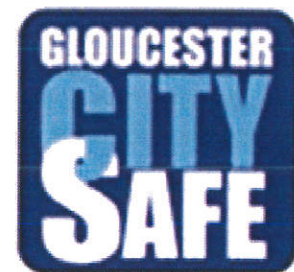


Gloucester City Council

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
Minicom 01452 396161
www.gloucester.gov.uk

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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

- 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.

- 3.8 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.

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;

- 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

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.

- 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.

- 7.4 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.

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
- 9.6 It was launched in Gloucester on 3rd 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.

- 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

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 1st January 2016.

APPENDIX A

TABLE OF DELEGATED FUNCTIONS

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a representation is made	If no representation is made
Application for premises licence/club premises certificate		If a representation is made	If no representation is made
Application for provisional statement		If a representation is made	If no representation is made
Application to vary premises licence/club premises certificate		If a representation is made	If no representation is made
Application 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	

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.

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.

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.

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.

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:

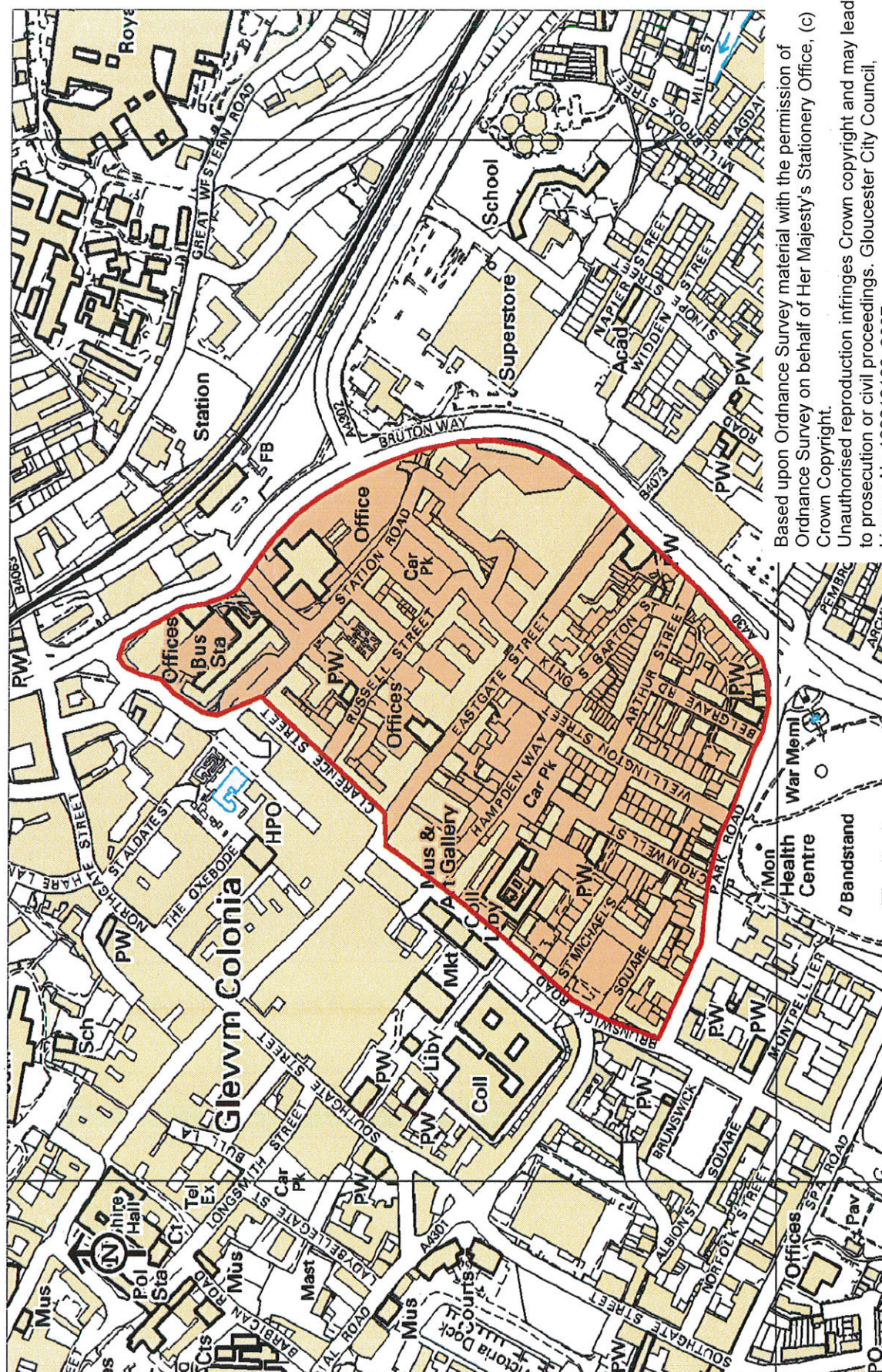
- a) dismiss the appeal;
- b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority; or
- c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court.

