictly observed at all times throughout the tender process;
- reflect the principles of Best Value;
- include price;

- adopt whole-life costing where appropriate, particularly in the case of capital equipment where the full cost of maintenance, decommissioning and disposal should be taken into account. Additionally the use of energy efficient products or the use of sustainable materials with a longer life span may impact on the whole life cost.
- be capable of objective assessment;
- be weighted according to their respective importance;
- include, where applicable, the quality of the tenderers' proposals to accept a transfer of staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE); and
- avoid discrimination or perceived discrimination on the basis of nationality, or other cause contrary to any of the Council's policies.

Where this evaluation methodology is used, any resulting contract must be awarded to the tenderer which submits the most economically advantageous tender, ie the tender that achieves the highest score in the objective assessment.

21.4 The evaluation criteria must be strictly observed at all times through the contract award procedure by any officer involved in the tender evaluation process. The Authorised Officer must keep comprehensive records of the evaluation exercise and the lead officers of the evaluation team shall sign the final selection record.

22. Post Tender Negotiation

22.1 Where a procurement is conducted pursuant to the Regulations through either the open or restricted procedures no post tender negotiations are permitted. The Council may seek clarification from Suppliers where appropriate.

22.2 At all times during the procurement (whether subject to the Regulations or not), the Council shall consider and implement the principles of non-discrimination, equal treatment and transparency.

23. Evaluation Team

23.1 For each contract subject to the Regulations or above £75,000, the Authorised Officer shall form an Evaluation Team with responsibility for evaluating tenders. The Authorised Officer shall keep comprehensive written records of the evaluation exercise and the lead officers of the evaluation team shall sign the final selection record.

24. Bonds, Guarantees and Insurance

24.1 For high value procurements, the evaluation team shall consider as part of its pre-qualification assessment whether a performance bond and/or a parent company guarantee (if applicable) shall be required from the preferred Supplier.

24.2 The Evaluation Team shall consider the appropriate type (employee liability, public liability, professional indemnity, etc.) and level of insurance requirements for each contract.

25. Awarding Contracts

- 25.1 The Council shall only award a contract where at the time of contract award this represents the Most Economically Advantageous offer or is the lowest price depending on contract award criterion included in the OJEU notice or Invitation to Tender/Quote.
- 25.2 A contract must only be awarded and signed by a person authorised to do so, who must ensure that the appropriate budget holder has the funds in place to sustain the contract prior to award.
- 25.3 Directors/ Heads of Service should ensure that proper records of all procurement activity are retained in electronic or hard copy format as appropriate.
- 25.4 For all transactions valued at £75,000 and above the decision to award a contract shall be made by the Executive Cabinet or relevant Executive Cabinet Portfolio Member unless Cabinet have previously delegated that decision to the Director of the spending directorate.
- 25.5 Any procurement over £100,000 in value constitutes a Key Decision and must therefore be included in the relevant Forward Plan as described in the Council's Constitution, before the contract award decision is taken.
- 25.6 The highest standards of probity are required of all officers and members involved in the procurement, award and management of Council contracts. It is essential to maintain effective audit trails at all stages throughout the procurement procedure particularly where approval or agreement is required.

26 Standstill Period

- 26.1 For all contracts tendered under EU Directives, a ten calendar day (where electronic communication is used or 15 calendar days where non-electronic communication is used) 'standstill period' must be observed between the decision to award and contract conclusion. Although the Standstill period is counted in calendar days, it must end on a working day. This is an express requirement in the Regulations and must be followed.
- 26.2 Once the decision to award a contract is made, each tenderer must be notified in writing on the outcome of the tender process. This notification must include full reasons for the award decision :
- (i) details of the contract award criteria;
 - (ii) characteristics and relative advantages of the successful bidder
 - (iii) the score the tenderer obtained against those award criteria;
 - (iv) the score the winning tenderer obtained; and the name of the winning tenderer.
 - (v) a precise statement of the standstill period.

27. Contract Award Notice

All contracts awarded under the Regulations must be announced by means of a Contract Award Notice in OJEU transmitted no later than 48 calendar days after the date of the award.

The Authorised Officer must notify the Procurement Manager of all contracts awarded,

irrespective of value, as soon as possible after the Contract Award.

