



COTSWOLD
DISTRICT COUNCIL

THE LICENSING ACT 2003
STATEMENT OF LICENSING POLICY

2016/21

7 JANUARY 2016

PREAMBLE

By virtue of the Licensing Act 2003 (the Act) Cotswold District Council (the Council) as the Licensing Authority has responsibility for the licensing of all premises in the Cotswold District (the District) that sell alcohol, provide regulated entertainment or serve hot food or drink to the public between 23.00 and 05.00. In addition the Council must issue Personal Licences to persons responsible for the retail sale of alcohol and accept Temporary Event Notifications from persons requiring occasional permissions for activities licensable under the Act.

To comply with the legislation, Licensing Authorities must publish a Licensing Policy that sets out the position in relation to its duties under the Act to guide its work in implementing the Act. The Council welcomes the powers granted to it by the legislation and will continue to use them, in consultation with 'Responsible Authorities' (e.g. Police, Fire Service, Planning, Environmental Health etc), licensees, local businesses and residents, in a socially responsible way.

This document is the fifth Licensing Policy Statement to be consulted upon by the Council. The Council will consult widely on this issue as it affects a very large number of people in the District (e.g. licensees, residents and businesses) as well as statutory agencies and the like.

This Licensing Policy has been drawn together based on the last edition with some updates where appropriate and reflects the local balance between the commercial interests of the licensed trade and the communities they serve and impact upon. The Act requires the Council to revise and re-publish the policy every five years. This Policy will come into force on 07 January 2016.

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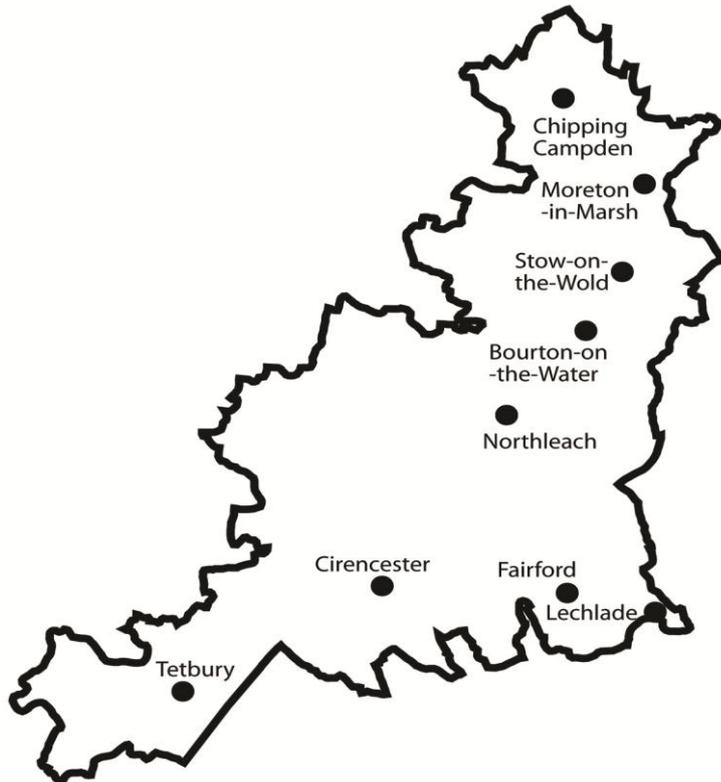
Further copies may be obtained from the above address or from the Council's website www.cotswold.gov.uk

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1. INTRODUCTION

1.1 The Council is one of six district councils within Gloucestershire. The - District is mainly a rural area based around 9 market towns Cirencester, Bourton-on-the-Water, Chipping Campden, Fairford, Lechlade, Moreton-in-Marsh, Northleach, Stow-on-the-Wold and Tetbury and has a population of 84,000. A map of the area [450 sq miles] is shown below:



2.0 THE LICENSING ACT 2003

2.1 The the Council is responsible under the Act) for the licensing of 'licensable activities' within its area. The licensable activities that are required to be licensed under the Act are:

- the retail sale of alcohol (including via the internet or mail order);
- the wholesale of alcohol to members of the public;
- the supply of alcohol to members of registered clubs;
- the provision of regulated entertainment in the presence of an audience including the performance of a play; film exhibitions; indoor sporting events; boxing or wrestling events (indoor and outdoor); performing live music and playing recorded music (except incidental music); dance performances and entertainment of similar descriptions;
- the provision of facilities for making music;
- the provision of facilities for dancing;

- the supply of hot food or hot drink between 11.00 p.m. and 5.00 a.m. ('late night refreshments').

2.2 The Act imposes a duty on the Council to produce, develop and review a Statement of Licensing Policy that sets out the policies which the Council will generally apply to promote the licensing objectives when making decisions under the Act. The Council, as the licensing authority, will actively seek to promote the four statutory licensing objectives that are set out in section 5 of the Act, which are as follows:

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

Each objective is of equal importance and the Council's policy relating to each of them is given in this Statement of Licensing Policy. Where the Council receives relevant representations regarding an application from a "Responsible Authority" or an "other person", thereby invoking the Council's discretion to consider the matter, the Council may consider attaching conditions to licences to promote the licensing objectives as appropriate. 'Other Persons' may include any of the following:-

- Residents living near the premises
- Persons with an interest in the premises or locality
- Local Councillors
- Businesses with an interest in the premises or locality
- Organisations with an interest in the locality, premises or licensable activities

2.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and with regard to the Guidance issued by the Home Office under Section 182 of the Act. The Policy will take effect on 7th January 2016 and will remain in force for a period of not more than five years. A review and further consultation will be carried out no later than Autumn 2020. If any amendments to the Statement of Licensing Policy are needed before the review period they will only be made following consultation with those parties referred to in paragraph 1.4 below.

2.4 There are a number of groups who have an interest in the licensing of premises under the Act, including the licensed trade, customers, residents, local councillors and enforcing agencies. All these parties have views and concerns that require consideration as part of the licensing function. Before publishing the Statement of Licensing Policy and any amendments to it, the Council as licensing authority will consult with Gloucestershire Police; Gloucestershire Fire and Rescue Service; the Council's Development Control and Public Protection Services, bodies representing local holders of personal licences, premises licences and club premises certificates; and local businesses and residents in the District. In addition, the Council may also consult with other local bodies and agencies as appropriate.

2.5 The Act introduces a unified system of regulation for the sale and supply of alcohol, and the provision of regulated entertainment and late night refreshment. Nothing in this Policy will prevent any person from exercising their rights under the Act as an applicant or objector. The Council's aim is to uphold the licensing objectives whilst facilitating well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.

