

THE LICENSING ACT 2003

LICENSING POLICY STATEMENT

2011/2014

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ENVIRONMENTAL HEALTH & REGULATORY SERVICES

Gloucester City Council Tel 01452 396396 Fax 01452 396340
Herbert Warehouse Email heretohelp@gloucester.gov.uk
The Docks Minicom 01452 396161
Gloucester GL1 2EQ www.gloucester.gov.uk



PREAMBLE

The Licensing Act 2003, which received Royal Assent on 10th July 2003, means that the, Gloucester City Council has responsibility for the licensing of all premises in 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 Authority 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 Licensing Act to guide its work to implement 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 fourth Licensing Policy Statement to be consulted upon by Gloucester City Council. The Licensing Authority 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 intention is that the policy will be reviewed at least every 3 years and if considered necessary will be revised. This policy will come into force on 7 January 2011.

Comments and queries should be directed to:

**Lisa Wilkes
Food Safety and Licensing Service Manager
Environmental Health
Gloucester City Council
Herbert Warehouse
The Docks
GL1 2EQ**

Fax: 01452 396340

Email: [mailto: heretohelp@gloucester.gov.uk](mailto:heretohelp@gloucester.gov.uk)

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

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1. INTRODUCTION

1.1 Gloucester City Council (the Licensing Authority) is responsible for the licensing of 'licensable activities' under the Licensing Act 2003 (The Act). According to the Act, licensable activities are as follows:

- The retail sale of alcohol (including via the internet or mail order);
- 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 dancing and making music;
- The supply of hot food or hot drink between 2300 hours and 0500 hours ('late night refreshments').

1.2 The Licensing Act 2003 imposes a duty on the City Council as Licensing Authority to produce, develop and review a Licensing Policy that sets out the policies that the Licensing Authority will generally apply to promote the licensing objectives when making decisions under the Act. The Licensing Authority will actively seek to promote the four statutory licensing objectives that are set out in section 5 of the Licensing Act 2003, which are as follows:

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

These 4 objectives are the only matters to be taken into account in determining the application. Each objective is of equal importance and the Licensing Authority's policy relating to each of them is given in this Licensing Policy. Where the Licensing Authority receives relevant representations regarding an application from a "Responsible Authority" (a list of Responsible Authorities is attached together with their contact details in Appendix G) or an "Interested Party", thereby invoking the Licensing Authority's discretion to consider the matter, the Licensing Authority may consider attaching conditions to licences to promote the licensing objectives as appropriate. If no relevant representations are received by the Licensing Authority the application will be granted in the terms sought and no additional conditions imposed; conditions will be proportionate and only those necessary to achieve the licensing objectives will be applied.

1.3 This Licensing Policy has been prepared in accordance with the provisions of the Licensing Act 2003 and the Guidance issued by the Secretary of State under Section 182 of the Act. The Policy will take effect on 7 January 2011 and will remain in force for a period of not more than three years. A review and further consultation will be carried out no later than Autumn 2013. If any amendments to the 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.

- 1.4 There are a number of groups who have an interest in the licensing of premises under the Licensing Act 2003, including the licensed trade, customers, residents and enforcing agencies. All these parties have views and concerns that require consideration as part of the licensing function. Before publishing the Licensing Policy and any amendments to it, the Licensing Authority will consult with Gloucestershire Police; Gloucestershire Fire and Rescue Service; City Council Planning and Environmental Health, bodies representing local holders of personal licences, premises licences and club premises certificates; and local businesses and residents in the District. In addition, the Licensing Authority may also consult with other local bodies and agencies as appropriate.
- 1.5 In drawing up and reviewing this policy the Licensing Authority 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 Licensing Authority 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 City Council website which can be found at www.gloucester.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. In addition a press release will be made advising the public that the document is available for consultation.
- 1.6 The objective of the licensing process is for a unified system of regulation to allow the sale and supply of alcohol, and the provision of regulated entertainment and late night refreshment, to be carried out in a way that promotes the licensing objectives. The Licensing Authority'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 focused on matters within the control of the individual licensees and others granted relevant permissions.
- 1.7 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 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 Licensing Authority 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.
- 1.8 The Licensing Authority's Policy is to create a safe and family-friendly environment within the District, particularly within the City Centre.
- 1.9 The Licensing Authority is keen to promote the artistic and cultural life of the City and licensing will be approached with a view to encouraging new and innovative forms of public entertainment that are consistent with the licensing objectives.

- 1.10 When applications are considered by the Licensing Authority following receipt of relevant representations, they will be considered on their own merits. The Licensing Authority 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 adversely affected by the activities. The views of vocal minorities will not usually predominate over the general interests of the community. Where it is necessary to depart from the national guidance, either in this policy or at any other time, the Licensing Authority will give clear and sound reasons for doing so.
- 1.11 The Licensing Authority will work in partnership with other local authorities, particularly in Gloucestershire, to ensure a consistent approach is taken to licensing matters whilst respecting the differing needs of the individual communities.

2. THE LICENSING PROCESS

- 2.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 2.2 The Licensing Authority 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.
- 2.3 In addition, it is expected that many of the decisions and functions will be largely administrative with no perceived areas of contention and, in the interests of efficiency and effectiveness these are delegated to Officers. Attached at Appendix A to this Licensing Policy is a Table of Delegated Functions setting out the agreed delegation of decisions and functions to the Licensing Authority's Licensing Committee, Sub-Committees and Officers. These delegations are without prejudice to Officers referring an application to a Sub Committee or the Licensing Committee if considered appropriate in the circumstances of the case. The Licensing Committee will regularly receive, review, comment and consider other relevant policies relating to employment, transport, cultural development and community safety as far as they affect its' licensing function.
- 2.4 The Licensing Act 2003 requires all applicants for new and varied premises licences to provide an Operating Schedule. Applicants when completing their operating schedule should consider the licensing objectives and state in this schedule any steps that they propose to take to promote the licensing objectives. Further details of issues that applicants may wish to consider are listed under the sections for each of the licensing objectives, sections 3 to 6 and in particular the list in paragraph 5.4.
- 2.5 The Licensing Authority will work closely with any relevant planning and transportation policies, tourism and cultural strategies, equality and diversity policies, the evening economy strategy in Gloucester, or local crime and disorder strategies and to take account of these where appropriate.
- 2.6 Operators of licensed premises are reminded that they will have to comply with planning, environmental health, fire safety, licensing and building control legislation when opening or adapting licensed premises.
- 2.7 Responsible Authorities and Interested Parties may make representations about a licence application. In order for the representations to be relevant they must be made within 28 days of the application being lodged with the Licensing Authority and they must relate to one of the 4 licensing objectives (prevention of crime and disorder, public safety, prevention of public nuisance or protection of children from harm). Where relevant representations have been received from responsible authorities or interested parties, the Licensing Authority will consider whether it is necessary, having regard to the representations, to modify the conditions proposed in the operating schedule. In such cases, the authority will seek to impose the minimum burden which is necessary in order to promote the licensing objectives in the individual case.

