

Leicester  
City Council

**WARDS AFFECTED**  
City Wide

**FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:**

**Cabinet**  
**Council**

**12 November 2007**  
**22 November 2007**

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**Review of Statement of Licensing Policy**

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**Report of the Corporate Director of Regeneration & Culture**

**1 Purpose of Report**

1.1 To obtain Cabinet's views on the draft Statement of Licensing Policy following public consultation and consultation with the Licensing Committee, and prior to final approval by full Council.

**2 Summary**

2.1 The Licensing Act 2003 requires that each Licensing Authority has a Statement of Licensing Policy. This must be reviewed every three years. In November 2004, the full Council approved the Statement of Licensing Policy to apply between February 2005 and February 2008.

2.2 Officers updated the current policy to take account of developments and experience gained over the last three years. The main changes are:

- Section 3 – Cumulative impact (paragraphs 3.1, 3.3 and 3.4)
  - Revised description of cumulative impact
  - Deleted paragraphs relating to specific application from the Police
- Section 4 – Justification (paragraphs 4.3 to 4.10)
  - Made clear that representations must be received for cumulative impact policy to have effect and where burden of proof lies
  - Inserted updated paragraphs deleted from section 3
- Section 11 – Integrating strategies (paragraphs 11.4, 11.23 and 11.24)
  - Updates from other departments, including clarification on relationship between Planning and Licensing
- Section 13 – Standard conditions (paragraph 13.3)
  - Imposition of conditions on clubs re off sales
- Section 18 – Other permissions (new section)
  - Information about other permissions that may be required in addition to a licence

2.3 Consultation has taken place in relation to this updated policy for 2008-2011, and a revised draft policy has been produced taking account of the comments

received. Footnotes explain why each of the changes have been made, but significant alterations include:

- Definition of vicinity (paragraph 2.5)
- Clarification that conditions will only be added to a licence after a hearing in which Members agreed with a representation (paragraphs 6.4 and 13.1)
- Acknowledgement of the Hampton principles of enforcement (paragraph 16.3)

2.4 The Licensing Act 2003 is very prescriptive with regard to what can and cannot be included within the Licensing Policy. Matters such as being 'family friendly' or relating to health improvements cannot be included as they do not relate to any of the four licensing objectives. Indeed, other licensing authorities have had their Licensing Policies judicially reviewed when they included additional matters. It is suggested that matters such as this be dealt with separately.

2.5 Consideration has been given to whether or not the special policy on cumulative impact should be extended. Any such policy must be based on evidence of problems relating to crime and disorder and/or nuisance. The police have expressed the opinion that a change to the existing special policy is not necessary. However, Members have asked for this to be looked at in more detail and a briefing note will be submitted to the Cabinet Lead shortly.

2.6 This matter was reported to Licensing Committee on 1 October 2007. The Committee did not recommend any changes to the revised draft policy.

2.7 The revised draft policy is attached at Appendix A and a table setting out the comments received and the action taken as a result is attached at Appendix B.

2.8 The revised policy will be submitted to full Council for final approval in November 2007.

### **3 Recommendations for Cabinet**

3.1 Cabinet is asked to give its views on the proposed Statement of Licensing Policy to apply between February 2008 and February 2011.

### **4 Recommendations for Council**

4.1 Council is asked to approve the proposed Statement of Licensing Policy, which will apply between February 2008 and February 2011.

### **5 Financial, Legal and Other Implications**

#### **Financial Implications**

5.1 There are no significant financial implication arising from any changes to the policy.

*Martin Judson – Head of Finance Regeneration & Culture (297390)*

#### **Legal Implications**

5.2 Section 5 of the Licensing Act 2003 requires the Council as a Licensing Authority to determine its statement of licensing policy each three-year period.

This revised licensing policy meets this requirement and has been determined after consultation with the groups set out in section 1.2 of the policy as required by the Act.

- 5.3 The Council are required to publish the revised statement prior to it coming into force on the 7th February 2008. The policy will be kept under review and if necessary amendments made.

*Jamie Guazzaroni - Legal Services (296350)*

#### **Crime and Disorder Implications**

- 5.4 The prevention of crime and disorder is one of the four licensing objectives. These objectives are the primary consideration when carrying out any function under the Licensing Act 2003.

