

# Gloucester City Council

## THE LICENSING ACT 2003

### LICENSING POLICY STATEMENT

2016/2021



## PUBLIC PROTECTION

Gloucester City Council  
Herbert Warehouse  
The Docks  
Gloucester GL1 2EQ

Tel 01452 396396 Fax 01452 396340  
Email [heretohelp@gloucester.gov.uk](mailto:heretohelp@gloucester.gov.uk)  
Minicom 01452 396161  
[www.gloucester.gov.uk](http://www.gloucester.gov.uk)

## **PREAMBLE**

By virtue of the Licensing Act 2003 Gloucester City Council (the Licensing Authority) 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 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 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 Act requires the Council to revise and republish the policy every five years. This Policy will come into force January 2016.

**Comments and queries should be directed to:**

**Lisa Jones  
Food, Licensing and Markets 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](http://www.gloucester.gov.uk)**

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## **1. INTRODUCTION**

- 1.1 Gloucester City Council is situated in the County of Gloucestershire which contains 6 district councils in total. The Council area has an estimated population of 125,644 (2014 estimate) making it the largest urban Authority in the County in terms of population. In terms of area it is one of the smallest covering just 15.64 square miles. The City of Gloucester is the County town for Gloucestershire and its area is mainly urban. It is surrounded by the rural authorities of the County. The Docks and Quays area of the City is a focus of a major regeneration and there is a substantial housing development to the south of the City in an area known as Kingsway situated between the Quedgeley by-pass and the M5 Corridor.

## 2.0 THE LICENSING ACT 2003

2.1 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 supply of hot food or hot drink between 2300 hours and 0500 hours ('late night refreshments').

2.2 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 I) or 'Other Persons' The licensing authorities discretion is invoked to consider the matter. '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

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 appropriate to achieve the licensing objectives will be applied.

2.3 This Licensing Policy has been prepared in accordance with the provisions of the Licensing Act 2003 and the Guidance issued by the Home Secretary under Section 182 of the Act. The Policy will take effect on 29 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 Licensing

Policy are needed before the review period they will only be made following consultation with those parties referred to in paragraph 2.4 below.

- 2.4 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 local councillors 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.

- 2.5 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;  
 The Director of Public Health in England (DPH) 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](http://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.

- 2.6 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.
- 2.7 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.
- 2.8 The Licensing Authority's Policy is to create a safe and family-friendly environment within the District, particularly within the City Centre.

- 2.9 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.
- 2.10 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.
- 2.11 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.

### **3.0 THE LICENSING PROCESS**

- 3.1 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.
- 3.2 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.
- 3.3 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.
- 3.4 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 4 to 7 and in particular the list in paragraph 6.5.
- 3.5 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.
- 3.6 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.
- 3.7 Responsible Authorities and Other Persons 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 other persons, 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.



- 3.8 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.
- 3.9 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.
- 3.10 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.
- 3.11 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.
- 3.12 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.
- 3.13 Additional information relating to the licensing application process is contained within Appendix B to the statement of Licensing Policy.

#### **How this policy applies**

- 3.14 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.
- 3.15 If no responsible authority or other 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.
- 3.16 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.

- 3.17 In exercising its discretion, the licensing sub-committee will have regard (amongst other things) to this Licensing Policy.
- 3.18 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, appropriate to promote the licensing objectives. Blanket or standard conditions will not be applied.

## THE LICENSING POLICY OBJECTIVES

### 4.0 PREVENTION OF CRIME AND DISORDER

- 4.1 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.
- 4.2 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.
- 4.3 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.
- 4.4 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.
- 4.5 The Licensing Authority along with the Police and Trading Standards fully supports the aims and objectives of the Gloucester LVA and City Safe Scheme and encourages the use of the City Safe Radio System. The Authority will also continue to work with the Safer Gloucester Partnership, NightSafe Partnership, Safer Community Teams, Neighbourhood Projects, Ward Councillors and others to help reduce crime and disorder associated with licensed premises.
- 4.6 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.*

- 4.7 Applicants for late night entertainment and liquor premises are advised to agree a protocol with Gloucestershire Police on the handling of illegal drugs found on their premises.