28. Letters of Intent

- 28.1 Letters of intent shall only be used in exceptional circumstances and, by prior written agreement with the Head of Governance, as follows:
- (a) Where a Supplier is required to provide services, supplies or works prior to formal written acceptance by the Council; or
 - (b) Where the Council's form of tender does not include a statement that until such time as a formal contract is executed, the Council's written acceptance of a tender shall bind the parties into a contractual relationship

29. Contract Terms and Conditions

- 29.1 Contracts shall be entered into on the Council's terms and conditions, or an appropriate industry standard form of contract or other form of contract approved by Legal Services. This may be a suppliers contract suitably amended to protect the Council's interests. However where the contract has been tendered the contract shall be in accordance with the tendered Conditions. The Contract Conditions shall be included with each purchase order and invitation to tender or negotiate.
- 29.2 Where contracts are subject to the Regulations, the rules relating to technical specifications shall be followed and any reference to a technical standard, make or type shall be prefaced with the words "or equivalent". This requirement applies to both Part A and Part B Services.

30. Execution of Contracts

- 30.1 Any contracts valued at above £75,000 shall be passed to Legal Services for sealing execution and secure storage, unless otherwise agreed with the Head of Governance. All other contracts may be signed by an officer with appropriate delegated authority.
- 30.2 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the Head of Governance

31. Records of Tenders and Contracts/ Contracts Register

- 31.1 The Authorised Officer with delegated authority in respect of a particular procurement shall maintain a list of all tenders received.
- 31.2 Each Director/Head of Service shall maintain his/her own register of all contracts entered into by his/her department.
- 31.3 For every individual contract the Authorised Officer shall maintain a contract file.
- 31.4 The Procurement & Partnerships Manager shall maintain a register of all Higher Value and Intermediate value contracts entered into by the Council.
- 31.5 Authorised Officers shall notify the Corporate Procurement & Partnerships Manager of all intermediate and high value contract awards using the appropriate forms, for entry into the Contracts Register and /or Tender/Quotation Register.

32. Approved / Standing List of Contractors

- 32.1 The Council may maintain Approved Standing lists of Suppliers that meet its pre-qualification requirements. Quotations and tenders for contracts that are not subject to the Regulations may be invited from Suppliers included on an approved list. Where the Authority intends to use an approved list for services, supplies or works contracts, the Approved List should be reviewed and advertised on a regular basis.
- 32.2 Each Approved Standing List shall:
- (a) be compiled and maintained by the relevant Authorised Officer;
 - (b) contain the names of all persons who wish to be included in it and who after appropriate enquiries have been made by the Authorised Officer concerned, are approved by the Council or Cabinet as provided for in the scheme of delegation; and
 - (c) indicate whether a person whose name is included in it is approved for contracts for all, or only some, of the specified values or amounts or categories.
- 32.3 At least four weeks before each Standing List is first compiled, a notice inviting applications for inclusion in it shall be published in accordance with Contract Procedure Rule 13 if a notice in OJEU is not required.
- 32.4 Each Standing List shall be amended as required from time to time to include new applications for inclusion and to delete any person no longer thought fit to be included. Each Standing List shall be formally reviewed in the manner set out below by the appropriate Director/ Head of Service at intervals not exceeding three years. At least four weeks before each review, each person whose name appears in the Standing List shall be asked whether s/he wishes his/her name to remain there. Notices inviting applications for inclusion in the list shall be published in the manner provided by Contract Procedure Rule 32.3 above.
- 32.5 Where an invitation to tender for a contract is limited to those named on the Standing List maintained under this Contract Procedure Rule, an invitation to tender for that contract shall be sent to at least four of the persons on the list. These people will be approved for a contract for that value or amount or of that category, or, if there are fewer than four such persons, to all such persons. If there are more than four people, the Authorised Officer, will select the people who will receive invitations, and the manner in which they are sent. This will be either generally or in relation to a particular contract or to a category of contracts provided that the manner of selection shall include a system of rotation from persons appearing on the Standing List.

33. Nominated and Named Sub-contractors

If a sub-contractor, supplier or sub-consultant is to be nominated or named to a main contractor, quotations or tenders must be invited in accordance with these Contracts Procedure Rules and the terms of the invitation shall be compatible with the main contract.

34. Framework Agreements

- 34.1 Framework agreements are agreements with suppliers for the provision of supplies, works or services on agreed terms for a specific period. Unlike normal contracts which require certainty (on price, quantity and other details), Framework Agreements usually state only non-binding estimated quantities against which orders are placed as and when required during the contract period (sometimes this procedure is known as "call-off"). As soon as the quantity/price

etc are fixed and an order placed, a contract is formed. Frameworks offer benefits of bulk-buying, improved service and reduced administration costs over the period of the arrangement.

