



**CHELTENHAM**  
BOROUGH COUNCIL

# Licensing Act 2003

## Licensing policy statement

Approved by Council  
6 December 2004

## Preamble

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The Licensing Act 2003 introduces major changes to the law relating to alcohol sales, public entertainment and late night refreshment. A new unified system of regulation through local unitary and district councils is expected to be fully operational by November 2005. An estimated 200,000 premises in England and Wales will be affected. There will be two new types of licence: *the premises licence and the personal licence (club premises certificates for qualifying clubs)*. As a result Cheltenham Borough Council, instead of the magistrates' court, will assume responsibility for licensing all outlets in the borough that sell or supply alcohol or carry out any other 'licensable activities': public entertainment; theatre; cinema; or, late night refreshment. Fixed opening hours will be abolished and other freedoms and flexibilities will be balanced by accountabilities, new offences and strong enforcement powers. The new system is underpinned by four objectives: i) the prevention of crime and disorder; ii) public safety; iii) the prevention of public nuisance; and, iv) the protection of children from harm. The licensing authority must promote these objectives in carrying out its new functions.

The Act requires the licensing authorities to publish and keep under review a statement of their licensing policy. Partnership working is at the heart of the new system and statutory bodies, licensee and resident representatives are key stakeholders who must be consulted before the policy is adopted. Cheltenham Borough Council welcomes these new powers and will work to integrate its new responsibilities with existing policies and strategies including those relating to community safety; the night time economy; transport; culture and development.

This document is Cheltenham Borough Council's first licensing policy as approved by Council at its meeting on 6 December 2004.

## Schedule of policies

### A: Introduction

- A1 **Each objective is of equal importance** and the licensing authority has developed policies relating to each objective. The objectives are the only matters to be taken account in determining applications and applying conditions. **(Paragraph 1.2)**
- A2 The council welcomes the licensing reform measures that the Act introduces and in carrying out its new duties and responsibilities, will seek to progress the Night Time Economy Strategy's vision of **'a safe and attractive town centre with a diverse night time economy, accessible to all while protecting the quality of life for residents'**. **(Paragraph 1.3)**

### B: General principles

- B1 The licensing authority will give proper weight to the views of those it has consulted. The policy will take effect on 7 February 2005 and will remain in force for a period of not more than three years. A review and further consultation will be carried out in 2007-08. **(Paragraph 2.1)**
- B2 Nothing in this policy will prevent any person from exercising their rights under the Act as an applicant, interested party or responsible authority. The licensing authority's aim is to uphold the licensing objectives whilst facilitating well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents. **(Paragraph 2.3)**
- B3 The council will consistently strive to work in partnership with licensees, authorised persons, the police, other responsible authorities and interested parties in promoting the licensing objectives. **(Paragraph 2.3)**
- B4 The licensing authority will only apply terms and conditions to licences which promote one or more of the licensing objectives and are relevant to the individual circumstances of the application. Conditions may be drawn from those set out in Appendix B and / or tailored to particular circumstances and they will be focused on matters within the control of the individual licensees and others granted relevant permissions. **(Paragraph 2.4)**
- B5 The licensing authority will always seek to ensure that conditions are necessary, proportionate and reasonable and will avoid the use of any conditions which duplicate other legal requirements that apply to an employer or operator of premises. **(Paragraph 2.4)**
- B6 The licensing authority will expect all individual applicants to address the licensing objectives in their operating schedule having regard to the premises, the licensable activities to be provided, the operational procedures, the nature of the location and the interests of the local community. The licensing authority expects that any conditions that are necessary will, in the first instance, be identifiable from prospective licensees or certificate holders' risk assessments.

Applicants will have to translate their assessments into measures which promote one or more of the licensing objectives and record them in their operating schedule. **(Paragraph 2.5)**

- B7 The licensing authority will not impose any conditions unless, following the receipt of relevant representations, it has used its discretion at a hearing and been satisfied of the validity of those concerns. **(Paragraph 2.5)**
- B8 The licensing authority encourages prospective applicants to seek to minimise disputes and the need for hearings by consulting with all responsible authorities when operating schedules are being prepared. **(Paragraph 2.5)**
- B9 As a licensing authority, Cheltenham Borough Council fully understands that licensing law is not a mechanism for the general control of antisocial behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. Licensed premises, especially those offering late night entertainment, alcohol and refreshment, can be a source of crime and disorder, public safety and nuisance concerns. The licensing authority will expect operating schedules to satisfactorily address these issues from the design of the premises through to the way that they are operated on a day to day basis. The licensing authority understands and expects that the primary responsibility for controlling activities on and in the immediate vicinity of their premises will rest with all holders of a licence, certificate or permission. **(Paragraph 2.6)**
- B10 The licensing authority will consider every application on its individual merits with regard to this policy statement and to the Licensing Committee's Probity Guide. The licensing authority will seek to balance the needs of the wider community, local community and commercial premises and activities, against those who may be concerned about adverse impacts from licensed premises. The views of vocal individuals or groups will not of necessity prevail over the general interests of the community. In every case, the licensing authority will focus on disproportionate or unreasonable impacts of the licensable activities on people living, working and sleeping in the vicinity. **(Paragraph 2.7)**
- B11 The licensing authority will support diversity of premises as it believes that a mix of different types of licensed premises (particularly where there is already a high concentration of them) offers a number of benefits. **(Paragraph 2.8)**
- B12 The licensing authority will adapt its existing consultative mechanisms to ensure that regular dialogue takes place with representatives of licensed premises, personal licensees, businesses and residents to discuss and keep matters relating to licensing under review. **(Paragraph 2.9)**
- B13 The council will work in partnership with the other local authorities in Gloucestershire to ensure a consistent approach is taken to licensing matters whilst respecting the needs of individual communities. **(Paragraph 2.10)**
- B14 In any case where the licensing authority believes that a departure from this policy or relevant guidance is necessary it will give clear and sound reasons for doing so. **(Paragraph 2.11)**

**C: Integrating strategies**

- C1 Cheltenham Borough Council will continue the development of its work on the night time economy as a key linking mechanism to ensure that its licensing policies are properly integrated with other existing strategies and plans relating to crime reduction, planning, transport, economic development, tourism and culture. **(Paragraph 4.1)**
- C2 Cheltenham Borough Council has developed a Race Equality Scheme to accord with the Race Relations Act 1976, as amended. The council will use the experience gained as a licensing authority in implementing the Licensing Act 2003 to inform its judgements on the ways that these duties and responsibilities may impact on the general duty to:
- eliminate unlawful discrimination
  - promote equality of opportunity
  - promote good relations between persons of different racial groups **(Paragraph 4.2)**
- C3 The council, in fulfilling its duties as a licensing authority under the Act, will seek to reflect this desire for greater inclusion and balance in its evening and night time offering. **(Paragraph 4.3)**
- C4 The owners of public spaces within the borough, including the council itself, will be encouraged to apply for premises licences. This will enable performers and entertainers who wish to provide regulated entertainment to do so by obtaining the permission of the premises licence holder without needing to either obtain a licence or give a temporary event notice. **(Paragraph 4.4)**
- C5 In undertaking its role as a licensing authority, the council will monitor the impact of licensing on regulated entertainment, and particularly on live music, dancing and theatre. The council, as the licensing authority, will have regard to the cultural strategy's aim: *'to offer everyone in Cheltenham access to the best possible cultural and leisure opportunities, enhancing the town's reputation and environment, in pursuit of a better quality of life for all'*. **(Paragraph 4.5)**
- C6 To ensure that the Licensing Committee is able to properly reflect these issues in its deliberations, arrangements will be made for members to receive reports from time to time on: a) the night time economy strategy, b) the needs of the local tourism economy, c) cultural strategy developments and d) the local economic development and employment situation. **(Paragraph 4.6)**
- C7 The council recognises that there must be a clear separation of the planning and licensing regimes and that licensing applications should not be a re-run of the planning application, decision or appeal processes. The need for improved co-ordination of the planning and licensing regimes has been recognised in the Night Time Economy Strategy and the council will ensure that the Licensing Committee provides reports to the Planning Committee on licensed premises in the town and the impact of alcohol related crime and disorder. This will ensure that the Planning Committee has regard to such matters in taking its decisions. **(Paragraph 4.7)**
- C8 Other than when dealing with applications for provisional statements where no construction has taken place, the licensing authority will, in general, require applications for premises licences and club premises certificates to be supported by an appropriate grant of planning permission. **(Paragraph 4.8)**

- C9 The licensing authority recognises the need to avoid as far as possible duplication with other regulatory regimes and will, as a matter of policy, seek to avoid it as far as possible. However, the licensing authority is also mindful that other legislation does not always cover circumstances that arise in connection with licensable activities, particularly regulated entertainment, at specific premises where a condition(s) may be necessary **(Paragraph 4.9)**

## **The policy objectives:**

### **D: Crime and disorder**

- D1 In addition to its duty to promote the licensing objectives, Cheltenham Borough Council also has a duty under Section 17 of the Crime and Disorder Act 1988 to do all it can to prevent crime and disorder. The council, in undertaking its duties and responsibilities as a licensing authority, will seek to ensure that it consistently reflects local crime prevention strategies and priorities. **(Paragraph 5.1)**
- D2 In this policy, the licensing authority will focus on nationally identified good practice to uphold and promote the licensing objectives, particularly in relation to crime and disorder that has been highlighted by the Government in its action plan for tackling alcohol related crime and disorder which aims:
- to reduce problems arising from underage drinking
  - to reduce public drunkenness
  - to prevent alcohol related violence.