### **Cumulative Impact – Special Policies**

- 4.8 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.
- 4.9 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.
- 4.10 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.
- 4.11 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.
- 4.12 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.
- 4.13 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**

- 4.14 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.

- 4.15 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.
- 4.16 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.
- 4.17 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.
- 4.18 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.
- 4.19 This presumption does not relieve responsible authorities or other persons 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.
- 4.20 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.
- 4.21 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.
- 4.22 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)

- 4.23 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.
- 4.24 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.
- 4.25 There are also other mechanisms that the Licensing Authority can use to help control cumulative impact.

#### **4.26 Late Night Levy**

This is a power conferred on Licensing Authorities by the Police Reform and Social Responsibility Act 2011 which enables a levy to be charged to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy.

At a meeting of the Licensing Enforcement Committee on 18<sup>th</sup> June 2013 members resolved there will be no introduction of a Late Night Levy at this time

The option of introducing such a levy will be kept under review by the Council.

#### **4.27 Early Morning Restriction Orders (EMRO'S)**

An Early Morning Alcohol Restriction Order (EMRO) is a power in the Licensing Act 2003 that enables licensing authorities to restrict sales of alcohol in the whole or a part of their areas for any specified period between 12 midnight and 6 am, if they consider this appropriate for the promotion of the licensing objectives.

Gloucester City Council has no plan to apply for an order at this time.

#### **4.28 Public Spaces Protection Order (PSPO)**

PSPO's replaced the DPPO's under the ASB Crime & Police Act 2014. Public Space Protection Orders can be used to tackle problems with anti-social drinking. An Order is currently in place for the City covering the City Centre and Barnwood. Maps of the areas are attached as Appendix C and Appendix D.

## **5.0 PUBLIC SAFETY**

- 5.1 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.
- 5.2 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.
- 5.3 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.
- 5.4 The Licensing Authority seeks to encourage the use of toughened glassware and polycarbonate on a risk based approach in licensed premises.
- 5.5 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.

## 6.0 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 Licensing Authority is keen to protect the amenity of residents and businesses in the vicinity of licensed premises. For these purposes the Council suggests that 'vicinity' means:

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

6.3 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.

6.4 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.

6.5 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 **and within the general vicinity of** 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. Gloucester City Safe radio, pagers, ring rounds, membership of Gloucester City Safe).

6.6 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 Public Space Protection Orders in 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 law with regard to disorder and anti-social behaviour;
- the power of the police, licensing authority, or other persons to request a review of the licence;
- enforcement action against those selling alcohol to people who are already drunk.

## 7.0 PROTECTION OF CHILDREN FROM HARM

7.1 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).

7.2 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. PASS card);

7.3 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

- 7.4 The Licensing Authority 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.

#### **Children and Films etc.**

- 7.6 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.
- 7.7 The Licensing Authority will expect licensees to ensure that age restrictions for film exhibitions are properly complied with.
- 7.8 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**

- 7.9 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.

## **8.0 LICENSING HOURS**

8.1 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.

8.2 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.

8.3 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.

8.4 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.

## **9.0 PROMOTING GOOD PRACTICE INITIATIVES**

### **Best Bar None**

- 9.1 Best Bar None (BBN) is a National Award Scheme supported by the Home Office and the British Institute of Innkeeping aimed at promoting responsible management and operation of alcohol licensed premises.
- 9.2 Best Bar None maintains and raises standards and rewards good management of those venues that attain the Award. This is delivered at local level through active partnerships between the industry, local authorities and the police.
- 9.3 The Awards are based on core national standards with local flexibility to ensure they address local needs.
- 9.4 Assessment will be carried out by competent, impartial assessors, who will ensure consistency of approach. The assessment criteria will be clear and straight forward, with a minimum of bureaucracy and with constructive feedback provided to all entrants.
- 9.5 Applicants for relevant are encouraged to join the scheme, further details can be found at [www.safergloucester.co.uk](http://www.safergloucester.co.uk)
- 9.6 It was launched in Gloucester on 3<sup>rd</sup> March 2015.

