



CHELTENHAM
BOROUGH COUNCIL

Cheltenham Borough Council

Licensing Act 2003 Licensing Policy Statement

Approved by Council
xx 2012

The Licensing Section
Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham
GL52 9SA

01242 265200
licensing@cheltenham.gov.uk

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1. Introduction

- 1.1 This Licensing Policy Statement ('this Policy') has been produced in accordance with the requirements of the Licensing Act 2003 ('the Act') and is in line with guidance issued under Section 182 of the Act. Section 5 of the Act requires Cheltenham Borough Council ('the Council'), acting in its capacity as the Licensing Authority to prepare and publish a statement of its licensing policy every three years.
- 1.2 This policy was last reviewed in 2009. In determining the policy the Council has taken into consideration any comments made by consultees (**Appendix A**) during the 12 week consultation. The Council has also taken into consideration revisions in the Statutory Guidance, changes in legislation and the experience of administering and enforcing the Act since its introduction when determining this policy.
- 1.3 The main purpose of this policy is to provide clarity to applicants, interested parties and responsible authorities on how the Council will determine applications for the sale/supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment and also to provide a basis for all licensing decisions taken by the Council over the next three years. It will also inform elected Members of the parameters within which licensing decisions can be made.
- 1.4 Through this policy the Council hopes that residents of and visitors to Cheltenham will be able to enjoy their leisure time safely and without fear of violence, intimidation or disorder while at licensed premises.
- 1.5 An effective licensing policy, alongside other initiatives, will work towards promoting the positive aspects of deregulation under the Act, such as promoting tourism, increasing leisure provision and encouraging the regeneration of the town centre as well as controlling the negative impacts such as increase in noise, nuisance, anti-social behaviour and crime and disorder.
- 1.6 It should be understood that this policy and the section 182 Guidance cannot anticipate every scenario or set of circumstances that may arise and as such there may be circumstances where the policy or guidance may be departed from in the interests of the promotion of the licensing objectives and where it is deemed appropriate to do so. In such cases the Council will give full reasons for departing from this policy.

2. Licensing Principles and Process

- 2.1 This policy sets out the process the Council will adopt in dealing with licence applications with particular regard to the various types of premises and permissions and the various conditions that can be attached to licences if relevant representations are made. It also highlights the Council's undertaking to avoid duplication with other statutory provisions and its commitment to work in partnership with other enforcement agencies.
- 2.2 The Council is the Licensing Authority under the Act and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the Borough.

- 2.3 The objective of this policy is to:
- (a) promote the four licensing objectives;
 - (b) ensure that the premises are appropriate for their proposed use;
 - (c) ensure the premises layout and condition is acceptable for the proposed use; and
 - (d) ensure that the premises are being managed responsibly.
- 2.4 The Council's powers and duties as Licensing Authority are delegated by the Council to its Licensing Committee, Licensing sub committees and officers. The Council approaches these delegations in accordance with **Appendix B** to this policy.

3. Scope

- 3.1 This policy relates to the licensable activities defined by section 1(1) of the Act, namely:-
- (a) retail sales of alcohol;
 - (b) the supply of alcohol by or on behalf of a club;
 - (c) the provision of regulated entertainment; and
 - (d) the provision of late night refreshment.

4. Licensing objectives

- 4.1 The Council will carry out its licensing functions under the Act with a view to promoting the four licensing objectives, which are:-
- (a) The prevention of crime and disorder;
 - (b) Public safety;
 - (c) The prevention of public nuisance; and
 - (d) The protection of children from harm.
- 4.2 The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives.
- 4.3 In determining a licensing application, the overriding principle adopted by the Council will be that each application is determined on its merits. Licence conditions will be tailored to the individual application and only those necessary to promote the licensing objectives will be imposed.
- 4.4 The Council will also have regard to wider considerations affecting the residential population and the amenity of the area. These include littering, noise, street crime and the capacity of the infrastructure.

- 4.5 Each of the four objectives is of equal importance and will be considered in relation to matters centred on the premises or within the control of the licensee and the effect which the operation of that business has on the vicinity.

5. Premises Licences and Club Premises Certificates

- 5.1 The relevant application forms and associated documents are obtainable from the Council's website at <http://www.cheltenham.gov.uk/licensing> or from the Licensing Section during normal office hours.
- 5.2 Along with the application form, applicants must also submit an operating schedule and scaled drawings of the premises to which the application relates.
- 5.3 Through their operating schedule, applicants will be expected, where necessary, to demonstrate the positive steps taken to promote the licensing objectives.

