

---

Licensing and Regulatory Committee  
Cabinet  
**Council**

**10<sup>th</sup> November 2010**  
**30<sup>th</sup> November 2010**  
**7<sup>th</sup> December 2010**

**Name of Cabinet Member:**

Cabinet Member (Corporate and Neighbourhood Services)

**Director Approving Submission of the report:**

Director of Community Services

**Ward(s) affected:**

All

**Title:**

Licensing Act 2003 – Revised Statement of Licensing Policy

---

**Is this a key decision?**

No

---

**Executive Summary:**

The purpose of this report is to advise Members of the results of the consultation on the draft revised Statement of Licensing Policy under the Licensing Act 2003. The Licensing Policy has to be renewed every three years and this policy needs to be approved and in place by 6<sup>th</sup> January 2011

**Recommendations:**

1. That Licensing and Regulatory Committee considers the results of the revised Statement of Licensing Policy consultation (Appendix B) and the draft revised Statement of Licensing Policy (Appendix A) and notifies the Cabinet of its comments.
2. That Cabinet considers the revised Statement of Licensing Policy (Appendix A) and the results of the consultation (Appendix B) in light of any comments from the Licensing and Regulatory Committee and, following any amendments made:
  - recommends to full Council on 7<sup>th</sup> December 2010 that it adopts the revised Statement of Licensing Policy attached as Appendix A for the purposes of Section 5 of the Licensing Act 2003.

**List of Appendices included:**

Appendix A - the draft Licensing Policy  
Appendix B - the results of the consultation process

**Other useful background papers:**

Licensing Act 2003 <http://www.legislation.gov.uk/ukpga/2003/17/contents>

Licensing Act 2003 Guidance <http://www.homeoffice.gov.uk/publications/alcohol/guidance-section-182-licensing?view=Standard&pubID=836513>

Coventry City Council Statement of Licensing Policy 2008 [www.coventry.gov.uk/licensing](http://www.coventry.gov.uk/licensing)

**Has it or will it be considered by Scrutiny?**

No

**Has it, or will it be considered by any other Council Committee, Advisory Panel or other body?**

Yes

Licensing and Regulatory Committee 21<sup>st</sup> July 2010

Cabinet Member (Corporate and Neighbourhood Services) 29<sup>th</sup> July 2010

Licensing Forum 13<sup>th</sup> October 2010

**Will this report go to Council?**

Yes

7<sup>th</sup> December 2010

Page 3 onwards

**Report title:**

Licensing Act 2003 – Revised Statement of Licensing Policy

**1. Context (or background)**

1.1 Licensing and Regulatory Committee on 21<sup>st</sup> July and Cabinet Member (Corporate and Neighbourhood Services) on 29<sup>th</sup> July considered a report on the draft revised Statement of Licensing Policy and authorised the Assistant Director, Public Safety and Housing to consult on its contents.

1.2 Before determining policy for any three-year period, licensing authorities are required to carry out a wide consultation process. In addition to those consultees specified by the Act the Council has authority to include in the process any individuals or organisations it deems appropriate. The revised Statement of Licensing Policy, which has been produced in compliance with revised government guidance, is attached to this report as Appendix A. All the responsible authorities under that Act (West Midlands Police, West Midlands Fire Service, Coventry City Council - Planning, Trading Standards, Health & Safety, Environmental Protection, Coventry's Safeguarding Children Board) and the Community Safety Team, have already been involved in the drafting of the revised policy.

**2. Options considered and recommended proposal**

2.1 The Cabinet Office has issued guidance and a Code of Practice on the policy consultation process, recommending a 12-week consultation period, and local authorities are encouraged to follow it. Since the last day of the consultation process is 23<sup>rd</sup> October it will be necessary for officers to inform members of the Licensing and Regulatory Committee, at the meeting, of any comments raised during the consultation process after the preparation of this report. A revised summary of consultation results (Appendix B) will be prepared and attached to this report before it goes to Cabinet on 20<sup>th</sup> November.

2.2 A new consultation document, Rebalancing the Licensing Act, issued by the Home Office at the end of July 2010 outlined major changes to the Licensing Act 2003, however, licensing authorities have been advised to continue with their revisions to current licensing policies as the dates for implementation of any legislative changes are not yet fixed.

**3. Results of consultation undertaken**

3.1. The public consultation exercise finished on 22<sup>nd</sup> October, and included the following elements:

- Mail shots to local businesses and key partners
- Mail shots to residents groups and trade organisations
- Some consultation through residents forums
- Access to the consultation through the City Council web site

3.2 The results of the consultation process at the time of writing are attached as Appendix B. An updated appendix will be attached to this report when it is submitted for consideration to Licensing and Regulatory Committee and Cabinet before being presented to the full Council on the 7<sup>th</sup> December.

**4. Timetable for implementing this decision**

4.1 The Statement of Licensing Policy must be published by the 6<sup>th</sup> January 2011,

allowing the Council to continue to carry out the functions of a licensing authority

## **5. Comments from Director of Finance and Legal Services**

### **5.1 Financial implications**

There are no financial implications in relation to this report.

Licence fees are currently set nationally. The government commissioned an independent fee review (Elton Review) of licensing in 2006, which concluded that there was a £43 million shortfall to local authorities for the three year period 2004/05 to 2006/07 and recommended an increase of 7% in licence fees for the three year period 2007/08 to 2009/10. This has never been implemented and fees have not increased since they were first introduced in 2004.

The current government, through its recent consultation paper, has indicated that legislation would be amended to enable licensing authorities to increase licensing fees so that they are based on full cost recovery.

### **5.2 Legal implications**

The Council will not be able to undertake its role as a licensing authority after the 7<sup>th</sup> January 2011 unless it has approved and published a further Statement of Licensing Policy. The policy must be reviewed every three years. However, it can be reviewed more often if appropriate.

The licensing function is carried out by the Council's Licensing Team for delegated matters and the Council's Licensing and Regulatory Committee, with the exception of the approval of the policy statement, which must be approved by full Council. The Council will be required to have regard to its statement of licensing policy when carrying out any licensing functions under the 2003 Act.

## **6. Other implications**

### **6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / LAA (or Coventry SCS)?**

One of the four licensing objectives is 'the prevention of crime and disorder'. The Licensing policy acknowledges the Crime and Disorder Reduction Strategy and also gives information about proposed enforcement protocols with the police and other enforcement authorities. As a Responsible Authority the Police have been consulted about revisions to the policy.

The activities of the City Council's licensing team contribute towards the key targets for the Community Safety Partnership.

Another of the licensing objectives is 'the Protection of Children from Harm'. Applicants are required to show how they will address this objective in their operational schedule when making applications. The Coventry Safeguarding Children Board is the Responsible Authority consulted when applications are made. They have been made aware of the policy review and have been consulted.

### **6.2 How is risk being managed?**

If the Licensing Policy is not renewed in the above timeframe, the City Council will not be able to perform its function under the Act. The consultation process and committee dates have been planned to ensure that the policy is in place at the required time.

The Statement of Licensing Policy will inform decisions taken by the licensing authority that will have an impact on the interests of private individuals and businesses. The policy reflects the need to respect the relevant rights given by the Human Rights Act.

Decisions of the licensing authority are open to challenge through the Magistrates Court and beyond. The Statement of Licensing Policy and the Enforcement Policy comply with government guidance and are designed to ensure our compliance with legislation and statutory guidance, minimising the risk of legal challenge.

### **6.3 What is the impact on the organisation?**

The adoption of the policy should have no impact on the organisation. There are no human resource, financial or ICT implications

### **6.4 Equalities / EIA**

The Licensing Policy makes links to the Council's Equality and Diversity Policies and an Equalities Impact Assessment exists for licensing activities.

### **6.5 Implications for (or impact on) the environment**

None

### **6.6 Implications for partner organisations?**

The Licensing Policy contributes towards the work of the Community Safety Partnership and specifically with the work of the Police and Fire services. Both services have been consulted in the development of the draft policy.

The effective operation of the policy by the licensing authority and all enforcement agencies has an impact on the night time economy and on the co-existence of licensed premises with local residents and communities.

### **Report author(s):**

#### **Name and job title:**

Geoff Makin, Environmental Health Manager  
Davina Blackburn, Principal Licensing Officer

#### **Directorate:**

Community Services

#### **Tel and email contact:**

024 7683 1849 [geoff.makin@coventry.gov.uk](mailto:geoff.makin@coventry.gov.uk)

Enquiries should be directed to the above person.