2.6 In drawing up and reviewing this policy the Council must consult with:-

The Chief Officer of Police for the area;
 The Fire and Rescue Authority for the area;
 Persons/bodies representative of local holders of premises licences;
 Persons/bodies representative of local holders of club premises certificates;
 Persons/bodies representative of local holders of personal licences; and
 Persons/bodies representative of businesses and residents in its area.

In addition the Council will seek to identify and consult with other organisations and individuals who may be affected by this policy in an attempt to ensure that a balanced policy is achieved.

The Policy Statement and future drafts for consultation will be placed on the Council's website which can be found at www.cotswold.gov.uk. Letters will be sent to advise those considered to have an interest informing them of this and that hard copies can be obtained on request if necessary.

- 2.7 The Council's aim is to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents. To this end, conditions attached to the various permissions granted under the Act will be focussed on matters within the control of the individual licensees and others granted relevant permissions.
- 2.8 Licensing law is not the primary mechanism for the general control of nuisance and anti social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be a part of a holistic approach to the management of the evening and night-time economy in town and city centres. Therefore, as a matter of policy the Council expects every holder of their licence, certificate or permission to be responsible for minimising the impact of their activities and anti social behaviour by their patrons within the vicinity of their premises.
- 2.9 Licensed premises, especially those offering late night entertainment, alcohol and refreshments, can sometimes be a source of crime and disorder, nuisance and public safety concerns. The Council will expect Operating Schedules to satisfactorily address these issues from the design of the premises through to the way that they are to be operated on a day to day basis. The Council understands and expects that the primary responsibility for controlling activities on and in the immediate vicinity of their premises shall rest with all holders of a licence, certificate or permission.
- 2.10 When applications are considered by the Council following receipt of relevant representations, they will be considered on individual merits with regard to this Statement of Licensing Policy. It will seek to balance the needs of the wider community, local community and commercial premises and activities, against the needs of those who may be concerned about the adverse impacts for licensed premises. The views of vocal individuals or groups will not necessarily prevail over the general interests of the community.
- 2.11 The Council recognises the need to encourage and promote cultural events which may include live music, dancing and theatre, for the wider cultural benefit of communities. Where such events include regulated entertainment, particularly live music, the Council will seek to balance any concerns over disturbance with the wider cultural benefits.

- 2.12 The Council will work in partnership with other local authorities in Gloucestershire to ensure a consistent approach is taken to licensing matters whilst respecting the differing needs of the individual communities.
- 2.13 Where it is necessary to depart from the Home Office Guidance, either in this Policy or at any other time, the Council will give clear and sound reasons for doing so.

3. THE LICENSING PROCESS

- 3.1 One of the major principles in the Act is that the licensing functions contained within it should be delegated to an appropriate level to ensure speedy, efficient and cost effective service delivery.
- 3.2 The Council will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide an efficient service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub-Committees to deal with those matters.
- 3.3 The Act creates a presumption that applications will be granted where no relevant representations or objections are made. Where decisions and functions are largely administrative and are not contentious, including those applications for which no relevant representations or objections are made, then and in the interests of efficiency and effectiveness these are delegated to Officers. Attached at Appendix A to this Statement of Licensing Policy is a Table of Delegated Functions setting out the agreed delegation of decisions and functions to the Council's Licensing Committee, Sub-Committees and Officers. These delegations will not prevent Officers from referring an application to a Sub Committee or the Licensing Committee, or a Sub Committee referring a matter to the full Licensing Committee if it is considered appropriate in the individual circumstances of the case.
- 3.4 The Act requires all applicants for new and varied premises licences and club premises certificates to state the steps that they propose to take to promote the licensing objectives in their Operating Schedule.
- 3.5 It is recommended that applicants make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime and disorder strategies and to take account of these, where appropriate, when formulating their Operating Schedule.
- 3.6 Operators of licensed premises will have to comply with planning, environmental health, fire safety, licensing and building control legislation when opening or adapting licensed premises.
- 3.7 Where relevant representations have been received from responsible authorities or other person, the Council will consider whether it is necessary, having regard to the representations, to modify the conditions proposed in the operating schedule. In such cases, the Council will seek to impose the minimum burden which is necessary in order to promote the licensing objectives in the individual case.
- 3.8 Where relevant representations are received and upheld, the Council will seek to avoid confusion and duplication by not imposing licence conditions that are required under other legislation, except where they can be exceptionally justified to promote the licensing objectives.
- 3.9 This overlap will principally apply to fire safety, health and safety or planning matters.
- 3.10 In accordance with Guidance issued by the Home Office (para 10.4 in particular) applicants are advised to undertake a risk assessment before preparing their applications. This should be translated into the steps recorded in the Operating Schedule that it is proposed to take to promote the licensing objectives.
- 3.11 Where relevant representations are received applications will be considered on their individual merits and decisions made in relation to licensing applications will be made

entirely separately from any decision in relation to planning. The Council also recognises the need to avoid, so far as possible, duplication with other regulatory areas.

- 3.12 Some regulations do not cover the unique circumstances of some entertainment. Where relevant representations are received, and upheld, the Council will consider attaching conditions to premises licence and club premises certificates where these are necessary to promote the licensing objectives and are not already provided for in any other legislation.
- 3.13 In circumstances where conditions are imposed, they will be tailored to the individual style and characteristics of the premises and events concerned. In addition, the Act prescribes mandatory conditions in certain circumstances.
- 3.14 Minor Variation applications are restricted to licence changes that will not impact adversely on the licensing objectives. The Council may consult with any Responsible Authority deemed appropriate to the application. Other persons may make representations but there is no right to a hearing. Licensing officers have delegated powers to determine applications made under the Minor Variations process and any decisions made will be based on whether or not the proposed variation will impact on any of the Licensing Objectives.
- 3.15 Applications can be made by community premises to remove the mandatory condition under the Act requiring a Designated Premises Supervisor in premises where alcohol is sold. Where an application of this nature is made, the Council must be satisfied that the premises is operating as a community premises and that the management committee has the capacity to provide sufficient supervision of the premises to minimise any risk to the four licensing objectives.
- 3.16 Additional information relating to the licensing application process is contained within Appendix B to the statement of Licensing Policy.