### **6 Other Implications**

OTHER IMPLICATIONS	YES/NO	Paragraph References Within the report
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	No	
Crime and Disorder	Yes	5.4
Human Rights Act	No	
Elderly/People on Low Income	No	

- 7 Background Papers – Local Government Act 1972**  
 Report to full Council – Licensing Policy 25 November 2004  
 Report to Licensing Committee – 1 October 2007

- 8 Consultations**  
 Finance  
 Legal Services

- 9 Report Author**  
 Rachel Hall – Licensing Team Manager  
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### **DECISION STATUS**

<b>Key Decision</b>	No
<b>Reason</b>	Budget and Policy Framework
<b>Appeared in Forward Plan</b>	Yes
<b>Executive or Council Decision</b>	Council

**DRAFT FOLLOWING CONSULTATION**

**Leicester City Council**

**Statement of Licensing Policy**

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## **1 Introduction**

### **Purpose**

- 1.1 This Statement of Licensing Policy explains how the licensing authority will carry out its role under Licensing Act 2003, during the next three years. During this period the licensing authority will keep this policy under review and may make revisions to the document following consultation with the bodies outlined below.
- It will also:

- be used as a guide by members of the Licensing Authority in their decision making ;
- inform applicants about how applications will be viewed and how a licensed premises is likely to be able to operate within the area of the Licensing Authority, albeit that each application will be examined and considered on an individual basis;
- inform residents and businesses about how applications will be viewed and how their needs will be addressed;
- be used to support decisions made by the Licensing Authority when these decisions are challenged in a court of law.

## **Consultation**

1.2 In developing this Statement the Licensing Authority has consulted with the groups set out below, and has taken account of their views:

- the police
- the fire authority
- persons representing holders of existing licences for the sale of alcohol, public entertainment, theatres, cinemas and late night refreshment
- persons representing holders of clubs registered under the Licensing Act 1964
- bodies representing businesses and residents in the Leicester city area
- other groups that the Licensing Authority considered appropriate

## **Licensable Activities**

1.3 The licensable activities are:

- the sale of alcohol by retail
- the supply of alcohol by or on behalf of a club, or to the order of, a member of the club
- the provision of late night refreshment
- the provision of regulated entertainment,

*Regulated entertainment requires a licence when it is performed in front of an audience and includes the following:*

- a performance of a play
- an exhibition of a film
- an indoor sporting event
- a boxing or wrestling entertainment (indoors and outdoors)
- a performance of live music (not incidental music, e.g. a piano in a restaurant)
- any playing of recorded music
- a performance of dance
- and similar types of musical or dance related entertainment.

## **2 Fundamental Principles**

## **Background**

2.1 This Statement of Licensing Policy sets out how the Licensing Authority will carry out its functions under the Licensing Act 2003. However, all decisions relating to licences will be made on the merits of the individual case, having regard to this policy as part of the decision making process.

## **The Licensing Objectives**

2.2 The Licensing Authority will carry out its functions with a view to promoting the licensing objectives. The licensing objectives, which carry equal importance, are:

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

## **Balance**

2.3 The Licensing Authority will also seek to achieve a balance between leisure/entertainment and the needs of residents and other businesses for an acceptable environment and quality of life.

2.4 This Policy will not undermine the right of any individual to apply for a variety of permissions and to have any such application considered on its individual merits. Nor will it override the right of any person to make representations on an application or seek a review of a licence or where provision has been made for them to do so in the Licensing Act 2003.

## **Relevancy**

2.5 Licensing is about the control of premises and places being used for licensable activities and the vicinity of those premises and places. The terms and conditions attached to various permissions are focused on relevant matters that are within the control of the holders of those permissions. This means those matters occurring at, and in the immediate vicinity of, premises, and the direct impact they have on nearby residents and businesses. The 'vicinity' will be a question of fact in each case, and the authority will primarily focus on the direct impact of the activities taking place on members of the public living, working or engaged in normal activity in the area concerned.<sup>i</sup>

2.6 Licensing law is not the primary<sup>ii</sup> mechanism for the general control of nuisance and<sup>iii</sup> anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned.

## **3 Cumulative Impact**

3.1 The Licensing Authority recognises that there can be confusion about the difference between "need" and "cumulative impact" of premises on the licensing objectives, for example, on crime and disorder. "Need" concerns the commercial demand for another pub, restaurant, etc. is not a matter for a Licensing Authority in discharging the licensing functions or for this statement

of licensing policy, but <sup>iv</sup> is a matter for planning committees and for the commercial market. <sup>v</sup>On the other hand, the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Licensing Authority and its licensing committee to consider.