<b>Contributor / approver name</b>	<b>Title</b>	<b>Directorate or organisation</b>	<b>Date doc sent out</b>	<b>Date response received or approved</b>
<b>Contributors:</b>				
Dayle Speed	Police Licensing Inspector	West Midlands Police	22.10.10	
Alan Harwood	Principal Trading Standards Officer	CCC	22.10.10	
Robert Coles	Fire Safety	West Midlands Fire Service	22.10.10	
Tracy Darke	Planning Development Manager	CCC	22.10.10	
Nicola Castledine	Principal EHO Health & Safety	CCC	22.10.10	
Neil Chaplin	Senior Environment Officer (noise)	CCC	22.10.10	
Hardeep Walker	Coventry Safeguarding Children Board	CCC	22.10.10	
Mandie Watson	Community Safety Manager	CCC	22.10.10	
Mark Smith	Senior Solicitor	Finance & Legal	22.10.10	25.10.10
<b>Names of approvers: (officers and members)</b>				
Finance: Ewan Dewer	Finance Manager Community Services	Finance & legal	22.10.10	26.10.10
Legal: Christine Forde	Assistant Director Legal Services	Finance & legal	22.10.10	
HR: Carol Williams	HR Manager	Community Services	22.10.10	
Director: Brian Walsh	Director Community Service	Community Services	22.10.10	
Councillor Chater	Chair	Licensing and Regulatory Committee	22.10.10	
Councillor Townshend	Cabinet Member	Corporate and Neighbourhood Services	22.10.10	
Sara Roach	Assistant Director Public Safety and Housing	Community Services	22.10.10	
Karen Adams	Business Risk Officer	Finance & legal	22.10.10	
Usha Patel	Governance Services Officer	Customer & Workforce Services	22.10.10	25.10.10

This report is published on the council's website:  
[www.coventry.gov.uk/meetings](http://www.coventry.gov.uk/meetings)

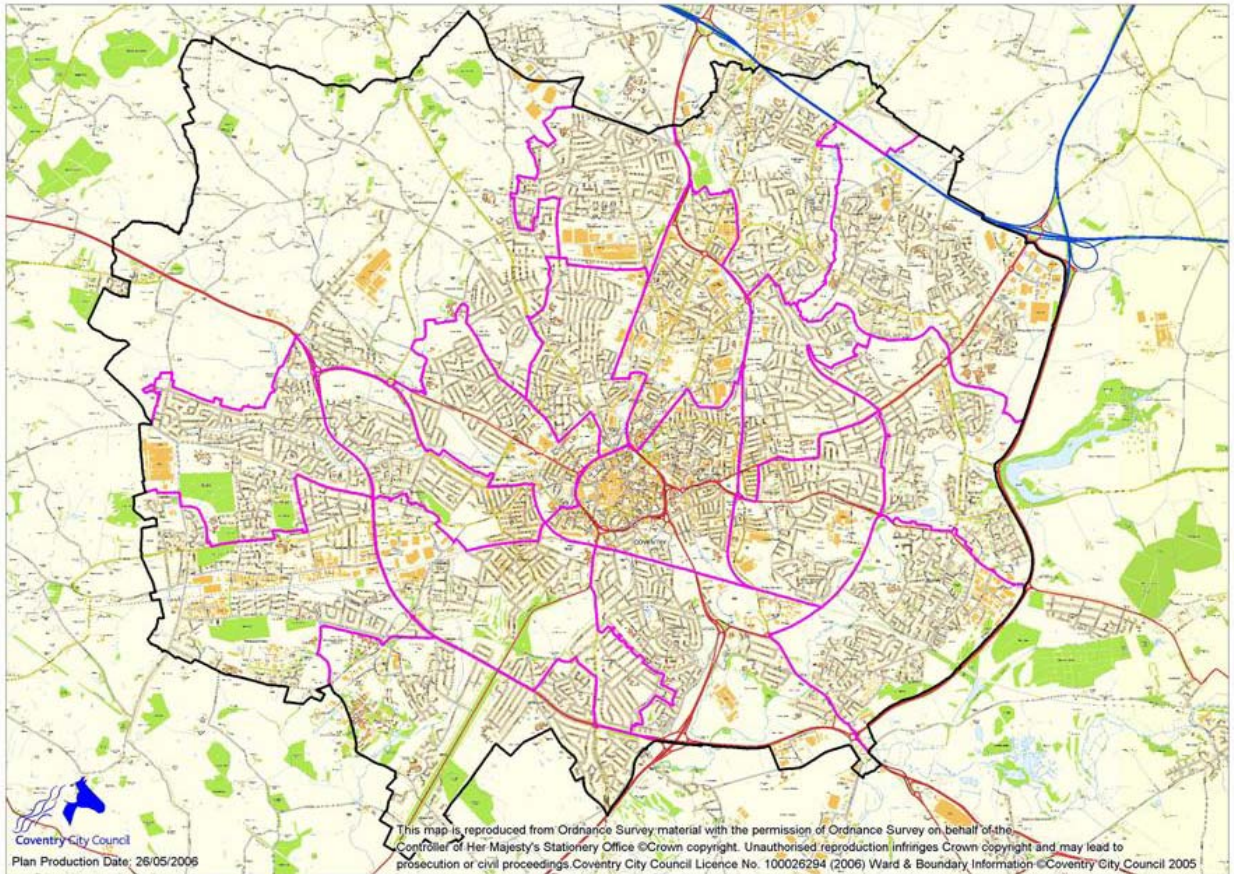
**Licensing Act 2003**

**DRAFT**  
**Statement of**  
**Licensing**  
**Policy**

**for consultation**  
**21<sup>st</sup> July - 22<sup>nd</sup> October 2010**

**Proposed changes to the policy**  
**are highlighted in red**





*map of the area covered by Coventry City Council*



<b>CONTENTS</b>		<b>Page</b>
1	Introduction	4
2	Consultation	5
3	Fundamental Rights	5
4	Licensing Conditions	5
5	Operating Hours	6
6	Cumulative Impact	6
7	Promotion of the Four Licensing Objectives	8
8	Mandatory Licensing Conditions	13
9	Other Considerations	14
10	Live Music, Dancing and Theatre	15
11	Pubwatch	16
12	Guidance for On and Off Licensed Premises	16
13	Integrating Strategies and Avoidance of Duplication	16
14	Enforcement	17
15	Administration, Exercise and Delegation of Functions	18
16	Comments on this policy	20

## **Appendix**

1	Ladder of Intervention	21
---	------------------------	----

## **Supporting documentation**

The City Council, in consultation with the Responsible Authorities and the Community Safety Partnership has produced two guidance documents which give premises licence holders and other responsible staff practical guidance on the effective management of licensed premises.

These guides are issued during the licensing process and are also available from licensing pages of the City Council web site

- Guidance for On Licensed Premises
- Guidance for Off Licensed Premises

## STATEMENT OF LICENSING POLICY

### 1. INTRODUCTION

1.1 Coventry City Council ('the Council') has a duty under the terms of the Licensing Act, 2003 ('the Act') to carry out its functions as the Licensing Authority with a view to promoting the following licensing objectives:

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

1.2 Coventry is a growing city situated in the West Midlands with a population of 305,000 inhabitants. It is mainly urban but includes significant areas that are semi-rural. A map of the area is shown on the previous page.

1.3 This Statement of Licensing Policy relates to all those licensing activities identified as falling within the provisions of the Act, namely: -

- **Retail sale of alcohol**
- **Supply of alcohol to club members**
- **The supply of hot food and/or drink from any premises between 11pm and 5am**
- **Provision of 'regulated entertainment' – to the public, to club members or with a view to profit:**
  - **A performance of a play**
  - **An exhibition of a film**
  - **An indoor sporting event**
  - **Boxing or wrestling entertainment**
  - **A performance of live music**
  - **Any playing of recorded music**
  - **A performance of dance**
  - **Provision of facilities for making music**
  - **Provision of facilities for dancing**

1.4 The Council recognises that the licensing function is only one means of promoting delivery of the above objectives and should not therefore be seen as a means for solving all problems within the community. The Council will therefore continue to work in partnership with the Coventry Partnership, neighbouring authorities, the West Midlands Police ('the police'), the Coventry Community Safety Partnership, local businesses, arts organisations, performers, local people and those involved in child protection (Coventry Safeguarding Children Board) to promote the common objectives as outlined. In addition, the Council recognises its duty under S.17 of the Crime and Disorder Act, 1998, with regard to the prevention of crime and disorder.

1.5 This policy statement has been prepared in accordance with the provisions of the Act; the Guidance issued under Section 182 of the Act and is valid for a period of 3 years from 7<sup>th</sup> January 2011. This policy statement will be subject to review and further consultation prior to 1st January 2014.

## **2. CONSULTATION**

2.1 Before publishing this policy statement the Council has consulted with and given proper consideration to the views of the following in line with the statutory guidance:

- The Chief Officer of Police
- The Fire Authority
- Representatives of current licence and certificate holders
- Representatives of Local businesses
- Representatives of Local residents
- Local licensing forum
- Departments within the Council with an interest in licensing

2.2 The Council will also consult with the British Transport Police, local Accident & Emergency Departments and local bodies representing consumers, people with disabilities, promoting tourism, local performers and neighbouring authorities.

## **3. FUNDAMENTAL RIGHTS**

3.1 Under the terms of the Act any individual may apply for a variety of permissions and have their applications considered on their individual merits. Equally, any person has a right to make relevant representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.

3.2 Applicants and those making relevant representations in respect of applications to the Council have a right of appeal to Coventry Magistrates' Court against the decisions of the Council.

## **4. LICENSING CONDITIONS**

4.1 Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. Conditions attached to various authorisations will be focused on matters, which are within the control of individual licensees and others in possession of relevant authorisations. Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity of those premises. If there is an incident or other dispute, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activities in the area concerned.

4.2 The Council will not impose conditions on or refuse to grant or vary a premises licence or club premises certificate unless it has received a relevant representation from a responsible authority (police, fire authority, Coventry's Safeguarding Children Board, health and safety, environmental health, planning, etc.) or an interested party (residents or their representatives, local businesses or their representatives in the vicinity of the premises and elected members of the Council).

4.3 When considering any conditions, the Council acknowledges that licensing law should not be seen as the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of general control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy of the City. For example, applicants should note that stricter

conditions to control noise are likely to be imposed in the case of premises situated in largely residential areas.

- 4.4 The Council does not propose to implement standard licensing conditions on licences across the board. Therefore, the Council will attach conditions to licences and certificates, which are tailored to the individual style and characteristics of the premises and events concerned and that are necessary to promote the licensing objectives. In particular circumstances, the Council will draw upon a pool of model conditions drawn from suggested conditions issued by the Department of Culture, Media and Sport (DCMS). The Act requires that certain mandatory conditions be included in all premises licences and club premises certificates in particular circumstances.