In forming a view about the merits of individual applications, the licensing authority will apply a risk weighting approach (see 12.1) and quality standards of socially responsible good management. **(Paragraph 5.5)**

- D3 The licensing authority believes that unless licensees who are responsible for nightclubs and other high risk premises actively participate in Nightsafe and contribute to the effective operation of its exclusion policy, their right to enjoy maximum use of the new freedoms and flexibilities offered by the Licensing Act 2003 may be limited. **(Paragraph 5.5)**

### **E: Public safety**

- E1 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. In all cases applicants' risk assessments will be used to determine what public safety measures are necessary, given the nature and style of the venue. **(Paragraph 6.1)**
- E2 Conditions will not be imposed which relate to cleanliness or hygiene and neither will smoking bans in premises be sought by condition. **(Paragraph 6.2)**

- E3 A condition may require certain safety check documentation to be held but this requirement will not be applied where such a requirement exists in other legislation. **(Paragraph 6.3)**
- E4 Safe occupancy capacities will only be imposed on relevant premises where applicants' risk assessments and / or advice from the fire and rescue service show them to be necessary in the interests of public safety. On occasion the licensing authority, acting on police advice, may use such a condition where overcrowding has raised concerns about the risk of disorder. **(Paragraph 6.4)**
- E5 Where 'small premises' which hold no more than 200 people intend to make use of the exemption provisions in s177 of the Act, the licensing authority will in every such case, either require confirmation of the permitted capacity through the premise's fire certificate or, where this is not available, the fire and rescue service will be asked to make a recommendation on the capacity for inclusion, which where appropriate could be based on numbers submitted by an applicant, in a condition to be imposed by the licensing authority. **(Paragraph 6.5)**
- E6 The licensing authority will draw conditions relating to public safety including fire safety, from the Secretary of State's guidance on the Act (Appendix B, which can also be found at [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk) under 'licensing policy statement' in the A-Z of our services). Where justified, conditions will be imposed relating to CCTV system(s), the use of door supervisors (with a requirement that for every 100 persons, or part thereof present in licensed premises, a minimum of two be provided), use of plastic / toughened bottles and glasses and, preventing the removal of opened drinks containers from licensed premises. **(Paragraph 6.6)**
- E7 Applicants are encouraged to seek advice from the council's environmental health officers and licensing officers and the fire safety section of Gloucestershire fire and rescue service. The licensing authority will determine on a case by case basis which application premises require an inspection and, in all cases, the council's licensing officers will seek to reduce inconvenience, confusion and inconsistency by co-ordinating inspections and visits with the fire authority, police, building control and environmental health officers, as appropriate. **(Paragraph 6.8)**

**F: Prevention of nuisance**

- F1 Cheltenham Borough Council, in its role as a licensing authority, wishes to do all in its power to protect the amenity of residents and businesses in the vicinity of licensed premises, and for these purposes 'vicinity' is taken to mean the immediate area around licensed premises. As the council is fully aware of the importance of the licensed trade in terms of the local economy and its culture and leisure aspiration, it will seek to work in partnership with all interested parties to ensure a mutual and productive co-existence. **(Paragraph 7.2)**
- F2 When considering licence applications, the licensing authority will take into account the location of the premises and the type and construction of the building as well as the adequacy of measures proposed to deal with the potential for nuisance and / or antisocial behaviour having regard to all the circumstances of the application. **(Paragraph 7.4)**

F3 The licensing authority will consistently seek to ensure that its judgements about what constitutes public nuisance are balanced, as are decisions about any conditions that are considered necessary to prevent it.

In particular the licensing authority will consider the appropriate action having regard to the following:

- 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
- prevention of disturbance by customers arriving at or leaving the premises, particularly between 11pm and 7am
- prevention of queuing by pedestrians or vehicular traffic, or if some queuing is inevitable then ensuring the queues are diverted away from neighbouring premises or are otherwise managed to prevent disturbance or obstruction
- ensuring staff leave the premises quietly, arrangements for parking by patrons and staff, and the effect of the parking on local residents
- provision for public transport (including taxis and private hire vehicles) for patrons
- whether licensed taxis or private hire vehicles are likely to disturb local residents
- whether routes to and from the premises on foot, by car or other services pass residential premises
- the installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship
- the use of gardens and other open-air areas
- the location of external lighting, including security lighting that is installed inappropriately
- other appropriate measures to prevent nuisance including action by registered door supervisors or the use of CCTV
- how the premises, including those offering late night refreshment, addresses refuse storage or disposal problems, or additional litter (including fly posters and illegal placards)
- any history of previous nuisance complaints proved against the premises, particularly where statutory action has been taken. **(Paragraph 7.5)**

F4 When considering the use of licence conditions to prevent unnecessary noise, disturbance and public nuisance to residents and businesses, the licensing authority may include restrictions on the times when music or other licensable activities may take place and may include technical restrictions on sound levels at the premises. **(Paragraph 7.6)**

**G: Protection of children from harm**

G1 The licensing authority recognises that locally, limitations may have to be considered where it is considered necessary for the prevention of physical, moral, or psychological harm. Concerns may be raised about particular premises where:

- current members of staff have convictions for serving alcohol to minors or the premises are associated with underage drinking



- there is a known association with drug taking or dealing
- there is a strong element of gambling on the premises
- entertainment or services of an adult or sexual nature are commonly provided
- the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises
- there is a presumption that children under 18 should not be allowed (eg to nightclubs, except when under 18 discos are being held).  
**(Paragraph 8.1)**

G2 When deciding whether or not 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 consult with Gloucestershire Police and other agencies as appropriate, including the Area Child Protection Committee or Social Services Department. Where concerns have been identified in respect of individual premises and it is felt that access to the premises by children should be restricted, the options available would include:

- limitations on the hours when children may be present
- age limitations for persons under 18
- limitations on the exclusion of children under certain ages when specified activities are taking place
- full exclusion of 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.  
**(Paragraph 8.2)**

G3 The licensing authority will not impose any conditions that specifically require the access of children to the premises. **(Paragraph 8.3)**

G4 Where no conditions or restrictions are imposed, the issue of access for children remains a matter for the discretion of individual licensees or clubs or person who has given a temporary event notice. The Act does not impose any restrictions on individual applicants volunteering prohibitions or restrictions in their operating schedules because their own risk assessments have shown that the presence of children is undesirable or inappropriate. In the absence of any relevant representations, the volunteered prohibitions or restrictions would become conditions of the licence or certificate. **(Paragraph 8.4)**

- G5 The Act details a number of offences that are designed to protect children in licensed premises and the licensing authority will work closely with the police and Trading Standards Services to ensure appropriate and effective enforcement, particularly in relation to the sale and supply of alcohol to children where standardised proof of age requirements are part of the licensing authority's quality standards of socially responsible good management. Where operating schedules for alcohol licensed premises do not include a clear policy on proof of age requirements the licensing authority believes that the right to enjoy maximum use of the new freedoms and flexibilities offered by the Licensing Act 2003 will be limited. **(Paragraph 8.5)**
- G6 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 with certain age ranges. In order to prevent children from seeing such films, the licensing authority will impose conditions requiring licensees to restrict children from viewing age restricted films classified by the British Board of Film Classification. **(Paragraph 8.6)**
- G7 In considering applications, the licensing authority will take into account any evidence that age restrictions for film exhibitions are not being properly observed. **(Paragraph 8.7)**
- G8 Many children attend or take part in an entertainment arranged especially for them, for example children's film shows, dance and drama or school productions. In these cases specific additional arrangements relating to access, egress, stewarding, or seating to safeguard them may be required. **(Paragraph 8.8)**
- G9 The licensing authority will expect these matters to be satisfactorily addressed in applicants' operating schedules. **(Paragraph 8.9)**

**H: Cumulative impact**

- H1 Cheltenham Borough Council will not take 'need' into account when considering an application. **(Paragraph 9.1)**
- H2 Cheltenham Borough Council has established that it has a remarkably vigorous night time economy for the size of the town. It is apprehensive about current trends in crime and disorder when associated with an increase in people either passing through or congregating in streets during the night. The principal focus of concern is the town centre and whilst there is some evidence that this part of the borough is already suffering adverse effects from the concentration of late night premises, the licensing authority does not believe that they are currently so unusual or exceptional as to call for the immediate development of a special saturation policy. However, this is an area of particular concern and will, with stakeholders, be kept under close review along with the impacts of the Act and the licensing authority's 'quality standards' approach to upholding the licensing objectives. **(Paragraph 9.5)**
- H3 The licensing authority will take the following steps when considering whether to adopt a special saturation policy:
- identification of serious and chronic concern from a responsible authority or representatives of residents about nuisance and disorder
  - identification of the area from which problems are arising and the boundaries of that area, where it can be demonstrated that disorder and nuisance is arising as a result of customers from licensed premises

- assessment of the causes
- adoption of a policy about future licence applications from that area.  
**(Paragraph 9.8)**

H4 The licensing authority will consider representations based on the impact on the promotion of the licensing objectives when determining the grant of any particular application before them. However, the onus would be on the objectors to provide evidence to support any assertion that the addition of the premises in question would produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics. **(Paragraph 9.9)**

H5 The licensing authority recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community.  
**(Paragraph 9.12)**

#### **I: Licensing hours**

I1 The licensing authority will not impose arbitrary restrictions on trading hours that undermine the principle of flexibility. The movement of people through the town centre at night and incidents at gathering places are particular areas of concern and the council wishes to see reduced concentrations and a slower dispersal of people from licensed premises with benefits in terms of promotion of the licensing objectives. **(Paragraph 10.2)**

I2 The licensing authority will expect the operating schedules for late night venues to address these issues by making it attractive for customers to spend their whole evening, or the latter part of it, at a single venue.

Whether or not operating hours are extended as a result of the Act, the licensing authority seeks (through its 'quality standards' approach) for licensees to carefully manage the final 30-60 minutes of their trading period with appropriate measures to prevent customers leaving en masse and 'hyped up' as a result of loud music. **(Paragraphs 10.3 & 4)**

I3 The licensing authority will not impose fixed trading hours within specified parts of the borough; neither will it seek to engineer staggered closing times by setting quotas for particular times. **(Paragraph 10.5)**

I4 In reaching a judgement on the individual merits of applications, the licensing authority will have regard to the implications for nuisance generation and the impacts on residents that are posed by operating hours and types of regulated entertainment. 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
- nature of the proposed activities to be provided at the premises.