- 2.8 It is important to note that relevant representations do not have to be of a negative nature. This is why the word 'objection' is not used in the Licensing Act. The Department for Culture Media and Sport want to allow for representations urging the grant of a licence e.g. for cultural reasons. Clearly if all the representations received for an application were to be of a positive nature then there would be little point holding a Hearing. Also should a Hearing be required where both positive and negative representations have been received it will lend a more balanced and beneficial perspective to that Hearing.
- 2.9 Where relevant representations are received and upheld, the Licensing Authority 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.
- 2.10 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.
- 2.11 Some regulations do not cover the unique circumstances of some entertainment. Where relevant representations are received, and upheld, the Licensing Authority will consider attaching conditions to premises licences and club premises certificates where these are necessary to promote the licensing objectives and are not already provided for in any other legislation.
- 2.12 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 Licensing Act 2003 prescribes mandatory conditions in certain circumstances.
- 2.13 Additional information relating to the licensing application process is contained within Appendix B to the statement of Licensing Policy.

How this policy applies

- 2.14 All applications for new premises licences or variations need to be supported by an operating schedule. Applicants should specify (among other things) the steps that they propose to promote each of the licensing objectives.
- 2.15 If no responsible authority or interested person lodges an objection (known as a "relevant representation") to the application, the Licensing Authority will grant the application as set out in the operating schedule, subject only to mandatory conditions under the Licensing Act 2003. The steps proposed by the applicant will become licence conditions but only insofar as they relate to the licensing objectives, are achievable by the applicant and are enforceable by the Authority. The Licensing Authority has no discretion to refuse the application or add to the conditions arising from the operating schedule.
- 2.16 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.

- 2.17 In exercising its discretion, the licensing sub-committee will have regard (amongst other things) to this Licensing Policy.
- 2.18 Where there have been relevant representations, the Licensing Authority 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. Blanket or standard conditions will not be applied.

THE LICENSING POLICY OBJECTIVES

3. PREVENTION OF CRIME AND DISORDER

- 3.1 The Council places considerable importance on the prevention of crime and disorder and will fulfil its 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.
- 3.2 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, if not properly managed, can sometimes be a source of crime and disorder problems.
- 3.3 The Licensing Authority recommends that licensees of premises develop Operating Schedules that address these issues from the design of the premises through to the daily operating of the business.
- 3.4 In developing an Operating Schedule, applicants may wish to seek advice from the Licensing Authority or Gloucestershire Police. 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.
- 3.5 The Licensing Authority along with the Police and Trading Standards fully supports the aims and objectives of the Gloucester LVA/Pubwatch Online Scheme and encourages the use of the Publink Radio System. The Authority will also continue to work with the Crime and Disorder Reduction Partnership, Safer Community Teams, Neighbourhood Projects, Ward Councillors and others to help reduce crime and disorder associated with licensed premises.
- 3.6 The prevention of crime and disorder may, for example, be promoted by employing registered door supervisors, ensuring all staff have appropriate training, incorporating a search policy into the entry conditions of the premises, the location and standard of any CCTV on the premises, and the inclusion of written dispersal policies.

***Door Supervisors**

From 23 August 2004, all staff undertaking Door Supervisor duties on licensed premises are required to be licensed by the Security Industry Authority (SIA). The Licensing Authority recommends that premises currently using door staff will continue to do so, and that premises who operate in the City Centre or premises seeking to change their style of operation, in particular to a music and dancing venue, will employ the use of door staff.

- 3.7 Applicants for late night entertainment and liquor premises are referred to the Home Office Guidance 'Safer Clubbing' in relation to the control of illegal drugs on their premises. -It is a good idea to agree a protocol with Gloucestershire Police on the handling of illegal drugs found on their premises.

Cumulative Impact – Special Policies

- 3.8 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 Licensing Authority 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.
- 3.9 The Licensing Committee's starting point is in terms of seeking a reduction in crime and disorder throughout the City, 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.
- 3.10 The Licensing Authority recognises that the cumulative impact of a number of late night entertainment premises (including takeaway establishments) 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;
 - an increase in noise causing disturbance to residents;
 - traffic congestion and/or parking problems;
 - littering and fouling.
- 3.11 This may result in the amenity of local residents in some areas being placed under pressure, as it will not always be possible to attribute a particular problem to customers of particular premises. This means that, whilst enforcement action may be taken to ensure conditions are complied with, this may not resolve all the problems.
- 3.12 Where, following the receipt of relevant representations, there is evidence that a particular area of the City is already suffering adverse effects from the concentration of late night premises, the Licensing Authority 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.
- 3.13 As part of this policy the Licensing Authority will not consider whether or not there is a need for any particular type of premises (as this is largely a matter for the local planning authority) but will consider the cumulative impact any new licensed premises would have.