3.2 In certain situations the number, type and density of premises selling alcohol may be associated with serious problems of crime and disorder. Where the impact on surrounding areas of customers taken together may be greater than the usual impact of customers from individual premises, the licensing authority may consider that a special policy is needed to deal with this cumulative impact.

3.3 The Authority recognises that once away from licensed premises, there is always a risk that a minority of consumers will behave badly and unlawfully. Depending on the circumstances, there are other mechanisms available for addressing such issues for instance:

- planning controls;
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- 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 confiscation of alcohol from adults and children in designated areas;
- 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 question;
- other local initiatives that similarly address these problems.<sup>vi</sup>

## 4 Special Policy on Cumulative Impact

4.1 The Licensing Authority has received a representation from the Leicestershire Constabulary that the circumstances described in paragraph 3.2 above still exist in relation to parts of Leicester's City Centre, and that the grant of further premises licences or club premises certificates would undermine the crime prevention objective.

4.2 In response to this representation the Licensing Authority has:

- Considered evidence about the extent of the problem of crime and disorder;



- Considered evidence about the likely association of the problem with the number and density of licensed premises in the city centre;
  - Consulted on the proposal for a special policy in relation to new licences and variations to existing ones within the City Centre;
  - Considered the outcome of that consultation; and
  - Resolved to declare the continuation of the special policy described below.<sup>vii</sup>
- 4.3 The Licensing Authority will continue to adopt a special policy on cumulative impact in relation to the area of the City Centre:
- bounded by Churchgate, Haymarket, Belgrave Gate (from Haymarket to Abbey Street), Abbey Street and Burleys Way (from Abbey Street to Church Gate);
  - Including both sides of the streets bounding the area;
  - Including Gravel Street, Mansfield Street, New Road, Sandacre Street and Short Street within the area.
- 4.4 The area of the special policy is marked on the map at Appendix 1.
- 4.5 The special policy will only come into effect where relevant representations are received in relation to a specific application. If there are no representations the licensing authority must grant a premises licence / club premises certificate in accordance with the application.<sup>viii</sup>
- 4.6 The Licensing Authority recognises, however, that this policy cannot be absolute and it will continue to consider each application on its merits. Licences that are unlikely to add to the problems of saturation would be approved.<sup>ix</sup>
- 4.7 The effect of the special policy will be to create a rebuttable presumption that applications for new premises licences or club premises certificates, or material variations, will normally be refused. It will be for the applicant to demonstrate that the premises will not add to the existing cumulative impact. Applicants will need to address this matter in their operating schedules.
- 4.8 The authority acknowledges that the impact will be different for premises with different styles and characteristics.<sup>x</sup>
- 4.9 The authority will review the special policy every 12 months and if it considers that it needs to be amended will undertake appropriate consultation before any amendment is made.
- 4.10 The special policy will not be used to:
- remove a licence when representations are received about problems with an existing licensed premises; or to
  - justify the rejection of modifications to a licence except where those modifications are directly relevant to the special policy; or to
  - adopt quotas or set terminal hours in a particular area that pre-determine the individual merits of any application.

## 5 Licensing Hours

- 5.1 In making decisions that relate to the hours for which a premises is licensed, consideration will be given to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. Each case will be decided on its individual merits.
- 5.2 It is recognised that longer licensing hours are important to help to ensure that concentrations of customers leaving licensed premises simultaneously are avoided. In turn this will reduce the potential for disorder at fast food outlets, taxi ranks and other sources of transport. This will be balanced, however, against the duty to promote the licensing objectives and the rights of local residents to peace and quiet.<sup>xi</sup>
- 5.3 In relation to shops and other retail outlets supplying alcohol for consumption off the premises, the general policy will be to allow sales of alcohol at all times that the premises is open for business. Any decision not to allow sales of alcohol at particular times will be based on evidence relating to the four licensing objectives<sup>xii</sup>
- 5.4 In making decisions in respect of licensing hours, consideration will be given to representations made by residents and businesses in the vicinity of the premises, their representatives, and the police as well as the applicant. This may lead to the imposition of stricter conditions on noise controls in areas having denser residential accommodation
- 5.5 Fixed trading hours will not be set for particular geographical areas. E<sup>xiii</sup>ach case will be decided on its own merits based on whether the licensing objectives can be met.