Consideration may, however, be given to imposing stricter controls on noise and disturbance from particular licensed premises, such as those in mainly residential areas. **(Paragraph 10.6)**

- I5 Generally the licensing authority will consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. **(Paragraph 10.7)**
- I6 The licensing authority wants all licensees and their customers to continue to enjoy the benefits of the pattern of extended hours for bank holidays and major horseracing events that has been established in Gloucestershire. **(Paragraph 10.8)**

**J: Enforcement**

- J1 The licensing authority will provide adequate licensing enforcement resources to monitor premises and take any appropriate enforcement action to ensure compliance. In undertaking enforcement the licensing authority will employ the following categories of risk weighting:
- Town centre public houses and night clubs – medium to high risk depending on history
  - All other public houses – low to medium risk (dependent upon history)
  - Town centre late night refreshment premises - medium to high risk depending on history
  - All other premises that are primarily used for serving food – low risk (depending on history)
  - All other premises - low risk (depending on history)
  - New premises – assessment to be based on location, style of operation and any applicant history.

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# 1. Introduction

1.1 This policy applies to activities that the licensing authority is responsible for under the Licensing Act 2003 (the Act). Examples of licensable activities are:

- retail sale of alcohol (including via the internet or mail order)
- the wholesale of alcohol to members of the public
- supply of alcohol to club members
- the provision of 'regulated entertainment' to the public or club members or with a view to making a profit in the presence of an audience; including: the performance of a play; film exhibitions; indoor sporting events; boxing or wrestling events (indoors and outdoors); performing live music and playing recorded music (except incidental music); dance performances; and entertainment of similar descriptions including circuses
- the provision of facilities for making music
- the provision of facilities for dancing
- the supply of hot food or drink from the premises between 23.00 hours and 05.00 hours.

1.2 The Licensing Act 2003 imposes a duty on Cheltenham Borough Council 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 statutory objectives that the licensing authority will actively seek to promote in carrying out its licensing functions are:

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

**Each objective is of equal importance** and the licensing authority has developed policies relating to each objective. The objectives are the only matters to be taken account in determining applications and applying conditions.

1.3 The licensing authority welcomes the licensing reform measures that the Act introduces and in carrying out its new duties and responsibilities will seek to progress the Night Time Economy Strategy's vision of '**a safe and attractive town centre with a diverse night time economy, accessible to all while protecting the quality of life for residents**'.

- 1.4 This policy has been prepared in accordance with the provisions of the Licensing Act 2003 and with regard to guidance issued by the Secretary of State under Section 182 of the Act. The licensing authority has also had regard to existing corporate policies and strategies as well as its existing duties and responsibilities under the following statutes and associated statutory provisions: the Crime and Disorder Act 1988, the Human Rights Act 1998, the Health and Safety at Work etc Act 1974, and the Environmental Protection Act 1990.

## **2. General principles**

- 2.1 The licensing authority will give proper weight to the views of those it has consulted. The policy will take effect on 7 February 2005 and will remain in force for a period of not more than three years. A review and further consultation will be carried out in 2007/2008. If any amendments to the licensing policy are needed before the review period they will only be made following consultation with the parties that are referred to below.
- 2.2 The Act stipulates a number of stakeholders who have an interest in licensing and who had to be consulted before this policy was adopted:
- the Chief Officer of police
  - the fire authority
  - persons / bodies representing local holders of premises / club / personal licences
  - persons / bodies representing businesses and residents.

All these parties have views and concerns that require consideration as part of the licensing function. Cheltenham Borough Council, as a licensing authority, will consult with Gloucestershire Police, Gloucestershire Fire and Rescue Service, Gloucestershire County Council's Education, Social Services and Trading Standards Departments, the Gloucestershire and Cheltenham Crime Reduction Partnerships, the ambulance and accident and emergency services, the five consultative area committees, all known tenants and residents groups, the Nightsafe Group, the Cheltenham Innkeepers Association, the Cheltenham Tourism Forum, the Cheltenham Business Partnership, the Cheltenham Local Strategic Partnership, and the Night Time Economy Community Strategic Liaison Group before adopting its licensing policy or any amendments to it. In addition, the licensing authority may also consult with other local bodies and agencies as appropriate. The Night Time Economy Community Strategic Liaison Group, acting under the auspices of the Social and Community Overview and Scrutiny Committee, will be asked to consider any responses to future revisions of this policy before the document is considered by full Council.

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

The licensing authority will consistently strive to work in partnership with licensees, authorised persons, the police, other responsible authorities and interested parties in promoting the licensing objectives.

- 2.4 The licensing authority will only apply terms and conditions to licences which promote one or more of the licensing objectives and are relevant to the individual circumstances of the application. Conditions may be drawn from those set out in the Secretary of State's guidance on the Act; D-H (also available from our website at [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk), under 'licensing policy statement' in the A-Z of our services). They may be tailored to particular circumstances and they will be focused on matters within the control of the individual licensees and others granted relevant permissions. The licensing authority will always seek to ensure that conditions are necessary, proportionate and reasonable and will avoid the use of any conditions which duplicate other legal requirements that apply to an employer or operator of premises.
- 2.5 The licensing authority will expect all individual applicants to address the licensing objectives in their operating schedule having regard to the premises, the licensable activities to be provided, the operational procedures, the nature of the location and the interests of the local community. The licensing authority expects that any conditions that are necessary will, in the first place, be identifiable from prospective licensees or certificate holders' operating schedules. Applicants will have to translate their assessments into measures which promote one or more of the licensing objectives and record them in their operating schedule. The council, as the licensing authority, will not impose any conditions unless, following the receipt of relevant representations, it has used its discretion at a hearing and been satisfied of the validity of those concerns. The licensing authority encourages prospective applicants to seek to minimise disputes and the need for hearings by consulting with all responsible authorities when operating schedules are being prepared.
- 2.6 Cheltenham Borough Council, in its role as a licensing authority, fully understands that licensing law is not a mechanism for the general control of antisocial behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. Licensed premises, especially those offering late night entertainment, alcohol and refreshment, can be a source of crime and disorder, public safety and nuisance concerns. The licensing authority will expect operating schedules to satisfactorily address these issues from the design of the premises through to the way that they are operated on a day to day basis. The licensing authority understands and expects that the primary responsibility for controlling activities on and in the immediate vicinity of their premises shall rest with all holders of a licence, certificate or permission.
- 2.7 The licensing authority will consider every application on its individual merits with regard to this policy statement and to the Licensing Committee's Probity Code (available at [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk) under 'L' in the A-Z of services). The licensing authority will seek to balance the needs of the wider community, local community and commercial premises and activities, against those who may be concerned about adverse impacts from licensed premises. The views of vocal individuals or groups will not necessarily prevail over the general interests of the community. In every case the licensing authority will focus on disproportionate or unreasonable impacts of the licensable activities on people living, working and sleeping in the vicinity.



- 2.8 The licensing authority will support diversity of premises as it believes that a mix of different types of licensed premises, particularly where there is already a high concentration of them, offers a number of benefits. A good mix will provide resilience against changing tastes and fashions and attract a more diverse range of customers from across the age groups with different attitudes towards alcohol consumption. It offers potential benefits in terms of an area's ambiance and peoples' perceptions of it. This may lead to reductions in the fear of crime and a resultant increase in the numbers of people visiting the area. This would be particularly helpful in combating negative perceptions which exist about the relative safety of the town centre at night.
- 2.9 The licensing authority will adapt its existing consultation mechanisms to ensure that regular dialogue takes place with representatives of licensed premises, personal licensees, businesses and residents to discuss and keep matters relating to licensing under review.
- 2.10 The council will work in partnership with the other local authorities in Gloucestershire to ensure a consistent approach is taken to licensing matters whilst respecting the needs of individual communities. This policy statement is based on a common policy template that was developed by the Gloucestershire Chief Environmental Health Officer's Licensing Technical Sub Committee.
- 2.11 Notwithstanding the specific detail of this policy document, the licensing authority will have regard in general terms to the relevant statutory guidance.

In any case where the licensing authority believes that a departure from this policy or relevant guidance is necessary it will give clear and sound reasons for doing so.

### **3. Cheltenham in focus**

- 3.1 Until the late 18<sup>th</sup> century Cheltenham was a small market town which rose to prominence in the 19<sup>th</sup> century as a fashionable Regency resort. It was founded in this guise with an emphasis on culture, leisure and a high quality of life.
- 3.2 Over the years it has gained the reputation of being a festival town of international repute, hosting cricket, competitive arts, folk, jazz, literature and music and fringe festivals as well as the Gold Cup and steeplechase race meetings. So successful is Cheltenham, that one day in five is a festival day.
- 3.3 Cheltenham also enjoys a vibrant and diverse restaurant culture with over 100 establishments in the town offering a variety of eating experiences. It also has an enviable selection of theatres, music venues and cinema. The town has attracted major employers and together with its architectural heritage, educational facilities and quality environment it is an attractive place for people to live, work and play.