Special Policy in respect of Eastgate Street and area

- 3.14 The Licensing Authority is aware of the cumulative impact that can occur from a concentration of licensed premises in a particular area, as a result of the increased number of people dispersing from licensed venues or congregating in streets late at night. Such impact can include an increase in crime, an increase in noise and other disturbance to residents, parking difficulties and general traffic congestion and an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure but these effects may not be readily attributable to any individual premises. The Licensing Authority wishes to ensure that these adverse effects are avoided and to this end has adopted a 'Special Policy' for an area around Eastgate Street where there is a concentration of licensed premises. Where applicants are applying for a new licence in this area, it is recommended that they clearly state in their operating schedule how they will ensure that their premises does not add to the cumulative impact in respect of two of the licensing objectives, prevention of crime and disorder and prevention of nuisance.

- 3.15 This Special Policy was adopted by the Council in 2004 as a direct response to concerns and information put forward by Gloucestershire Police in relation to incidents of both crime and disorder associated with the area particularly on a Friday and Saturday night. A large number of these incidents are alcohol related. Eastgate Street has, for a number of years, borne the unfortunate distinction of having the highest crime rate for any one street in the County.
- 3.16 The current issue with Eastgate Street that led to the creation of the 'Special Policy' is that the night-time economy in Eastgate Street relies on a monoculture. This centres around "nightclub" type premises, with the music and alcohol being the only entertainment on offer, followed by a takeaway meal.
- 3.17 The Special Policy will be kept under constant review and it is anticipated that a time may come when it could be removed. However, the important considerations for removal of the special restriction should still be a matter of ensuring that crime and disorder do not increase as a result. Prior to removing the 'Special Policy' the crime and disorder considerations should include, amongst other things, the following matters:
- Improving street lighting.
 - Restricted vehicular access to the entire length of Eastgate Street at the most relevant times. (Emergency and public service, public transport vehicles only)
 - An integrated public transport and dispersal plan, which allows the users of Eastgate Street to leave quickly without creating new bottlenecks or hotspots.
 - To continue to provide a supervised taxi rank in the lower Eastgate area.
 - More comprehensive talking CCTV coverage of Eastgate Street to take into account potential new venues.
 - The possible creation of an Alcohol Dispersal Zone for Eastgate Street.
 - The provision of extra Street Warden patrols, or additional funding for Police Officers to meet the additional demands that would be created.
- 3.18 The effect of adopting this policy is to create a rebuttable presumption that applications for new premises licences, or club premises certificates or material variations will normally be refused, if relevant representations to this effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced.
- 3.19 This presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before the Licensing Authority may consider giving effect to its special policy. If no representation is received, as with all other cases any application must be granted in terms that are consistent with the operating schedule submitted.
- 3.20 Accordingly applicants are advised to demonstrate why the operation of the premises would not add to the cumulative impact being experienced. This should be addressed in the applicants operating schedule.
- 3.21 The Special Policy is not absolute and the circumstances of each application will be considered carefully. Moreover, where licences are unlikely to add significantly to the cumulative impact on the licensing objectives, the licence will be granted. The diversification of venues and entertainment, to include more family orientated restaurants, a wider range of public entertainment such as theatre, cabaret type shows, live music, comedy and culturally themed premises, would clearly support the aims of the City. Applications for these types of licence would be likely to be supported by the Police, as they promote activities other than vertical drinking.

- 3.22 The area of the Licensing Authority to which this 'Special Policy' will apply is identified in the map attached at Appendix C. The area identified includes the following streets:

Eastgate Street
Clarence Street (south east side)
Brunswick Road (south east side)
Park Road (north side)
Bruton Way (west side from Park Road to Market Parade)
Station Road
Russell Street
Hampden Way
Wellington Street
Cromwell Street
Arthur Street
Belgrave Road
Kingsbarton Street
St Michael's Square
Market Parade (south east side)

- 3.23 As part of this policy, the Licensing Authority will not consider whether or not there is a need for any particular type of premises (as this is largely a matter for the local planning authority) but will consider the cumulative impact any new licensed premises would have on the City Centre.
- 3.24 This 'Special Policy' does not impose any quotas of premises or licences and does not include any provisions for a terminal hour in any area. As stated above types of premises and commercial need is a matter for the Planning Committee and market forces. Terminal hours will only be considered where relevant representations have been received that highlight an issue.

4. PUBLIC SAFETY

- 4.1 The Licensing Act 2003 covers a wide range of premises that require licensing including cinemas, nightclubs, public houses, village and community halls, schools, cafes, restaurants and fast food outlets/takeaways. Each of these types of premises present a mixture of risks, some of which may be common to most premises whilst others will be unique to specific operations.
- 4.2 Applicants are encouraged to seek advice from the Licensing Authority and the Fire Safety Section of Gloucestershire Fire and Rescue Service with regard to these issues and to carry out their own risk assessments.
- 4.3 In order to ensure the safety of persons at premises and to ensure a safe means of escape from fire, or other emergency, occupancy limits may be included in Operating Schedules in appropriate cases and if so should be set in consultation with Gloucestershire Fire & Rescue Service and the Council's Building Control Officers (or others if appropriate). The Licensing Authority will not normally seek to impose an occupancy limit different to that already identified by the Fire Authority in previous correspondence if this differs from the figure set in applicants Operating Schedules unless there have been relevant representations and the Fire Authority recommends a change or there are crime and disorder prevention reasons for doing so.
- 4.4 Every applicant granted a licence, certificate or permission would also be under a duty to comply with the Health and Safety at Work etc. Act 1974 and regulations made under it. In many cases, the Council will also be the enforcing authority responsible for ensuring compliance with the Health and Safety at Work etc. Act in licensed premises.

5. PREVENTION OF NUISANCE

- 5.1 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.
- 5.2 The Licensing Authority is keen to protect the amenity of residents and businesses in the vicinity of licensed premises. In order to assist applicants and residents the Authority believes it would be helpful for it to provide guidance as to how it will approach the meaning of the term “vicinity”. For these purposes the Council proposes that ‘vicinity’ means:

‘being sufficiently close enough to be directly affected by the behaviour and activities on those premises.’

NB: The Licensing Authority will need to decide in each specific case whether an individual claiming to be an interested party may be considered to be within ‘the vicinity’ of a premise.

This ultimately will be a matter of fact.

The Licensing Authority will consider whether an individual residing or running a business is likely to be directly affected by the activities occurring or potentially occurring on that premise.