## **5. OPERATING HOURS**

- 5.1 The Government Guidance Para 10.20 states that there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times. [With this in mind, the City Council as Licensing Authority under the Licensing Act 2003 aims to help safeguard the rights of local residents and others, who might be adversely affected by licensable activities. The Licensing Authority welcomes the opportunities afforded to the local economy by the 2003 Act and will strive to balance this with the rights of all interested parties based on the principles laid down in this document
- 5.2 When dealing with licensing hours, each application will be dealt with on its individual merits. The Licensing Authority recognises that longer licensing hours with regard to the sale of alcohol can assist to avoid concentrations of customers leaving premises simultaneously. This is expected to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance. The Licensing Authority does not wish to unduly inhibit the development of thriving and safe evening and night-time local economies which are important for investment and employment locally and in the main welcomed by residents and visitors to the city.
- 5.3 The Licensing Authority will not set fixed trading hours within designated areas. However, an earlier terminal hour and stricter conditions with regard to noise control than those contained within an application, may be necessary in residential areas where relevant representations are received and such measures are deemed necessary to uphold the licensing objectives.
- 5.4 Shops, stores and supermarkets will generally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are good reasons for restricting those hours. For example, a limitation may be appropriate following Police representations in the case of shops known to be a focus of disorder and disturbance because youths gather there.

## **6 CUMULATIVE IMPACT**

- 6.1 For the purposes of this document 'cumulative impact' means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. Cumulative impact is a proper matter for the Council to consider in developing its licensing policy. This should not be confused with 'need', which concerns the commercial demand for another particular type of premises. The Government Guidance Para 13.23 states that "need" is not a matter for the licensing authority but is a matter for the planning authority and the market.
- 6.2 Applicants, responsible authorities and interested parties should know that at the present time the Council has not adopted a special policy identifying a particular concentration of licensed premises within the City which is considered to be causing a cumulative impact on one or more of the licensing objectives.

Should the Council adopt a special policy within this Statement of Licensing Policy in the future, it will be necessary for there to be an evidential basis for the decision in accordance with the following steps:

- identification of concern about crime and disorder or public nuisance;
- consideration of whether it can be demonstrated that:
  - crime and disorder or nuisance are arising, and
  - are caused by the customers of licensed premises, and
  - if so, identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
- consultation with those listed above in paragraph 2.1 as part of the general consultation required in respect of the whole Statement of Licensing Policy;
- subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of the S.182 Guidance and this Statement of Licensing Policy; and
- Publication of the special policy as part of the Statement of Licensing Policy required by the Act.

6.3 The Licensing Authority, having not been presented with any evidence to the contrary, does not consider that any area within the city to currently have a particular concentration of licensed premises causing a cumulative impact on one or more of the licensing objectives. The Licensing Authority appreciates that the police always have this under review and accordingly reserves the right, should the need arise, to introduce a special policy during the life of this Statement of Licensing Policy subject to the steps referred to at paragraph 6.2 above..

Special policies relating to cumulative impact will not include provisions for a terminal hour in a particular area or impose quotas, based on either the number of premises or the capacity of those premises.

6.4 If a special policy is adopted, it will be reviewed regularly to assess whether it is needed any longer or needs expanding. The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Act allows for such consideration but the individual merits of each application must always be considered.

6.5 Once away from licensed premises a minority of consumers may behave badly and unlawfully. There are other mechanisms both within and outside the licensing regime that are available for addressing such issues. These include –

- positive measures to create a safe and clean city environment in partnership with local businesses, transport operators and other departments within the Council;
- the provision of CCTV surveillance, ample taxi ranks, public conveniences open late at night, street cleaning and litter patrols;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;

- the Designated Public Places Order which now covers the whole of the City of Coventry. This enables the police to confiscate alcohol from adults and children drinking in public places and failure to comply with such a request would be an offence.
  - police powers to close down instantly, for up to 24 hours, any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance; and
  - the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in questions.
  - Council Initiatives such as taxi marshals
- 6.6 The Council will address a number of these issues through the Community Safety Partnership in line with the strategic objectives for crime and disorder reduction and drug and alcohol misuse within the City.

## **7 PROMOTION OF THE FOUR LICENSING OBJECTIVES**

### **Prevention of Crime and Disorder**

- 7.1 Licensed premises, especially those offering late night/early morning entertainment or alcohol and refreshment for large numbers of people, can sometimes be associated with elevated levels of crime and disorder.
- 7.2 The Licensing Authority expects individual licence holders, new applicants and temporary event organisers, to regularly review their arrangements in addressing crime and disorder issues pertinent to their particular licensable activities, location and/or premises. Information and advice can be obtained from regulatory agencies, business network groups and other sources. The Licensing Authority also encourages local residents and other businesses to discuss issues of concern directly with individual businesses, or, to contact the Police Licensing Officer if they believe that particular licensed premises are failing to achieve this objective.
- 7.3 The City Council will, through its Community Safety Partnership, devise and help deliver strategies to tackle the misuse of alcohol, which has been identified in the Cabinet Office's Alcohol Harm Reduction Strategy as being a precursor to crime and anti-social behaviour. The Licensing Authority expects existing licence holders, new applicants and the organisers of temporary events, to be able to demonstrate the measures they use, or propose to adopt, to prevent and actively discourage underage retail and hospitality sales/supply of alcohol and the sale/supply of alcohol to individuals who are already drunk. In general, conditions will reflect local crime prevention strategies.
- 7.4 The risk assessment approach remains fundamental in the operation of all licensed premises. Licence holders and applicants are strongly recommended to work closely with the Police Licensing Officer in particular, in bringing into effect appropriate control measures to either overcome established or potential problems. A combination of short and longer-term strategies may need to be deployed by the licence holder to sustain and promote the prevention of crime and disorder.
- 7.5 By virtue of the Private Security Industry Act 2001, all door supervisors employed at licensed premises must be personally licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives he/she will need to be licensed by the SIA as a supervisor/manager.
- 7.6 The Licensing Authority will expect new applicants, existing licence holders and organisers of temporary events to adopt recognised good practices in whatever area of operation they are engaged. For example, the Home Office 'Safer Clubbing Guide' provides essential advice for clubs and pubs providing public entertainment.

- 7.7 The City Council has specific duties under Section 17 of the Crime and Disorder Act 1998 that underpins any control strategy that is employed. The Council will continue to work in partnership with the Police in addressing crime and disorder issues.
- 7.8 The objective of preventing crime and disorder will include the Licensing Authority taking appropriate decisions and/or imposing appropriate conditions, upon a representation being received containing evidence that a licensed premise has a music policy which might incite violence, crime or disorder or the threat of such against minority groups.
- 7.9 In order to improve the quality and effectiveness of CCTV recorded images and thereby promote the licensing objectives, the Licensing Authority encourages all applicants for the grant of premises licences in Coventry, who include the provision of CCTV in their operating schedule, to consult with the Police with regard to the installation and maintenance of equipment which will meet a minimum specification that will provide recorded images of evidential value. The minimum specification is set out in the licensed premises guide. Failure to refer to this specification in the operating schedule could lead to the Police making a representation.
- 7.10 The Licensing Authority is of the view that generally, in order to promote the licensing objectives; all licensed premises within the city are encouraged to be members of the relevant local Pubwatch Scheme, where they exist. Therefore, all applicants for the grant of premises licences in Coventry are encouraged to state within their operating schedule that they will become a member of their local Pubwatch Scheme and will maintain their membership whilst the Licence is in existence. This is not a strict requirement but failure to include this provision in the operating schedule could lead to the Police making a representation.
- 7.11 The Licensing Authority and Police have a zero tolerance of drug use in licensed premises and recognise that drug use is not something that is relevant to all licensed premises. However, it is recognised that special conditions may need to be imposed for certain venues to reduce the likelihood of drugs being sold and consumed and to create a safer environment for those who may have taken them. These conditions will take into account the “Safer Clubbing” publication issued by the Home Office.

### **Promotion of Public Safety**

- 7.12 Public safety is not defined within the Act, but the Government Guidance Para 2.19 advises that it is concerned with the physical safety of people using the premises and not with public health, which is covered by other legislation.
- 7.13 Applicants and event organisers will be expected to assess not only the physical environment of the premises (or site) but also operational practices, in order to protect the safety of members of the public visiting the site, those who are permanently employed in the business, those who are engaged in running an event or anyone else that could be affected by site activities. This assessment would normally take place within a risk assessment framework. Sample health & safety risk assessments and a guide on preventing violence to staff are available from the Health & Safety Team at the City Council.
- 7.14 Holders of premises licences, and club certificates, or those organising temporary events, should interpret 'public safety' widely to include freedom from immediate danger or physical harm, and a sense of personal security. For example freedom from personal abuse or threat.
- 7.15 For licensed or certificated premises and for temporary events, public safety must be kept under review and where changes to operational practices/events occur, or the customer profile changes, a review of risk assessments must be undertaken.

- 7.16 Fire safety and means of escape remain an essential consideration to the Licensing Authority when determining applications. The Licensing Team will work in partnership with the Fire Authority and other Council departments (e.g. Building Control and Environmental Health) to ensure that appropriate standards are applied and maintained. Applicants are encouraged and reminded to consult with all relevant parties prior to submission. Temporary event organisers must include such considerations in their planning.
- 7.17 In the context of providing safe access to licensed premises for members of the community with disabilities, the Licensing Authority urges all licensees to familiarise themselves with the requirements of The Disability Discrimination Act 1995.