The Operating Schedule

- 5.4 The operating schedule is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions. The Council expects an operating schedule to indicate the steps that the applicant proposes to take to promote the licensing objectives.
- 5.5 Applicants are strongly recommended to discuss their operating schedules with the responsible authorities prior to submitting them.
- 5.6 Applicants will be expected to propose practical measures to prevent disturbance to local residents and to indicate what action will be taken to prevent or reduce noise emanating from the premises.
- 5.7 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises. For premises such as a public house where public entertainment is not provided, only a relatively simple document will be required. For a major public entertainment venue it will be expected that issues such as public safety and crime and disorder will be addressed in detail. The Council will provide general advice on the drafting of operating schedules.
- 5.8 The operating schedule must be on the prescribed form and include a statement of the following:-
- (a) Full details of the licensable activities to be carried on at and the intended use of the premises;
 - (b) The times during which the licensable activities will take place;
 - (c) Any other times when the premises are to be open to the public;
 - (d) Where the licence is only required for a limited period, that period;
 - (e) Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor;
 - (f) Whether alcohol will be supplied for consumption on or off the premises or both;

(g) The steps which the applicant proposes to promote the licensing objectives.

5.9 All applicants for the grant or variation of a premises licence or club premises certificate are required to provide an operating schedule as part of their application.

Guidance on Operating Schedule

5.10 The following guidance is intended to assist applicants by setting out criteria and considerations that they should bear in mind when drawing up an operating schedule. They alert applicants to any matters that responsible authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review.

a) Crime and Disorder

5.11 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in promoting this objective.

5.12 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.

5.13 When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact on crime and disorder have been considered. These factors may include:-

- (a) Underage drinking;
- (b) Drunkenness on premises;
- (c) Public drunkenness;
- (d) Drugs;
- (e) Violent behaviour; and
- (f) Anti-social behaviour.

5.14 In making their decision, regard should be given to the levels of crime and disorder in and around the venue; the level of compliance with conditions on existing licences; and any available evidence on crime and disorder issues.

5.15 Annex D part 1 of the Secretary of State's revised Guidance sets out matters that may be relevant to the imposition of conditions relating to crime and disorder on licensed premises. Where relevant representations are received the Council may impose appropriate conditions on premises licences and club premises certificates in accordance with this guidance.

5.16 Appropriate conditions include:-

- (a) adoption of a 'Challenge 21 or Challenge 25' policy;

- (b) adoption of best practice guidance including our voluntary code of practice for Reducing Alcohol Related Violence (RARV);
- (c) agreeing a prescribed capacity for the premises;
- (d) requirements for an appropriate ratio of tables and chairs to customers, based on capacity, and for areas to be allocated permanently for seated customers in order to prevent overcrowding, which can lead to disorder and violence;
- (e) a requirement for Security Industry Authority registered door supervisors to control numbers of persons entering the premises and to deny entry to individuals who appear drunk, disorderly or intent on crime;
- (f) requirements that drinking vessels be made of toughened glass or plastic or other materials that do not form a sharp edge when broken, and that glass bottles are not passed to customers. This may be a particular concern if drinks are to be consumed outside premises;
- (g) restrictions on drinking in areas within and outside the premises;
- (h) limitations on the types of promotions of alcoholic drinks, so as not to encourage excessive drinking, or drunkenness;
- (i) the maintenance of good order by the management, particularly where alcohol is supplied for consumption and where large numbers of people are admitted;
- (j) dedicated communications networks between management teams, local police and other licensed premises to provide early warning of disorder;
- (k) warning signs about crime prevention measures;
- (l) clear policies and measures to prevent weapons or illegal drugs being brought onto the premises and measures to discourage the use of illegal drugs; and/or
- (m) the installation and maintenance of appropriately sited closed circuit television cameras (CCTV) to be operational during the period of the licence, and other appropriate times both inside and immediately outside the premises which can provide images of a suitable quality for use as evidence.

5.17 Capacity limits are commonly made a condition of a licence on public safety grounds but should also be considered for licensed pubs and clubs where overcrowding may lead to disorder and violence. If such a condition is necessary, door supervisors may be needed to ensure the numbers are appropriately controlled.

b) Public Safety

5.17 The Council in its role as Licensing Authority must try to ensure the safety of people visiting and working in licensed premises. The Council will need to be satisfied that measures to promote public safety including risk assessments, setting safe capacities and adequate means of escape are put in place and maintained, if not adequately provided for by other regulatory regimes.

5.18 Consideration should be given to whether:

- (a) appropriate and satisfactory general and technical risk assessments, management procedures and certificates have been made available to the relevant responsible authority and to the Licensing Authority, that demonstrate that the public will be safe within and in the vicinity of the premises;
- (b) the premises already has a licence or a fire certificate that specifies the maximum number of people that can attend it or be present and, if not, whether a risk assessment has been undertaken to assess the maximum number of people in terms of capacity in various parts of the premises, so that they can be operated safely and can be evacuated safely in the event of an emergency;
- (c) there are procedures proposed to record and limit the number of people on the premises with opportunities for going outside and readmission;
- (d) patrons can arrive at and depart from the premises safely;
- (e) music, dance and performance venues will use equipment or special effects that may affect public safety (i.e. moving equipment, pyrotechnics, strobe lights, smoke machines);
- (f) there are defined responsibilities and procedures for medical and other emergencies and for calling the emergency services, and/or
- (g) the levels of compliance with conditions on existing licences relating to public safety.