How this policy applies

- 3.17 All applications for new premises licences or variations need to be supported by an Operating Schedule. The Schedule must specify (among other things) the steps which the applicant proposes to promote each of the licensing objectives.
- 3.18 If no responsible authority or interested person lodges an objection (known as a “relevant representation”) to the application, the Council must grant the application as set out in the operating schedule, subject only to mandatory conditions under the Act. The steps proposed by the applicant will become licence conditions. The Council will have no discretion to refuse the application or to alter or add to the conditions arising from the operating schedule.
- 3.19 Where, however, there are relevant representations, then a hearing before a Licensing Sub-Committee will normally follow. After the hearing, the Sub-Committee must, having regard to the representations, take such steps as it considers necessary to promote the licensing objectives. These may include refusing the application, or adding to or modifying the conditions proposed in the operating schedule.
- 3.20 In exercising its discretion, the Licensing Sub-Committee will have regard (amongst other things) to this Licensing Policy. Therefore, in drawing up their Operating Schedule, applicants would be well advised to read this Policy carefully. Where an Operating Schedule complies with this Policy, it is generally less likely that an other person or responsible authority will object to it, or that any objection will succeed. Therefore, compliance with this Policy is likely to assist the applicant to avoid the delay and expense of a contested licensing hearing, and the risk of a refusal or the addition of unwanted licence conditions.

- 3.21 This is not to say that an application which complies with the Policy will necessarily be granted or that an application which does not comply with it will necessarily be refused. Where there have been relevant representations, the Council will always consider the merits of the case, and interfere with the operating schedule only when, and to the extent, necessary to promote the licensing objectives. Nor will blanket or standard conditions be applied without regard to the merits of the individual case. For example, the Council will not interfere with an Operating Schedule which does not comply with this Policy where the steps proposed are sufficient to meet the licensing objectives in the individual circumstances of the case.
- 3.22 However, the Policy represents the Council's view of the best means of securing the licensing objectives in most normal cases. It has been drawn up in consultation with other expert bodies and responsible authorities, together with community stakeholders. While the contents of the Operating Schedule are a matter for the applicant, where there is objection to a Schedule which departs from the Policy, the Licensing Sub-Committee will normally expect to be given a good reason for the departure if it is to be asked to make an exception to the Policy.
- 3.23 In this Policy, there are a number of references to the Council's requirements of applicants. As explained above, the Policy is only engaged where the Council has a discretion following the receipt of objections. In such cases, the Council will not apply the Policy rigidly, but will always have regard to the merits of the case with a view to promoting the licensing objectives.
- 3.24 Where considering an application for review of a licence, the Council is likely to view with concern premises which are being operated in clear breach of the terms of this Policy.
- 3.25 The contents of this section apply both to premises licences and club premises certificates.

THE LICENSING POLICY OBJECTIVES

4. PREVENTION OF CRIME AND DISORDER

- 4.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can sometimes if not properly managed be a source of public nuisance generating crime and disorder problems. In its role as the licensing authority, the Council will recommend that licensees of premises develop Operating Schedules that satisfactorily address these issues from the design of the premises through to the daily operation of the business.
- 4.2 In addition to the requirements for the Council to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1988 to do all it reasonably can to prevent crime and disorder in the District. The Council recommends applicants consider what actions they can take in the management of their premises that will contribute towards the reduction of crime and disorder and their responsibilities to the community in general when engaged in their activities and trading as licensed premises.
- 4.3 In developing such Operating Schedules applicants should take notice of this Policy, its contents and appendices and where appropriate are recommended to seek advice from the Council or Gloucestershire Police Licensing Unit. When planning and preparing Operating Schedules applicants may take into account local planning and transport policies, tourism, cultural and crime and disorder reduction strategies as appropriate.
- 4.4 Where, following receipt of a relevant representation, the Council's discretion is engaged it will when making its determination take into account the measures proposed by the applicant to prevent crime and disorder. The Council may give particular consideration to the following:
- i. the ability of the person in charge of the premises to monitor the premises at all times that it is open;
 - ii. the training given to staff regarding crime prevention measures for the premises;
 - iii. physical security features installed in the premises (e.g. position of cash registers, CCTV, toughened drinking glasses etc.);
 - iv. management attitudes (e.g. responsible pricing promotions and willingness to stagger trading);
 - v. that when appropriate approved trained and registered door supervisors are employed to regulate entry and prevent disorderly behaviour (e.g. Night Clubs, Pubs and Clubs on Fridays and Saturdays, Christmas Eve, New Years Eve and evenings when it may be reasonable to expect higher than normal clientele numbers – transmission of high profile rugby football and football matches or sporting events etc.
 - vi. any other measure as may be appropriate (e.g. participation in local Pubwatch and/or Shopwatch schemes or 'Behave or be Banned (BOBS), restrictions on 'happy hours', music wind-down policies);
 - vii. the measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
 - viii. arrangements for transport to get people home during the evening and at closing times.
 - ix. Where the premises are subject to age restrictions, the procedures in place to conduct age verification checks (e.g. Validate, Portman Group, Prove It; Photo Drivers Licence, Passports etc.)
 - x. The location of the premises and the likelihood of any anti-social behaviour, violence, public order or policing problems if the licence is granted.
 - xi. Shops, stores and supermarkets wishing to sell alcohol by retail sale will normally be permitted to match their permitted hours to their normal trading hours unless there

are reasons relating to the prevention of crime and disorder for restricting those hours.

This approach is reflected in Annexes D – H in the Home Office Guidance on the Act. These include conditions relating to crime and disorder that can be drawn upon should the particular circumstances of a premises licence or club premises certificate make this appropriate. The Council will give considerable weight to any representations made by Gloucestershire Police in determining any application for a licence and whether or not the use of any of these conditions is appropriate.

- 4.5 The Council will not apply standardised conditions but will in respect of each case where relevant representations have been received and upheld consider whether any of the conditions set out below are necessary and proportionate:
- i. Certain premises, particularly those licensed to sell alcohol beyond 11pm in the town centres, may be required to install a closed-circuit television system that meets with the approval of the Police.
 - ii. Premises licensed to sell alcohol beyond 11pm in Cirencester may be required to become members of the Pubwatch scheme, and to become a part of the Pubwatch radio system in order to alert other premises of potential trouble makers.
 - iii. Applicants for late-night entertainment and liquor premises should comply with the Home Office Guidance 'Safer Clubbing' in relation to the control of illegal drugs on their premises. They should agree a protocol with the police on the handling of illegal drugs found on their premises.
 - iv. Any door supervisors employed on licensed premises must be licensed by the Security Industry Authority. It is recommended that pubs and clubs that wish to sell alcohol beyond 11pm employ registered door supervisors. The Council's general expectation is that one door supervisor must be employed for every 100 people likely to be present in the premises, it may be appropriate for some premises to employ door supervisors each night of the week whereas others may only require them at weekends.
 - v. Licences for any form of public entertainment may be subject to conditions to prohibit entertainment (including film exhibitions) which are likely to lead to disorder, or stir up hatred or incite violence towards any section of the public on the grounds of colour, race, ethnic or national origin, disability, religious beliefs, sexual orientation or gender.
- 4.6 Where there is evidence that a particular area of the District is already suffering adverse effects on the licensing objectives from the concentration of late night premises, when determining any further application for premises within the area identified when relevant representations have been received and upheld the Council will take into account:
- The character of the surrounding area;
 - The impact of the licence on the surrounding area, both individually and cumulatively with existing licences; and
 - The nature and character of the proposed operation.
- 4.7 The Licensing Committee's starting point is in terms of seeking a reduction in crime and disorder throughout the District, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998, and an improvement in local amenity through reduction of anti social behaviour.