### **Prevention of Public Nuisance**

- 7.18 The Licensing Authority recognises that some activities centring on licensed/certificated premises and on some temporary events will attract adverse public comment as a result of the risk of causing public nuisance. Typical concerns may relate to noise, light pollution, odours and accumulated waste.
- 7.19 Public nuisance is not narrowly defined within the context of the Act however case law suggests that "a public nuisance is a nuisance which is so widespread in its range or so indiscriminate in its effect that it would not be reasonable to expect one person to take proceedings on his own responsibility to put a stop to it, but that it should be taken on the responsibility of the community at large". Responsible Authorities will have regard to the likelihood of public nuisance for applications and variations as well as for existing licensed activities.
- 7.20 The Licensing Authority remains sensitive to the expectations and needs of different parts of the community in respect of leisure and cultural pursuits, and will view applications accordingly. The Licensing Authority will consider the impact of those activities on people who have to live, work and sleep within the local vicinity of a licensed premises or event. If the impact of licensed activities is disproportionate and unreasonable or markedly reduces the amenity value of the area to local people, then the Licensing Authority will take account of this when exercising its functions.
- 7.21 The Licensing Authority will consider whether other legislation already provides sufficient protection of those located within the vicinity of the application premises. For example, the Environmental Protection Act 1990, the Noise Act 1996 and the Antisocial Behaviour Act 2003 can be utilised to address noise nuisance issues. The Licensing Authority considers that the potential for public nuisance can be prevented or much reduced by good design and planning during new or ancillary construction works, by the provision of good facilities and effective management. This will require appropriate advice at the planning and development stages of new projects. The Licensing Team, Environmental Health and other regulatory agencies such as the Police, should be viewed as being instrumental in this respect. Applicants should consider carefully the suitability of the premises for the type of activity to be undertaken, particularly in terms of ventilation, noise breakout and noise/vibration transmission to adjoining premises.
- 7.22 Businesses already in receipt of complaints should seek an early remedy to any confirmed problem, if necessary by engaging the services of a private consultant. The organisers of temporary events should pre-empt potential nuisance, especially when complaints have previously arisen at the same venue.
- 7.23 The Licensing Authority expects licence holders to use their risk assessments and Operating Schedules to review and, if need be, to make necessary improvements to the premises, or to operational practices, in order to prevent public or statutory nuisance.



- 7.24 Where the provision of existing legislation proves inadequate or inappropriate for control purposes, the Licensing Authority will consider imposing licence conditions. Any condition deemed appropriate and imposed by the Licensing Authority to promote the prevention of public nuisance will focus on measures within the direct control of the licence holder or designated premises supervisor.

### **Protection of Children from Harm**

- 7.25 The Act details a number of offences designed to protect children in licensed premises. The Licensing Authority is concerned to ensure that licence holders of fixed premises or organisers of temporary events, create safe environments (in terms of physical, moral and psychological welfare) for children who may be on the premises. Children should be unable to access alcohol or drugs and be subject to an appropriate level of care and supervision at all times. The Licensing Authority will work closely with the Police and other agencies to ensure appropriate and efficient enforcement of the law, and promotion of best practice, in these respects.
- 7.26 The Act prohibits children aged under 16 years old and unaccompanied by an adult, to be present in licensed premises used primarily or exclusively for consumption of alcohol
- 7.27 The admission of children to any premises will otherwise normally be left to the discretion of the individual licensee/event organiser, as the Act does not generally prohibit children from accessing licensed premises. Where children are accompanied and supervised by a responsible adult, additional measures should not normally be necessary. The Licensing Authority supports the view that children should enjoy access to a range of licensed premises where possible, but cannot impose conditions requiring the admission of children to any premises.

The Licensing Authority will judge the merits of each separate application before deciding whether or not to impose conditions restricting access by children. Particular scrutiny will occur where, in relation to a particular premises or event,

- there have been convictions of members of the current staff at the premises for serving alcohol to minors,
  - there is a reputation for underage drinking
  - there is a known association with drug taking or dealing and/or crime and disorder
  - there is a strong element of gambling (but not, for example, the simple presence of a small number of cash prize gaming machines)
  - the supply of alcohol for consumption on the premises is the exclusive or primary purpose
  - there is evidence that alcohol has been provided to drunken persons or there is evidence of drunk and disorderly conduct from patrons of the premises
  - entertainment or services of an adult or sexual nature are commonly provided.
- 7.28 It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Common sense will be applied. However, such entertainment or services, for example, would generally include topless bar staff, striptease, lap, table or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.
- 7.29 In premises where alcohol is sold or supplied, the Licensing Authority would expect that premises licence holders will include recognised "Proof of Age" schemes within the context of their Operating Schedules. The City Council supports the Challenge 25 scheme and where this is not proposed within the operating schedule, alternative and similarly rigorous controls should be detailed.

- 7.30 Customers should be confronted by clear and visible signs on the premises that underage drinking is not condoned, constitutes an offence in law and that they may well be required to produce proof of their age to a member of staff. Organisers of temporary events should apply similar safeguards in their undertakings.
- 7.31 The Licensing Authority endorses the work of the Portman Group on ensuring that drinks are packaged and promoted in a socially responsible manner to those who can legally purchase alcohol, and to help prevent the targeting of minors in marketing promotions. The Licensing Authority therefore commends to those selling and providing alcohol, the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic drinks.
- 7.32 Venue operators seeking premises licences and club premises certificates can volunteer prohibition and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. These will become conditions attached to the licence or certificate where no relevant representations are received by the Licensing Authority.
- 7.33 The Licensing Authority will attach appropriate conditions where these appear necessary to protect children from moral, psychological or physical harm. The Licensing Authority will consider any of the following options where restricted child access is deemed appropriate:
- limitations on the hours when children may be present
  - the exclusion of the presence of children under certain ages when particular specified activities/entertainments are taking place
  - limitations on the parts of premises to which children might be given access
  - age limitations (below 18)
  - requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult) and
  - full exclusion of those people under 18 from the premises when any licensable activities are taking place.
- 7.34 In order to prevent children from seeing films incompatible with their age, licence holders who exhibit films will be expected to impose and enforce viewing restrictions in accordance with the recommendations of the British Board of Film Classification.
- 7.35 To ensure that whenever children are in the vicinity of a film or exhibition that is being shown/staged in a multi purpose premises, sufficient ushers/stewards (minimum 18 years old) shall be in attendance at the entrance to the viewing rooms at all times to ensure children cannot enter or view the film or exhibition.
- 7.36 Children have access to a range of regulated public entertainment venues and may be present as members of a viewing audience or as performers in their own right. The Licensing Authority expects licence holders and those organising temporary public events, to make proper provision for child safety and welfare during such events. Notwithstanding public safety issues, supervisory arrangements must be reflected within operating schedules. Suitable monitoring strategies should also be in place to ensure that supervisory levels are appropriate.
- 7.37 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, the Council will require that there is an adequate number of adult staff at places of entertainment to control access and egress of children and to protect them from harm. Children present at events as entertainers will be expected to have a nominated adult responsible for each child performer.

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

- 7.38 The Council would like to commend the Portman Group, which operates a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks on behalf of the alcohol industry. This 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. The Code has a means to deal with complaints, taking action in circumstances relating to product packaging and point-of-sale advertising. This Code is an important aspect 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.

### **8 MANDATORY LICENSING CONDITIONS**

- 8.1 The Government has introduced a range of mandatory conditions aimed at establishing minimum standards for the way alcohol is sold. The conditions will be applied to all alcohol retailers to ensure consistent good practice and crack down on problem premises where irresponsible drinking could put individuals at risk and lead to crime and anti-social behaviour. The five current mandatory conditions are:

1. The prohibition of irresponsible promotions. For example 'all you can drink for £10' offers, 'women drink free' deals and 'speed drinking competitions' are prohibited where they undermine the licensing objectives. These promotions encourage people to drink quickly or irresponsibly and could lead to crime or antisocial behaviour.

This Authority has decided that, because what constitutes an irresponsible drinks promotion will vary with circumstances, it will generally be a decision for each premise operator whether promotions are irresponsible and whether they should hold them at their premises. Each premises are expected to accurately risk assess the promotion in view of the licensing objectives. In the event that problems or disorder ensue, operators may be held accountable and risk legal sanctions being applied by the Licensing Authority or one of the Responsible Authorities.

2. The operation of 'dentist's chairs' where drink is poured directly into the mouths of customers making it impossible for them to control the amount they are drinking is prohibited.
3. Free tap water must be available for all customers - allowing people to space out their drinks and reduce the risks of becoming dangerously drunk.

Organisers of events which are primarily on the open air will need to plan carefully to ensure that free tap water is available to all customers.

4. All those who sell alcohol (including off-licences) must have an age verification policy in place requiring them to check the ID of anyone who looks under-18. This is to prevent underage drinking which can lead to anti-social behaviour and put young people at risk of harm.
  5. All on licensed premises must make available small measures of beers, wine and spirits , so that customers have the choice between a single or double measure of spirits and a large or small glass of wine.
- 8.2 The Licensing Authority will additionally encourage the adoption of local voluntary industry codes of practice which cover irresponsible drinks promotions such as that produced by the British Beer and Pub Association (the BBPA's Guidelines on On-Trade Promotions).