5.19 The Council seeks to encourage the use of toughened glassware and polycarbonate where appropriate in licensed premises. Where a relevant representation is received the Council will consider imposing a condition prohibiting the sale of alcohol in annealed glass containers and require the use of polycarbonate or other safer alternatives in order to promote public safety in licensed venues.

Pub watch' scheme

5.20 The Borough-wide Nightsafe network encourages its members to work together to promote the licensing objectives in their premises by providing a forum for sharing information, disseminating best practice and meeting with representatives of the Council, the police and other responsible authorities. The Council actively supports the scheme and is keen to support the development of more schemes where there is a demand.

Best Bar None

5.21 Best Bar None (BBN) is a national award scheme supported by the Home Office and aimed at promoting responsible management and operation of alcohol licensed premises. It was piloted in Manchester in 2003 and found to improve standards in the night time economy, with premises now competing to participate. The aim of BBN is to reduce alcohol related crime and disorder in a town centre by building a positive relationship between the licensed trade, police and local authorities. The Council will actively encourage licensed premises to sign up to the BBN scheme.

c) Public Nuisance

- 5.22 The Council will expect applicants to set out in their operating schedules the steps taken, or proposed to be taken, to deal with the potential for public nuisance arising from the operation of the premises.
- 5.23 Applicants should identify and describe through a risk assessment how these risks will be managed. Public nuisance could include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community.
- 5.24 The role of the Council is to maintain an appropriate balance between the legitimate aspirations of the entertainment industry and the needs of residents and other users of the town including businesses, workers, shoppers and visitors.
- 5.25 Playing of music can cause nuisance both through noise breakout and by its effect on patrons, who become accustomed to high sound levels and to shouting to make themselves heard, which can lead to them being noisier when leaving premises. Other major sources of noise nuisance are vehicles collecting customers, the slamming of car doors and the sounding of horns. These noises can be particularly intrusive at night when ambient noise levels are lower.
- 5.26 Where relevant representations are received, the Council may attach appropriate conditions to licences, necessary to support the prevention of undue noise disturbance from licensed premises. Where premises remain open after midnight the licence holder, will be expected to provide facilities which are relevant to controlling noise and the patrons of those premises late at night. The Council also expects that premises which produce noise generating licensable activities are acoustically controlled and engineered to a degree where the noise from the premises when compared to the ambient noise level will not cause undue disturbance.
- 5.27 The provision of tables and chairs outside the premises, either on the highway or on private land, and the provision of beer gardens, can enhance the attractiveness of the venue. It can have the benefit of encouraging a continental style café culture and family friendly venues. However, late at night, tables and chairs and beer gardens can cause significant public nuisance to residents whose homes overlook these areas.
- 5.28 More recently the introduction of the new 'smoke free public places' legislation in July 2007 has led to an increase in the number of people outside licensed venues. Where outside facilities are provided the licensing authority expects applicants to provide details in their application of:-
- (a) the location of open air areas;
 - (b) how the outside areas will be managed to prevent noise, smell, or obstruction and nuisance to neighbours and the public.
- 5.29 Licensees and their staff are expected to have sufficient measures in place to prevent such problems arising including a suitable litter and waste management program to ensure that the area outside the premises is kept free of litter at all times.

- 5.30 Where the Council receives relevant representations, or where a responsible authority or an interested party seeks a review, the Council may consider imposing conditions to improve the management of the outside area or prohibiting or restricting the use of these areas in order to promote the public nuisance objective.
- 5.31 Conditions may include maximum noise levels over particular time periods, the installation of acoustic lobbies; provision of signs, publicity and dispersal policies.

Violent Crime Reduction Act 2006

- 5.32 The Violent Crime Reduction Act 2006 gives local authorities the power to designate, with the consent of the police, a locality as an alcohol disorder zone (ADZ) where there is a high level of alcohol related nuisance or disorder. Whilst the Licensing Act 2003 empowers licensing authorities to tackle alcohol related crime, disorder and public nuisance that is attributable to individual premises through the modification, suspension or revocation of licences upon review, it is not always possible to identify a clear relationship between problems in the public space and specific licensed premises. The proposal, consideration and designation of ADZs would enable local authorities to tackle such problems. Designation also permits local authorities to levy compulsory charges on certain licence holders for above-normal levels of enforcement activity by that authority and the police. The licensing authority would however prefer where possible to work with licensees to achieve improvements to alcohol related problems without the need to identify Alcohol Disorder Zones under this Act.

d) Protection of children from harm

- 5.32 The Council needs to satisfy itself that there are appropriate measures in place to protect children from harm.
- 5.33 The Council will expect applicants, where necessary to consider the measures necessary to promote the licensing objective of protecting children from harm when on the premises.
- 5.34 These measures may include staff training on how to control the entry of children and young people under 18 and the vetting of staff who will supervise them. Applicants will have to give particular regard to these measures in applications for licences involving:-
- (a) the sale of alcohol;
 - (b) children's performances;
 - (c) attractions or performances likely to attract children.
- 5.35 It is an offence to sell alcohol to children. In this context, children are defined as individuals under 18. The provisions of the Act are that unaccompanied children under 16 should not be on "premises being used exclusively or primarily for the supply of alcohol" (eg "alcohol led" premises such as pubs, bars and nightclubs). In addition, it is an offence to allow unaccompanied children under 16 on premises licensed to sell alcohol for consumption on the premises after midnight but before 05:00.