5. PUBLIC SAFETY

- 5.1 The Act covers a wide range of premises that will present a mixture of risks to public safety, some of which may be common to different premises whilst others will be unique to specific operations.
- 5.2 Where the applicant can demonstrate compliance with statutory requirements (e.g. relating to fire prevention etc), and that suitable and sufficient risk assessments are in place which are relevant to the activities proposed and the Council's discretion has been engaged by the receipt of a relevant representation, the Council will not normally seek to duplicate such controls by the imposition of licensing conditions.

Capacity limits

- 5.3 The Council will not seek to set a capacity limit for premises for fire safety purposes only as this is controlled by the Fire Service under the Regulatory Reform (Fire Safety) Order 2005.
- 5.5 The Council is however, committed to ensuring public safety especially in relation to premises providing regulated entertainment and in some cases a capacity limit may be relevant to the Licensing Objectives.
- 5.5 The identification of a safe capacity limit for premises ensures that persons can be evacuated safely from premises in cases of emergency and may be one means of promoting the Act's public safety objective. The design and layout of premises are important factors when determining a safe occupant capacity. Other factors that may influence safe occupancy limits and may need to be considered when assessing the appropriate capacity for premises or events include;
- the nature of the premises or event;
 - the nature of the licensable activities being provided;
 - the provision or removal of such items as temporary structures, such as a stage, or furniture;
 - the number of staff available to supervise customers both ordinarily and in the event of an emergency;
 - the age spectrum of the customers;
 - the level and frequency of attendance by customers with disabilities, or who may be unable to speak or understand English;
 - availability of suitable and sufficient sanitary facilities;
 - nature and provision of facilities for ventilation.
- 5.6 The Council requires applicants for premises licences that provide regulated entertainment (or any other premises providing a licensable activity where occupant capacity may be a fire safety issue) to seek advice regarding safe occupancy levels from the Fire Safety Section of Gloucestershire Fire and Rescue Service.
- 5.7 Where following receipt of a relevant representation the Council's discretion has been engaged, and it believes it is necessary to impose a condition identifying an occupancy limit on a premises licence, the Council will liaise with Gloucestershire Fire and Rescue Service. http://www.glosfire.gov.uk/csafety_fsra_licguidance.html

6. PREVENTION OF PUBLIC NUISANCE

- 6.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can sometimes cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 6.2 The Council in its role as the licensing authority, is keen, where it is able, to protect the amenity of residents and businesses in the vicinity of licensed premises, and for these purposes 'vicinity' is taken to mean the immediate area around licensed premises. As the Council is fully aware of the importance of the licensed trade to the local economy and its culture and leisure aspirations, it will aim to work together with all other persons, statutory agencies and licensed businesses to ensure a mutual and productive co-existence.
- 6.3. When considering licence applications, where relevant representations have been received the Council will take into account measures proposed by the applicant to promote the prevention of nuisance and/or anti-social behaviour. In particular the Council may consider the following matters, where relevant:
- prevention of noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices (e.g. the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices);
 - preventing disturbance by customers arriving at or leaving the premises, particularly between 11pm and 7am;
 - preventing queuing by pedestrians or vehicular traffic, or if some queuing is inevitable then ensuring the queues are diverted away from neighbouring premises, or are otherwise managed, to prevent disturbance or obstruction;
 - ensuring staff leave the premises quietly;
 - arrangements for parking by patrons and staff, and the effect of the parking on local residents;
 - provision for public transport (including taxis and private hire vehicles) for patrons;
 - whether licensed taxis or private hire vehicles are likely to disturb local residents;
 - whether routes to and from the premises on foot, by car or other services pass residential premises;
 - the installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship;
 - the use of gardens and other open-air areas;
 - the location of external lighting, including security lighting that is installed inappropriately;
 - other appropriate measures to prevent nuisance, (e.g. registered door supervisors, the use of CCTV);
 - how the premises address refuse storage or disposal problems, or additional litter (including fly posters and illegal placards);
 - the history of previous nuisance complaints proved against the premises, particularly where statutory action has been taken.
- 6.4 The Council is keen to stress, however, that as well as the licensing function there are other mechanisms for addressing issues of unruly behaviour that occur away from licensed premises. These include:
- planning controls;
 - powers to designate parts of the District as places where alcohol may not be consumed publicly and the confiscation of alcohol in these areas;
 - police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;

- police enforcement of the normal law with regard to disorder and anti-social behaviour;
- the power of the police, other responsible authorities, or a local business or resident to request a review of the licence or certificate;
- enforcement action against those selling alcohol to people who are already drunk.

7. PROTECTION OF CHILDREN FROM HARM

7.1 In its role as the licensing authority the Council recognises that there are a range of activities for which licences may be sought meaning that children can be expected to visit many of these premises, often on their own, for food and/or other entertainment. The Act only prohibits unaccompanied children (persons aged under 16) from visiting certain licensed premises. The Council recognises that locally, limitations may have to be considered where it is deemed necessary for the prevention of physical, moral or psychological harm. The following are examples of premises that may raise concerns:

- where there have been convictions for serving alcohol to minors, or with a reputation for under-age drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is provided;
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises;
- where there is a presumption that persons under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held).

7.2 The Council expects personal licence holders to ensure that they do not serve alcohol to persons under the age of 18, except in limited conditions allowed for by law. The Council recommends that the only way to verify a person's proof of age is with reference to appropriate identification such as:-

- passport
- a photocard driving licence issued in a European Union country;
- a Proof of Age Standards Scheme card (e.g. PASS Card);

7.3 Where relevant representations have been received and upheld, when deciding whether to limit the access of children to premises the Council will judge each application on its own merits. To assist with this the Council will consult with Gloucestershire Police and other agencies as appropriate, including the Area Child Protection Committee or Social Services Department. Where concerns have been identified in respect of individual premises and it is felt that access to the premises by children should be restricted the options available would include:

- limitations on the hours when children may be present;
- age limitations for persons under 18;
- limitations on the exclusion of children under certain ages when specified activities are taking place;
- full exclusion of persons under 18 when certain licensable activities are taking place;
- limitation of access to certain parts of the premises for persons under 18;
- a requirement for an accompanying adult to be present.