- 3.4 Cheltenham has a thriving local economy with a gross domestic product<sup>1</sup> (GDP) of 126% of the national average (based on 2000 figures from Gloucestershire Labour Market Information Unit). Its key sectors are financial and business services, accounting for almost 28% of GDP and manufacturing accounting for 18% of GDP. The thriving bar and club scene prevalent in the town also contributes to the economy and means that full use is being made of Cheltenham's infrastructure for up to 18 hours a day.
- 3.5 Cheltenham's night time economy is not limited to clubs, pubs and bars. The 'Guide to Eating Out in Cheltenham' (published by Cheltenham Tourism) features over 100 restaurants, bistros, brasseries and cafes in the town. These provide a mix of fine dining, cafe society and international cuisine that has made Cheltenham a focal point for anyone in search of an eating experience. The restaurant scene covers every market segment from the sophisticated to the themed and caters for all age ranges.
- 3.6 The night time economy is set to expand still further with the redevelopment of the former Flowers Brewery site in the town centre. This is the location for a £40 million commercial leisure development which will provide approximately 20,700m<sup>2</sup> of leisure, retail, office and residential space. It will comprise an 11 screen cinema, a health and fitness club, a bowling alley and, subject to de-regulation, a casino. There are plans for approximately 7,000m<sup>2</sup> of retail space, plus bars and restaurants: pre-lets already include two new restaurants. This development will add a further dimension to the night time economy; it will attract more residents and visitors to the town centre; increase the diversity of existing and potential user groups; affect existing traffic and pedestrian flows and increase competition for customers amongst businesses.
- 3.7 Since 1990 Cheltenham has witnessed sustained growth in its number of bars and clubs. As a result, 'pubbing and clubbing' are currently the most visible elements of the night time economy. At present, Cheltenham has the biggest nightlife scene between Bristol and Birmingham with 87 bars and 15 night clubs within the town's central area. There are signs, however, that the exponential growth of recent years is beginning to slow down due to market saturation. There are in total more than 210 liquor licensed premises in the town centre area (including Montpellier). This includes 93 'on-licences', 26 'off-licences', 63 licensed restaurants, 5 licensed hotels and 3 combined licences and there are also several 'private members' clubs.
- 3.8 Of the 93 'on-licences' there are 15 premises which could be described as having full 'nightclub' status with a combined capacity of 5,422 persons. Research conducted by the police shows this to be a high nightclub capacity for a town of Cheltenham's size. Benchmarking comparisons indicate that Cheltenham's scale of nightclub capacity would generally be found in places with c.150,000 -200,000 residents whereas the borough's overall population is 110,013 (2001 census).
- 3.9 Whilst the night time economy injects revenue into the local economy it is also associated with a number of issues that detract from its popular acceptance and wider use.

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<sup>1</sup> Gross Domestic Product - Measurement of the value of all goods and services produced by the economy within its boundaries and is the nation's broadest gauge of economic health.

Increasing local, and national, media attention paid to anti-social behaviour has created view that the night time economy revolves around issues of excessive antisocial behaviour. Cheltenham does enjoy a diverse night life, but, there are concerns about the impacts associated with 'youth culture' and alcohol fuelled activity. The main issues and associated challenges have been identified in the Night Time Economy Strategy. The licensing authority and its partners are committed to the implementation and development of the strategy and achieving better regulation and management of the currently identified areas of concern. However, the night time economy is more than a vehicle for youth culture and it has steadily become an integral part of both our town's, and the UK's, mainstream economy.

## 4. Integrating strategies

- 4.1 Cheltenham Borough Council will continue the development of its work on the night time economy as a key linking mechanism to ensure that its licensing policies are properly integrated with other existing strategies and plans relating to crime reduction, planning, transport, economic development, tourism and culture.
- 4.2 Cheltenham Borough Council has developed a Race Equality Scheme to accord with the Race Relations Act 1976, as amended. The council will use the experience gained in implementing the Licensing Act 2003 to inform its judgements on the ways that these duties and responsibilities may impact on the general duty to:
- eliminate unlawful discrimination
  - promote equality of opportunity
  - promote good relations between persons of different racial groups.
- 4.3 The Night Time Economy Strategy has been developed through partnership working and its vision is to attain '**a safe and attractive town centre with a diverse night time economy, accessible to all while protecting the quality of life for residents**'. In formulating the draft strategy the community based strategic liaison group felt that the night time economy should not be focussed exclusively on the consumption of alcohol or linked exclusively with youth culture. The borough's night time economy does enjoy an enviable diversity but it is increasingly being overshadowed by the adverse publicity and perceptions about its pubs and clubs. The council, in fulfilling its duties as a licensing authority under the Act, will seek to reflect this desire for greater inclusion and balance in its evening and night time offering. The Night Time Economy Strategy recognises that no 'quick fixes' exist and that its implementation must be seen as a long term undertaking. The strategy's vision is consistent with the government's intentions in introducing the first general reform of licensing legislation since the 1960s. Baroness Blackstone, when introducing the Bill to the House of Lords in 2002, said '*the Bill's aim to provide greater choice is tempered by its provision of strengthened protection. Modern laws are required to ensure that people may enjoy their leisure time while being adequately protected without fear of violence, intimidation or disorder*'.

- 4.4 The owners of public spaces within the borough, including the council itself, will be encouraged to apply for premises licences. This will enable performers and entertainers who wish to provide regulated entertainment to do so by obtaining the permission of the premises licence holder without needing to either obtain a licence or give a temporary event notice.
- 4.5 In undertaking its role as a licensing authority, the council will monitor the impact of licensing on regulated entertainment, and particularly on live music, dancing and theatre. The council's Cultural Strategy recognises the importance of the cultural development of the community and the opportunities it has to spend leisure time in a worthwhile and enjoyable way. It also acknowledges the important contribution that leisure and culture play in terms of economic vitality, regeneration and social development. The council as the licensing authority will have regard to the cultural strategy's aim: *'to offer everyone in Cheltenham access to the best possible cultural and leisure opportunities, enhancing the town's reputation and environment, in pursuit of a better quality of life for all'*.
- 4.6 To ensure that the Licensing Committee is able to properly reflect these issues in its deliberations, arrangements will be made for members to receive reports from time to time on: a) the night time economy strategy, b) the needs of the local tourism economy, c) cultural strategy developments, and; d) the local economic development and employment situation. Concerns about the inadequacy of public transport provision to serve the town's needs have already been identified through the Night Time Economy Strategy and this work will continue.
- 4.7 The council recognises that there must be a clear separation of the planning and licensing regimes and that licensing applications should not be a re-run of the planning application, decision or appeal processes. The need for improved co-ordination of the planning and licensing regimes has been recognised in the Night Time Economy Strategy and Council will ensure that the Licensing Committee provides reports to the Planning Committee on licensed premises in the town and the impact of alcohol related crime and disorder. This will ensure that the Planning Committee has regard to such matters in taking its decisions.
- 4.8 Other than when dealing with applications for provisional statements where no construction has taken place, the licensing authority will, in general, require applications for premises licences and club premises certificates to be supported by an appropriate grant of planning permission.
- 4.9 The licensing authority recognises the need to avoid duplication with other regulatory regimes as far as possible, and will seek to prevent this as a matter of policy. However, the licensing authority is also mindful that other legislation does not always cover circumstances that arise in connection with licensable activities, particularly regulated entertainment, at specific premises where a condition(s) may be necessary.

- 4.10 The council has adopted the Enforcement Concordat and its corporate enforcement policy shows how the principles of good enforcement: clear standards, openness, helpfulness, consistency and proportionality are upheld in Cheltenham. (this can be found on the left hand menu in the A-Z of 'our services' on the council's website [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk)).

## The policy objectives

### 5. Crime and disorder

- 5.1 In addition to its duty to promote the licensing objectives, Cheltenham Borough Council also has a duty under Section 17 of the Crime and Disorder Act 1988 to do all it can to prevent crime and disorder. In undertaking its duties and responsibilities as a licensing authority, the council will seek to ensure that it consistently reflects local crime prevention strategies and priorities.
- 5.2 The council is aware from local research undertaken for the statutory Crime and Disorder Reduction Partnership that 35% of all people arrested in the town had been drinking and that alcohol was a major causative factor in those arrests. Of those people arrested, as many as 56% had previously been arrested for an alcohol related offence. Nationally over 70% of crime audits conducted by crime and disorder reduction partnerships have identified alcohol as an issue of concern, with 40% of audits highlighting drunkenness and 60% of them reflecting concerns about alcohol related public order problems. In Cheltenham, police research shows that incidents of disorder within the borough rose significantly in 2002-2003.
- 5.3 In Cheltenham, as elsewhere, a very large proportion of town centre violent crime occurs over the weekend period between 9pm and 3am within or in the vicinity of licensed premises. A similar pattern occurs with criminal damage, drunk and disorderly offences and other public order offences. Most arrests for alcohol related crime take place between 11pm and midnight on Friday and Saturday nights. In Britain, the most commonly used sharp weapon in an assault is a beer glass.
- 5.4 Home Office research into violence in the night time economy concluded that *'violence in and around pubs and clubs on weekend nights presents a significant public health, criminal justice and urban management problem.* The government's Alcohol Harm Reduction Strategy identifies alcohol misuse as: *'a major contributor to crime, disorder and anti-social behaviour, with alcohol-related crime costing society up to £7.3bn per annum'.*

The strategy identifies the two most visible areas of concern for most of us as:

- *alcohol related disorder and anti-social behaviour in towns and cities at night: and,*
- *underage drinking.*

- 5.5 Against this background the licensing authority will focus in this policy on nationally identified good practice to uphold and promote the licensing objectives. This is particularly in relation to the types of crime and disorder highlighted by the government in its action plan for tackling alcohol related crime and disorder.

The action plan aims to:

- reduce problems arising from underage drinking
- reduce public drunkenness
- prevent alcohol related violence.

In forming a view about the merits of individual applications the licensing authority will apply a risk weighting approach (see 12.1) and quality standards of socially responsible good management. Whilst elements of the standard already exist it will be further developed and codified in partnership with the police, representative trade bodies such as Nightsafe and the Cheltenham Innkeepers Association and other stakeholders. In this way the licensing authority will act to secure the strategic objectives referred to above by expecting licensees to demonstrate their competence to uphold the licensing objectives through their operating schedules.

The introduction by Nightsafe of an exclusion policy based on the National 'Pubwatch' Good Practice Guide, whereby licensees can exclude known criminals and troublemakers, is seen by the licensing authority as an overdue but welcome development. The licensing authority believes that unless licensees who are responsible for nightclubs and other high risk premises actively participate in Nightsafe and contribute to the effective operation of its exclusion policy, their right to enjoy maximum use of the new freedoms and flexibilities offered by the Licensing Act 2003 may be limited. The council's community safety team have established a reputation for their use of anti social behaviour orders (ASBOs) and it is essential that the licensed trades contributes fully to sending out the message that Cheltenham does not welcome or want trouble makers.