### **Gloucester City Safe**

- 9.7 Gloucester City Safe replaces the previous schemes known as Pubwatch and Shopwatch. With this in mind the Licensing Authority encourages all premises licence holders to sign up to Gloucester City Safe.
- 9.8 Gloucester City Safe is made up of members of the Business Community with the sole intention of facilitating the reduction of crime, disorder and anti-social behaviour.
- 9.9 It represents both the Day Time and Night Time Economies by working together to reduce shoplifting, theft, anti-social behaviour, alcohol related disorder and street drinking throughout Gloucester.
- 9.10 Gloucester City Safe runs an Exclusion Scheme whereby members can issue 'Yellow Card' warnings to persons who misbehave in or near their premises. Normally 2 Yellow Cards would lead to an exclusion from the services of all members of Gloucester City Safe. This includes shops, restaurants, pubs, clubs and transportation services.
- 9.11 Gloucester City Safe work hand in hand with the Police and other like minded and supportive Partners, striving to make Gloucester a safer place for all to live, work and visit.

### **Reduced Alcohol Strength Initiatives**

- 9.12 'Reducing the Strength' refers to initiatives designed to tackle the problems associated with street drinking by removing from sale low price high-strength alcohol products through voluntary agreements with local retailers. The Licensing Authority will work in partnership with Gloucestershire Constabulary to encourage Premises Licence Holders to promote this initiative where appropriate.

## **Irresponsible Drinks Promotions**

- 9.13 Low cost alcohol sold in on and off trade premises increases alcohol consumption which can lead to crime and disorder issues. Through this policy the licensing authority would like to encourage the responsible consumption of alcohol and where there is evidence that the licensing objectives are being compromised or are likely to be compromised, the licensing authority will consider imposing controls on drinks promotions to deal with localised problems.

However, the licensing authority would prefer an approach whereby it, along with the licensed trade and other partners, are able to promote responsible retailing of alcohol instead of having to deal with the effects of irresponsible drinks promotions and drunkenness.

## **10.0 ENFORCEMENT AND COMPLAINTS**

- 10.1 The Licensing Authority recognises the contribution that can be made by developing effective working practices with our partner agencies. The Licensing Authority shall 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.
- 10.2 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
- 10.3 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.
- 10.4 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.

- 10.5 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.
- 10.6 The Licensing Authority will continue to work with its partner agencies in enforcing the licensing laws and in the inspection and **risk rating of premises to ensure the licensing objectives and licence conditions are met. Risk assessments will be regularly reviewed and any appropriate action that needs to be taken will be implemented immediately.** In particular the Licensing Authority will target its inspection process towards those premises that are considered as 'problematic' and 'high risk' premises **in particular those premises situated within the Cumulative Impact Zone that may require greater attention**, while providing the 'lighter touch' in respect of low risk premises that are run well.
- 10.7 Annual fees and suspension of licences for non-payment.- The Licensing Authority is required under section 55A of the Licensing Act to suspend premises licenses where the annual fee has not been paid. The Licensing Authority will invoice each licensee when the annual fee is due setting out the fee that is due and the consequences for non-payment. Where the fee has not been paid or there has been no claim of administrative error by the end of 21 days of the due date, the Licensing Authority will serve the required 2 working day notice to suspend the licence.
- 10.8 Where a licence is suspended this means that no licensable activities will be authorised to be provided at the premises until the suspension is lifted on receipt of payment of the overdue fee. Officers will conduct enforcement visits to premises where a licence has been suspended and will take the appropriate action in accordance with the council's enforcement policy.
- 10.9 If an operator does not wish to carry on the activities that require the premises licence or certificate anymore it is important the licence or certificate is surrendered to prevent maintenance fees being accrued.
- 10.10 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 9.9 below. New sites not listed above - to be assessed dependent upon location and style of operation and operators.