5.36 Issues for consideration include:-

- (a) installing effective measures to check the age of those young people who appear under 21 to ensure that alcohol is not sold to those under 18 and those under 16 are accompanied in alcohol led premises;
- (b) the supply of alcohol for consumption on the premises is the;
- (c) exclusive or primary purpose of the services provided at the premises;
- (d) accompanied children under 16 on the premises of which the primary purpose is supply of alcohol for consumption on the premises are taking a table meal or are being entertained by a live performance;
- (e) the hour to which accompanied children under 16 are proposed to be on the premises where the exclusive or primary purpose of the services provided at the premises is the supply of alcohol for consumption on the premises;
- (f) due regard is paid to industry codes of good practice on the labelling and display of alcoholic drinks;
- (g) there are adequate procedures for identifying unaccompanied or lost children and ensuring that they are kept safe and adequately supervised until they can be handed over to a responsible adult;
- (h) the likelihood of children being attracted to the premises; eg by the nature of activities or facilities provided whether or not these are licensed;
- (i) there is evidence of heavy, binge or underage drinking on the premises;
- (j) the premises commonly provides entertainment or services of an adult or sexual nature;
- (k) there is a strong element of gambling on the premises;
- (l) age restricted films are to be shown classified in accordance with the recommendations of the British Board of Film Classification;
- (m) the number of adults required for the supervision of children and the suitability and vetting of those adults to ensure they pose no risk to children. Obtaining Enhanced Disclosure from the Criminal Records Bureau may be appropriate in some cases.

Plans

5.37 A plan must also be attached to an application for a premises licence or a club premises certificate. The plan should be at a scale of 1:100. The plans do not have to be professionally drawn, however, they must be to scale and contain the relevant information as required under regulation. The Licensing Authority can accept plans of a scale other than 1:100, however this must be approved prior to submitting the application.

6. Representations

6.1 The Council has discretion on whether to grant applications for licences and to impose conditions on granting and reviewing licences, only when relevant

representations are made by “interested parties” or by “responsible authorities” (see **Appendix B**).

- 6.2 In brief "relevant representations" is the expression used in the Act for comments including objections on applications.

For a representation to be relevant it must:-

- (a) relate to the effect of the grant of the licence on the promotion of the licensing objectives (prevention of crime and disorder, prevention of public nuisance, public safety or protection of children from harm);
- (b) be made by an interested party or responsible authority;
- (c) not be 'frivolous or vexatious' or, in the case of a review, 'repetitious' if made by an interested party; or
- (d) if it concerns the Designated Premises Supervisor be made by a chief officer of police and include a statement explaining the reasons for the objection.

Interested Parties Include:-

- (a) a person living in the vicinity of the premises;
 - (b) a body representing a person living in the vicinity of the premises; a person involved in business in the vicinity of the premises; and
 - (c) a body representing a person involved in such a business.
- 6.3 All interested parties and responsible authorities will have a period 28 days (starting on the day after the application is received by the Council) in which they can make representations to the Council about the application. Representations must be made in writing.
- 6.4 If the Council considers that the representations are relevant it must hold a hearing to consider those representations (unless all agree that this is unnecessary). The Council will then have the option to:-
- (a) grant or vary the licence in the same terms as it was applied for;
 - (b) decide that it is necessary to refuse to issue or vary the licence;
 - (c) decide to grant or vary the licence, but to modify the conditions;
 - (d) exclude from the scope of the licence a licensable activity.
- 6.5 Where no relevant representations are received it is the duty of the Council to grant a licence subject to conditions consistent with the operating schedule and the mandatory conditions under the Act.
- 6.6 This policy also does not override the right of any person/body to make representations on an application or seek a review of a licence or certificate, where provision has been made for them to do so in the Act.
- 6.7 If there have been police representations in relation to the individual specified in the application for a premises licence or certificate or authorisation as the designated premises supervisor, the Council will consider any factors relating

to that individual that might undermine the prevention of crime and disorder licensing objective, including the previous character of the individual and the individual's experience and training and ability to monitor the premises at all times when they are open.

- 6.8 All applicants for the grant of a personal licence will be required to undertake a criminal record check. Where a criminal record check discloses an unspent relevant conviction (See schedule 4 of the Act) and the police object to the application on crime prevention grounds the Licensing Sub Committee shall normally refuse such an application unless there are exceptional and compelling circumstances to justify the granting of a licence.

7. Reviews

- 7.1 At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the Council to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 7.2 In every case, the application for review must relate to particular premises for which a licence is in existence and must be relevant to the promotion of the licensing objectives.
- 7.3 The necessary forms and documents is available from the Council's website at <http://www.cheltenham.gov.uk/licensing> or from the Licensing Section during normal office hours.