The quality standards of socially responsible good management include:

- communications
- searching policy, confiscation and storage protocol
- venue drug policies and co-operation with drug screening checks
- CCTV provision and use
- employment of door supervisors: registration and numbers required
- standardised proof of age requirements (validate card, passport, photo driving licence and others that are PASS approved and accredited)
- active participation in the Nightsafe exclusion policy
- responsible alcohol serving practices
- design and management issues relating to the avoidance of alcohol related aggression (particularly relevant to large capacity 'vertical drinking' establishments)
- staff training
- preventing the removal of opened drinks containers from premises
- inappropriate sales promotions
- use of plastic / toughened drinks containers
- closed door / last orders arrangements

- information sharing and supporting enforcement action
- safe transport home for vulnerable customers
- membership schemes (voluntary)
- Secure refuse storage (no available 'weapons / missiles')

These standards may be strengthened and improved once the Home Office Police Standards Unit publishes a good practice guide for tackling alcohol related violent crime which, according to the Alcohol Harm Reduction Strategy, will be issued in 2004.

- 5.6 The 'quality standards' approach is reflected in Appendix B which is Annexes D – H in the Secretary of State's guidance on the Act (this 'pool of conditions' is also available from our website at [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk) under 'licensing policy statement' in the A-Z of our services). These include (Annex D) conditions relating to crime and disorder that may be drawn upon should the particular circumstances of a premises licence or club premises certificate make this appropriate. The licensing authority has a strong preference for a proactive approach by socially responsible licensees and certificate holders working in partnership to uphold and promote the licensing objectives. The licensing authority will consider the advice of Gloucestershire Police in determining whether or not the use of any of these conditions is appropriate.
- 5.7 Applicants are recommended to seek advice from the council's licensing officers and responsible authorities (*Contacts details are included at Appendix D*). In addition when planning and preparing operating schedules applicants are advised to take into account local planning and transport policies, tourism, cultural and crime prevention strategies as appropriate.

## 6. Public safety

- 6.1 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. In all cases, applicants' operating schedules will be used to determine what public safety measures are necessary given the nature and style of the venue.

- 6.2 Cheltenham Borough Council as a licensing authority understands that the public safety objective is concerned with the physical safety of persons using the relevant premises or place and not with public health issues.

A public safety condition may incidentally benefit public health but this will not be its prime purpose. Conditions will not be imposed which relate to cleanliness or hygiene and neither will smoking bans in premises be sought by condition.

- 6.3 A condition may require certain safety check documentation to be held but this requirement will not be applied where such a requirement exists in other legislation.

- 6.4 Safe occupancy capacities will only be imposed on relevant premises where applicants' operating schedules and / or advice from the fire and rescue service show them to be necessary in the interests of public safety. On occasion, the licensing authority may also consider imposing a condition relating to safe occupancy limits where such a condition is deemed necessary for the promotion of the crime and disorder objective.
- 6.5 Where 'small premises' which hold no more than 200 people intend to make use of the exemption provisions in s177 of the Act, the licensing authority will in every such case either require confirmation of the permitted capacity through the premise's fire certificate or, where this is not available, the fire and rescue service will be asked to make a recommendation on the capacity for inclusion, which where appropriate could be based on numbers submitted by an applicant, in a condition to be imposed by the licensing authority.
- 6.6 The licensing authority will draw conditions relating to public safety including fire safety, from the Secretary of State's guidance on the Act (Appendix B, which can also be found at [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk) under 'licensing policy statement' in the A-Z of our services). Where justified, conditions will be imposed relating to CCTV system(s), the use of door supervisors (with a requirement that for every 100 persons, or part thereof present in licensed premises, no less than one supervisor, and a minimum of two, be provided), use of plastic / toughened bottles and glasses and, preventing the removal of opened drinks containers from licensed premises.

In addition, the licensing authority and responsible authorities and those preparing operating schedules should consider:

- The Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0
  - The Events Safety Guide – A Guide to health, safety and welfare at music and similar events (HSE 1999) ISBN 0 71762453 6
  - Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
  - 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804.
- 6.7 The licensing authority also encourages all club owners, managers and event promoters to have regard to the Safer Clubbing Guide which was prepared by the Home Office in conjunction with the Department of Health and the DCMS. It can be viewed in full on [www.drugs.gov.uk](http://www.drugs.gov.uk) and the guide's checklist is set out in Appendix C.
- 6.8 Applicants are encouraged to seek advice from the council's environmental health officers and licensing officers and the fire safety section of Gloucestershire fire and rescue service. The licensing authority will determine on a case by case basis which application premises require an inspection and, in all cases, the council's licensing officers will seek to reduce inconvenience, confusion and inconsistency by co-ordinating inspections and visits with the fire authority, police, building control and environmental health officers, as appropriate.
- 6.9 Whenever security operatives are employed at licensed premises to carry out any security function they must be licensed by the Security Industry Authority (SIA).



Competent and professional door supervisors are key to public safety at licensed premises and the provision of door supervisors is an action point for the leisure industry to consider in the Home Office Alcohol Harm Reduction Strategy.

If a licensee directly employs security operatives he/she will need to be licensed by the SIA as a supervisor/manager.

Interested parties and responsible authorities may look more favourably on licence applications which demonstrate that licensees have considered:

- Recruiting SIA licensed door supervision staff from a reputable company with SIA Approved Contractor Status
- What measures will be taken and what procedures are in place for licensees to check the SIA register of licensed door supervisors to ensure their premises and customers are only protected by door supervisors with an SIA licence.

## **7. Prevention of nuisance**

- 7.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances that impact on people living, working or sleeping in their vicinity.
- 7.2 Cheltenham Borough Council, in its role as a licensing authority, wishes to do all in its power to protect the amenity of residents and businesses in the vicinity of licensed premises, and for these purposes 'vicinity' is taken to mean the immediate area around licensed premises. As the council is fully aware of the importance of the licensed trade in terms of the local economy and its culture and leisure aspiration, it will seek to work in partnership with all interested parties to ensure a mutual and productive co-existence.
- 7.3 The council is keen to stress, however, that as well as the licensing function there are other mechanisms for addressing issues of unruly behaviour that occur away from licensed premises. These include:
- planning controls
  - powers to designate parts of the borough as places where alcohol may not be consumed publicly
  - the confiscation of alcohol from adults and children in designated areas
  - police powers to close for up to 24 hours any licensed premises or temporary events in extreme cases of disorder or its likelihood or excessive noise
  - police enforcement of the normal law concerning disorder and antisocial behaviour
  - the power of the police, other responsible authorities, or a local business or resident to seek a review of a licence or certificate
  - enforcement action against a personal licence holder or member of staff who is selling alcohol to people who are already drunk.

- 7.4 When considering licence applications, the licensing authority will take into account the location of the premises, the type and construction of the building as well as the adequacy of measures proposed to deal with the potential for nuisance and / or antisocial behaviour having regard to all the circumstances of the application.
- 7.5 The licensing authority will consistently seek to ensure that its judgements about what constitutes public nuisance are balanced, as are decisions about any conditions that are considered necessary to prevent it. In particular the licensing authority will consider the appropriate action having regard to the following:
- 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
  - prevention of disturbance by customers arriving at or leaving the premises., particularly between 11pm and 7am
  - prevention of queuing by pedestrians or vehicular traffic, or if some queuing is inevitable then ensuring the queues are diverted away from neighbouring premises or are otherwise managed to prevent disturbance or obstruction
  - ensuring staff leave the premises quietly. arrangements for parking by patrons and staff, and the effect of the parking on local residents
  - provision for public transport (including taxis and private hire vehicles) for patrons
  - whether licensed taxis or private hire vehicles are likely to disturb local residents
  - travel routes through nearby residential areas
  - the installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship
  - the use of gardens and other open-air areas
  - the location of external lighting, including security lighting that is installed inappropriately
  - other appropriate measures to prevent nuisance including action by registered door supervisors or the use of CCTV
  - how the premises, including those offering late night refreshment, address refuse storage or disposal problems, or additional litter (including fly posters and illegal placards)
  - any history of previous nuisance complaints proved against the premises, particularly where statutory action has been taken.
- 7.6 When considering the use of licence conditions to prevent unnecessary noise, disturbance and public nuisance to residents and businesses, the licensing authority may include restrictions on the times when music or other licensable activities may take place and may include technical restrictions on sound levels at the premises.

## 8. Protection of children

8.1 The licensing authority recognises that there are a range of activities for which licences may be sought and that children can be expected to visit premises, often on their own, for food and / or other entertainment. The Licensing Act 2003 only prohibits unaccompanied children (persons aged under 16) from visiting certain licensed premises. The licensing authority recognises that locally, limitations may have to be considered where it is considered necessary for the prevention of physical, moral, or psychological harm. Concerns may be raised about particular premises where:

- current members of staff have convictions for serving alcohol to minors or the premises are associated with underage drinking
- there is a known association with drug taking or dealing
- there is a strong element of gambling on the premises
- entertainment or services of an adult or sexual nature are commonly provided
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises
- where there is a presumption that children under 18 should not be allowed (eg to nightclubs, except when under 18 discos are being held).

8.2 When deciding whether or not 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 consult with Gloucestershire Police and other agencies as appropriate including the Area Child Protection Committee or Social Services Department. Where concerns have been identified in respect of individual premises and it is felt that access to the premises by children should be restricted, the options available would include:

- limitations on the hours when children may be present
- age limitations for persons under 18
- limitations on the exclusion of children under certain ages when specified activities are taking place
- full exclusion of 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.

- 8.3 The licensing authority will not impose any conditions that specifically require the access of children to the premises.
- 8.4 Where no conditions or restrictions are imposed, the issue of access for children remains a matter for the discretion of individual licensees or clubs or person who has given a temporary event notice. The Act does not impose any restrictions on individual applicants volunteering prohibitions or restrictions in their operating schedules because their own risk assessments have shown that the presence of children is undesirable or inappropriate. In the absence of any relevant representations the volunteered prohibitions or restrictions would become conditions of the licence or certificate.
- 8.5 The Act details a number of offences that are designed to protect children in licensed premises and the licensing authority will work closely with the police and Trading Standards Services to ensure appropriate and effective enforcement, particularly in relation to the sale and supply of alcohol to children where standardised proof of age requirements are part of the licensing authority's quality standards of socially responsible good management. Where operating schedules for alcohol licensed premises do not include a clear policy on proof of age requirements the licensing authority believes that the right to enjoy maximum use of the new freedoms and flexibilities offered by the Licensing Act 2003 will be limited.