## 6 Promotion of the Licensing Objectives

- 6.1 The Licensing Authority is required to carry out its functions so as to promote the licensing objectives. This includes its role in:
- Granting or refusing applications for licences;
  - Reviewing licences;
  - Imposing conditions;
  - Deciding how to integrate with other strategies of the council.
- 6.2 Licence applications should be accompanied by an operating schedule that includes the steps that the applicant proposes to take to promote the licensing objectives. The Licensing Authority strongly recommends<sup>xiv</sup> that the process of developing the operating schedule includes a thorough risk assessment with regard to the licensing objectives, which will assist in identifying those steps.
- 6.3 Applicants for licences are urged to discuss their proposals with the responsible authorities prior to submitting an application. This will enable them to seek advice on the production of their operating schedule and may avoid

the need for a hearing in response to representations made by the authorities. The relevant authorities are:

- Prevention of Crime and Disorder – Leicestershire Police, Leicester Crime Reduction Partnership.
- Public Safety – Leicestershire Police, Leicestershire Fire and Rescue, the City Council's Environmental Health Officers with responsibility for Health & Safety
- Public Nuisance – the City Council's Environmental Health Officers with responsibility for Pollution Control
- Protection of Children from Harm – Local Safeguarding Children<sup>xv</sup> Board, Leicestershire Police.
- A guide on how to write an operating schedule to meet the requirements of the responsible authorities is available from the Licensing Authority or can be downloaded from the Licensing Authority's web-site at:  
<http://www.leicester.gov.uk/licensing/>

6.4 Further information is provided in the following sections of this policy on a variety of steps to promote the licensing objectives that the Licensing Authority will support. It is for the applicant to decide which of these are appropriate for inclusion in the operating schedule for the premises, based on the exact circumstances involved. The Licensing Authority will take into account the information set out below, on steps to promote the licensing objectives, when undertaking the functions identified in Paragraph 6.1 above. The Licensing Authority can only impose conditions that have been offered in the operating schedule of an application, or following a hearing in which the Authority has agreed with a representation.

## **7 The Prevention of Crime and Disorder<sup>xvi</sup>**

### **CCTV**

7.1 The presence of CCTV cameras can be an important means of deterring and detecting crime at, and immediately outside, licensed premises. The Licensing Authority will therefore support the provision of CCTV in city centre pubs and clubs and city centre late night refreshment premises.<sup>xvii</sup> The CCTV should be installed and maintained on the advice of the Leicestershire Police Crime Prevention Officer.

### **Open Containers of Alcohol**

7.2 A significant part of the city centre is the subject of a street drinking ban. To support this, the Licensing Authority considers it appropriate for city centre premises to adopt a policy of prohibiting open containers of alcohol being taken from the premises. This approach will also prevent the use of these containers as offensive weapons.

## **Irresponsible Drinks Promotions**

- 7.3 The Licensing Authority will support an approach to the marketing of alcohol and the management of licensed premises that promotes responsibility in the consumption of alcohol.<sup>xviii</sup>
- 7.4 Determining whether a drinks promotion is irresponsible or not will require a subjective judgement. The sale of alcohol to persons who are already drunk is an offence under the Act. The incidence of drunk people present at a premises may provide an indication that the marketing and sale of alcohol at the premises is not being approached in a responsible way.

## **Dance Venues**

- 7.5 The culture of dance venues requires that special consideration be given to the steps required to prevent crime and disorder and promote public safety. It is recommended that operators of night clubs providing facilities for dancing are aware of the detailed guidance provided in the “*Safer Clubbing Guide*” published by the Government and available for download from the Licensing Authority’s web-site. <http://www.leicester.gov.uk/licensing/>
- 7.6 The local authority would support the following steps to promote the licensing objectives in pubs and clubs opening beyond midnight that provide dance facilities. Other pubs and clubs, depending on circumstances, may also benefit from these steps:
- Adoption of the City Council’s policy on preventing drugs misuse
  - Searching of customers before entry in accordance with the Leicestershire Constabulary Code of Practice on *Searching and Licensed Premises*. This will be aimed at preventing drugs and offensive weapons being brought into premises.
  - Making drinking water freely available at drinking fountains, or in freely available plastic containers, to help prevent dehydration and overheating.