- 5.3 It should be noted that other legislation is available to address nuisance issues. Furthermore it is acknowledged that licensed premises are limited with regard to controlling customer behaviour away from the immediate vicinity of their premises.
- 5.4 In addition, the Licensing Authority is aware of the importance of the licensed trade to the local economy and its culture and leisure aspirations. The Licensing Authority will, therefore, try to work together with all interested parties, statutory agencies and licensed businesses to ensure a mutual co-existence.
- 5.5 When considering licence applications where relevant representations have been received the Licensing Authority will take into account measures proposed by the applicant to promote the prevention of nuisance and/or anti-social behaviour. In particular the Licensing Authority may consider the following matters, where relevant:
- i) measures proposed for the prevention of noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
 - ii) measures proposed for preventing disturbance by customers and staff arriving at or leaving the premises, particularly between 2300 hours and 0700 hours;
 - iii) measures proposed for the prevention of nuisance from cooking odours through installation of appropriate odour control equipment in a suitable location;
 - iv) measures proposed for the prevention of nuisance from litter by ensuring adequate provision is made for disposal of waste inside and outside late night takeaway/refreshment houses and a general positive attitude to encouraging good practice from customers;

- v) measures proposed for 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;
- vi) ensuring staff leave the premises quietly;
- vii) arrangements for parking by patrons and staff, and the effect of the parking on local residents;
- viii) provision for public transport (including taxis and private hire vehicles) for patrons;
- ix) whether licensed taxis or private hire vehicles are likely to disturb local residents;
- x) whether routes to and from the premises on foot, by car or other services pass residential premises;
- xi) 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;
- xii) the use of gardens and other open-air areas;
- xiii) the location of external lighting, including security lighting that is installed inappropriately;
- xiv) other appropriate measures to prevent nuisance, such as the employment of registered door supervisors or the use of CCTV;
- xv) preventing the consumption or supply of illegal drugs, including search procedures;
- xvi) the history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees;
- xvii) proposals for using effective means of reducing disorder by communicating with other licensees and the Police information regarding the potential for anti-social behaviour or criminal behaviour (e.g. Publink radio, pagers, ring rounds, membership of Pubwatch).

5.6 The Licensing Authority 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 (a large part of Central Gloucester has been designated an Alcohol free zone);
- police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;
- police enforcement of the law with regard to disorder and anti-social behaviour;
- the power of the police, local business or resident to request a review of the licence;
- enforcement action against those selling alcohol to people who are already drunk.

6. PROTECTION OF CHILDREN FROM HARM

6.1 The Licensing Authority 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 Licensing Act 2003 does not prevent children having free access to any licensed premises. The Licensing Authority recognises that limitations may have to be considered where it is deemed necessary to protect children from 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 (this relates to substantial gambling operations and does not include premises with a small number of AWP machines) on the premises;
- where entertainment of an adult or sexual nature is provided;
- where there is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held).

6.2 The Licensing Authority expects personal licence holders to ensure that they do not serve alcohol to children under the age of 18, except in limited conditions allowed for by law. The Licensing Authority recommends that the following are preferred ways to verify a person's proof of age:

- (i) passport
- (ii) a photocard driving licence issued in a European Union country;
- (iii) a National Proof of Age Standards Scheme card (e.g. Validate);
- (iv) a Citizen Card, supported by the Home Office (details from www.citizencard.net);
- (v) an official identity card issued by HM Forces or by a European Union country bearing the photograph and date of birth of the bearer.

6.3 Where relevant representations have been received and upheld, when deciding whether to limit the access of children to premises the Licensing Authority will judge each application on its own merits. To assist with this the Licensing Authority will consider any representations received from Gloucestershire Police, Gloucestershire Social Services and other agencies as appropriate. 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 or exclusion when certain activities are taking place;
- full exclusion of person under 18 when certain licensable activities are taking place;
- limitation of access to certain parts of the premises for person 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 Licensing Authority may seek to impose in meeting its obligation towards the protection of children

- 6.4 The Licensing Authority will not impose any conditions that specifically require the access of children to the premises.
- 6.5 Where no conditions or restrictions are imposed, the issue of access for children remains a matter of discretion for individual licensees or clubs.

Children and Films etc.

- 6.6 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. Where premises are used for film exhibitions, a mandatory condition will apply restricting access to performances only 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.
- 6.7 The Licensing Authority will expect licensees to ensure that age restrictions for film exhibitions are properly complied with.
- 6.8 In considering applications where relevant representations have been received and upheld, the Licensing Authority will take into account any evidence that age restrictions for film exhibitions are not being properly observed.

Children and Theatrical Entertainment

- 6.9 This Authority recognises that it may be necessary to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment into their productions. In the case of theatrical entertainment aimed specifically at children it may be considered necessary to attach a condition requiring the presence of a sufficient number of adult staff to ensure the wellbeing of children during an emergency.

NB Gloucestershire County Council Children & Young People's Directorate is the responsible authority with regard to the protection of children from harm.

7. LICENSING HOURS

7.1 The Licensing Act 2003 introduced flexible opening hours for premises, with the potential for 24 hour opening, seven days a week. The Licensing Authority 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. When dealing with licensing hours, each application will be dealt with on its individual merits.

7.2 The Licensing Authority 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 Licensing Authority 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.

7.3 Unless there are good reason to the contrary on the grounds of public disorder or crime prevention, shops and supermarkets that sell alcohol will be licensed to do so during the same 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.