#### 8.6 **Cinemas**

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 with certain age ranges. In order to prevent children from seeing such films, the licensing authority will impose conditions requiring licensees to restrict children from viewing age restricted films classified by the British Board of Film Classification.

### **Children and public entertainment**

- 8.8 Many children attend or take part in an entertainment arranged especially for them, for example children's film shows, dance and drama or school productions. In these cases specific additional arrangements relating to access, egress, stewarding, or seating to safeguard them may be required.
- 8.9 The licensing authority will expect these matters to be satisfactorily addressed in applicants' operating schedules.

## **9. Cumulative impact**

- 9.1 Cheltenham Borough Council as a licensing authority will not take 'need' into account when considering an application. Need relates to the commercial demand for another pub, restaurant or hotel and is not a matter for a licensing authority.
- 9.2 On the other hand, the cumulative impact of licensed premises on the promotion of the licensing authority's licensing objectives is a proper matter for the council and its Licensing committee to consider.

- 9.3 The council, through its experience of licensing enforcement and the development of the Night Time Economy Strategy, recognises that potentially, the cumulative impact of a number of late night premises may result in serious problems of nuisance and disorder outside or at some distance from licensed premises. It is possible that the behaviour of customers from all premises has an impact on an area that is greater when taken together, than the usual impact from individual premises. This may be seen in terms of a number of undesirable consequences, for example:
- increases in crime against property and person
  - increased noise causing disturbance to residents
  - traffic congestion and / or parking problems
  - littering
  - public urination.
- 9.4 As result, the amenity enjoyed by local residents is placed under considerable pressure. It will not always be possible to attribute a particular problem to the customers of particular premises. Consequently, whilst enforcement action may be taken to ensure conditions are complied with, this may not secure satisfactory or sufficient levels of improvement as licence conditions can only relate to matters which the licensee can be expected to control in relation to the carrying on of licensable activities.
- 9.5 Cheltenham Borough Council has established that it has a remarkably vigorous night time economy for the size of the town. It is apprehensive about current trends in crime and disorder when associated with an increase in people either passing through or congregating in streets during the night. The principal focus of concern is the town centre and whilst there is some evidence that this part of the borough is already suffering adverse effects from the concentration of late night premises, the licensing authority does not believe that they are currently so unusual or exceptional as to call for the immediate development of a special saturation policy. However, this is an area of particular concern and will, with stakeholders, be kept under close review along with the impacts of the Act and the licensing authority's 'quality standards' approach to upholding the licensing objectives.
- 9.6 In the future, representations may be received from a responsible body or interested party that an area has become saturated with premises and that exceptional problems of disorder and nuisance over and above the impact of individual premises have been created because the area has become a focal point for large groups of people to gather as they circulate away or towards the licensed premises themselves.
- 9.7 In these circumstances the licensing authority may consider, as indicated above, that the imposition of conditions or restrictive terms is unlikely to address these problems. It may determine that a special policy of refusing new premises licences or club premises certificates should be adopted as the granting of any more would undermine one or more of the licensing objectives. In this situation, the licensing authority's starting point would be in terms of seeking a reduction in crime and disorder, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998, and an improvement in local amenity through the reduction of antisocial behaviour.

Licences would be granted where applicants could demonstrate to the licensing authority's satisfaction that a reduction in crime and disorder will result, or that it will not increase, or that local amenity will be improved, as a result of the application being granted.

- 9.8 The licensing authority will take the following steps when considering whether to adopt a special saturation policy:
- identification of serious and chronic concern from a responsible authority or representatives of residents about nuisance and disorder
  - Identification of the area from which problems are arising and the boundaries of that area, where it can be demonstrated that disorder and nuisance is arising as a result of customers from licensed premises
  - assessment of the causes
  - adoption of a policy about future licence applications from that area.
- 9.9 The licensing authority will consider representations based on the impact on the promotion of the licensing objectives when determining the grant of any particular application before them. However, the onus would be on the objectors to provide evidence to support any assertion that the addition of the premises in question would produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics.
- 9.10 The licensing authority will review any special saturation policies every three years to see whether they have had the effect intended, and whether they are still needed.
- 9.11 The licensing authority will not use such policies solely:
- as the grounds for removing a licence when representations are received about problems with existing licensed premises, or
  - to refuse modifications to a licence, except where the modifications are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits.
- 9.12 The licensing authority recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community.
- 9.13 The licensing authority therefore also recognises that, within a special saturation policy, it may be able to approve licences that are unlikely to add significantly to the saturation, and will consider the circumstances of each individual application.

## 10. Licensing hours

- 10.1 The licensing authority subscribes to the government's belief that in the case of alcohol, fixed and artificially early closing times promote rapid binge drinking near to closing times. This system is also considered to be a key cause of disorder and disturbance where large numbers of customers are required to leave premises simultaneously. This creates excessive pressures at fast food outlets, taxi ranks and private hire booking and pick up points. The licensing authority has introduced extended licensing hours for public entertainment and received some positive feedback on the knock on benefits noted at a town centre private hire office.
- 10.2 The licensing authority will not impose arbitrary restrictions on trading hours that undermine the principle of flexibility. The movement of people through the town centre at night and incidents at gathering places are particular areas of concern and the licensing authority wishes to see reduced concentrations and a slower dispersal of people from licensed premises with benefits in terms of promotion of the licensing objectives.
- 10.3 The licensing authority will expect the operating schedules for late night venues to address these issues by making it attractive for customers to spend their whole evening, or the latter part of it, at a single venue.
- 10.4 Whether or not operating hours are extended as a result of the Act, the licensing authority seeks (through its 'quality standards' approach) for licensees to carefully manage the final 30-60 minutes of their trading period with appropriate measures to prevent customers leaving en masse and 'hyped up' as a result of loud music. Good practice includes:
- adequate warnings of bar closing and at least 30 minutes 'drinking up' time
  - last admission times or a closed door policy
  - membership schemes with promotions / benefits
  - continued availability of food
  - progressive introduction of lower music volumes
  - door staff supervision of departing patrons
  - notice requesting customers to leave quietly.

It is also helpful for venues to have:

- taxi /private hire booking facilities
  - venue transport home
  - a cash back service.
- 10.5 The licensing authority will not impose fixed trading hours within specified parts of the borough; neither will it seek to engineer staggered closing times by setting quotas for particular times.

10.6 In reaching a judgement on the individual merits of applications, the licensing authority will have regard to the implications for nuisance generation and the impacts on residents that are posed by operating hours and types of regulated entertainment. 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
- nature of the proposed activities to be provided at the premises.

Consideration may, however, be given to imposing stricter controls on noise and disturbance from particular licensed premises, such as those in mainly residential areas.

10.7 Generally the licensing authority will consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. 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 individual shops that are known to be the focus of disorder and / or public nuisance.

10.8 The licensing authority wants all licensees and their customers to continue to enjoy the benefits of the pattern of extended hours for bank holidays and major horseracing events that has been established in Gloucestershire. Therefore all premises that are licensed for on sales, whose operating hours would otherwise preclude them from trading, could include the extended hours detailed on the next page in their applications:



1) National Hunt Festival Week	Monday -Friday	11pm - 12.30 am*
2) Easter Bank Holiday	Good Friday Easter Eve Easter Day Easter Monday	10.30 pm – 12 midnight 11pm – 12 midnight 10.30 pm – 12 midnight 11pm – 12 midnight
3) May Day Bank Holiday Weekend	Friday  Saturday Sunday Monday	11pm – 12 midnight  11pm – 12 midnight 10.30 pm – 12 midnight 11pm – 12 midnight
4) Whitsun Bank Holiday Weekend	Friday  Saturday Sunday Monday	11pm – 12 midnight  11pm – 12 midnight 10.30 pm – 12 midnight 11pm – 12 midnight
5) August Bank Holiday Weekend	Friday Saturday Sunday Monday	11pm – 12 midnight 11pm – 12 midnight 10.30 pm – 12 midnight 11pm – 12 midnight
6) November Open Festival	Friday Saturday Sunday	11pm – 12.30 am* 11pm – 12.30 am* 10.30 pm – 12 midnight
7) Christmas Eve	24 <sup>th</sup> December	11pm – 12 midnight
8) Christmas Day	25 <sup>th</sup> December	11am – 12 noon
9) Boxing Day	26 <sup>th</sup> December	11pm – 12 midnight
	27 <sup>th</sup> December 2003	11pm – 12 midnight
10) New Years Eve - De-Regulation Order applies		
11) New Years Day	1 <sup>st</sup> January	11pm – 12 midnight

\*Closed door policy

As a result of the large number of people attending the race meetings licensees will, in accordance with established practice, be expected to include in their operating schedules a policy of prohibiting admission or re-admission to their premises after 11.30 pm to reduce the risk of disorder and disturbance to members of the public late at night.

## **11. The licensing process**

- 11.1 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. The types of applications that the licensing authority will deal with, where this policy statement is relevant, are personal licences, premises licences including provisional statements, variations, interim authorities and reviews, club premises certificates, designated premises supervisors and permitted temporary activities.
- 11.2 The licensing authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. The Probity Guide (which can be found at [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk) under 'L' in the A-Z of council services) shows how the licensing authority intends to ensure that fairness and consistency as well as human rights and natural justice considerations are integral to the licensing process.
- 11.3 Appreciating the need to provide a speedy, efficient and cost effective service to all parties involved in the licensing process, the Committee will delegate certain decision and functions and establish one or more Sub-Committees to deal with them.
- 11.4 The Act creates a presumption that applications will be granted where no relevant representations are made. Where decisions and functions are largely administrative and / or are non contentious, including those licences and certificates where no relevant representations have been made, these are delegated to officers. The Licensing Committee will receive periodic 'information only' briefings on matters that have been dealt with by officers.
- 11.5 Appendix A shows the proposed scheme of delegation. These delegations are without prejudice to officers referring an application to a Sub Committee or to the Licensing Committee or a Sub Committee referring a matter to the full Committee if considered appropriate in the circumstances of the case.
- 11.6 The council will work with the other Gloucestershire districts to develop, operate licensing authority and review uniform administrative procedures and practices.