- 34.2 A framework agreement may have the option or requirement for you to hold a “further - competition” with all of the suppliers included on the framework who are capable of meeting your requirement. Quotations invited under a further competition shall be received and opened in accordance with paragraph 19 of these Contract Procedure Rules, unless received and opened by the public sector framework provider (e.g. Yorkshire Purchasing Organisation) on the Council’s behalf, who may receive and open such bids in accordance with their contract procedural rules.
- 34.3 All Framework agreements procured by the Council must be tendered in accordance with these Contract Procedure Rules.
- 34.4 Where the Council has entered into a Framework Agreement through procurement or is able to place orders from existing Framework Agreements procured by central government agencies, public sector consortia, other local authorities or other third parties, then the Council may benefit from using those contracts without entering into a full, separate procurement.
- 34.5 Authorised Officers shall investigate whether call-off contracts or frameworks are relevant to their procurement activity as better value for the Council may be obtained by using an existing Council or other framework.
- 34.6 Legal/Procurement Advice should be sought in advance before awarding a contract to a supplier using a framework agreement not procured directly by the Council.
- 34.7 Any appropriate Council Framework Agreements in place shall be used regardless of value, provided the standing order requirements in relation to delegated authority are met. An effective audit trail shall be maintained.

35. Joint Procurement

- 35.1 Any Higher Value joint procurement arrangements (where the Council’s portion of the Contract value exceeds £75,000) with other local authorities or public bodies shall be approved by the Director of Transformation.
- 35.2 Any Intermediate Value joint procurement arrangements (where the Council’s portion of the Contract value exceeds £10,000) with other local authorities or public bodies shall be approved by The Director/Head of Service. If, if any doubt, the Director/ Head of Service should consult with the Director of Transformation or Head of Governance.
- 35.3 Approval for Joint Procurement arrangements shall only be given where the joint procurement arrangement assures compliance with the EU Procurement Regulations.
- 35.4 If approval is given for the joint procurement, the parties involved in the procurement should appoint a “lead body” to carry out the procurement. The procurement should then be conducted in accordance with the lead body’s Rules. If this approach requires any waivers of the lead body’s Rules, it shall be that body’s responsibility to seek approval for, and obtain, such waiver(s).

36. Procurement by Consultants

Any consultants used by the Council shall be appointed in accordance with these Contracts Procedure Rules. Where the Council uses consultants to act on its behalf in relation to any procurement, then the Authorised Officer shall ensure that the consultants carry out any procurement in accordance with these Contracts Procedure Rules. No consultant shall make any decision on whether to award a contract or who a contract should be awarded to. The Authorised Officer shall ensure that the consultant's performance is monitored.

37. Statistical Returns

37.1 Each year the Council shall make a statistical return to the Department for Communities and Local Government or such other central government department with this responsibility for onward transmission to the European Commission concerning the contracts awarded during the year under the European Regulations.

37.2 The Procurement & Partnerships Manager is responsible for this statistical return and will make the necessary arrangements for information to be collected annually. Authorised Officers shall comply with these arrangements.

38. Contract Extension/ Variation

38.1 Any contract may be extended or Varied in accordance with its terms (subject to financial resources) by the Director/ Head of Service or delegated officer provided an extension/ variation clause was included for within the contract terms and conditions.

38.2 Any extension exceeding £75,000 in value shall require the approval of the Executive Cabinet or relevant Executive Cabinet Portfolio Member.

38.3 Any external company, authority, body, consultant or other person managing a contract on behalf of the Council must liaise continuously with the Council's officer responsible for the contract and keep the Council aware of intentions to vary or extend a contract or make any extra payment in excess of the agreed total contract value. The provisions of paragraph 38.1 above shall apply where applicable.

38.4 Contracts procured under the EU Regulations **must not** be extended or varied without first consulting Legal Services and the Procurement and Partnerships Manager

38.5 The Authorised Officer shall always be satisfied that extension/ variation will achieve Best Value for Money and is reasonable in all the relevant circumstances.

39. Termination of Contract

39.1 For any contract exceeding £75,000 in value, termination shall be approved by the Executive Cabinet or Executive Cabinet Portfolio Member. In emergency situations, the relevant Director may authorise termination of higher value Contracts. In this case, full details including the reason for the contract termination shall be reported back to Council at a later date.

39.2 Contracts of a lesser value than £75,000 may be terminated early by agreement prior to the expiry date or in accordance with the termination provisions set out in the contract. Legal advice should be sought as appropriate.

40. Disposing of surplus goods

- 40.1 Heads of Service are responsible for the disposal of their own surplus goods and shall make adequate and safe arrangements to do so.
- 40.2 The same competitive process as for buying supplies, services and works shall also be applied to the disposal of surplus goods unless it has been agreed by the Head of Service that the goods in question are to be disposed of to a charitable/not-for-profit organisation or disposal arrangements have been agreed within the original contract for purchase.

In all other cases, in principle:

- competitive bids need not be invited if the goods are valued at or below £1,000 but you can do so if you wish;
- if the estimated value of the goods is greater than £1,000 (higher value) then (subject to 40.5 below) a minimum of three sealed bids shall be invited.