This list is not meant to be seen as an exhaustive list covering everything, but gives applicants examples of the conditions the Council may seek to impose in meeting its obligation towards the protection of children.

7.4 The Council will not impose any conditions that specifically require the access of children to the premises.

7.5 Where no conditions or restrictions are imposed, the issue of access for children remains a matter of discretion for individual licensees or clubs, or a person who has been given a Temporary Event Notice. The Act does not impose any restrictions on individual applicants

volunteering prohibitions or restrictions in their Operating Schedules because their own risk assessments have shown that the presence of children is undesirable or inappropriate. In the absence of any relevant representations the volunteered prohibitions or restrictions would become conditions of the licence or certificate.

- 7.6 The Act details a number of offences that are designed to protect children in licensed premises and the Council will work closely with the Police and Trading Standards Services to ensure appropriate and effective enforcement, particularly in relation to the sale and supply of alcohol to children.
- 7.7 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age ranges. In order to prevent children from seeing such films, the Act provides that licences/club premises certificates which authorise the display of films are subject to a mandatory condition requiring licensees to restrict access to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or the Council itself.
- 7.8 The Council will expect licensees to ensure that age restrictions for film exhibitions are properly complied with.
- 7.9 In considering applications where relevant representations have been received and upheld the Council will take into account any evidence that age restrictions for film exhibitions are not being properly observed.
- 7.10 The Council recognises that some licensees may wish to hold functions or provide facilities targeted specifically towards children (under 16's Disco's, children's parties, supervised crèche/play areas etc).
- 7.11 In considering applications where relevant representations have been received and upheld the Council will take into account an applicant's Child Protection Policy and measures highlighted within that policy to secure child protection.

NB Gloucestershire County Council Social Services is the responsible authority with regard to the protection of children from harm.

8. CUMULATIVE IMPACT

- 8.1 The Council, as licensing authority, will not take “need” into account when considering an application as this relates to the commercial demand for another pub, hotel or restaurant and is not a matter for a licensing authority. On the other hand, the ‘cumulative impact’ of licensed premises or the promotion of the licensing objectives is a matter for the Council, as the licensing authority, to consider.
- 8.2 The Council recognises that potentially the cumulative impact of a number of late night premises in some areas may result in an increase of people either walking through, or congregating in, streets during the night. This may in turn have a number of undesirable consequences, for example;
- an increase in crime against property and/or person(s);
 - an increase in noise causing disturbance to residents;
 - traffic congestion and/or parking problems;
 - littering and fouling.
- 8.3 This may result in the amenity of local residents in some areas being placed under pressure. It will not always be possible to attribute a particular problem to customers of particular premises. Consequently, whilst enforcement action may be taken to ensure conditions are complied with, this may not resolve all the problems as licence conditions can only relate to matters that the licensee can be expected to control in relation to the carrying on of licensable activities.
- 8.4 Where there is evidence that a particular area of the District is already suffering adverse effects from the concentration of late night premises, when determining any further application for premises within the area identified the Council will take into account:
- the character of the surrounding area;
 - the impact of the licence on the surrounding area, both individually and cumulatively with existing licences;
 - the nature and character of the proposed operation.
- 8.5 The Council will consider representations on the impact on the promotion of licensing objectives when determining the grant of any particular application before them. The onus would, however, be on the objector to provide evidence to support any assertion that the addition of the premises in question would produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics.
- 8.6 The Council recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the community.
- 8.7 There is currently insufficient evidence to demonstrate that any particular concentration of licensed premises within the District is causing a cumulative impact on one or more of the licensing objectives requiring the Council to adopt a special policy of refusing new licences or restricting applications to vary the licensable activities of existing licensed premises.
- 8.8 Similarly there is currently insufficient evidence to demonstrate that an Early Morning restriction order is required in this district
- 8.9 The Council has not adopted a Late Night Levy.

8.10 The situation will be kept under review throughout the period that the Licensing Policy is in force with a view to collecting suitable evidence and then incorporating a special policy if appropriate.

8.11 Other mechanisms for controlling cumulative impact

The Council will encourage the use of other mechanisms for controlling problems caused by customers behaving badly and unlawfully once away from licensed premises. For example:-

- Planning controls.
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council.
- The provision of CCTV surveillance in town centres
- Cirencester is subject to Designated Public Places Orders (to be replaced by Public Spaces Protection Orders under Anti-Social Behaviour, Crime and Policing Act 2014) as being places where alcohol may not be consumed publicly except where there is authorisation under the Act
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices for relevant offences.
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
- The confiscation of alcohol from adults and children in designated areas, within the limits of current legislation.
- Police powers to close down instantly, for up to 24 hours, any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance.
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

9. LICENSING HOURS

- 9.1 When dealing with licensing hours, each application will be dealt with on its individual merits. The Council recognises the variety of premises for which licences will be sought and that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when people tend to leave licensed premises at the same time.
- 9.2 Unless there are good reasons to the contrary on the grounds of public disorder or crime prevention, shops, stores and supermarkets that sell alcohol will be permitted to do so during the times that they would ordinarily sell other goods. It would be for interested persons or the responsible authorities to prove why this should not be so in any particular case. There may, however, be instances where it is considered that there are good reasons for restricting those hours, for example, where police representations are made in respect of isolated shops known to be the focus of disorder and public nuisance. In order to ensure that objections are not wrongly classified as frivolous or vexatious evidence of issues should be provided by objectors.
- 9.3 The Council will have a flexible approach to opening hours and will generally deal with the issue of licensing hours having due regard to the individual merits of each application in the light of relevant representations received. The Council will take into account requests for terminal hours in the light of the:
- environmental quality;
 - residential amenity;
 - character or function of a particular area; and
 - nature of the proposed activities to be provided at the premises.

Where relevant representations have been received and upheld consideration may, however, be given to imposing stricter controls on noise and disturbance from particular licensed premises, such as those in mainly residential areas.

- 9.4 The Council will not normally set fixed trading hours within designated areas. Stricter conditions with regard to noise control may be demanded in areas that have denser residential accommodation, but this will not normally be considered as a reason to limit opening hours without regard to the individual merits of any application.
- 9.5 Generally the Council sees staggered trading hours as being helpful to the dispersal of patrons from licensed premises, particularly late at night. This removes some of the friction caused by sudden excessive peaks of demand at fast food outlets, taxi ranks and so on.
- 9.6 In keeping with established best practice, the Council encourages applicants in respect of Town Centre premises to include in their Operating Schedule a Closed Door Policy on New Years Eve if operating hours past 12.00 midnight are proposed; the effect of the Closed Door Policy to be to prohibit admission or re-admission to the premises after 11.30pm with a view to reducing disorder and disturbance to members of the public late at night.