## **9 OTHER CONSIDERATIONS**

### **Relationship with Planning**

- 9.1 In accordance with the Government Guidance Para 13.64, the Authority expects, although not a legal requirement, that applicants for premises licences and variations thereof should have already obtained any necessary planning consent before making their application under the Licensing Act 2003.
- 9.2 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committees or following appeals against decisions taken by that committee. The Licensing and Regulatory Committee and Sub-committees are not bound by decisions made by the City Council's Planning Committee, and vice versa.
- 9.3 The granting by a Licensing Sub-committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control approval, where appropriate.
- 9.4 There are also circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning consent would be liable to enforcement action under planning law.
- 9.5 The Licensing Team or a Responsible Authority may refer to the planning authority any licensed premises which appears to be operating outside its planning permission.
- 9.6 The Local Planning Authority may also make representations against a licensing application in its capacity as a Responsible Authority, where such representations relate to the licensing objectives.

### **Applications**

- 9.7 An operator may apply under the terms of the Act for a variety of permissions and any such application will be considered on its individual merits. Any person may make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- 9.8 In receiving an application, the Licensing Authority and the Responsible Authorities expect each and every applicant for a premises licence, variation or certificate to address in detail how they intend to meet the four licensing objectives. Where no information is given by the applicant, the Licensing Authority may reject the application as incomplete and/or responsible authorities may object to the licence application.
- 9.9 The Licensing Authority may not impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose such conditions as are necessary to promote the licensing objectives arising out of the consideration of the representations. However, in order to minimise problems and the necessity for hearings, applicants are encouraged to consult with responsible authorities when operating schedules are being prepared. This would allow for proper liaison and effective consultation before representations prove necessary.

- 9.10 In addressing applications, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned. The Licensing Authority recognises that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 9.11 Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy given that irresponsible alcohol consumption can lead to anti-social behaviour. As such, licensees and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example, on the pavement, in a beer garden or in a smoking shelter, where and to the extent that these matters are within their control. In this regard, all authorisation holders, designated premises supervisors and employees authorised to sell alcohol under the 2003 Act, are reminded of their legal responsibility under Section 141 not to sell, attempt to sell or allow alcohol to be sold to a person who is drunk. The occurrence of anti-social behaviour by customers in the immediate vicinity of a particular premises could result in an investigation as to whether offences under Section 141 have been committed.
- 9.12 In determining a licence application the Licensing Authority will first and foremost take each application on its merits. Licence conditions will only be imposed in order to meet the four licensing objectives and will only relate to matters within the control and ability of the licensee. Licence conditions will not normally be imposed where other regulatory provision is in force (e.g. planning, environmental health, fire safety, and building control legislation) so as to avoid confusion and duplication, except where they can be exceptionally justified to promote the licensing objectives.

The Licensing Authority will seek, as far as possible, to impose only such conditions as are proportionate and which are not unnecessarily burdensome. The Licensing Authority does not intend to implement standard conditions of licence across the board, but instead attach conditions as appropriate given the individual size, style and characteristics of the premises and events concerned.

- 9.13 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions the holder of the premises licence or the club premises certificate will be required to take or refrain from taking at all times when licensable activities are taking place at the premises in question.
- 9.14 Failure to comply with any conditions attached to a licence or certificate could lead to unauthorised licensable activities taking place which is a criminal offence, punishable, on conviction, by a fine of up to £20,000, or up to six months imprisonment, or both.

## **10. LIVE MUSIC, DANCING AND THEATRE**

- 10.1 The Council recognises that, when implementing cultural strategies referred to previously in this policy, proper account will be taken of the need to encourage and promote all forms of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays, for the wider cultural benefit of communities. When determining applications, the Council will have regard to guidance issued by the DCMS with regard to attaching conditions and imposing indirect costs of a disproportionate nature. Applicants are reminded that applications will be open to scrutiny by all the responsible authorities when the application is made. For example, if relevant representations are made concerning the potential for noise nuisance, the Council will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits to the community.

- 10.2 Applicants and members of the public can obtain advice about whether or not activities are required to be licensed from the Licensing Team. Contact details are given at 16.1.

## **11 PUBWATCH**

- 11.1 The Council supports Pubwatch schemes both in the city centre and Earlsdon. If your premise is in one of these areas you are encouraged to become a member of the scheme. The Pubwatch scheme, set up by local businesses have adopted an agreed approach to reduce crime and disorder in their local area by excluding those whose presence on their premises pose a risk to a safe drinking environment. The schemes are supported and attended by West Midlands Police and the Council's Licensing team.

## **12 GUIDANCE FOR ON AND OFF LICENSED PREMISES**

- 12.1 Guidance has been developed by the Licensing Authority and the Responsible Authorities in order to provide a reliable source of information to support premises licence holders in the responsible day to day management of their premises and advise what they must be doing to comply with the Licensing Act. This guidance will be referred to whenever the Licensing Authority or any Responsible Authority have recommendations for improvements in the management of licensed premises or where new conditions of operation are being considered.
- 12.2 Every licensed premises has been issued with this guidance and new applicants or new Licensees will receive a copy as part of the application process. Copies of this guidance are obtainable from the licensing office or can be downloaded from the City Council web site.

## **13 INTEGRATING STRATEGIES AND THE AVOIDANCE OF DUPLICATION**

- 13.1 By consulting widely prior to this policy statement being published, the Council will take full account of local policies covering crime prevention, anti-social behaviour, culture, transport, planning and tourism as part of an integrated strategy for the Council, police and other agencies. Many of these strategies may not be directly related to the promotion of the four licensing objectives, but indirectly impact upon them.
- 13.2 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Council's Licensing and Regulatory Committee can request reports, where it thinks it is appropriate on the following areas:-
- the needs of the local tourist economy to ensure that these are reflected in their considerations;
  - the employment situation and the need for new investment and employment where appropriate; and
  - the general impact of alcohol related crime and disorder, by providing regular reports to the planning committee. This will enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.

### **Crime Prevention strategies**

- 13.3 Crime prevention and drug and alcohol misuse strategies and the input of the Coventry Community Safety Partnership (CCSP) will be reflected in licence conditions, so far as possible.

- 13.4 The CCSP, with membership including the Council, police and the West Midlands Fire Service, is committed to making Coventry a safe place in which to live, work and visit. It is the role of the CCSP to strategically plan, commission and oversee services that tackle crime and disorder and address drug and alcohol misuse.

### **Cultural strategies**

- 13.5 The Strategic Arts Policy sits within the framework of the Local Cultural Strategy and has been developed within the context of Coventry's existing arts infrastructure, initiatives and activities. The Council will monitor the licensing of regulated entertainment and particularly live music and dancing, to ensure that potential event organisers have not been deterred from making applications because of licensing requirements.

### **Transport**

- 13.6 As part of an agreed enforcement protocol where the police have identified a particular need to disperse people from the City centre swiftly and safely so as to avoid situations which could lead to disorder and disturbance, the Council will inform those responsible for providing local transportation so that arrangements can be made to reduce the potential for problems to occur.

### **Duplication**

- 13.7 When considering any application, the Council will avoid duplication with other regulatory regimes so far as possible. Therefore, the Council will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives in the context of licensing law.

### **Promotion of Racial and Disabled Equality**

- 13.8 The Council recognises its responsibilities under the Race Relations Act, 1976 and the Race Relations (Amendment) Act, 2000 when discharging its functions under the Licensing Act 2003. The impact of this policy on race relations will be monitored through the Council's race equality scheme.

The Guidance supporting the Act advises that conditions relating to disabled access should not be attached to licences, as this would duplicate existing statutory requirements. The Council therefore takes this opportunity to remind operators of premises of their duties to ensure the safety of disabled persons (including performers on their premises under the Building Regulations and the Disability Discrimination Act 1995... This includes a duty that any person who provides a service to the public must make reasonable adjustments to any physical feature that makes it impossible or unreasonably difficult for a disabled person to access a service, or to provide the services by a reasonable alternative means.

## **14. ENFORCEMENT**

- 14.1 The Council has established protocols with the Police and other enforcing authorities on enforcement issues. These protocols will include agreements relating to joint inspections and joint strategies. This will provide a more efficient deployment of the Council's officers and police officers that are commonly engaged in enforcing licensing law and inspection of licensed premises. For example, these protocols should also provide for the targeting of resources towards high-risk premises and activities that require greater attention. A lighter touch will apply in respect of low risk premises, which are well run.

- 14.3 This enforcement regime in relation to licensing follows the governments Regulators Compliance Code in that it follows the basic principals of Openness, Helpfulness, Proportionality and Consistency. This is clarified by the operation of a ladder of intervention for Licensed Premises. This ladder of intervention is contained at Appendix 1.
- 14.4 Licensed premises are visited by the Responsible Authorities and Licensing Authority to carry out routine inspections to check that the premises licence/certificate is being complied with, to check compliance with other legislation and/or to deal with a complaint that has been received. The relevant Responsible Authority or the Licensing Team will visit premises and depending on what they find during an inspection or when dealing with a complaint, they will respond in a proportionate way.
- 14.5 On some occasions a multi-agency group (representing a number of Responsible Authorities) known as the Licensing Taskforce, will visit the premises. The Taskforce officers inspect the areas of the premises relevant to their role. Again, any action taken will be in line with the ladder of intervention.
- 14.6 There are several enforcement options available depending on the outcome of the inspection or complaint which includes:
- Verbal advice – this covers minor complaints/infringements where advice is seen as the most appropriate way to deal with the issue.
  - Written warning – this is a step-up from verbal advice and premises licences holders are given a letter recording the warning given and containing the details of any necessary remedial action.
  - Action planning – this plan will be written down and given to the Premises Licence Holder and Designated Premises Supervisor. It explains what actions are required and within what time period, in order to comply with the licensing objectives, specific legislation or conditions. It will be regularly reviewed and if the PLH/DPS have complied, the action plan will be terminated. If there are areas of non-compliance, the PLH may face prosecution or their licence may be called for a review.
  - Review – when there is evidence to show that the licensing objectives are not being met then the PLH will have to attend a review hearing in front of the Licensing Sub-Committee. A decision will be made by the Licensing Authority Sub-Committee based on the evidence put forward as to whether the DPS will be removed and/or the Licence revoked, suspended, amended or have additional conditions applied.
  - Prosecution – under the Licensing Act, certain offences can be instituted by the Licensing Authority / Director of Public Prosecutions / the Weights and Measures Authority (Trading Standards). In addition, Responsible Authorities have a wide range of powers to institute prosecution under other specific legislation depending on the nature of evidence found.
  - Closure – several of the Responsible Authorities have the power to close licensed premises whilst on site if they deem it necessary e.g. the Police, Health & Safety, Environmental Health, Trading Standards and the Fire Service. The Licensing Team also have powers to request closure through the Magistrates Court for continuing unauthorised alcohol sales.