7.4 Generally the Licensing Authority 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.

8. ENFORCEMENT AND COMPLAINTS

- 8.1 The Licensing Authority recognises the contribution that can be made by developing effective working practices with our partner agencies. The Licensing Authority will establish enforcement protocols with the Gloucestershire Constabulary and other relevant partnership agencies to ensure efficient deployment of Licensing Authority enforcement staff and thereby avoiding duplication of effort when carrying out inspection or enforcement matters.
- 8.2 The Licensing Authority 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 City 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
 - Police powers to confiscate alcohol from adults and other in designated areas
 - No inspection will take place without a reason
 - The Licensing Authority and its Enforcement Officers recognise that a key element of their activity will be to allow or even encourage, economic progress and only intervene when there is a clear case for protection
- 8.3 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 Licensing Act 2003. The Licensing Authority will monitor premises and take any appropriate enforcement action to ensure compliance.
- 8.4 All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Environmental Health and Regulatory Services Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat, The Department for Business Enterprise and Regulatory Reforms Regulators Compliance Code.
- 8.5 The Licensing Authority 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.
- 8.6 The Licensing Authority 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 Licensing Authority will target its inspection process toward those premises that are considered as 'problematic' and 'high risk' premises requiring greater attention, while providing the 'lighter touch' in respect of low risk premises that are run well.

- 8.7 In undertaking the inspection of licensed premises the Licensing Authority will promote the following categories of risk weighting:

- Medium to High Risk**
- City Centre Public Houses and Night Clubs
 - All other premises where there is regulated entertainment
 - City Centre Late Night Refreshment Houses
- Low to Medium Risk**
- All other Public Houses
- Low Risk**
- Licensed restaurants / cafés where the primary purpose is serving food
 - All other licensed premises within the district

In addition to the above the history of the premises will also be taken into consideration in respect of the issues listed in 8.9 below. New sites not listed above - to be assessed dependent upon location and style of operation and operators.

- 8.8 Where an interested party has made a valid representation about licensed premises or a valid application for a licence to be reviewed, then the Licensing Authority will initially arrange a mediation meeting to address, clarify and try to resolve the issues of concern. For these purposes the Licensing Authority take interested party to mean:

'local resident, local business, residents association, trade association, or their representatives, or any member (Councillor) of the relevant licensing authority'

- 8.9 The Licensing Authority 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 of 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 of unlawful gaming
- Use of licensed premises as a base for organised criminal activity
- Use of licensed premises of the organisation of racist, homophobic or sexual abuse or attacks
- Use of licensed premises of 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 and the management is unable or unwilling to correct those
- Where serious risks to children have been identified

- 8.10 This process will not override the right of any interested party 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.

9. TEMPORARY EVENT NOTICES

- 9.1 The Licensing Act 2003 provides for certain occasions when small scale events (for no more than 499 people at a time and lasting for no more than 96 hours) do not need a licence providing that advance notice is given to the police and the Licensing Authority. The police can only object to a Temporary Event Notice if the event is likely to undermine the crime prevention objective.
- 9.2 The Licensing Authority recommends that as much notice as possible be given by applicants for events. For large events organisers are encouraged to give as much as three months notice so that the Licensing Authority can help organisers plan their events safely. **The law states that at least ten working days notice must be given** but the less time that is given will increase the likelihood of the police objecting.
- 9.3 Ten working days commences with the day **after** the notification is given to the Licensing Authority 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 Licensing Authority and the tenth working day must not be later than the day before the event is due to take place.'
- 9.4 Organisers of temporary events are strongly advised to contact the Licensing Authority for advice at the earliest opportunity when planning events. Where necessary discussions will be held with the police to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.
- 9.5 All events run under the terms of a temporary event notice will be risk assessed and by the Licensing Authority and may be visited by a Licensing and Enforcement Officer if considered necessary.
- 9.6 This Authority takes the view that if it considers that a Temporary Event Notice has not been properly given then, in the first instance, the Authority will check with the Police that they are in receipt of the notification, are satisfied with the notice given and whether or not they intend to make an objection on the grounds of crime and disorder. If they are not planning to make an objection and the Police are satisfied with the notice given the Authority should not unnecessarily prohibit these events taking place on the grounds that the notification had not been properly made.

FURTHER INFORMATION

For further information about Gloucester City Council's Licensing Policy, the Licensing Act 2003 and any other licensing matters please contact:

Gill Ragon
Group Manager, Environmental Health & Regulatory Services
or
Lisa Wilkes
Food Safety and Licensing Service Manager

Telephone No.: 01452 396304
Fax No.: 01452 396340
Email: heretohelp@gloucester.gov.uk

Environmental Health & Regulatory Services
Gloucester City Council
Herbert Warehouse
The Docks
Gloucester
GL1 2EQ

or go to the licensing pages on the Gloucester City Council website www.gloucester.gov.uk/licensing for application forms, details of fees and factsheets.

TABLE OF DELEGATED FUNCTIONS

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a representation is made	If no representation is made
Application for premises licence/club premises certificate		If a representation is made	If no representation is made
Application for provisional statement		If a representation is made	If no representation is made
Application to vary premises licence/club premises certificate		If a representation is made	If no representation is made
Application to vary designated premises supervisor		If a police representation is made	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police representation is made	All other cases
Application for interim authority		If a police representation is made	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 Licensing Authority is a consultee and not the lead authority			All cases
Determination of a police representation to a temporary event notice		All cases	

THE LICENSING PROCESS – ADDITIONAL INFORMATION:**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.

The Licensing Authority 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

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 Licensing Authority a Criminal Record Bureau certificate.

Premises Licences

An application can be made to the Licensing Authority 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; and
- g) The steps which the applicant proposes to take to promote the licensing objectives.

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).

Community Premises

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.

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

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

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.

The Club is a qualifying Club in respect of the recognised activities provided that, under the rules of the Club, a person may not be admitted to membership, or be admitted as candidates for membership, to any of the privileges of membership without an interval of at least two days between their nomination or application for membership to 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.

The Club must be established and conducted in good faith as a Club and have a minimum of 25 members.

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.

*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; and
- d) The steps which it is proposed to take to promote the licensing objectives.

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).

Club Premises Certificates will be dealt with in a similar manner as applications for Premises Licences.

Temporary Event Notices (TEN)

Temporary event notices are subject to various limitations. These are concerned with:

- a) **Duration** - they are limited to events lasting for up to 96 hours;
- b) **Scale** – they cannot involve the presence of more than 499 people at any onetime;
- c) **Use of the same premises** – the same premises cannot be used more than 12 times in a calendar year; to a maximum of 15 days
- d) **The number of notices** given by one individual within a calendar year is restricted to 5 unless that person is the Holder of a Personal Licence in which case 50 is the maximum.