10. PROMOTION OF EQUALITY

- 10.1 The Council recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good

relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

- 10.2 Public authorities are required to publish information at least annually to demonstrate their compliance with the equality duty. The Council is firmly committed to providing and promoting equality for all its employees, service users and the wider community. Further information and data is provided on the Council's website.

Access And Evacuation For Persons With Disabilities

- 10.3 Disabled people have the right to access services. There are clear legal responsibilities under the Disability Discrimination Act 1995, requiring all service providers to make reasonable adjustments to enable disabled persons to access the service thereby ensuring that disabled people are not discriminated against.

11. ENFORCEMENT AND COMPLAINTS

- 11.1 The Council recognises the contribution that can be made by developing effective working practices with its partner agencies. The Council will establish enforcement protocols with the Gloucestershire Constabulary, Gloucestershire Fire and Rescue Service and other relevant partnership agencies to ensure efficient deployment of the Council's enforcement staff and thereby avoiding duplication of effort when carrying out inspection or enforcement matters.

- 11.2 The Council recognises that there are a number of mechanisms for addressing unlawful or anti-social behaviour that occurs away from licensed premises, qualifying clubs and temporary events which include -

- Planning controls
- Enforcement of Environmental Protection legislation (e.g. on noise nuisance)
- Positive measures to provide a safer and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council.
- Powers to designate parts of the District as places where alcohol may not be consumed publicly
- Police enforcement of the law with regard to disorder and anti-social behaviour, including the issue of fixed penalty notices
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- Police powers to confiscate alcohol from adults and other in designated areas
- 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 excessive noise emanating from the premises
- The power of police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.

- 11.3 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 monitor premises and take any appropriate enforcement action to ensure compliance.

- 11.4 All decisions and enforcement actions taken by the Council will be in accordance with the Council's Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat.
- 11.5 The Council may when appropriate employ licensing enforcement officers to investigate allegations of unlicensed activities and to ensure that licence conditions are complied with, and will seek to work actively with the Gloucestershire Police in enforcing licensing legislation.
- 11.6 The Council will continue to work with its partner agencies in enforcing the licensing laws and in the inspection of premises to ensure the licensing objectives and licence conditions are met. In particular the Council will target its inspection process proportionally towards those premises that are considered as 'problematic' and 'high risk' premises requiring greater attention, while providing the minimal input in respect of low risk premises that are run well.
- 11.7 In undertaking the inspection of licensed premises the Council will promote the following categories of risk weighting:
- Town Centre Public Houses and Night Clubs - Medium to High Risk (dependant upon history).
 - All other Public Houses - Low to Medium Risk (dependant upon history)
 - Premises where there is 'regulated entertainment' as defined by the Act, including auditoria, social clubs and meeting halls as well as pubs, clubs and theatres - medium to high risk (dependent upon history)
 - Town Centre Late Night Refreshment Houses - Medium to High Risk (dependant upon history)
 - All other premises where the primary purpose is serving food - Low Risk (dependant upon history)
 - All other existing sites within the district - Low Risk (dependant upon history)
 - New sites not listed above - to be assessed dependant upon location and style of operation and operators.
- 11.8 The Council is prepared to investigate complaints against licensed premises of any description. In the first instance, complainants will be encouraged to raise the complaint directly with the licensee or business concerned.
- 11.9 Where an other persons (such as a local resident, or a resident's association) has made a valid representation about licensed premises or a valid application for a licence to be reviewed, then the Council will initially arrange a mediation meeting to address, clarify and try to resolve the issues of concern.
- 11.10 The Council can only review a licence where it is alleged that the licensing objectives are being breached. It views particularly seriously applications for the review of any premises licence where it involves the:
- use of licensed premises for the sale distribution of Class A drugs and the laundering of the proceeds of drugs crimes.
 - use of licensed premises for the sale distribution of illegal firearms
 - evasion of copyright in respect of pirated films and music.
 - Underage purchase and consumption of alcohol
 - Use of licensed premises for prostitution or the sale of unlawful pornography
 - Use of licensed premises for unlawful gaming.
 - Use of licensed premises as a base for organised criminal activity.
 - Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks.

- Use of licensed premises for the sale of smuggled tobacco or goods.
- The use of licensed premises for the sale of stolen goods.
- Where the police are frequently called to attend to incidents of disorder.
- Prolonged and/or repeated instances of public nuisance.
- Where serious risks to public safety have been identified, for example breach of health and safety standards or fire safety standards, and the management is unable or unwilling to correct those.
- Where serious risks to children have been identified.

11.11 This process will not override the right of any other person to ask the Council's Licensing Committee to consider their valid objections, or for any licence holder to decline to participate in a mediation meeting.

NB A copy of the Council's Enforcement Policy is available on the Council's website (www.cotswold.gov.uk).

12. TEMPORARY EVENT NOTICES

- 12.1 The Act provides for certain occasions when small scale events (for a maximum of 500 people at a time and lasting for no more than 168 hours) do not need a licence providing that advance notice is given to the police, Environmental Health and the Licensing Authority.
- 12.2 The Council strongly recommends that at least three months' notice be given to hold these events, to allow it to help organisers plan their events safely. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard. **The law states that at least ten working days notice must be given,** however, an early informal approach to the police is welcomed.
- 12.3 Ten working days commences with the day after the notification is given to the Council and finishes the day before the event is due to take place. 'This means that day one will be the first working day following the day when the Temporary Event Notice is given to the Council and the tenth working day must not be later than the day before the event is due to take place.'
- 12.4 In certain circumstances a Late Temporary Event Notice can be given this is to assist premises users who are unable to give ten working days notice for reasons outside their control. A Late Temporary Event Notice can only be accepted if it is received at least five days before the beginning of the event.
- 12.5 The Council may refer applicants to an Event Safety Advisory Group, consisting of the emergency services and other statutory agencies such as the Highways Authority, to advise and co-ordinate planning for public events in the District, whether or not a premises licence or a temporary event notice is needed.
- 12.6 Organisers of temporary events are strongly advised to contact the Council for advice at the earliest opportunity when planning events. Where necessary discussions will be held with the police and Environmental Health to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.
- 12.7 All events run under the terms of a temporary event notice which may be visited by a Licensing and Enforcement Officer of the Council , if considered necessary.