## **15. ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS**

### **Licensing and Regulatory Committee**

- 15.1 The powers of the Council under the Act may be carried out by the Licensing and Regulatory Committee, by a Sub-Committee or, instead, by one or more Council officers acting under delegated authority.



- 15.2 It is considered that many of the decisions and functions will be purely administrative in nature. In the interests of speed, efficiency and cost effectiveness the Licensing and Regulatory Committee may delegate these functions to Sub-Committees, or in appropriate cases, to officers supporting the licensing function.
- 15.3 Where under the provisions of the Act there are no relevant representations on an application for the grant of a premises licence or club premises certificate or no police objection to an application for a personal licence or to an activity taking place under a temporary event notice, these matters will be dealt with by officers. Should there be relevant representations, a Sub-Committee of the Licensing and Regulatory Committee will deal with applications. An oral hearing will take place, except where all parties agree to proceed in writing. The same procedure will apply to any application for review of a licence. The following table sets out the delegation of functions:

Matters to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application to transfer of premises licence		If a police objection	All other cases
Application 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 is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases		
Determination of a police objection to a temporary event notice		All cases	
Determination of a Minor Variation application			All cases
Removal of the requirement for a designated premises supervisor at community premises		If a police objection	All other cases

### Application forms and process

- 15.4 The application form will be in the DCMS format. The operating schedule will form part of the completed application form for a premises licence and a club premises certificate. The form will need to contain information that describes the style of the venue, the licensable activities to be provided, the operational procedures, hours, nature of the location, needs of the local community, etc. Most importantly, the applicant will have to detail the steps that will be taken to promote the four licensing objectives. Applicants should carry out a risk assessment before they apply for a licence.
- 15.5 Applicants are encouraged to fully consult the police and other statutory services well in advance of carrying out their risk assessments and submitting their applications. Application forms and guidance leaflets will be available from the City Services Directorate, including contact names for each of the responsible authorities that will be

receiving applications. Most applications will require additional documentation and a fee to be included with the form. Incomplete applications will not be considered and will be returned to the applicant.

15.6 Where national guidance permits, on line applications will be accepted providing the necessary documentary attachments are uploaded into the application and the appropriate fee paid. Coventry is currently using the Electronic Licence Management System (ELMS - formerly called the PSC) which is supported by the Department of Business Innovation and Skills.

15.7 Applicants are encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies and local crime, alcohol, drug and disorder strategies in order to take these into account, where appropriate, when formulating their operating schedule. Guidance notes containing contact and website information about these policies will be available from the Licensing Team, City Services Directorate. Contact details are below.

## 16. COMMENTS ON THIS POLICY

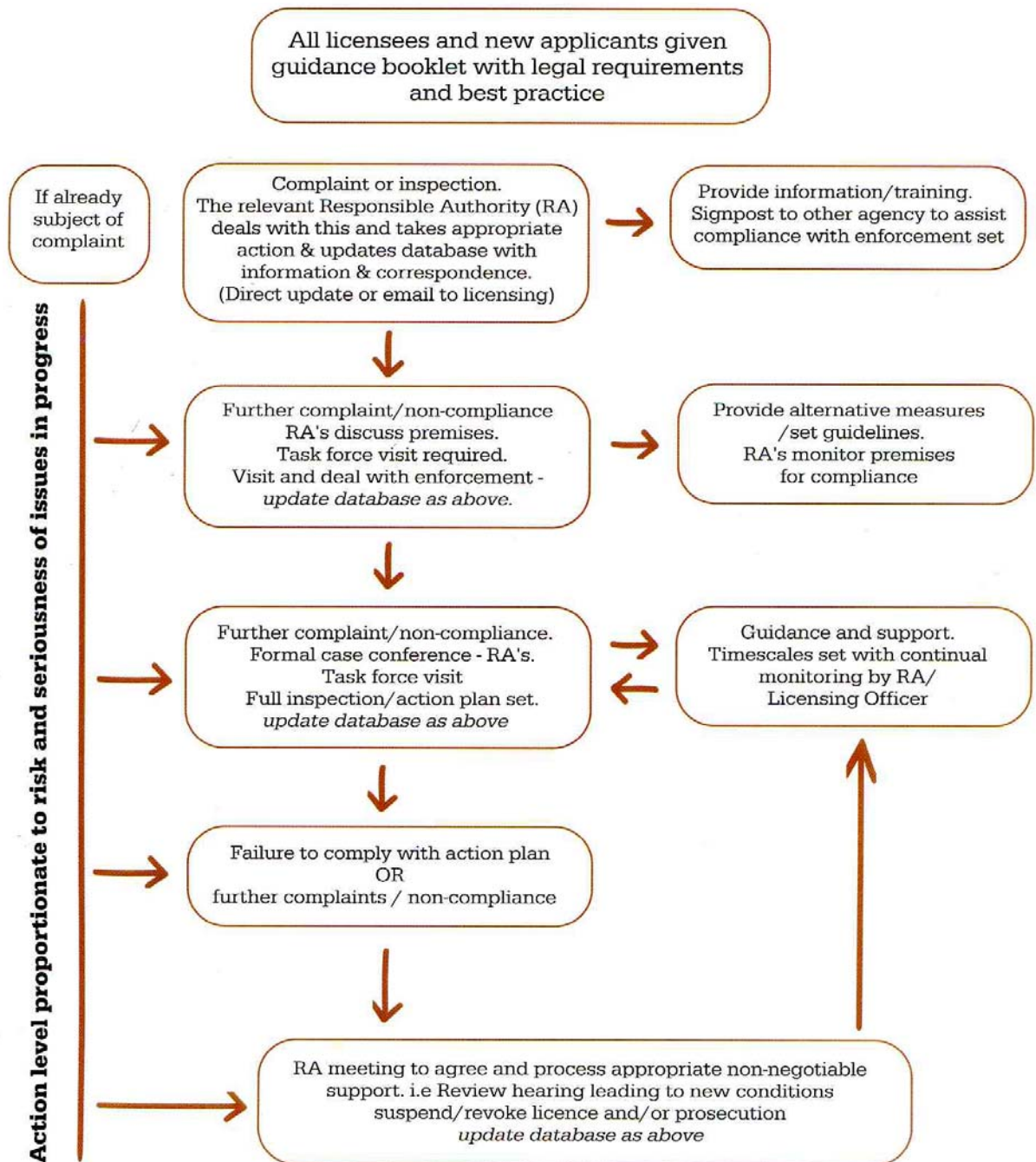
16.1 The Statement of Licensing Policy will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

Community Services Directorate, Public Safety  
Environmental Health Licensing Team, Broadgate House,  
Broadgate, Coventry, CV1 1NH

Telephone Number: 024 7683 1888  
Fax Number: 024 7683 2154  
e-mail: [licensing@coventry.gov.uk](mailto:licensing@coventry.gov.uk)  
website [www.coventry.gov.uk](http://www.coventry.gov.uk)

**APPENDIX 1**

**Ladder of intervention - approach to enforcement issues**



If you need this information in another format please contact:

**Telephone: 024 7683 1888**

**Fax: 024 7683 2154**

**Minicom: 0500 431143**

**e-mail:**

**[licensing@coventry.gov.uk](mailto:licensing@coventry.gov.uk)**



# Report 7 – Licensing Act 2003 – Revised Statement Of Licensing Policy Consultation - Updated Appendix B

## APPENDIX B

### LICENSING ACT 2003 – Revised Statement of Licensing Policy Consultation

<b>Comment No</b>	<b>Respondent</b> <i>Private names and addresses withheld</i>	<b>Summary of Comments</b>	<b>Appraisal of the Comments</b>	<b>Response</b> <i>L&amp;R comments in italic</i>
1.	Councillor Bally Singh	<p>I believe that in relation to section 6.2, I believe the Craven Street area does have a concentration of licensed premises in a residential area that is causing a cumulative impact on the prevention of public nuisance especially after 11pm. I attach evidence sourced from community safety. The figures clear show the following cumulative impact:</p> <ul style="list-style-type: none"> <li>• 41% of all anti-social behaviour incidents reported in the area occurred on Craven Street!</li> <li>• The peak times, nearly a 1/3 (30%), for all anti-social behaviour incidents reported in the area occur between 11pm and 2am.</li> <li>• The overwhelming majority (84%) of the anti-social behaviour incidents reported relate to public nuisance</li> </ul>	<p>These are specific comments about a perceived problem in one area of the city. The policy and its associated enforcement policy contain sufficient powers to ensure that businesses comply with the legislation and that saturation policies can be initiated where evidence exists.</p>	<p><i>No change required to policy. Feedback to Cllr Singh on the individual issues.</i></p>
2.	Nick Kempton Young Peoples Substance Misuse Programme Manager. Coventry City Council	<p>My first comment is about the Home Office consultation document - I assume you cannot put in any of the proposals re extended powers, higher cost late night licences etc until they are made law? Is there any scope to provide an 'interim' policy / revise the policy again when these powers become law or are you locked into 'fixed term' updates?</p> <p>Obviously my main area of focus is 'protecting children from harm'. My first impression is that the section is dominated by guidance around 'on sales'. In respect of off sales (although some relevance to on sales), I was wondering how much scope there was to bring in something around adults buying alcohol for children? The Govt's consultation paper points to the fact that typically alcohol is given by parents and friends, 1/2 of children who have drank have purchased alcohol themselves...turning it on it's head, that means that</p>	<p>These are in the main comments about the application of the policy and existing enforcement powers which the Police and Trading Standards exercise.</p> <p>Some of these matters relate to projects and initiatives which could be operated within the policy framework.</p>	<p><i>Agreed no change to policy required. These are operational matters.</i></p>