## **Other Steps to Promote the Prevention of Crime and Disorder**

- 7.7 There is a wide range of other circumstances including:
- Prohibiting the sale of alcohol in bottles for consumption on the premises, to prevent their use as weapons
  - Requiring drinking vessels to be plastic or toughened glass<sup>xix xx</sup>
  - Requiring the provision of text pagers to connect premises supervisors in town and city centres to the police steps which may be appropriate in particular
  - Appropriate measures to prevent overcrowding in parts of the premises
  - The provision of staff to control admission and to control customers inside the premises.

# **8 Public Safety<sup>xxi</sup>**

## **Premises Licensed for Regulated Entertainment**

- 8.1 Premises licensed for regulated entertainment, including cinemas and theatres, are subject to a range of legislative requirements and regulatory

regimes such as the Health and Safety at Work Act and the Regulatory Reform (Fire Safety) Order 2005<sup>xxii</sup>, aimed at protecting public safety. The Licensing Authority does not intend to duplicate requirements of existing statutory provisions. However, premises will be expected to ensure a level of compliance that promotes public safety.

- 8.2 Premises providing regulated entertainment have particular safety issues associated with their ability to attract significant numbers of people to a venue. The Licensing Authority will support measures designed to promote public safety in this context. This may<sup>xxiii</sup> include:
- Setting of a capacity limit for all, or separate parts, of the premises.
  - The provision of staff to control admission and to control customers inside premises and at outdoor events.

## 9 The Prevention of Public Nuisance

- 9.1 The Licensing Authority considers that a risk assessment should be carried out by applicants for premises licences and club premises certificates to determine the potential effect on neighbouring premises. Advice and assistance in undertaking this task should be sought from City Council Environmental Health Officers. Steps which may be appropriate to prevent public nuisance include :
- Limitation on hours of operation where necessary to prevent nuisance and disturbance
  - Measures to reduce noise and vibration emissions from premises
  - Measures to prevent noxious smells
  - Measures to prevent light pollution
  - <sup>xxiv</sup>
  - Steps to prevent noise, disturbance and anti-social behaviour from people arriving at and leaving the premises
  - Stricter controls will be supported in areas in closer proximity to residential accommodation.

## 10 The Protection of Children from Harm

### General

- 10.1 The Licensing Authority will carry out its responsibilities so as to promote the licensing objective of protection of children from harm. In doing so it will take into account representations made by the Local Safeguarding Children Board on each application.
- 10.2 Licences will be sought from a wide variety of premises including theatres, cinemas, restaurants, concert halls, cafes, late night take-aways, pubs, bars and nightclubs. It is not possible for a licensing policy to anticipate every situation where children are at risk. The Licensing Authority will not therefore impose general conditions that apply to all premises, but will consider how the licensing objectives can be best promoted in each particular case.
- 10.3 The Licensing Authority will not seek to limit the access of children to licensed

premises unless it is necessary to protect children from harm. The following areas would give rise to particular concern in respect of children:

- Where entertainment or services of an adult or sexual nature are commonly provided;
- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking.
- Where there has been an association at the premises<sup>xxv</sup> with drug taking or dealing.
- Where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines or of bingo)
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.<sup>xxvi</sup>

10.4 Conditions will not be imposed that require the admission of children. This will remain a matter for the discretion of the licence holder.

10.5 The range of options available to limit the access of children to licensed premises that may be imposed by the Licensing Authority include:

- Limitations on the hours where children may be present;
- Age limitations (below 18);
- Limitations or exclusions when certain activities are taking place;
- Limitations on the parts of premises to which children might be given access;
- Requirements for an accompanying adult;
- In exceptional cases, exclusion of people under the age of 18 from the premises when any licensable activities are taking place.

### **Children and Cinemas**

10.6 Licence holders will be expected to prevent children from viewing films that are unsuitable because of the age classification of the film that has been imposed by the British Board of Film Classification or other film classification board approved by the licensing authority. Children will not be permitted to view un-certificated films.

### **Children and Public Entertainment**

10.7 The Licensing Authority will expect that where a significant number of unaccompanied children will be present during a public entertainment event, the licence holder will ensure that an adequate number of adult staff are present to control the access, egress and safety in and around the premises. The licence holder should take into account the number of children to be present, the type of entertainment, the age of the children, the characteristics of the premises and any other relevant factor.