- 40.3 If you are in any doubt, professional advice shall be sought when making valuations.
- 40.4 The highest value unconditional bid received should usually be accepted. If for any reason, it is considered that another (conditional) bid offers better value for money to the Council, the Authorised Officer may choose that bid but must set out in writing the reasons for reaching that conclusion and the evidence on which it is based.
- 40.5 For higher value items, Authorised Officers may consider sale by auction instead of sealed bids, but before starting this process, must assess the likelihood of achieving best value (taking account of the risks involved and the competitiveness of the market in question) and must also fully account for the total cost of the process including the commission payable to the auction provider.

41 Waivers of Contract Procedure Rules

- 41.1 Waivers of any of these contract Procedure Rules shall only be given in exceptional circumstances and in all cases must be justified because:
- the nature of the market for the works to be carried out or the goods or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of the Rules is justifiable; or
 - the contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
 - there are other circumstances which are genuinely exceptional and not of the Council's own making.
- 41.2 Authorised Officers shall submit waiver requests which meet the requirements of paragraph 41.1 above via the electronic waiver request procedure located under the Procurement Section on the Loop. On submission of the request, approval will be automatically sought from the relevant Director, the Head of Governance and the Director of Transformation, all of whom must approve the request for it to be fully approved.

41.3 The Procurement & Partnerships Manager shall keep a record of the decision approving a waiver and the reasons for it in a central register.

41.4 Waivers may not be made retrospectively.

42. Non- Compliance

If it comes to notice of an Authorised Officer that there has been non-compliance with these Contract Procedure Rules in respect of any contract for which s/he is responsible as the Authorised Officer of the procuring department, s/he shall without delay notify the Monitoring Officer who shall take such action as s/he deems necessary.

43. Review and Amendment of Contract Procedure Rules

The Monitoring Officer is responsible for keeping the Rules under review (with a formal review and if necessary revision every three years) and monitoring compliance.

DEFINITIONS**“Annual Procurement Plan”**

A plan identifying major projects so that appropriate resources can be identified. It also provides a basis for PINs and other information provided to suppliers to give advance notice of bidding opportunities;

“Authorised Officer”

An Authorised Officer of the Council with appropriate delegated authority to act on the Council's behalf in accordance with the Constitution

“Council”

“Council” means Chorley Borough Council

“Concession Contract”

A concession contract is used where the Council wishes to engage a party to provide a service, consideration for which is in the form of the party (“the concessionaire”) being given a right to charge the public for the services being provided.

“Best Value for Money”

The optimum combination of whole life costs and benefits to meet the customer's requirement. Such term equates to the EU procurement requirement “most economically advantageous offer”;

“Contracts Register”

A register held and maintained by the Procurement & Partnerships Manager containing details of contracts entered into by the Authority

“Framework Agreement”

An agreement which allows the Council to call off from a supplier to provide supplies, services or works in accordance with the terms of the agreement. The Framework Agreement itself usually constitutes a non binding offer with no obligations on the Authority to call off from the Supplier. If the Council calls off from the Supplier a binding contract comes into being. A Framework Agreement can be a binding agreement where it is executed as a deed;

“ITN”

Invitation to negotiate;

“ITT”

Invitation to tender;

“Key Decision”

A key decision as defined in the Constitution;

“Most Economically Advantageous Offer”

From the Council's perspective the most economically advantageous offer from a Supplier assessed by reference to relevant evaluation criteria linked to the subject matter of the contract in question for example, quality, price, technical merit, aesthetic and functional characteristics, running costs, cost effectiveness, after sales service and technical assistance, delivery date and delivery period or period of completion;

“OJEU”

Official Journal of the European Union;

“PIN”

Prior Information Notice for publication in OJEU;

PURCHASING CONSORTIUM

A group of public sector bodies which aggregate their requirements and by doing so exact greater leverage from the market. With the agreement of suppliers, if permissible, the consortium may offer its contracts to other local authorities or public bodies.

“Regulations”

The UK regulations implementing the EC public procurement directives;

“RFQ”

Request for quotations;

“STANDING OR APPROVED LISTS OF CONTRACTORS”

A method of procurement where a list of suppliers is drawn up in response to an advertisement in the relevant trade/local press/ website(s). The potential contractors are vetted using the responses to the Pre-Qualification Questionnaire (PQQ) and the list is then used to select specific suppliers for individual contracts. Care needs to be taken to ensure that the list is carefully managed so that it does not become out dated and that it fully represents the range of innovative solutions that may be available in the market.

“Supplier”

Any person or body of persons providing, or seeking to provide, supplies, services or works to the Council.