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

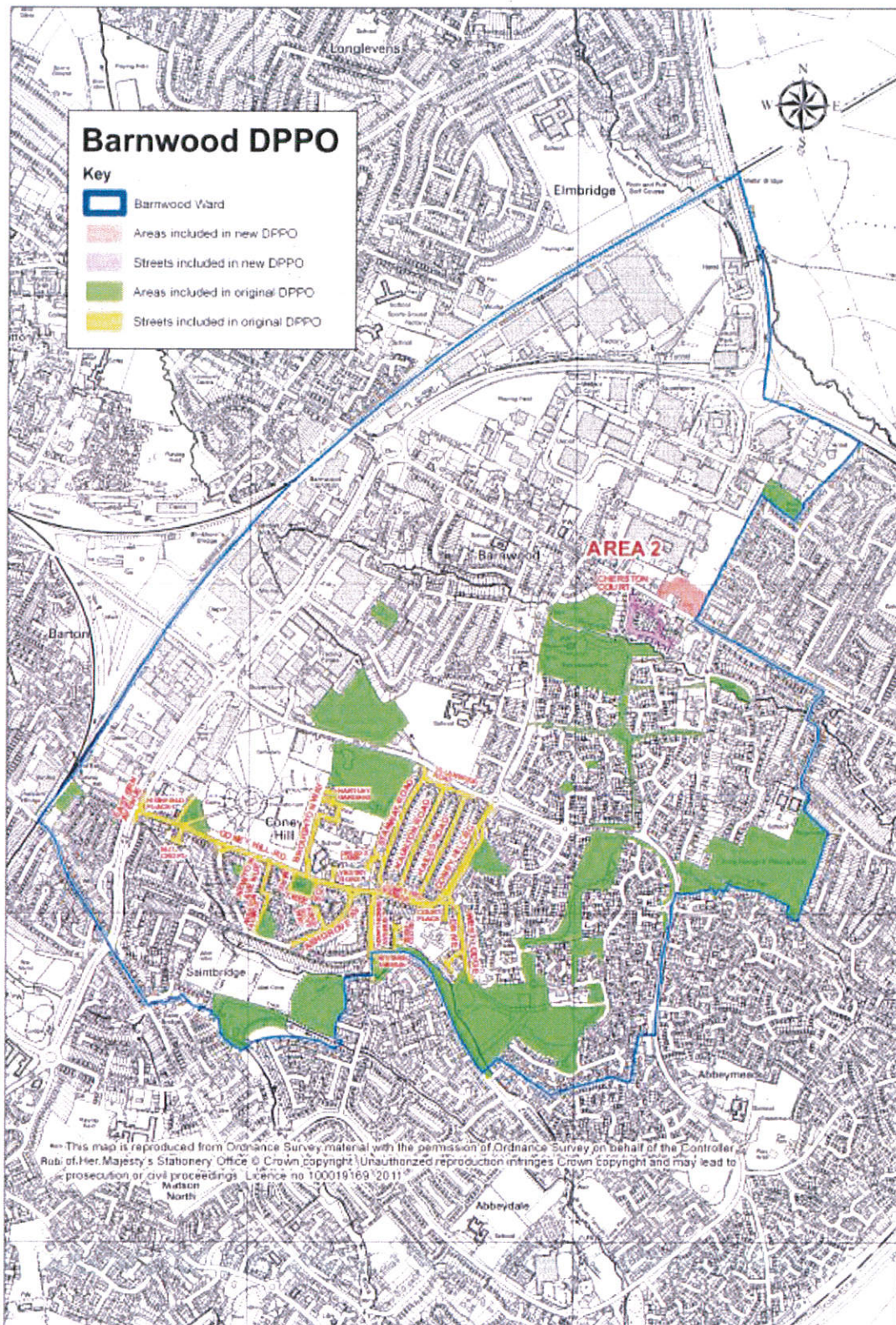
Giving reasons for decisions

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.

APPENDIX C



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- 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.

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

<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>

HEALTH AND SAFETY ENFORCEMENT

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

WHERE THE LOCAL AUTHORITY IS THE ENFORCING AUTHORITY:

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

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

WHERE THE HSE ARE THE ENFORCING AUTHORITY:

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

Telephone: 02920 263000
Fax: 0117 926 2998
Email: (i) For service employment e.g. Central and Local Government, NHS etc. the contact is paula.johnson@hse.gsi.gov.uk
(ii) For other employment e.g. manufacture and repair, agriculture, transport, the contact is nigel.chambers@hse.gsi.gov.uk

LOCAL PLANNING AUTHORITY

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

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