### **Proof of Age Cards**

10.8 The Licensing Authority supports the adoption of proof of age cards as a means of preventing underage drinking. It recommends that any premises

licensed to sell alcohol adopts a policy of requiring proof of age from any person where there is any doubt as to whether they are over 18. The authority would suggest as best practice that licensed premises adopt and sign up to the "Challenge 21" scheme that is administered by the Police and Trading Standards. The most reliable proof of age includes<sup>xxvii</sup> passport, photographic driving licence, or a proof of age card complying with the Proof of Age Standards Scheme (PASS) launched in January 2003 by the British Retail Consortium

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

- 10.9 The Licensing Authority supports the Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. It will seek to ensure that premises licensed for the sale of alcohol comply with the code.

## **11 Integrating strategies**

- 11.1 The Licensing Authority will seek to achieve integration with the strategies set out below and will consult with the appropriate organisations to achieve this.

### **Crime Reduction Partnership**

- 11.2 The Licensing Authority recognises its responsibility to address issues relating to crime and disorder and is committed to working together, with other partners, to make Leicester a safe and attractive city in which to live, work, study and socialise.

- 11.3 In making decisions, the Licensing Authority will consider the Safer Leicester Partnership Strategy, especially relating to,

- Reducing the opportunities for crime to occur
- Tackling disorder and anti-social behaviour
- Reducing the fear of crime
- Combating the use of drugs

### **Planning**

- 11.4 The Licensing Authority will ensure that planning and licensing regimes are properly separated to avoid duplication and inefficiency.<sup>xxviii</sup> Applicants must bear in mind the need for both planning permission and an appropriate licence, and are encouraged to seek planning permission first.

- 11.5 The Licensing Committee is not bound by decisions of the Planning Committee, and vice versa.<sup>xxix</sup>

### **Cultural Strategy**

- 11.6 'Diverse City – A Vision for Cultural Life in Leicester' is Leicester's Cultural Strategy setting out the common vision and shared goals for all those involved in the cultural life of the city. Leicester City Council is committed to its implementation working with the 50 strong Cultural Strategy Partnership.

- 11.7 The International Covenant on Economic, Social and Cultural Rights

(ICESCR) which was ratified by the UK in 1976 recognises *the right of everyone to take part in cultural life* and requires that active steps are taken to develop cultural activity and ensure that everyone can participate in the cultural life of the community.

- 11.8 The Strategy encompasses arts, heritage, museums, parks and green spaces, neighbourhood facilities, markets, festivals and public events, media, libraries and literature, sport, play, faith and worship, tourism, restaurants and bars and creative industries. A key objective of Leicester's Cultural Strategy is "*to invest in the development of cultural activity which contributes to the economic, social and personal well-being of individuals at all stages in their lives and to increase access to, and participation in, cultural activity*". This has been underpinned by City Council performance targets to increase cultural participation.
- 11.9 The City Council has sought premises licences for selected public spaces in the community in its own name. This includes<sup>xxx</sup>, for example, green spaces, parks, city centre squares etc. Performers and entertainers require permission from the Council, as the premises licence holder, to use these spaces for regulated entertainment.
- 11.10 This licensing policy will operate in the spirit of the Cultural Strategy and the ICESCR. In doing so it will seek to maintain a balance between regulation and supporting cultural activity. It will strive to maintain a balance between the need to 'manage' any detrimental impacts of an activity in a community with the many benefits cultural activity brings to communities, in developing personal aspiration and potential, building cohesive communities, providing opportunities for young people, contributing to economic growth and regeneration and the development of sustainable communities.
- 11.11 In order to maintain this balance the Licensing Authority will:
- monitor the impact of licensing on the provision of regulated cultural activities and entertainment, such as live music, theatre, dance and festivals
  - create a dialogue with the cultural sector about the impact of the licensing policy and work with our partners to balance different interests
  - seek to ensure that conditions attached to licences do not deter live music, festivals, theatre, sporting events etc by imposing unnecessary restrictions
  - seek to ensure that conditions attached to licences do not deter new or small scale groups/ activities in communities by imposing conditions which will lead to a cost disproportionate to the size of the event
  - seek to create an environment which minimises nuisance and anti social behaviour connected to cultural activity and events but without undermining our commitment to increase access to cultural participation as a fundamental human right

### **Building Control**

11.12 The Building Regulation process is a separate system to the licensing regime



but complementary in terms of some shared objectives.