In any other circumstances, a temporary event at which licensable activities are to take place would require a premises licence if the premises or place at which the event is to take place is currently unlicensed for the activity or activities involved. The procedures for applying for and granting such a licence are identical to those for a permanent licence.

The Licensing Authority will clearly specify on such a licence when it comes into force and when the permission ends.

Where the sale of alcohol is involved under a premises licence, there will need to be a designated premises supervisor specified who is a personal licence holder.

Temporary event notices do not require the Licensing Authority's permission. In general, only the police may object on the grounds of disorder to such an event. The Council will only ever intervene itself if the limits on the number of notices that may be given in various circumstances would be exceeded.

Many premises users giving temporary event notices will not have commercial backgrounds or ready access to legal advice. They will include, for example, people acting on behalf of charities, community and voluntary groups, schools, churches and hospitals all of which may stage public events to raise funding at which licensable activities will take place. The Licensing Authority will ensure that local guidance about the temporary permitted activities is clear and understandable and will strive to keep the arrangements manageable and user-friendly for these groups.

On each occasion at least 10 working days notice must be given, but there is nothing to prevent simultaneous notification of multiple events at a single time so long as the first event is at least ten days away. For example, an individual personal licence holder wishing to exhibit and sell beer at a series of country shows may wish to give several notices simultaneously. However, this would only be possible where all the events are to take place in the Gloucester City council area.

Ten working days is the minimum possible notice that may be given. However the Licensing Authority would encourage applicants to take the ten working days as the minimum notification days required and expects event organizers to provide the earliest possible notice of events likely to take place.

The Licensing Authority will not seek to attach any terms, limitations or restrictions on such events other than those set down in the legislation. However the Licensing Authority will provide local advice about proper respect for the concerns of local residents; of other legislative requirements regarding health and safety, noise pollution or the building of temporary structures; of other necessary permissions, for example, with regard to road closures or the use of pyrotechnics in public places; with regard to local bye-laws; and the need to prevent anti-social behaviour by those attending. Local publicity will also remind notice givers of relevant offences under licensing law including the laws governing sales of alcohol to minors or to any person who is drunk, and of the police powers to close down events with no notice on grounds of disorder, the likelihood of disorder or the because of public nuisance, including noise emanating from the premises.

A purpose of the notification requirement is to enable the Licensing Authority to check that the limitations set down in the Act are being observed and to intervene if they are not. Where the application is not within the parameters described above, the Licensing Authority will issue a counter notice to the person giving the notice. Where the notice is in order, the fee prescribed by the Secretary of State paid, the event falls within the limitations in the Act, and there has been no Police intervention, the Licensing Authority will record the notice in its register and send an acknowledgement to the premises user.

Police – Objection by

The Act provides that the police may object to a temporary event notice because they believe the event would undermine the crime prevention objective set out in the Act. The Police must issue notice of any objection within 48 hours of being notified of the event. Notification to the Licensing Authority of an objection by the Police requires the consideration of the objection by the Licensing Authority at a hearing.

Consideration by the licensing authority is confined to the crime prevention objective. The Licensing Authority will not, for example, uphold a Police objection notice on grounds of public nuisance alone. At the hearing, the Police and the premises user may put argument to the Licensing Committee.

Additional limitations

On receiving a temporary event notice the Licensing Authority will also check that other requirements of the Act are met. (For example, a temporary event notice would be void unless there is a minimum of 24 hours between events notified by the premises user in respect of the same premises. This is to prevent evasion of the 96-hour limit on such events, and emphasise the need to obtain a full premises licence for more major events. In addition, for these purposes, a notice is treated as being from the same premises user if an associate gives it.)

The Act defines an associate as being:

- a) the spouse of that person;
- b) a child, parent, grandchild, grandparent, brother or sister of that person or their spouse; or
- c) an agent or employee of that person or their spouse;

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

Provisional Statements

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.

An application 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.

Applications for Provisional Statements will be dealt with in a similar manner as applications for a Premises Licence.

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 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 of Licences

Applications to vary a Premise Licence/Club Premises Certificate will be dealt with in a similar manner to applications for a new Premise Licence. If relevant representations are not received the application for variation will be granted.

If relevant representations are made and not withdrawn the Licensing Authority will hold a hearing and at that hearing the Licensing Authority may:

- a) Modify the conditions of the Licence; or
- b) Reject the whole or part of the application.

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.

The Licensing Authority may vary a Premise 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.

Minor Variations

An amendment to the Licensing Act in July 2009 allows for a simplified, faster, cheaper procedure to vary a Premises Licence or Club Premises Certificate where the proposed variations are no more than:-

- minor changes to the structure or layout of a premises
- small adjustments to licensing hours
- the removal of out of date, irrelevant, unenforceable conditions
- the addition of volunteered conditions
- the addition of certain licensable activities (not the sale or supply of alcohol)

In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.

Interim Authorities

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 Premise Licence dies, becomes mentally incapable or becomes insolvent then the Licence will lapse.

If, within a seven day period of such circumstances, a person who had an interest in the premises concerned or is connected to the person who held the Premises Licence immediately before it lapsed gives the Licensing Authority an 'Interim Authority Notice' the Licence will be reinstated for a two-month period.

At the end of the two months it will lapse unless an application for a transfer of the Licence is made.

A person is connected to the former holder of a Premise 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 Powers of Attorney Act 1985; or,
- c) In the event of insolvency the person is acting as an Insolvency Practitioner.

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 Licensing Authority will arrange a hearing to consider the Notice.

Transfer of Premises Licences/Club Premises Certificate

The following persons may apply for the transfer to them of a Premise Licence/Club Premises Certificate:

- a) A person who carries on, or proposes to carry on, a business, which involves the use of a premise for the licensable activities, authorised by the Premise Licence/Club Premises Certificate;
- 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.

Notice of the application must be given to the Police.

If the Police consider the granting of the application would undermine the crime prevention objective the Licensing Authority will consider their reasons for that decision and will reject the application if the Licensing Authority consider it necessary for the promotion of the crime prevention objective to do so.