11. FURTHER INFORMATION AND CONTACT DETAILS

11.1 For further information about the Council's Licensing Policy, the Act and any other licensing matters applicants and other other persons should please contact:-

The Licensing Section
Cotswold District Council
Trinity Road
Cirencester
Glos GL7 1PX

Telephone No.: 01285 623000

Email: licensing@cotswold.gov.uk

Website: www.cotswold.gov.uk

Personal callers are welcomed during office hours but prior appointments should be made where technical advice or information is required to ensure that an Officer is available.

TABLE OF DELEGATED FUNCTIONS

Matter to be dealt with	<u>Full Committee</u>	<u>Sub Committee</u>	<u>Officers</u>
Application for personal licence		If a representation	If no representation
Application for personal licence with unspent convictions		All Cases	
Application for premises licence/club premises certificate	If representation relates to Cumulative impact	If a representation	If no representation
Application for provisional statement	If representation relates to Cumulative impact	If a representation	If no representation
Application to vary premises licence/club premises certificate	If representation relates to Cumulative impact	If a representation	If no representation
Application to vary designated personal licence holder		If a police representation	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police representation	All other cases
Application for interim authority		If a police representation	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 representation to a temporary event notice		All cases	
Application to disapply the mandatory conditions for alcohol sales at community premises		If a police representation is made	All other cases
Application for minor variation to premises licence/club premises certificate			All cases

ADDITIONAL INFORMATION:

General

The Council is committed to determining each application (both for premises and personal licences) on its individual merits and when considering applications, the Council will have regard to

- the Act and the licensing objectives,
- Government Guidance issued under Section 182 of the Act,
- any supporting regulations
- this Statement of Licensing Policy
- the evidence attached to any relevant representations made

This does not however undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the Act.

Personal Licences

Any individual may make application for a personal licence whether or not they have current employment or business interests associated with the use of the licence.

- 1.1 The Council will grant a personal licence if it appears that:
- a) The applicant is over 18.
 - b) The applicant possesses a relevant licensing qualification.
 - c) The applicant has not forfeited a personal licence in the previous five years beginning with the day the application was made.
 - d) The applicant has not been convicted of any relevant offence.
 - e) The applicant has paid the appropriate fee.
- 1.2 In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, applicants will be required to produce to the Council a Disclosure and Barring System Certificate or other.

Premises Licences

- 1.3 An application can be made to the Council for any place used for licensable activities or recognised club activities within its area. Any 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 Designated Premises Supervisor, and a copy of that person's Personal Licence.

The Operating Schedule must include a statement of:

- a) The proposed relevant licensable activities;
- b) The times 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 and for what purpose they propose to be opened.
- 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 (DPS);
- f) Where the relevant licensable activities include the sale by retail of alcohol, whether such sales are proposed to be for consumption on or off the premises, or both;
- g) The steps which the applicant proposes to take to promote the licensing objectives.

Community Premises

- 1.4 These premises which would include church halls, chapel halls, parish halls, village halls, community halls and other similar buildings may be licensed for the sale of alcohol without the need for a Designated Premises Supervisor or Personal Licence Holder provided that the Licence Holder for the premises is a committee or board of individuals with responsibility for the management of the premises. This 'management committee' could then be responsible for the supervision and authorisation of all alcohol sales should it so wish.
- 1.5 Existing premises which fit the definition of Community Premises and currently hold an authorisation for the sale of alcohol with the mandatory condition relating to a Designated Premises Supervisor may request disapplication of this condition in favour of the alternative condition relating to a management committee.

Club Premises Certificates

- 1.6 The Council 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.
- 1.7 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.
- 1.8 A 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 a candidate for membership, to any of the privileges of membership without an interval of at least two days between their nomination or application for membership or 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.

- 1.9 The Club must be established and conducted in good faith as a Club and have a minimum of 25 members.
- 1.10 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.
- 1.11 The Club Operating Schedule **must** contain the following:
- a) Details 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 matters that the Council may prescribe in pursuance of the licensing objectives.
- 1.12 In considering the steps to be taken to promote the licensing objectives the applicant should give consideration to Appendix B of this Policy (Factors for Consideration) and will be expected to undertake a thorough risk assessment with regard to the licensing objectives when preparing their applications.
- 1.13 Applications for Club Premises Certificates will be dealt with in a similar manner as applications for Premises Licences.

Provisional Statements

- 1.14 Applicants for a premises licence may submit either a full premises licence application or may make application for a Provisional Statement. Where premises are being constructed for the purposes of being used for one or more licensable activities or are being extended or otherwise altered for that purpose (whether or not they are already being used for that purpose) a person may apply for a Provisional Statement if they have an interest in the premises and, if an individual, they are aged 18 years or over.
- 1.15 Applications for a Provisional Statement must be accompanied by a schedule of works that includes details of the licensable activities for which the premises will be used; a plan of the premises; and such other information as may be prescribed.
- 1.16 Applications for Provisional Statements will be dealt with in a similar manner as applications for a Premise Licence.
- 1.17 If a Provisional Statement has been issued and the person subsequently applies for a Premises Licence in respect of the premises, a part of them or premises which are substantially the same as the relevant premises (or part of them) and the application is in the same form as the licence described in the application for the Provisional Statement and the work described in the Schedule of Works accompanying the application for that statement has been satisfactorily completed then any representations made by a person shall not be taken into account if:

- a) 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,
- b) There has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.

Variations to Licences

- 1.18 Applications for variations to a premises licence or club premises certificate will be dealt with in a similar manner to new applications. However, the Council may require the submission of an application for a new premises licence where the variation proposed is a substantial change to the existing licence, for example, an increase in area of 30% or more.
- 1.19 Every application received will be considered on its own merits. If no relevant representations are received the licence will be granted subject to such conditions attached as are mandatory under the Act or are consistent with the operating schedule accompanying the application.
- 1.20 Licensing Officers have delegated powers to determine applications made under the Minor Variations process and, as such, these applications are dealt with in a different manner. Any decisions made will be based on whether or not the proposed variation will impact on any of the Licensing Objectives.

Representations re Applications or Variations of Licences

- 1.21 "Responsible Authorities" such as the police, fire and rescue authority, health and safety and environmental health authorities, and others, will be notified of every application for a new premises licence, or variation of existing licences. They will have the opportunity to make representations to the Council about the effect on the promotion of the licensing objectives of the application.
- 1.22 The Act also enables other persons to make relevant representations about any application for new or for variations to licences. 'Other Persons' may include any of the following:-
 - Residents living near the premises
 - Persons with an interest in the premises or locality
 - Local Councillors
 - Businesses with an interest in the premises or locality
 - Organisations with an interest in the locality, premises or licensable activities
- 1.23 If relevant representations are made and not withdrawn the Council will hold a hearing. Following any such hearing the Council having made its determination may:
 - a) Reject the representation
 - b) Modify the conditions of the Licence; or
 - c) Reject the whole or part of the application.
- 1.22 The Licence will not be varied so as to:
 - a) Extend the period for which the Licence has effect; or
 - b) To vary substantially the premises to which it relates.
- 1.23 The Council may vary a Premises Licence so that it has effect subject to different conditions in respect of:
 - a) Different parts of the premises concerned; and

- b) Different licensable activities.