		<p>purchase on behalf of minors is <b>at least</b> a big a problem as underage sales. I think our policy should reflect this.</p> <p>For example for licence applicants in areas of high underage drinking / in close proximity to known teen drinking / asb hotspots (evidenced by Police data) 'encourage' applicants to discuss how they will take measures to discourage proxy buying - e.g. staff training to challenge or refuse a sale to those they suspect of proxy buying / look for signs - e.g.those buying multiple items of 'teen favourites' like WKD and cheapest brands of vodka, permanent prominent signage re illegality of proxy buying, ? agreed process / training for staff for contacting Police to report concerns (customer has denied buying for underage drinkers but upon leaving shop has handed over alcohol to a bunch of kids outside the shop - CCTV evidence of offence? + Police power to confiscate alcohol from the young people, exercise Section 30 powers etc).</p> <p>I know Cambridgeshire did a really successful project in the St Neots area - including a leaflet to be given out by the off licence 'What sort of person buys alcohol for a child' as part of the set up of a local Retailers of Alcohol Standards Group. If we had one here, all new licence applicants in high youth drinking areas could be 'encouraged' to join in order to offset any concerns by responsible authorities that may otherwise derail their application.</p>		
3.	John Finney, Keresley, Coventry	Urging Licensees to familiarise themselves with the Acts requirements is not sufficient on its own. At the very least a disability awareness course should be a minimum requirement	Whilst the policy makes links with disability and equality legislation it is specific to licensing matters.	<i>Agreed no change to policy required.</i>

4.	Mrs G Jones, Walsgrave	<p><b>3.1 Fundamental Rights</b> - All local residents should be involved in licensing decisions in city suburbs and village centres. Long licensing hours are totally inappropriate as there are enough late night outlets in the city centre. This is because this impacts directly on immediate neighbours and community as if licensee does not control inside or outside antisocial behaviour.</p> <p><b>6.5 Cumulative Impact</b> – Prosecution this should be enforced and licensee held directly responsible. It has not been enforced in local village pubs causing major problems for residents</p> <p><b>7.20 Prevention of Public Nuisance-</b> Issuing of licences should be taken into consideration. The site of the pub its original function and not issue licences for extended hours or entertainment. E.g Village Pubs should remain village pub.</p> <p><b>7.27 Protection of Children from Harm</b> – There is factual evidence of drug dealing and disorderly conduct at <b>xxx name of premises redacted</b>. The act has never been enforced. Intimidation of women and children walking past causing them to cross a busy road to avoid drunken/drug induced behaviour.</p>	<p>These comments in the main relate to a specific premises and the application of enforcement powers by the Police and other responsible authorities.</p> <p>The revised policy makes specific reference to late night entertainment in residential areas and firms up the licensing authority position..</p>	<i>Agreed no change to policy required.</i>
5.	Equity, Guild House, Upper St Martins Lane, London	<p><b>General</b> – We remain of the opinion that the inclusion of regulated entertainment in the Licensing Act 2003 is not necessary and has greatly increased bureaucracy for very little benefit to the licensing objectives.</p> <p>In 2009 the Culture, media and Sport Select Committee's report into the Licensing Act contained a number of proposals which would have lifted some significant barriers to work faced by entertainers. The report also recommended that simplification of the Licensing Act is necessary in order to reduce bureaucracy and better meet the licensing objectives. We would encourage your local authority to work alongside other authorities in order to achieve this much needed consistency and to establish best practice in terms of licensing policy.</p>	<p><i>This is a summary of a much longer letter.</i></p> <p>The draft licensing policy follows best practice. The licensing authority also work with partners in the Institute of Licensing to ensure the fair and equitable treatment of licensed premises.</p>	<i>Agreed no change to policy required.</i>

6.	Councillor Smith at Licensing and Regulatory Committee 21 <sup>st</sup> July	Applicants should refer to a list held by police when considering which SIA operator to employ.	Amend para 7.4 to include the following sentence – The police have a list of recommended SIA registered Operators and we would advise that this list be used when considering the employment of SIA registered door staff.	<i>Agreed change in policy wording as suggested</i>
7.	R Roswell Stoke, Coventry	As an ordinary citizen, the policy seems over complex but has provisions to tackle problems which arise from licensed premises. However in my view the problem is putting the policy into practice due to lack of officers available to ensure that all the provisions are followed by Licencees.	No changes to policy required	<i>Agreed no change to policy required.</i>
8.	Thangarajah Kamalakkanan Stoke, Coventry	Operating hours - if possible increase to 6am morning to 12 midnight Monday to Sunday Public Safety - risk assessment especially if a person is already drunk are good policies Mandatory conditions - trying to sell as much alcohol as soon as possible in an irresponsible manner is harmful to people Administration - the time it takes to get planning permission should be reduced if possible Make guidance clear and easy to follow Enforcement is satisfactory at the moment. It makes all traders aware of updates on a regular basis.	No changes to policy required	<i>Agreed no change to policy required.</i>
9.	Mrs E A Jones Stoke, Coventry	More checks on shops selling cigarettes and alcohol to underage children.	No changes to policy required	<i>Agreed no change to policy required.</i>
10.	Miss N Chanakul Whitley, Coventry	Agree with more control over operating hours and other proposals.	No changes to policy required	<i>Agreed no change to policy required.</i>
11.	Association of convenience stores	We have received a long standard letter from ACS prepared for all local authorities. Key points - They very much support age verification policies and	No changes to policy required	<i>Agreed no change to policy required.</i>



		<p>want the ability to select their own policy rather than having a single scheme imposed.</p> <p>They want local authorities to tackle fraudulent proof of age ID's</p> <p>They encourage us to join a Community Alcohol Partnership scheme</p> <p>Test purchasing must be done as per government guidelines</p> <p>They encourage us not to have any controls over where alcohol is displayed or to penalise shops because of shoplifting.</p> <p>They comment on the prevalence proxy sales and encourage us to take enforcement action over this issue.</p>		
12.	Mr Reed-Aspley Binley, Coventry	Generally in support of our revised policy	No changes to policy required	<i>Agreed no change to policy required.</i>
13.	Mr R King Whitley, Coventry	Generally in support of our revised policy	No changes to policy required	<i>Agreed no change to policy required.</i>
14.	Anon	Generally in support of our revised policy	No changes to policy required	<i>Agreed no change to policy required.</i>
15.	Rasticala Uthayaraja	We need to change for opening and closing time We want to increase our opening hours	No changes to policy required	<i>Agreed no change to policy required.</i>
16.	Martin Trewinnard Coventry Morris Men	We have no comments to make on the revision beyond reminding you, if it is necessary, that the licensing act does not apply to displays of Morris dancing. We, of course, accept that the provisions of the Street Collection regulations apply to us and we will continue to apply for this permission as and when we need to.	No changes to policy required	<i>Agreed no change to policy required.</i>
17.	Mr Dulbi Walsgrave, Coventry	Generally in support of our revised policy	No changes to policy required	<i>Agreed no change to policy required.</i>
18.	Lesley Eadon Earlsdon, Coventry	Generally in support of our revised policy	No changes to policy required	<i>Agreed no change to policy required.</i>
19.	Maureen Martin Earlsdon, Coventry	Generally in support of our revised policy	No changes to policy required	<i>Agreed no change to policy required.</i>

20.	Monwarul Islam Coundon Coventry	No Comments	No changes to policy required	<i>Agreed no change to policy required.</i>
21.	Robert Arnott, Holbrooks, Coventry	<b>8.1 Mandatory Conditions</b> – Many pubs do not offer small glasses of wine in many premises, wine glasses seem to be getting larger.  <b>14 Enforcement</b> – I would like to see stricter enforcement regarding shops selling alcohol. I am concerned that shops that have been prosecuted can still trade when they appeal	No changes to policy required	<i>Agreed no change to policy required.</i>
22.	Neil Ireland, Cheylesmore, Coventry	Generally in support of our revised policy	No changes to policy required	<i>Agreed no change to policy required.</i>
23.	Licensing Inspector Dayle Speed, Little Park Street	Generally in support of our revised policy	No changes to policy required	<i>Agreed no change to policy required.</i>
24.	Marcus Fothergill, Principal Planning Officer, Coventry City Council	<b>9 Relationship with Planning</b> – Planning welcome the further clarification concerning planning and licensing which is proposed	No changes to policy required	<i>Agreed no change to policy required.</i>
26.	Richard Matthews, Midlands Secretary, British Beer and Pub Association	<b>7.13 Promotion of Public Safety</b> – In reading the statement and the risk assessment approach to the public safety etc. it might be worth drawing attention to a BBPA document Managing Safety in Bars, Pubs and Clubs which can be downloaded from the BBPA website.	Insert the following at para 7.13 The British Beer and Pub Association publishes a wide range of guidance relating to aspects of pub operation. Their guide to Managing Safety In Bars, Clubs and Pubs, setting out the salient factors to be considered and identifying measures	<i>Agreed to include reference in policy to BBPA information</i>