- 10.11 Where 'Other Persons' have 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. 'Other Persons' are defined as at paragraph 2.2

10.12 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

10.13 This process will not override the right of any 'Other Persons' 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.



## 11.0 TEMPORARY EVENT NOTICES (TEN's)

- 11.1 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 168 hours) do not need a licence providing that advance notice is given to the Police, Environmental Health and the Licensing Authority.
- 11.2 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.
- 11.3 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.'
- 11.4 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.
- 11.5 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 and Environmental Health to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.
- 11.6 All events run under the terms of a temporary event notice will be risk assessed by the Licensing Authority and may be visited by a Licensing and Enforcement Officer if considered necessary.
- 11.7 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 and Environmental Health 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 basis on one or more of the licensing objectives. If they are not planning to make an objection and the Police and Environmental Health 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.
- 11.8 Under the Deregulation Act 2015 an amendment has been made to increase the number of TEN's allowed on a premises in any one calendar year from 12 to 15 this will take effect from 1<sup>st</sup> January 2016.

## 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  
Head of Public Protection  
or  
Lisa Jones  
Food, Licensing and Markets Service Manager

Telephone No.: 01452 396304  
Fax No.: 01452 396340  
Email: [heretohelp@gloucester.gov.uk](mailto:heretohelp@gloucester.gov.uk)

Public Protection  
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](http://www.gloucester.gov.uk/licensing) for application forms, details of fees and factsheets.

## APPENDIX A

## TABLE OF DELEGATED FUNCTIONS

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
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 for a minor variation			All cases
Decision whether to consult responsible authorities on minor variation applications			All cases
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 EH or police representation to a TEN		All cases	

Approval of licensing policy statement	All cases		
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**APPENDIX B****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 Records disclosure 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 above.

## **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.

## **Takeaway food premises**

It is recognised that takeaway premises open late at night can be associated with disorder as persons under the influence of alcohol having left, or in some cases being ejected from, late night venues congregate there.

Applicants for licences are recommended to have written policies for dealing with disorder and nuisance and should give consideration to the issues regarding takeaways.

The Licensing Authority may recommend that licensed premises principally used for selling hot food for consumption off the premises shall have suitable CCTV installed. Where Crime and Disorder issues arise the Licensing Authority may impose a requirement on the premises licence holder to employ SIA doormen.

Where the Licensing Authority considers it appropriate, it may impose conditions on a premises licence to require the operators of premises serving customers with hot food or drink to provide litter bins in the vicinity of the premises in order to prevent the accumulation of litter from its customers.

## **Sexual Entertainment Venues (SEV's)**

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

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

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

The adopted provisions came into effect on the 1st April 2011 in Gloucester.

Any premises that want to offer relevant entertainment on a regular basis, that is more frequent than 24 hours once a month on no more 11 occasions a year, can no longer offer this under the provisions of the Act as a result of the

abovementioned adoption. These premises must apply for a Sexual Entertainment Venue (SEV) licence.

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

The Government has seen it fit to exempt infrequent sexual entertainment from requiring a licence. Whilst the council recognises and accepts this, it is also acutely aware that unless it is properly managed there are risks to public protection and safety, an increased likelihood of associated crime & disorder and an inability of regulatory bodies to respond accordingly.

### **Pavement Cafes and External Areas**

The Local Authority wishes, as far as is compatible with other highway uses, to promote the 'cafe culture' in Gloucester because of the added life and vitality this brings to the town.

Whilst the provision of tables and chairs outside a premises can enhance the attractiveness of a venue, regard should be had to the need to ensure that the use of such areas will not cause nuisance to local residents and other premises in the vicinity.

Premises that make use of external areas are expected to manage those areas in such a way that its use does not impede access to the premises, obstruct the highway and does not cause disturbance.

### **Shops Selling Alcohol (Off Licences)**

There has been a trend towards more alcohol being purchased from shops and consumed at home and less being purchased and consumed in traditional pubs, restaurants and night clubs than used to be the case in the past. The growing practice of "pre-loading" has the potential to create specific problems and detriment to the licensing objectives.