8. Appeals

- 8.1 Anyone aggrieved by a decision of the Council has a right of appeal. This is set out in Schedule 5 of the Act.
- 8.2 The Council will inform the appropriate parties of their right of appeal in accordance with the Act, when confirming a decision of the Licensing Sub-Committee.
- 8.3 Aggrieved parties should lodge any appeal with the Magistrates' Court within 21 days of the notification of the decision.

9. Temporary Event Notices (TENs)

- 9.1 Any person aged 18 or over may use premises for one or more licensable activities for a period not exceeding 96 hours and provided that a minimum 10 working days notice is given to the Council and the Chief Officer of Police before the event is due to start.
- 9.2 A temporary events notice (TEN) can only be used where the maximum number of people attending the event is less than 500. In all other cases a premises licence will be required.
- 9.3 The limit on the number of TENs which may be given by any applicant is five within the same year, unless the applicant holds a personal licence, in which case the limit will be 50 within the same year.

- 9.4 Only 12 TENs may be given in respect of the same premises in a calendar year and in respect of these premises there is an overriding maximum aggregate duration of 15 days.
- 9.5 There must be a minimum of 24 hours between events notified by the premises user in respect of the same premises.
- 9.6 The Police may object to a TEN by sending a counter-notice on the grounds of crime and disorder or may insist on certain conditions. The Police must give the premises user and the Council any counter-notice within 48 hours of being notified.
- 9.7 If the Council receives a counter-notice, a hearing will be held to determine whether permission should be granted for the proposed event. If no counter-notices are served the event will be able to proceed.
- 9.8 It is recommended that an applicant applying for a TEN should give at least 28 days prior notice of their intended event and that at the same time of submitting their application to the Licensing Authority they serve notice to the Police.
- 9.9 Applicants are also encouraged to consult responsible authorities prior to formal applications being made.
- 9.10 The processing of applications by the Council is controlled by a strict statutory timetable, therefore, the Council will not accept an application unless it is complete in all respects at the time of submission.
- 9.11 The Police have the power to close down events with no notice on grounds of disorder, the likelihood of disorder or because of public nuisance caused by noise coming from the premises.

10. Integrating Strategies

- 10.1 The Council will seek to discharge its responsibilities by linking to and supporting Government and Council strategies and policies so far as they impact on the objectives of the Act including:-
 - (a) Crime and Disorder Reduction Strategy;
 - (b) Enforcement Concordat and the Councils Enforcement policy;
 - (c) Reducing Alcohol Related Violent Crime and Disorder Codes of Practice (RARV);
 - (d) Local drugs and alcohol strategies;
 - (e) The Governments alcohol harm reduction strategy; and
 - (f) The Best Bar None Scheme.
- 10.2 The Council regards licensing as the most appropriate tool in ensuring that the licensing objectives are promoted and will avoid as far as is possible any duplication with other regulatory regimes and legislation.
- 10.3 As part of a wider package of initiatives the Council is aiming to tackle the negative impacts associated with alcohol consumption through their Codes of Practice on Reducing Alcohol Related Violent Crime and Disorder and

encouraging alcohol licensed premises to join Cheltenham's Best Bar None scheme. The Licensed Trade are encouraged to take ownership of these codes and schemes, which have the potential to significantly improve standards in Licensed Premises. These Codes of Practice have received high acclaim and been recognised as Best Practice by the Home Office.

- 10.4 The Council will continue to develop appropriate partnership arrangements, working closely with the police and fire authorities, local businesses, community representatives and local people, in meeting these objectives.

11. Planning Control

- 11.1 Planning permission is usually required for the establishment of new premises and where there is a material change of use of premises.
- 11.2 Applicants are encouraged to ensure that the proposed activity will constitute a lawful planning use and the hours sought do not exceed those authorised by any planning permission. Where the hours authorised by the relevant planning permission are different to the licensing hours for those premises, the applicant will be expected to observe the earlier closing time. Premises operating in breach of their planning permission would be liable to enforcement action under planning legislation.
- 11.3 Similarly, where structural alterations are required to premises, applicants are encouraged to obtain the necessary building control approval.

12. Off Sales of Alcohol

- 12.1 This applies to premises where the sale of alcohol is exclusively for consumption off the premises, i.e. shops, stores and supermarkets etc.
- 12.2 Revised Government Guidance recommends that shops, stores and supermarkets selling alcohol should generally be permitted to match the hours during which they may sell alcohol with their normal trading hours, unless there are exceptional reasons related to the licensing objectives, in particular the prevention of crime and disorder and public nuisance. The sale of alcohol to underage young people which apart from being a criminal offence, can give rise to disorder, public nuisance and concerns over public safety and harm to children; and the sale of alcohol to both adult and underage young people who consume it on the way to other premises can give rise to problems of drunkenness and disorderly behaviour.
- 12.3 The Council will consider any representation made by the police, other responsible authorities, and relevant representations from interested parties in determining applications.
- 12.4 Under the Council's Designation Order (Section 13 of the Criminal Justice and Police Act 2001) which came into force on 1st March 2005, the police have powers to stop street drinking and seize alcohol and receptacles.
- 12.5 Where the police make representations against the grant of a further licence for off sales, because of their serious concerns over problems of street drinking or late night disorder associated with the off sale of alcohol in the area, the Council may give specific consideration to restricting the number, type, and the hours of premises selling alcohol exclusively for consumption off the premises.