Conditions

- 1.24 The Council may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It may then only impose conditions that are necessary to promote one or more of the four licensing objectives. Such conditions must also be expressed in unequivocal and unambiguous terms to avoid legal dispute. Conditions will only be attached where:
- A relevant representation or representations have been received and;
 - The condition relates to the representation or representations and;
 - The condition is necessary for the promotion of one or more of the four licensing objectives and;
 - The condition is not a 'standard' one, but is tailored specifically to the premises in question and;
 - The condition is proportional to the circumstances and;
 - The condition does not duplicate any other statutory provision or requirement and;
 - The requirement of the condition is within the control of the licensee or;
 - The condition is a mandatory one.
- 1.25 It is perfectly possible that in certain cases, because the test is one of necessity, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives.

Interim Authority Notices

- 1.26 Generally a Licence will remain in force for as long as the Licensee continues to operate the business unless it is revoked or it is specified it has effect for a limited period and that period expires. However, if the holder of a Premises Licence dies, becomes mentally incapable or becomes insolvent then the Licence will lapse.
- 1.27 If, within the 28 day period of such circumstances, a person who had an interest in the premises concerned or is connected to the person whom held the Premises Licence immediately before it lapsed gives the Council an 'Interim Authority Notice' the Licence will be reinstated for a three-month period.
- 1.28 At the end of the three months, the licence will lapse unless an application for a transfer of it is made.
- 1.29 A person is connected to the former holder of a Premises Licence if, and only if:
- a) The person is the personal representative in the event of the holder's death;
 - b) In respect of someone who has become mentally incapable the person is acting under section 6 of the Enduring Power of Attorney Act 1985; or,
 - c) In the event of insolvency the person is acting as an Insolvency Practitioner.
- 1.30 Interim Authority Notices must also be served on the Police. If the Police consider that the grant of an Interim Authority Notice would undermine the prevention of crime objective the Council will arrange a hearing to consider the Notice.

Transfer of Premises Licences

- 1.31 The following persons may apply for the transfer to them of a Premises Licence:
- a) A person whom carries on, or proposes to carry on, a business, which involves the use of a premises for the licensable activities, authorised by the Premises Licence;
 - b) Any person who makes the application in pursuance of one or more of its statutory functions which relate to those licensable activities;
 - c) A relevant Club within the meaning of the Act;
 - d) A charity
 - e) An educational institution;
 - f) A hospital; or
 - g) A person of such other description as may be prescribed.
- 1.32 Notice of the application must be given to the Police.
- 1.33 If the Police consider the granting of the application would undermine the crime prevention objective the Council will consider their reasons for that decision and will reject the application if the Council consider it necessary for the promotion of the crime prevention objective to do so.
- 1.34 An application for a transfer of a Licence can contain a request that the transfer has immediate effect. Such a request can only be made with the consent of the holder of the Premises Licence unless the applicant has taken all reasonable steps to obtain that consent and would be in a position to use the premises while the application is pending for the licensable activities authorised by the Premises Licence.
- 1.35 A full transfer of the Licence can only be made with the consent of the Premises Licence Holder unless identical circumstances apply.

In the event of the death, incapacity or insolvency of a Licence Holder and where no Interim Authority Notice has been given, provided that an application is made within 7 days after the Licence lapsed, a person can make an application for the transfer of the Licence to him and the Licence shall be reinstated from the time the application is received by the Council.

Reviews

- 1.36 Reviews of Premises Licences represent a key protection for the community where problems associated with disorder, public safety or disturbance are alleged to be occurring. If relevant representations* are made about a current licence the Council will hold a hearing to consider them unless the Council, the applicant and everyone who has made representations agree that the hearing is not necessary.

***Relevant Representations**

'Relevant representations' are representations:

- a) About the effect of the Premise Licence on the promotion of the licensing objectives;
 - b) Are made by an other person or a responsible authority, have not been withdrawn and, in the case of representations made by an interested party they are not in the Council's opinion repetitious, frivolous or vexatious.
- 1.37 However, no more than one review originating from an 'other person' will normally be permitted within any 12-month period on similar grounds, except in exceptional and compelling circumstances or where it arises following a closure order.

- 1.38 A Licence review will normally follow any action by the Police to close down the premises for up to 24 hours on grounds of disorder or public nuisance.
- 1.39 Under normal circumstances any review of a licence will take place before the licensing committee or one of its sub committees.

Appeals

- 1.40 Entitlements to appeal for parties aggrieved by decisions of the Council are set out in Schedule 5 of the 2003 Act.
- 1.41 Other than in the case of personal licenses, an appeal against a decision by the Council has to be made to the Magistrates' Court.
- 1.42 In the case of personal licenses, the appeal must be made to the Magistrates' Court for the area in which the personal licence was issued.
- 1.43 Persons aggrieved by the decision of the Council have a right of appeal to the Magistrates' Court.
- 1.44 The Council will always be a respondent to the appeal, but 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 a Respondent.
- 1.45 On determining an appeal the court may:
- a) dismiss the appeal;
 - b) substitute for the decision appealed against any other decision which could have been made by the Council ; or
 - c) remit the case to the Council to dispose of it in accordance with the direction of the court.
- 1.46 The court may make such order as to costs as it thinks fit.

Giving reasons for decisions

- 1.47 The Council will maintain comprehensive records recording the reasons for its decisions in accordance with statutory requirements.
- 1.48 The Council will also address the extent to which the decision has been made with regard to its Statement of Licensing Policy and the Guidance issued by the Home Office under section 182 of the Act.

Implementing the determination of the Magistrates' Courts

- 1.49 Upon notification of the Court's decision the Council will seek to action that determination without undue delay, unless ordered by a higher court to suspend such action (for example, as a result of an on-going judicial review). The Act provides for no further appeal against the determination of the Magistrates' Courts.

Applications relating to council premises

- 1.50 When one part of the Council seeks a Premises Licence from the Council , the Licensing Committee and its officers will consider the matter from an entirely neutral

standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered fairly by the Committee. Those making representations genuinely aggrieved by a positive decision in favour of a Council application by the Council may be entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision made.