Furthermore, the availability of alcohol for consumption off the premises has the potential to cause other problems that include ease of access to alcohol by children, ease of thefts, encouragement of street drinking and an increase of crime and disorder and public nuisance.

Where there is evidence that the licensing objectives are being compromised or are likely to be compromised, the Licensing Authority will consider imposing appropriate restrictions on a licence, this could be achieved either by reviewing the premises licence or agreeing appropriate conditions that would alleviate the Licensing Authority's concerns.

### **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 168 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 21 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.

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.

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.

### 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 168-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 twenty eight 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 three-month period.

At the end of the three 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 Power 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 a responsible authority or 'other persons', have not been withdrawn and, in the case of representations made by an 'other persons' they are not in the Licensing Authority's opinion frivolous or vexatious

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.

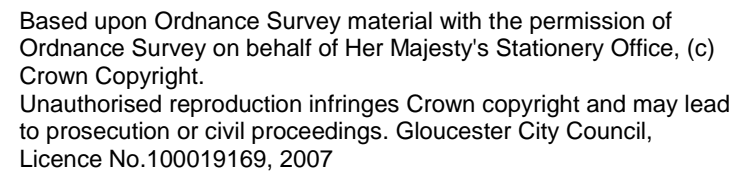
The court may make such order as to costs as it thinks fit.

## **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 Home Office under section 182 of the Act.

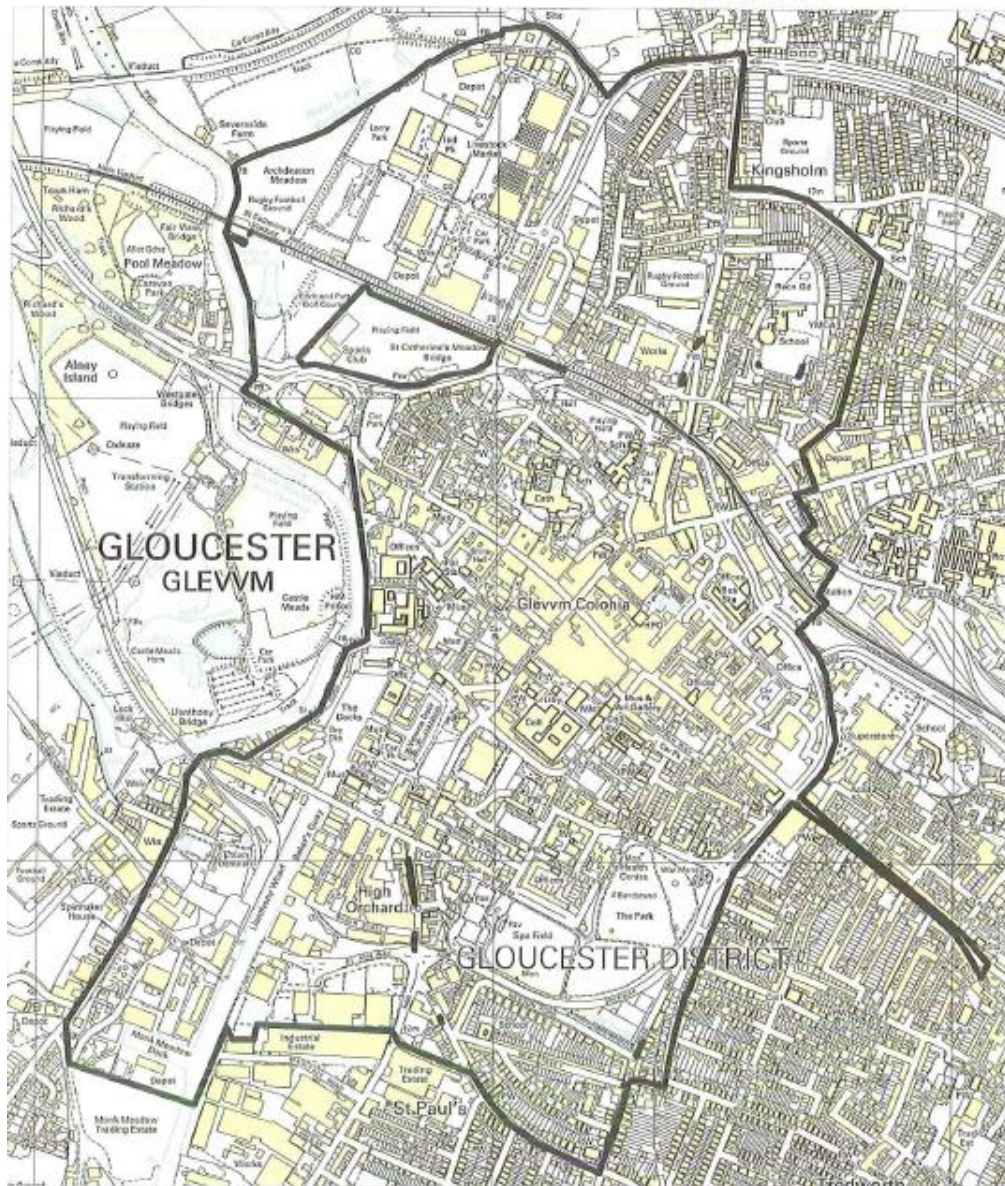
**Implementing the determination of the Magistrates' Courts**