## **12. Enforcement and complaints**

- 12.1 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 provide adequate licensing enforcement resources to monitor premises and take any appropriate enforcement action to ensure compliance. In undertaking enforcement the licensing authority will employ the following categories of risk weighting:

- Town centre public houses and night clubs – medium to high risk depending on history
- All other public houses – low to medium risk (dependent upon history)
- Town centre late night refreshment premises - medium to high risk depending on history
- All other premises that are primarily used for serving food – low risk (depending on history)
- All other premises - low risk (depending on history)
- New premises – assessment to be based on location, style of operation and any applicant history.

12.2 The licensing authority, through its continuing participation in the Gloucestershire Licensing Officer's Group, will establish and maintain information exchange and enforcement protocols with Gloucestershire Police and other enforcement agencies to ensure that the most effective use is made of enforcement resources. The protocols will be designed to secure proportionate and effective targeting of agreed problems and high risk premises which require greater attention. Low risk and well run premises will operate under a 'light touch' enforcement regime.

12.3 The council's corporate enforcement policy shows how the principles of good enforcement: clear standards, openness, helpfulness, consistency, proportionality, and effective and timely complaints procedures are upheld in Cheltenham. The policy is available from the left hand menu in the A-Z of services section of the council's website at [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk).

12.4 The licensing authority is happy to investigate complaints about unlicensed activities. In some cases it may be appropriate for a joint meeting of interested parties to be set up to address, clarify and try to resolve issues of concern. This process will not override the statutory rights of any interested party.

## Further information

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

George Rowlinson, Assistant Director Public Protection, or

Derek Perry, Licensing Services Manager

Telephone: 01242 264 214 / 774 921

Fax : 01242 264 210

Email: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)

## Appendix A

### Delegated functions

Matter to be dealt with	Full Committee	Sub Committee	Ast Director (PP)
Application for personal licence		If a police objection	If no objection is made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation is made*	If no relevant representation is made
Application for provisional statement		If a relevant representation is made*	If no relevant representation is made
Application to vary premises licence/club premises certificate		If a relevant representation is made	If no relevant representation is made
Application to vary designated personal licence holder		If a police objection	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint or objection is irrelevant, frivolous, vexatious etc			All cases
Decision to object when Local Authority is a consultee and not the lead authority		All cases	
Determination of a police objection to a temporary event notice		All cases	
Review of licensing policy	Full Council		

\* Where applications are considered to have a significant impact in respect of the licensing objectives, the Licensing Services Manager in consultation with the Chairperson, may refer them to the full Committee for determination.

## Appendix B

### Pool of licence conditions

*(Annex D of guidance)*

#### conditions relating to the prevention of crime and disorder

It should be noted in particular that it is unlawful under the 2003 Act:

- knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk
- knowingly to allow disorderly conduct on licensed premises
- for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
- to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol

#### Conditions enforcing these arrangements are therefore unnecessary

#### General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, when responsible authorities are considering such applications and when licensing authorities are considering applications following the receipt of any relevant representations from a responsible authority or interested party, the following options should be considered as measures which, if necessary, would promote the prevention of crime and disorder.

Whether or not any risk assessment shows these options to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved. It should also be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance.

Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

### **Text/Radio pagers**

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Such pagers provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate and necessary in other areas for the prevention of crime and disorder.

It is recommended that a condition requiring the text/radio pager links to the police should include the following elements:

- a requirement that the text/pager equipment is kept in working order at all times;
- a requirement that the pager link be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- a requirement that any police instructions/directions are complied with whenever given; and
- a requirement that all instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

## **Door supervisors**

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- . • preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- . • keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- . • searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- . • maintaining orderly queuing outside of venues prone to such queuing.

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety (see Annex E).

## **Bottle bans**

Glass bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises.

It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption on the premises should be expressed in clear terms and include the following elements:

- . • no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- . • no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place);

In appropriate circumstances, the condition could include exceptions, for example, as follows:

- . • but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

## **Plastic containers and toughened glass**

Glasses containing drinks may be used as weapons during incidents of disorder and in untoughened form can cause very serious injuries. Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries where considered necessary. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Annex E).

## **CCTV**

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime .

## **Open containers not to be taken from the premises**

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises that would be entirely lawful. However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.



## **Restrictions on drinking areas**

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

## **Capacity limits**

Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

## **Proof of age cards**

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of "proof of age" before such sales are made. This should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences, student cards and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports.

It should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase.

Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

### **Crime prevention notices**

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

### **Drinks promotions**

Standardised conditions should not be attached to premises licences or club premises certificates which promote fixed prices for alcoholic drinks. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind. This can risk creating cartels. Using conditions to control the prices of alcoholic drinks in an area may also breach competition law. Conditions tailored to the individual circumstances of particular premises which address irresponsible drinks promotions may be permissible provided they are necessary for the promotion of the licensing objectives, but licensing authorities should take their own legal advice before a licence or certificate is granted in that form. Judgements may be subjective, and on occasions, there will be a very fine line between responsible and irresponsible promotions but an even greater distinction to whether the promotion in question can be subject to the imposition of a condition. It is therefore vital that such matters are considered objectively in the context of the licensing objectives and with the benefit of appropriate legal advice.

In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or discounting and levels of crime and disorder on or in the vicinity of the premises, it would be appropriate for the licensing authority to consider whether the imposition of a new condition prohibiting irresponsible sales promotions or discounting of prices of alcoholic beverages is necessary at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

## **Signage**

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

## **Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)**

Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons.

Where necessary and appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations on such grounds) which require adherence to:

- . • a prescribed capacity;
- . • an appropriate ratio of tables and chairs to customers based on the capacity; and
- . • the presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

### **Conditions relating to public safety (including fire safety)**

It should be noted that conditions relating to public safety should be those which are necessary, in the particular circumstances of any individual premises or club premises, and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Fire Precautions (Workplace) Regulations 1997 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.

### **General**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote public safety. Additional matters relating to cinemas and theatres are considered in Annex F. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

In addition, to considering the points made in this Annex, those preparing operating schedules or club operating schedules, licensing authorities and responsible authorities should consider:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)

- . • The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 7176 2453 6
- . • Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- . • 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- . • The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2
- . • Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through:  
[www.streetartsnetwork.org.uk/pages/publications.htm](http://www.streetartsnetwork.org.uk/pages/publications.htm)
- . • The London District Surveyors Association’s “Technical Standards for Places of Public Entertainment” ISBN 0 9531229 2 1

The following British Standards should also be considered:

- . • BS 5588 Part 6 (regarding places of assembly)
- . • BS 5588 Part 9 (regarding ventilation and air conditioning systems)
- . • BS 5588 Part 9 (regarding means of escape for disabled people)
- . • BS 5839 (fire detection, fire alarm systems and buildings)
- . • BS 5266 (emergency lighting systems)

However, in consulting these texts, which were prepared prior to the coming into force of the Licensing Act 2003, those creating operating schedules or club operating schedules, licensing authorities and responsible authorities should again note that under no circumstances should any conditions be regarded as standard for all premises.

Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

## **Disabled people**

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- . • when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and
- . • disabled people on the premises are made aware of those arrangements.

## Escape routes

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- . • all exits doors are easily openable without the use of a key, card, code or similar means;
- . • doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- . • any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;
- . • all fire doors are maintained effectively self-closing and shall not be held open other than by approved devices (for example, electromagnetic releases operated by smoke detectors);
- . • fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut; and
- . • the edges of the treads of steps and stairways are maintained so as to be conspicuous.

## Safety checks

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- . • safety checks are carried out before the admission of the public; and
- . • details of such checks are kept in a Log-book.

## Curtains, hangings, decorations and upholstery

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- . • hangings, curtains and temporary decorations are maintained in a flame-retardant condition;
- . • any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1 and crib ignition source 5 when tested in accordance with section 5 of BS 5852:1990;
- . • curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire-fighting equipment; and

- temporary decorations are not used without prior notification to the licensing authority/fire authority.

### **Accommodation limits**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded; and
- the licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.

### **Fire action notices**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration.

### **Outbreaks of fire**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- the fire brigade must be called at once to any outbreak of fire, however slight, and the details recorded in a Fire Log-book.

### **Loss of water**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- the local Fire Control Centre are notified as soon as possible if the water supply to any hydrant, hose reel, sprinkler, drencher or other fire extinguishing installation is cut off or restricted.

## **Access for emergency vehicles**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- access for emergency vehicles is kept clear and free from obstruction.

## **First aid**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- adequate and appropriate supply of first aid equipment and materials is available on the premises;
- if necessary, at least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined.

## **Lighting**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;
- fire safety signs are adequately illuminated;
- emergency lighting is not altered;
- emergency lighting batteries are fully charged before the admission of the public, members or guests; and
- in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

## **Temporary electrical installations**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:



- . • temporary electrical wiring and distribution systems are not provided without [notification to the licensing authority at least ten days before commencement of the work] [prior inspection by a suitable qualified electrician];
- . • temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909; and
- . • where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.

With regard to the first bullet above, it should be recognised that ten days notice may not be possible where performances are supported by outside technical teams. For example, where temporary electrical installations are made in theatres for television show performances. In such circumstances, the key requirement is that conditions where necessary should ensure that temporary electrical installations are only undertaken by competent qualified persons, for example, employed by the television company.

### **Indoor sports entertainments**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- . • if necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature;
- . • where a ring is involved, it is constructed and supported by a competent person and inspected by a competent authority and any material used to form the skirt around the ring is flame-retardant;
- . • at any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring; and
- . • at water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming Pools issued jointly by the Health and Safety Commission and Sport England).