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/Club Premises Certificate 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.

A full transfer of the Licence can only be made with the consent of the Premise Licence/Club Premises Certificate Holder unless identical circumstances apply.

In the event of a 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 Licensing Authority.

Reviews

Reviews of Premise Licences/Club Premises Certificates represent a key protection for the community where problems associated with disorder, public safety or disturbance are occurring. If relevant representations* are made about a current licence the Licensing Authority will hold a hearing to consider them unless the Licensing Authority, the applicant and everyone who has made representations agreed that the hearing is not necessary.

A request to the Licensing Authority can be applied for at any time after a licence has been issued although it would be necessary for the licence to have been in operation for a reasonable period to allow the licensee to sort out any initial problems and also allow for the gathering of sufficient evidence by the person wishing to request the review. Government guidelines suggest a 12 month period is reasonable. This allows for seasonal changes should this be a relevant factor.

Before considering a request for a review it is suggested that a contact be made with the Premises Licence Holder/Designated Premises Supervisor or, in the case of a Club, the secretary, chairman or other committee member. It may be that the problem(s) could be sorted out amicably.

***Relevant Representations**

‘Relevant representations’ are representations:

- a) About the effect of the Premise Licence/Club Premises Certificate on the promotion of the licensing objectives;
- b) Are made by an interested party♦ or a responsible authority, have not been withdrawn and, in the case of representations made by an interested party they are not in THE Licensing Authority’s opinion frivolous or vexatious
 - ♦ ‘Interested Party’ means any of the following:
 - i. A person living in the vicinity of the premises;

- ii. A body representing persons who live in that vicinity;
- iii. A person involved in a business in that vicinity;
- iv. A body representing persons involved in such a business; or
- v. A member of the relevant Licensing Authority.

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.

Appeals

Entitlements to appeal for parties aggrieved by decisions of the Licensing Authority are set out in Schedule 5 of the 2003 Act.

An appeal against a decision by the Licensing Authority in the case of Premises Licences, Club Premises Certificates or Temporary Event Notices has to be made to the Magistrates' Court for the area in which the premises is situated. In the case of personal licenses, the appeal must be made to the Magistrates' Court for the area in which the licensing authority (or any part of it) is situated.

An appeal may be initiated by the giving of a notice of appeal by the Appellant to the Justices' Chief Executive for the Magistrates' Court within a period of 21 days beginning with the day on which the Appellant was notified by the Licensing Authority of the decision appealed against.

The Licensing Authority 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.

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 Licensing Authority; or
- c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court.

The court may make such order as to costs as it thinks fit.

Giving reasons for decisions

The Licensing Authority will maintain comprehensive records recording the reasons for its decisions. On making findings of fact in its reasons, the Licensing Authority will also ensure that they address the standard of proof and the burden of proof that they have adopted. The Licensing Authority will also address the extent to which the decision has been made with regard to its statement of licensing policy and the Guidance issued by the Secretary of State under section 182 of the Act.

Implementing the determination of the Magistrates' Courts

Upon notification of the Court's decision the Licensing Authority 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.

APPENDIX D**GLOSSARY OF TERMS****“LICENSABLE ACTIVITIES”**

- Retail sale of alcohol or supply of alcohol by a club.
- Provision of regulated entertainment.
- Late night refreshment i.e. serving hot food or hot drink between 23:00 hours and 05:00 hours.

“REGULATED ENTERTAINMENT”

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- A boxing or wrestling entertainment (indoors or outdoors)
- A performance of live music
- Any playing of recorded music
- A performance of dance

ENTERTAINMENT OF A SIMILAR DESCRIPTION TO:

- A performance of live music
- Any playing of recorded music
- A performance of dance

WHERE THE ENTERTAINMENT TAKES PLACE IN THE PRESENCE OF AND IS PROVIDED FOR AN AUDIENCE

OR Facilities for allowing people to take part in making music, dancing or anything similar for the purpose of being entertained.

“LICENSING AUTHORITY”

The Council of a district in England. In this case the Licensing Authority is Gloucester City Council.

“RESPONSIBLE AUTHORITY”

The following have been named as Responsible Authorities in the Act and/or Regulations:

- Police
- Fire Authority
- Enforcing Authority for Health and Safety at Work etc. Act 1974 i.e. Gloucester City Council Environmental Health or Health and Safety Executive
- Local Planning Authority i.e. Gloucester City Council Planning and Building Control Services

- Gloucester City Council Environmental Health when dealing with Food Safety matters and matters under the Environmental Protection Act
- Authority responsible for or interested in matters relating to the protection of children from harm i.e. Gloucestershire County Council, Social Services
- Any Licensing Authority (other than the relevant Licensing Authority) in whose area part of the premises is situated.
- Weights and measures authority

IN RELATION TO A VESSEL:

- A Navigation Authority (where vessel is usually moored or any waters where it is or is proposed to be navigated at the time when it is used for licensable activities)
- The Environment Agency
- The British Waterways Board, or
- The Secretary of State

“PREMISES LICENCE”

A licence issued by the Licensing Authority in respect of any premises which authorises the premises to be used for one (or more) licensable activity(ies). The licence is valid indefinitely unless a shorter period is specified on the licence, or unless it is surrendered or revoked.

“PREMISES”

Any vehicle, vessel or moveable structure, or any place or a part of any premises used for licensable activities.

“PERSONAL LICENCE”

Licence granted by the Licensing Authority to an individual that authorises that individual to supply alcohol or authorise the supply of alcohol in accordance with a premises licence. The licence is valid for 10 years.

“DESIGNATED PREMISES SUPERVISOR (DPS)”

The individual named in the premises licence as the premises supervisor. The Designated Premises Supervisor must hold a valid Personal Licence.

“TEMPORARY EVENT NOTICE (TEN)”

An individual aged 18 or over may use a Temporary Event Notice (TEN) where it is proposed to use premises for one or more licensable activity during a period not exceeding 96 hours and where the maximum number of persons to be admitted is less than 500.