- 12.6 When requested by the police, the Council may impose conditions that there should be no sale of alcoholic beverages over a specified limit of alcohol by volume or of specified quantities (e.g. of beers, lagers and ciders over 5.5% alcoholic content by volume).

13. Late Night Refreshment

- 13.1 Applications for premises offering late night take away food and drink will be considered on their individual merits. However, the impact upon the licensing objectives of people gathering at such premises after other licensed premises have closed can be considerable, and in determining licensing hours following the receipt of relevant representations regard will therefore be had to the density and closing times of other licensed premises in the vicinity
- 13.2 Late night refreshment includes the supply of hot food or hot drink at any time between the hours of 23.00 and 05.00, whether for the consumption on or off the premises (Schedule 2 of the Act). Late night refreshment premises that serve hot food or hot drink exclusively by service to customers seated at tables will be treated as restaurants in terms of this policy.
- 13.3 Premises which supply hot food and hot drink for consumption off the premises which are open after 23.00 can attract large groups of customers, many of whom have been consuming alcohol in pubs, bars, or night clubs sometimes some distance away. The congregation of people around these premises can lead to additional noise and disturbance. The Police have raised concerns about the level of crime and disorder that happens outside take-away food premises late at night due to alcohol fuelled behaviour, and the opportunities for crime afforded by the congregation of people. The consumption of food outside premises can also result in food waste and litter on pavements, to an extent that amounts to a public nuisance.

14. Theatres, Cinemas and Other Performance Venues

- 14.1 The Council welcomes the vital contribution that theatres, cinemas, concert halls and other performance venues make in providing the diverse cultural and entertainment value that attracts people of all ages into Cheltenham. The Council accepts that these types of uses are unlikely to be linked with crime and disorder, and generally have less impact on residents than other licensable activities.
- 14.2 Performance venues will be subject to conditions on public safety related to the staging of special effects and the exhibition of film is subject to mandatory conditions on the admittance of children.
- 14.3 The range and diversity of these events may make it a requirement to have provisions in the licence for a specific "event plan" to be agreed for each event rather than to rely solely on conditions within the premises license.
- 14.4 Some of these events because of their prominence attract very large crowds. Sound from outdoor events is not enclosed and carries across the town and therefore may cause widespread nuisance. The extent and frequency of these events in relation to the areas where the impact is felt will be considered in determining applications for premises licences for outdoor licensable activities.

15. Applications for extended hours

15.1 Cheltenham has a large concentration of licensed premises in the centre of town and many currently operate into the early hours of the morning.

15.2 The issues of late night/early morning opening hours can be extended opportunities for crime and disorder, the limited capacity of the transport system to serve the extent of late night activity and issues of public nuisance.

15.3 Statutory guidance provides for:

“The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted 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 may result from arbitrarily fixed closing times. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times.”

15.4 On receipt of an application for extended hours and where relevant representations have been received the Council will need to consider:-

(a) whether there is residential accommodation in the proximity of the premises that would be likely to be adversely affected by premises being open or carrying out operations at the hours proposed;

(b) that the proposed hours of the licensable activities and when customers will be permitted to remain on the premises;

(c) the proposed hours when any music, including incidental music, will be played;

(d) the hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises;

(e) the existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity;

(f) whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night;

(g) the capacity of the premises;

(h) the type of use: recognising that premises that sell alcohol, play music for dancing, provide late night refreshment or take-away food, are more likely to be associated with crime and disorder and public nuisance than restaurants, theatres, cinemas, other performance venues or qualifying clubs.

15.5 Where relevant representations are received from responsible authorities and/or interested parties, the Councils may seek to restrict the operational hours of premises where this is necessary to promote the licensing objectives. The Council may impose further limitations in hours upon review of the licence, particularly where the premises is shown to be the focus or cause of nuisance or anti-social behaviour.