		<p><b>7.29 Protection of Children from Harm</b> – We are disappointed to read that the policy makes reference to Challenge 25 and not Challenge 21 which is largely supported by the industry and promoted by the BBPA. In fact research shows that awareness of Challenge 21 amongst 18-24 year olds is as high as 91%.</p> <p><b>Other comments from a generic BBPA letter</b> BBPA also submitted a standard letter which has been sent to every licensing authority in the country.</p>	<p>that can be taken where appropriate is freely available to download at <a href="http://www.beerandpub.com">www.beerandpub.com</a></p> <p>Members to discuss as the City Council supports the challenge 25 scheme.</p> <p>No relevant comments which would require changes to our policy.</p>	<p><i>Agreed to continue policy support to Challenge 25</i></p>
27.	On-Line Response 16 <sup>th</sup> August 2010	<p><b>Licensing Conditions</b> – No comments</p> <p><b>5.3</b> - what are relevant representations? You can't please all of the people all of the time and we all have grippers and moaners somewhere in our neighbourhood. The authority should decide what it means by 'relevant' before putting elected members under pressure to penalise licensees because of a perceived public will.</p> <p><b>5.2</b> - Agreed. Nighttimes and Daytime licensing is incredibly important for inward investment - Coventry is still not competing with close neighbours for night-time and daytime economy. Licensing is an important issue here</p>	<p>These matters are defined in guidance to the Act. No change required to policy.</p> <p>No change to policy required</p>	<p><i>Agreed no change to policy required.</i></p> <p><i>Agreed no change to policy required.</i></p>
28.	On-Line Response 17 <sup>th</sup> August	<p>I believe that whilst at this time we don't have a policy, the need for such a policy should be carefully considered by the RAs Group</p> <p>In view of recent the recent High Court case in relation to petrol stations (Murco Petroleum Ltd, R (on the application of) v Bristol City Council [2010] EWHC 1992 (Admin) (30 July 2010)), I believe it would be fair to set out our approach to Petrol Stations/Garages. I feel that the policy should indicate that <u>we will delay determination of an application until such time as the applicant has</u></p>	<p>The City Council does have a current licensing policy.</p> <p>Each application is currently considered on its merits, although we could include reference to this matter.</p>	<p><i>Agreed no change to policy required.</i></p> <p><i>Agreed to include text underlined in the policy to be clear to applicants and give licensing sub committees direction on this issue.</i></p>

		<p><u>provided evidence one way or another as to whether the premises are excluded. This evidence should be in the form of turnover data for a period of at least three months.</u></p> <p>Can we reference and commend an approved list of suppliers of Door Supervisors in a similar way to which we commend "The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks" within the policy.</p>	Agreed as at comment No 6	<i>Already agreed</i>
29.	On Line Response 25 <sup>th</sup> August	<p>The revised licensing conditions suggest that the licensing authority will give due consideration to local residents and their right to enjoy a life without undue disturbance by any public nuisances.</p> <p>It is perhaps a pity that the cumulative effect of several licensed premises in a small area on the right on local residents to enjoy life without public nuisance is not to be considered by the licensing authority.</p> <p>There is no requirement that licensed premises join and maintain membership of a pub watch scheme. Any enforcement of this seems to be left to the licensee.</p>	<p>No change required to policy</p> <p>The policy covers our procedure for dealing cumulative impact although we have not currently been presented with evidence of the need for such. Our policy contains encouragement to participate in any Pubwatch scheme</p>	<p><i>Agreed no change to policy required.</i></p> <p><i>Agreed no change to policy required.</i></p> <p><i>Agreed no change to policy required.</i></p>
30.	On Line Response 19 <sup>th</sup> October	<p><b>4.1</b> should be used to inform that for the purposes of the Licensing Act 'Premises' includes open spaces.</p> <p>Should the Council adopt a special policy how will that decision be made public?</p> <p><b>7.22</b> The term 'Businesses' is too narrow; Premises licences and T.E.Ns are held by those who may not be considered to be operating as a business (The Council, for example). Why not simply say License Holders ?</p> <p><b>7.25</b> The first sentence does not make sense; the OFFENCE cannot protect children, the prevention of them may.</p> <p><b>8.1 3.</b> The caveat relating to open air events needs</p>	<p>We could amend the wording to include this.</p> <p>See above comment 29</p> <p>We could amend the policy wording to reflect these comments.</p> <p>The Mandatory condition for water</p>	<p><i>Agreed to change policy wording at 4.1</i></p> <p><i>No change required.</i></p> <p><i>Agreed to amend reference to 'business' to 'licence holder' and; 'offence' to 'legal requirement'</i></p> <p><i>Agreed no change to policy required.</i></p>

		<p>clarifying. It is unfair to expect people to queue to obtain water; it should be freely available OUTSIDE the bar area.</p> <p><b>9.7</b> "Any person may make representations on an application . . ." Although the end of the sentence "where provision has been made for them to do so in the Act" clarifies the situation, in fact, not ANY person may make representations, and so the sentence should be re drafted to reflect the legislation. And what is the purpose in using the phrase "An operator" - we are not talking about Hackney Carriage licences here!</p> <p><b>11.1</b> If these are the only two pub watch schemes in the city then paragraph 7.10 needs clarifying, because that suggests a much wider coverage.</p>	<p>applies to 'customers' Events are dealt with by way of agreed event manual Policy wording needs clarification as suggested.</p> <p>We can remove reference to existing schemes and retain the encouragement to participate.</p>	<p><i>Amend 'any person' to reflect legal requirements. Amend 'operator' to 'applicant'</i></p> <p><i>Agreed to remove reference to City Centre and Earlsdon.</i></p>
31.	On Line Response 21 <sup>st</sup> October	<p><b>Section 6.3</b> states that the licensing authority has not been presented with evidence to indicate that any area within the city currently have a particular concentration of licensed premises causing a cumulative impact on one or more of the licensing objectives.</p> <p>However, Coventry PCT has evidence to suggest that the objectives of prevention of crime and disorder, public safety, and the prevention of public nuisance are all affected in the City Centre and Earlsdon due to the higher number of alcohol related A&amp;E admissions in these areas. This information is collected as Part of NI 039. The NI 039 data is collected to show the location of the incident, i.e. inside or outside a venue, premises ID, date, time and nature of incident. Coventry PCT is happy to liaise with the licensing department to supply further information if required and would support the introduction of cumulative impact policies in these areas.</p> <p>There are a proliferation of late night licensed premises including hot food and drink in these areas, which results in an increase in the number of people on the streets at</p>	<p>The policy lays out the necessary procedure to declare such an area. No evidence in relation to crime and disorder or public nuisance has currently been provided to suggest the need for such a policy.</p>	<p><i>Agreed no change to policy required.</i></p>

		<p>night. This makes these areas a focal point for large groups of people and thereby creating exceptional problems over and above the impact from the individual premises. The local residents may also be affected, but it is not possible to attribute a particular problem to customers of a particular premises.</p> <p>Coventry PCT recognises that a cumulative impact policy is not absolute and where licences do not add to the cumulative impact, the licence may be granted. The applicant would be expected to show that the operation of the premises will not add to the cumulative impact already being experienced. We do not suggest that this will be used to try and revoke an existing licence, but if representations are made about the way a premise is being operated, the policy could be considered.</p> <p><b>Section 7.12</b> states that guidance suggests the Act is concerned with the physical safety of the people using the premises and not with public health. However, Coventry PCT feels that public safety is a public health matter as alcohol related admissions to A&amp;E in Coventry are increasing, according to current data. Statistics indicate that physical harm caused by a stranger under the influence of alcohol is one of the higher causes of admissions.</p> <p>With the introduction of the Health Act 2006 and the requirement for customers to smoke outside the premises, there is increased potential for nuisance in residential areas. Coventry PCT would like to see this acknowledged in the Statement of Licensing Policy.</p> <p>Please ensure that necessary consent is obtained from Building Control prior to an application under the Licensing Act 2003.</p> <p><b>Section 9.2</b> states that planning considers amenity. This may include open space and the character of the area.</p>	<p>Health may be included as a licensing objective as a result of the recent government consultation.</p> <p>The policy refers to controlling noise from smoking shelters at 9.11</p> <p>Building control approval is not a requirement for each application.</p> <p>The policy does not suggest that a planning</p>	<p><i>Agreed no change to policy required.</i></p> <p><i>Agreed no change to policy required.</i></p> <p><i>Agreed no change to policy required.</i></p> <p><i>Agreed no change to policy required.</i></p>
--	--	---	--	---

		However it should be noted that the planning department also considers public nuisance under common law (not statutory nuisance as this is dealt with under separate legislation, i.e. EPA 1990) such as noise and odour, which may impact upon amenity. A planning permission is not a defence against a private claim for nuisance according to case law in 2009.	approval is defence against action for public or private nuisance. No change required to policy.	
32	Comment from legal	<b>13.8</b> needs to be amended to reflect the Equalities Act 2010	Agreed. Amend final policy wording	<i>Comment not considered a L&amp;R</i>