“CLUB PREMISES CERTIFICATES”

A Club Premises Certificate may be applied for by any qualifying club that is established and conducted in good faith and possesses at least 25 members. New members to any club must wait at least two days between their nomination and admission to membership.

The grant of a Club Premises Certificate means that a qualifying club is entitled to certain benefits, namely:

- The authority to supply alcohol to members and sell it to guests without the need for any member or employee to hold a Personal Licence.
- The absence of a requirement to specify a Designated Premises Supervisor (DPS).
- More limited rights of entry for the Police and authorised persons.
- Not being subject to the police powers of instant closure, and
- Not being subject to potential orders of the Magistrates Court for a closure of all licensed premises in an area.

“INTERESTED PARTY”

- Person living in the vicinity of the premises
- Body representing persons who live in that vicinity
- A person involved in a business in that vicinity
- A body representing persons involved in such businesses
- A member of the relevant Licensing Authority

In other words: ***‘local resident, local business, residents association, trade association, or their representatives’***

APPENDIX E

REFERENCE SOURCES

In addition to the guidance offered by this policy the below publications can provide applicants with useful information that should be considered when applications for licensed premises are being considered:

- ❖ [The Licensing Act 2003](#)
- ❖ Guidance issued under section 182 of the Licensing Act 2003
- ❖ The Gloucestershire Constabulary Licensing Policy
- ❖ The Event Safety Guide ('The Purple Book').
H.S.E. BOOKS – ISBN: **0717624536** – Published: Oct 1999.



<http://www.hsebooks.com/Books/>

- ❖ Managing Crowds Safely.



<http://www.hse.gov.uk/pubns/indg142.htm>

- ❖ 5 Steps to Risk Assessment Case Studies. – ISBN **0717615650**



<http://www.hse.gov.uk/pubns/indg163.pdf>

- ❖ The Guide to Safety at Sports Grounds ('The Green Guide') - ISBN **0113410018** - published by The Stationery Office (<http://www.tso.co.uk/>)

- ❖ Safety Guidance for Street Arts, Carnival, and Large Scale Performances.



<http://www.streetartsnetwork.org.uk/cn/publications/index.php>

- ❖ Home Office Guidance:

Practical Guide for Preventing and Dealing with Alcohol related problems
Alcohol Disorder Zone Guidance
Selling Alcohol Responsibly
UK Police Requirements for Digital CCTV Systems

USEFUL REFERENCES (ORGANISATIONS)

Association of Convenience Stores (ACS)
<http://www.thelocalshop.com/tls/index.asp>

Association of Licensed Multiple Retailers (ALMR)
<http://www.almr.org.uk/>

Association of Town Centre Managers (ACTM and Purple Flag)
<http://www.atcm.org/>

British Beer and Pub Association (BBPA)
<http://www.beerandpub.com/>

British Board of Film Classification (BBFC)
<http://www.bbfc.co.uk>

British Institute of Inn Keeping (BII)
<http://www.bii.org/>

British Retail Consortium (BRC)
<http://www.brc.org.uk/>

Circus Arts Forum
<http://www.circusarts.org.uk>

Cinema Exhibitors' Association (CEA)
<http://www.cinemauk.org.uk/>

Department for Culture, Media and Sport (see links to the Licensing Act 2003, Explanatory Notes, Guidance and Regulations)
<http://www.culture.gov.uk>

Equity
<http://www.equity.org.uk/>

Independent Street Arts Network
<http://www.streetartsnetwork.org.uk>

Institute of Licensing (IOL)
<http://www.instituteoflicensing.org/>

Justices Clerks' Society Good Practice Guide, Licensing
<http://www.jc-society.co.uk>

LACORS
<http://www.lacors.gov.uk/>

Licensed Victuallers Associations (LVAs)
<http://www.flva.co.uk/>

National Association of Local Government Arts Officers
<http://www.nalgao.org/>

National Pub Watch

<http://www.nationalpubwatch.org.uk/>

NOCTIS

(formerly Bar, Entertainment and Dance Association (BEDA))

<http://www.noctisuk.org/>

The Portman Group

<http://www.portmangroup.org.uk>

APPENDIX G**LIST OF RESPONSIBLE AUTHORITIES****GLOUCESTERSHIRE CONSTABULARY**

Police Licensing Officer
Gloucester and Forest Division
Licensing Department
Gloucester Police Station
Bearland
Gloucester
GL1 2JP

Telephone: 01452 335379
Fax: 01452 384952
Email: licensing-forest&gloucester@gloucestershire.police.uk

The main Police switchboard number is 0845 090 1234.

GLOUCESTERSHIRE FIRE AND RESCUE

Service Delivery Support
Waterwells
Quedgeley
Gloucester
GL2 2AX

Telephone: 01452 753333
Fax: 01452 753304
Email: fire.safety@glosfire.gov.uk

POLLUTION PREVENTION

Gloucester City Council
Pollution Control Team
Environmental Health
Herbert Warehouse
The Docks
Gloucester
GL1 2EQ

Telephone: 01452 396303
Fax: 01452 396340
Email: licence.team@gloucester.gov.uk

HEALTH AND SAFETY ENFORCEMENT

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

WHERE THE LOCAL AUTHORITY IS THE ENFORCING AUTHORITY:

Gloucester City Council
Health and Safety Team
Environmental Health
Herbert Warehouse
The Docks
Gloucester
GL1 2EQ

Telephone: 01452 396303
Fax: 01452 396340
Email: licence.team@gloucester.gov.uk

WHERE THE HSE ARE THE ENFORCING AUTHORITY:

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

Telephone: 02920 263000
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

Group Manager Development Services
Gloucester City Council
Herbert Warehouse
The Docks
Gloucester
GL1 2EQ

Telephone: 01452 396776
Fax: 01452 396779
Email: development.control@gloucester.gov.uk

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

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

Telephone: 01452 426201
Fax: 01452 426274
Email: tradstds@gloucestershire.gov.uk

BRITISH WATERWAYS - Business Licence applications only

Leisure Development Manager
British Waterways
South West Office
Harbour House
The Docks
Gloucester
GL1 2GL

Telephone: 01452 318000
Fax: 01452 318076