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



Scale 1:11500

Drinking in the street restricted area

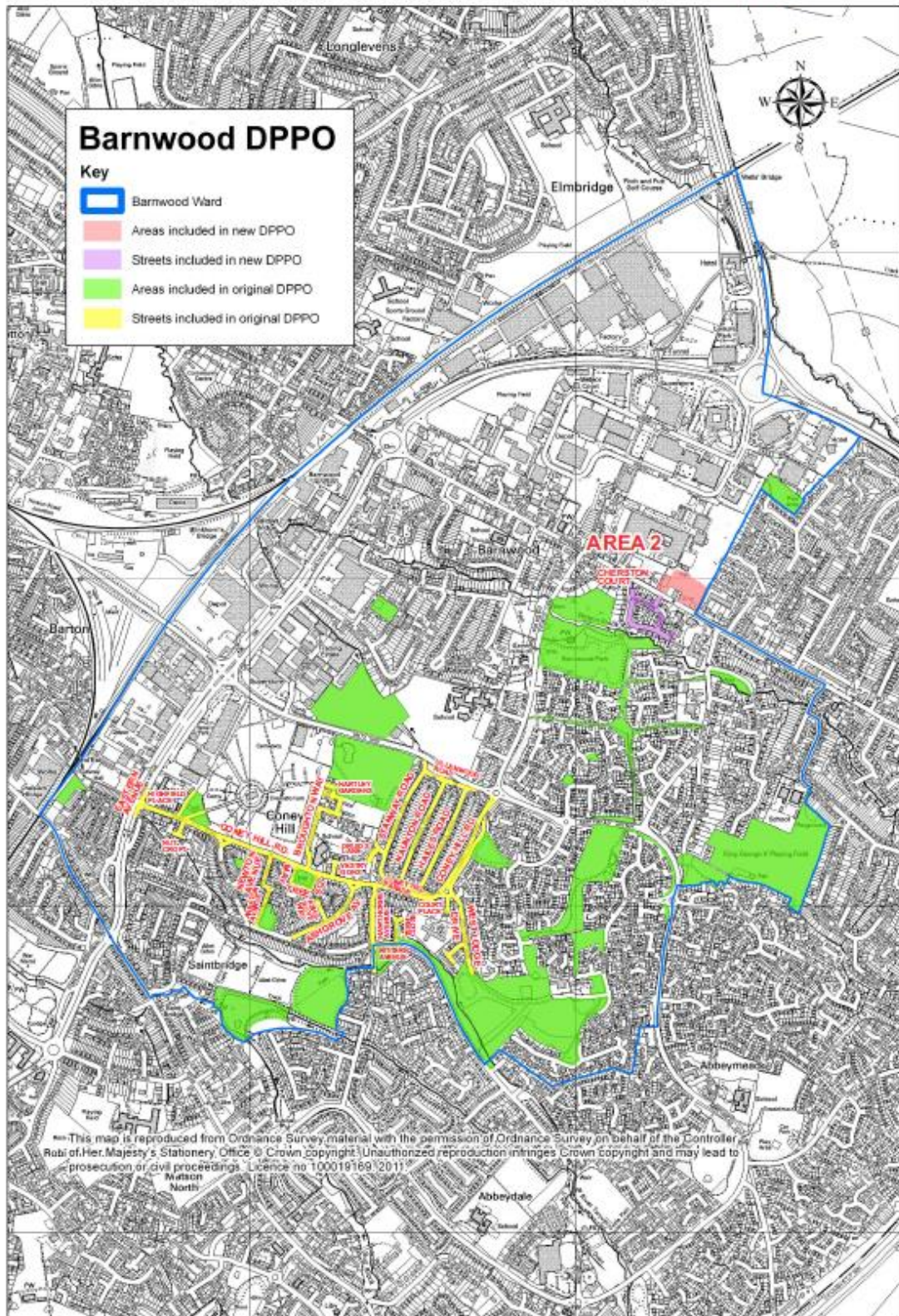
**GLOUCESTER**  
CITY COUNCIL



Drwg.No.	Number / Reference
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**APPENDIX F****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**

**“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 Protection when dealing with 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 in whose area part of the premises is situated.
- Gloucester City Council Licensing Authority
- Weights and measures authority
- Local Health Board

**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.

**“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 168 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.

## **“OTHER PERSONS”**

- 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

## APPENDIX G

### 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

**APPENDIX H****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 I****LIST OF RESPONSIBLE AUTHORITIES****GLOUCESTERSHIRE CONSTABULARY**

Licensing Unit  
Community Engagement Department  
Police HQ  
No1 Waterwells  
Quedgeley  
Gloucester  
GL2 2AN

Telephone: 01452 754482  
Email: [licensing@gloucestershire.pnn.police.uk](mailto:licensing@gloucestershire.pnn.police.uk)

The main Police switchboard number is 0845 090 1234.

**GLOUCESTERSHIRE FIRE AND RESCUE**

Chief Fire Officer  
Fire Service Headquarters  
Waterwells Drive  
Quedgeley  
Gloucester  
GL2 2AX