### **Alterations to the premises**

Premises should not be altered in such a way as to make it impossible to comply with an existing licence condition without first seeking a variation of the premises licence proposing the deletion of the condition relating to public safety in question. The applicant will need to propose in a new operating schedule reflecting the proposed alteration to the premises how he or she intends to take alternative steps to promote the public safety objective.

The application for variation will enable the responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

## **Special effects**

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Specials effects which should be considered include:

- . • dry ice machines and cryogenic fog;
- . • smoke machines and fog generators;
- . • pyrotechnics, including fireworks;
- . • real flame;
- . • firearms;
- . • motor vehicles;
- . • strobe lighting;
- . • lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- . • explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] the fire authority.

*(Annex F of guidance)*

## **Theatres, cinemas, concert halls and similar places (promotion of public safety)**

In addition to the points made in Annex E, there are particular matters in the context of public safety and fire safety which should be considered in connection with theatres and cinemas. The principle remains that conditions must be necessary and should be established through risk assessment and standardised conditions should be avoided. The points which follow are for consideration and do not represent a mandatory list.

## Premises used for closely seated audiences

### Attendants

(a) The number of attendants on each floor in a closely seated auditorium should be as set out on the table below:

<b>Number of members of the audience present on a floor</b>	<b>Minimum number of attendants required to be present on that floor</b>
1 – 100	One
101 – 250	Two
251 – 500	Three
501 – 750	Four
751 -1000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

(b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.

(c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).

(d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.

(e) No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction.

(f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

### Standing and sitting in gangways etc.

(a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.

(b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.

(c) In no circumstances shall anyone be permitted to-

(i) sit in any gangway;

(ii) stand or sit in front of any exit; or

(iii) stand or sit on any staircase including any landings.

### **Drinks**

Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.

### **Balcony Fronts**

Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

### **Special effects**

Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Specials effects include:

- . • dry ice machines and cryogenic fog;
- . • smoke machines and fog generators;
- . • pyrotechnics, including fireworks;
- . • real flame;
- . • firearms;
- . • motor vehicles;
- . • strobe lighting;
- . • lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- . • explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] fire authority.

### **Scenery**

Any scenery should be maintained flame-retardant.

## **Safety curtain**

Where a safety curtain is provided, it should be arranged so as to protect the audience from the effects of a fire or smoke on stage for sufficient time to enable the safe evacuation of the auditorium.

Where a stage with a proscenium arch is not equipped with a safety curtain, any curtains provided between the stage and the auditorium should be heavyweight and be made of non-combustible material or inherently or durably treated flame-retardant fabric.

## **Ceilings**

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person who will decide when a further inspection would be necessary and a certificate concerning the condition of the ceilings forwarded to the licensing authority.

## **Seating**

Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.

## **Premises used for film exhibitions**

### **Attendants – premises without a staff alerting system**

Where the premises are not equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty
1 – 250	Two
And one additional attendant for each additional 250 members of the audience present (or part thereof)	
Where there are more than 150 members of an audience in any auditorium or on any floor	At least one attendant shall be present in any auditorium or on any floor

### **Attendants – premises with a staff alerting system**

(a) Where premises are equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of other staff on the premises who are available to assist in the event of an emergency
1 – 500	Two	One
501 – 1000	Three	Two
1001 – 1500	Four	Four
1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises

(b) Staff shall not be considered as being available to assist in the event of an emergency if they are:

- (i) the holder of the premises licence or the manager on duty at the premises; or
- (ii) a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
- (iii) a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.

(c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.

(d) The staff alerting system shall be maintained in working order.

### **Minimum lighting**

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

### **Flammable films**

No flammable films should be allowed on the premises without the prior notification of the licensing authority/fire authority.

## **Conditions relating to the prevention of public nuisance**

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

### **General**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote the prevention of public nuisance.

Whether or not any risk assessment shows them to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for licences and certificates will also depend on local knowledge of the premises.

### **Hours**

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003) by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance.

But this must be balanced by the potential impact on disorder which results from artificially early fixed closing times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

Restrictions might be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

### **Noise and vibration**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- . • noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises;
- . • prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- . • the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted; and
- . • the placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

### **Noxious smells**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.



## **Light pollution**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

*Annex H*

## **Conditions relating to the protection of children from harm**

It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore, unnecessary.

## **Access for children to licensed premises – in general**

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the licensing authority considers it necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by licensing authorities on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- for any premises with known associations (having been presented with evidence ) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
  - explain their reasons; and
  - outline in detail the steps that they intend to take to protect children from harm on such premises.
  
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
  - explain their reasons; and – outline in detail the steps that they intend to take to protect children from harm on such premises.
  
- in any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

### **Age Restrictions – specific**

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities following relevant representations made by responsible authorities and interested parties will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary. Licensing authorities are expected to consider:

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity in respect of which no age restrictions may be needed, for example;
  - family entertainment; or
  - non-alcohol events for young age groups, such as under 18s dances,
- Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
  - during “Happy Hours” or on drinks promotion nights;
  - during activities outlined in the first bullet point in the first paragraph above.

### **Age restrictions – cinemas**

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of section 20, requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the licensing authority itself, conditions restricting the admission of children to film exhibitions should include:

- a condition that where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- a condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:
  - U – Universal. Suitable for audiences aged four years and over
  - PG – Parental Guidance. Some scenes may be unsuitable for young children.
  - 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
  - 15 – Passed only for viewing by persons aged 15 years and over.
  - 18 – Passed only for viewing by persons aged 18 years and over.

- that conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- a condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

“Where a programme includes a film recommended by the licensing authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms –

**PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE]  
CANNOT BE  
ADMITTED TO ANY PART OF THE PROGRAMME**

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person’s parent or legal guardian has first been obtained.”

## **Theatres**

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency (See Annex F).

## **Performances especially for children**

Where performances are presented especially for unaccompanied children in theatres and cinemas conditions are anticipated to be needed which require:

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

Licensing authorities are expected, having regard to any representations made by responsible authorities on the issue, to also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

## **Children in performances**

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. Licensing authorities should familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- **Fire safety** – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- **Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.

- **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

### **The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks**

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

Where appropriate and necessary, consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

### **Proof of Age cards**

Proof of age cards are discussed under Annex D in connection with the prevention of crime and disorder. However, where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm. Any such requirement should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence.

This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences, student cards and passports. As for conditions relating to crime and disorder, it should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.

### The safer clubbing guide checklist

The role of club owners, managers and event promoters is to ensure that all aspects of their venue are designed and run in ways which maximise the safety of customers, performers and staff.

#### Key activities of club owners, managers and event promoters include:

- Communicating all safety requirements clearly to performers ensuring that they are familiar with and understand the safety requirements for the venue
- Developing a constructive working relationship with local authority licensing officers and police officers with licensing responsibilities
- Developing a venue drug policy in consultation with licensing and police officers
- Ensuring that all staff are aware of their responsibilities within the drug policy and that they receive training and support to discharge these fully
- Employing door supervisors from a reputable company
- Employing experienced and fully trained first aiders
- Providing free and easily accessible supplies of cold water and ensuring the provision of water is supervised to prevent contamination of water by others
- Liaising with appropriate drug service personnel to provide training to staff, and information, advice and support to clubbers
- Considering inviting and supporting drug outreach work, including integrating outreach workers into the staff team
- Sharing intelligence on drug use and drug dealing with police officers and other local venues
- Informing clubbers of their rights and responsibilities, and encouraging feedback on safety issues
- Considering the provision of safe transport home
- Ensuring that all staff are aware of the law and the responsibilities of the club to work within it



## Appendix D

### Contact details for responsible authorities

#### Gloucestershire Constabulary

PC Andy Cook is responsible for Licensing in the Cheltenham Borough area

Licensing Department  
Cheltenham Police Station  
Talbot House  
Lansdown Rd  
Cheltenham  
GL51 6QT

Direct telephone 01242 276334  
Fax 01242 573591

The main police switchboard number is 0845 090 1234

email [Licensing-Cheltenham&Tewkesbury@gloucestershire.police.uk](mailto:Licensing-Cheltenham&Tewkesbury@gloucestershire.police.uk)

#### Gloucestershire Fire and Rescue Service

Service Delivery Support  
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

Pollution Control Team  
Public Protection Division  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

Tel- 01242 264 204  
Fax - 01242 26 4210  
[pollution@cheltenham.gov.uk](mailto:pollution@cheltenham.gov.uk)

**Health and Safety Enforcement – where the local authority is the enforcing authority:**

Cheltenham Borough Council  
Programmed Services  
Public Protection Division  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

Tel- 01242 775020  
Fax - 01242 264210  
[worksafety@cheltenham.gov.uk](mailto:worksafety@cheltenham.gov.uk)

**Health and Safety Enforcement – where the HSE is the enforcing authority:**

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

Tel: 0117 988 6000  
Fax: 0117 926 2998  
E mails:

- 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**

Rob Lindsey  
Development Control Manager  
Built Environment Division  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 1PP

Tel 01242 264138  
Fax 01242 227323  
Email [robert.lindsey@cheltenham.gov.uk](mailto:robert.lindsey@cheltenham.gov.uk)

## **Child Protection**

Child Protection Team  
Duncan Siret (Area Child Protection Committee - Coordinator).  
Social Services Department  
Gloucestershire County Council  
Quayside Wing  
Quayside House  
Shire Hall  
Gloucester  
GL1 2RH.

Tel 01452 423638  
Fax 01452 546922

email: [duncan.siret@gloucestershire.gov.uk](mailto:duncan.siret@gloucestershire.gov.uk)

## **Trading Standards**

Gloucestershire County Council, Trading Standards,  
Hillfield House  
Denmark Road  
Gloucester  
GL1 3LD  
Telephone: (01452) 426201  
Fax: (01452) 426274

E Mail: [tradstds@gloucestershire.gov.uk](mailto:tradstds@gloucestershire.gov.uk)