16. Cumulative Impact

- 16.1 Cumulative impact concerns the potential impact on the promotion of the licensing objectives of a concentration of types of licensed premises in one area.
- 16.2 This can become a particular concern in areas where the growth in the number of premises that primarily serve alcohol is perceived to be at a high level in relation to the size of the town.
- 16.3 Although the Council does not currently have designated cumulative impact areas, it may adopt a special policy regarding cumulative impact where it considers that a significant concentration of licensed premises will or is having an impact on the licensing objectives and granting of further licences in that area would add to this impact. It will take the decision only after it is satisfied that there is evidence to support such a decision.
- 16.4 The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant, or variation, 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. The overall effect of the grant of the licence should be considered in relation to evidence of cumulative impact on the licensing objectives.
- 16.5 Special policies should however never be used as grounds for revoking an existing licence or certificate when representations are received about problems with those premises. The “cumulative impact” on the promotion of the licensing objectives of a concentration of multiple licensed premises should only give rise to a relevant representation when an application for the grant or variation of a licence or certificate is being considered. A review must relate specifically to individual premises, and by its nature, “cumulative impact” relates to the effect of a concentration of many premises.
- 16.6 The Council also recognises that there are other mechanisms both within and outside of the licensing regime that are available for addressing the impact of unlawful and antisocial behaviour and nuisance once consumers are away from the premises e.g.
- (a) positive measures to provide a safe and clean town centre environment in partnership with local businesses, transport operators and other service providers within the Council;
 - (b) the provision of CCTV surveillance in the town centre, provision of taxi marshalls, provision of public conveniences open late at night, street cleaning and litter patrols;
 - (c) powers to designate parts of the Borough as places where alcohol may not be consumed publicly;
 - (d) police enforcement of the law with regard to disorder and anti-social behaviour, including the issue of fixed penalty notices;
 - (e) the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;

- (f) the confiscation of alcohol from adults and children in designated areas e.g. use of the powers of confiscation contained in the Confiscation (Young Persons) Act 1997;
 - (g) police powers to close down instantly for up to 24 hours any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
 - (h) the power of police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.
- 16.7 The Council will address these issues in line with the strategic objectives for crime and disorder reduction within the Borough.

17. Sexual Entertainment Venues

17.1 The Council has adopted the amended provisions of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 ('the 2009 Act') with respect to "relevant entertainment", that is:-

- (a) any live performance; or
- (b) any live display of nudity.

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

17.2 The adopted provisions came into effect on the 1st of December 2010 in Cheltenham.

17.3 Any premises that wants to offer relevant entertainment on a regular basis, that is more frequently than 24 hours once a month on no more than 11 occasions a year can no longer offer this under the provisions of the Licensing Act 2003 as a result of the abovementioned adoption. These premises must apply for a Sexual Entertainment Venue (SEV) licence.

17.4 Premises that wants to offer relevant entertainment on an irregular basis, can still do so under the provisions of the Licensing Act 2003. These premises must be authorised for the performance of dance and the performance of recorded music.

18. Enforcement

18.1 In terms of regulation, our aim is to target those premises which are causing problems within our communities whilst supporting well managed premises and community activities, which provide worthwhile opportunities for the enjoyment of leisure time without having a negative impact. Premises that produce disorder, or threaten public safety, generate public nuisance, or threaten the well being of our children will be targeted for enforcement action.

18.2 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 Council will make

arrangements to monitor premises, undertake inspections to support the licensing objectives and take appropriate enforcement action.

- 18.3 The Council will also establish enforcement protocols with the police and other enforcement agencies to ensure efficient and targeted joint enforcement is undertaken on a regular basis.
- 18.4 This does not prevent action being taken by any individual authority at any time should offences become apparent.

Investigation of Offences

- 18.5 When a relevant authority has become aware of any offence under the Act, the authority may:-
- (a) Take appropriate intervention action to secure and preserve evidence to support a potential prosecution and provide witness evidence should it be necessary.
 - (b) Early discussions with the appropriate Primary Enforcement Agency, including (unless in cases of extreme urgency) the Council's enforcement officers.
 - (c) Supply the relevant Primary Enforcement Agency in a timely manner all of the relevant evidence (whether subsequently used or unused).
 - (d) Set out in writing details of the offence and notify the Primary Enforcement Agency for action to be taken/considered.
 - (e) This does not exempt the relevant authority making appropriate staffing arrangements to respond to complaints and managing high demand premises.
- 18.6 Once in receipt of a request to take action, the Primary Enforcement Agency will:-
- (a) assess the facts and take appropriate action in accordance with the Enforcement Protocol for that authority and take appropriate timely action proportionate to the overall problems that exist to the area in support of the Licensing Objectives
 - (b) inform the relevant authority and stakeholders that initiated the complaint or supplied the information of the action taken.
- 18.7 Regular liaison meetings will take place between the licensing enforcement officers and the police licensing officers.

Responsibility for Prosecutions

- 18.8 Section 186 of the Act provides that proceedings for offences under the Act may be instituted by:-
- (a) Licensing Authority.
 - (b) The Director of Public Prosecutions, or
 - (c) Trading Standards Officers for offences under section 146 or 147.