Telephone: 01452 753333  
Fax: 01452 753304  
Email: [fire.safety@glosfire.gov.uk](mailto: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](mailto: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](mailto:licence.team@gloucester.gov.uk)

### WHERE THE HSE ARE THE ENFORCING AUTHORITY:

Health and Safety Executive  
4<sup>th</sup> 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](mailto: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](mailto: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](mailto:development.control@gloucester.gov.uk)

## **CHILD PROTECTION**

Gloucestershire Safeguarding Children Board  
Room 128  
1<sup>st</sup> Floor, Block 4  
Gloucestershire County Council  
Shire Hall  
Gloucester  
GL1 2TG

Telephone: 01452 426321  
Fax: 01452 425148  
Email: [mail@gscb.org.uk](mailto:mail@gscb.org.uk)

## **GLOUCESTERSHIRE TRADING STANDARDS**

The Tri Service Centre  
Waterwells Drive  
Quedgeley  
Gloucester  
GL2 2AX

Telephone: 01452 426201  
Fax: 01452 426274  
Email: [tradstds@gloucestershire.gov.uk](mailto:tradstds@gloucestershire.gov.uk)

## **LOCAL HEALTH BOARD**

Public Health Department  
Block 4, 2<sup>nd</sup> Floor  
Gloucestershire County Council  
Shire Hall  
Westgate Street  
Gloucester  
GL1 2TG

Telephone: 01452 328607  
Email: [publichealth@gloucestershire.gov.uk](mailto:publichealth@gloucestershire.gov.uk)

## **CANAL & RIVER TRUST - Business Licence applications only**

The Dock Office  
Commercial Road  
Gloucester  
GL1 2EB

Telephone: 0303 040 4040