APPENDIX A - CONSULTATION

This document has been developed by the Council in consultation with representatives of the following key stakeholder groups and organisations:

- (a) The Gloucestershire Constabulary
- (b) Gloucestershire Fire Service
- (c) Bodies representing holders of premises licences, club premises licences and personal licences in the Council's area
- (d) Representatives from local businesses
- (e) Representatives of the Council's Planning and Public Protection Services
- (f) Trade Associations
- (g) Independent licence holders
- (h) Local residents
- (i) Ambulance service
- (j) Gloucestershire County Council's education services and Trading Standards
- (k) Gloucestershire Youth Services

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APPENDIX B – Responsible Authorities

Applicants are required under the Act to send copies of their application to the following responsible authorities in the Cheltenham area:

GLOUCESTERSHIRE CONSTABULARY

Gloucestershire Constabulary
Licensing Unit,
Community Engagement Dept,
No 1 Waterwells, Waterwells Drive,
Quedgeley
Gloucester
GL2 2AN
Direct line: 01452 754482 Switchboard : 0845 090 1234
Fax: 01452 754797
Email: Licensing@Gloucestershire.Police.uk

GLOUCESTERSHIRE FIRE AND RESCUE

Gloucestershire Fire and Rescue Service
Service Delivery Support
Waterwells Drive
Quedgeley
Gloucester
GL2 2AX
Tel: 01452 753333
Fax: 01452 753304
Email: fire.safety@glosfire.gov.uk

POLLUTION PREVENTION

Environmental Protection
Public Protection
Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham
GL50 1PP
Tel: 01242 264 204
Fax: 01242 26 4210

HEALTH AND SAFETY ENFORCEMENT

If you are uncertain who enforces Health and Safety on your premises please assume it is Cheltenham Borough Council and forward a copy of the application to the address below:-

WHERE THE LOCAL AUTHORITY IS THE ENFORCING AUTHORITY:

Public Protection - Occupational Health and Safety
Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham
GL50 1PP
Tel: 01242 775020
Fax: 01242 264210

WHERE THE HSE ARE THE ENFORCING AUTHORITY:

Health and Safety Executive
4th Floor, The Pithay
All Saints Street
BRISTOL
BS1 1ND

Telephone: 0117 988 6000

Fax: 0117 926 2998

Email: (i) For service employment e.g. Central and Local Government, NHS etc. the contact is paula.Johnson@hse.gsi.gov.uk

(ii) For other employment e.g. manufacture and repair, agriculture, transport, the contact is nigel.chambers@hse.gsi.gov.uk

LOCAL PLANNING AUTHORITY

Local Planning Authority
Built Environment
Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham
GL50 1PP

Tel: 01242 264138

Fax: 01242 227323

CHILD PROTECTION

Children & Young People's Directorate
Safeguarding Manager
Gloucestershire County Council
Quayside Wing
Shire Hall
Gloucester
GL1 2RH

Telephone: 01452 426321

Fax: 01452 425148

Email: Duncan.siret@gloucestershire.gov.uk

TRADING STANDARDS

Trading Standards
Gloucestershire County Council, Trading Standards,
Hillfield House
Denmark Road
Gloucester
GL1 3LD

Telephone: (01452) 426201

Fax: (01452) 426274

E mail: tradstds@gloucestershire.gov.uk

APPENDIX C - Delegated functions

Matter to be dealt with	Full Committee	Sub Committee	Assistant Director Community Services
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation is made	If no relevant representation is made
Application for provisional statement		If a relevant representation is made	If no relevant representation is made
Application to vary premises licence/club premises certificate		If a relevant representation is made	If no relevant representation is made
Application to vary designated personal licence holder		If a police objection	All other cases
Request to be removed			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint or objection 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 objection to a temporary event notice		All cases	
Final approval of licensing policy (post consultation).	Full Council		

APPENDIX D - GLOSSARY

DCMS - Department of Culture, Media, and Sport

Entertainment Facilities - Facilities for enabling persons to take part in entertainment.

Personal Licence - authorises an individual to supply or authorise the supply of alcohol in accordance with a premises licence

Premises Licence - authorises the premises to be used for one or more licensable activity

Relevant 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 'irrelevant' for the purposes of the Act.

Club Premises Certificate - This is a licence granting 'qualifying club' status to specific premises, according to a number of qualifying conditions, including the provision that there are at least 25 members and that alcohol is only supplied by or on behalf of the club.

Designated Premises Supervisor (DPS) - The Personal Licence Holder named on the Premises Licence as being in day-to-day control of the premises through whom all alcohol sales must be authorized.

Hearing - When an application for a new licence or to vary an existing licence goes to a Licensing Sub- Committee for consideration.

Objection notice - A procedure whereby the Police can object to the grant of a premises licence, variation for a premises licence or personal licence or to a Temporary Event Notice. (See also Relevant representation)

Personal Licences - licence granted to an individual and authorises that person to supply alcohol or authorise the supply of alcohol in accordance with a premises licence. The licence lasts for 10 years and can be renewed.

Premises Licence - A licence granted in relation to specific premises and will specify the nature of the licensable activity and any applicable conditions.

Regulated entertainment - Regulated entertainment covers the provision of entertainment or of entertainment facilities.

In order for the provision of entertainment or entertainment facilities to be regulated, the entertainment or entertainment facilities must be provided:

- For members of the public or a section of the public; or
- For members of a regulated club or their guests; or
- At a charge with the intention of making a profit.