- 11.13 Where a licence is applied for or exists and any Building Regulated work is carried out, either as a material alteration, change of use or new build to a licensed premises, the owner / licence holder should ensure that before opening to the public, Building Regulations consent has been granted in full and that completion certificates have been issued.
- 11.14 Two separate and distinct certificates are issued on a commercial or work place premises. The first confirms compliance with Building Regulations in general and the second confirms compliance in terms of fire precautions, including means of escape in case of fire. A copy of this second certificate is sent to the Fire and Rescue <sup>xxxix</sup>Service, which triggers their responsibilities under the Regulatory Reform (Fire Safety) Order 2005<sup>xxxii</sup> and enforcement of risk assessments.

### **Promotion of Equality**

- 11.15 In developing this strategy, the Licensing Authority has recognised its responsibility under the Race Relations Act 1976, to consider the need to eliminate unlawful discrimination and to promote equal opportunity and good race relations between persons of different racial groups. This Licensing Policy therefore supports and is supported by the City Council's Race Equality Scheme.
- 11.16 The Licensing Authority also recognises that this policy should promote equality in a wider sense and has therefore assessed the potential impact on disadvantaged groups in general, as well as from a race equality perspective. It has considered and consulted with this in mind.
- 11.17 The following actions, which have been identified as being necessary to promote equality, and within the scope of the Act and supporting guidance, will be implemented by the Licensing Authority:
- The Licensing Policy and associated documents will be available on the internet, and in other formats upon request.
  - Multi-language sections will be included in all leaflets and on the website.
  - The licensing objective of protecting children from harm will be promoted.
  - Support will be offered to licence applicants, licence holders and potential objectors who are socially excluded.
  - Account will be taken of the effect of specific applications on community cohesion, including the need to balance the benefits of cultural and community activities with limited local disturbance.
  - Action will be taken to endeavour to ensure the safety of vulnerable people in licensed premises.<sup>xxxiii</sup>
  - Action will be taken to ensure that all applications, particularly those for disadvantaged groups, are dealt with fairly.

- 11.18 The Licensing Authority is aware that there may be particular sensitivities of certain buildings, for example religious buildings, to certain licensable activities taking place in close proximity. If and when this proximity has an

impact on the promotion of one of the licensing objectives this may be a matter for the Licensing Authority. Where the impact does not affect the promotion of the licensing objectives, there may be other control mechanisms, such as the planning system, that could be applicable.<sup>xxxiv</sup>

### **Disabled Access**

11.19 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 Licensing Authority therefore takes this opportunity to remind operators of premises of their duties under 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 service by a reasonable alternative means.

### **Transport**

11.20 Transport Strategy is set out in the Local Transport Plan (LTP). The current LTP runs until 2010/11.

11.21 The LTP policies seek to ensure that alternatives to the use of the private car are available; these alternatives include walking, cycling and public transport (bus, rail and taxi). They are operated in conjunction with land use policies to seek to ensure that development takes place in locations where these alternatives can be best provided; the City Centre is naturally one of these locations, particularly with regard to public transport.

11.22 A high level of bus services is provided commercially between the hours of 7am and 7pm Monday to Saturday. Lower levels of services are provided up to 11pm and on Sundays, and the Council's Transport Strategy will continue to seek ways of improving the provision of bus services at these times and later at night to assist in getting people away from the City Centre quickly, safely and efficiently.

11.23 Taxis play a key role in filling in gaps in public transport services and offering a flexible, accessible door-to-door service. The City Council's aim is to improve the provision of ranks and investigate the use of innovative systems to manage the use of ranks taking into account customer need, balancing supply around the City Centre and minimising the need for kerb-side space.

11.24 A recent survey (2007)<sup>xxxv</sup> showed that 75% of taxi drivers claimed they have been physically or verbally assaulted in the 12 months previous. The Council will therefore work with the trade to investigate the potential to part-fund CCTV cameras in vehicles to encourage more taxis to work at night. Additional drivers working at night will lead to moving people out of the city centre quicker, helping to achieve the Crime and Disorder Partnership's target of reducing violent crime in the city centre.

## **12 Duplication**

- 12.1 The Authority will avoid duplication with other regulatory regimes (eg the Health and Safety at Work Act) insofar as attaching conditions to premises licences and club premises certificates.
- 12.2 Conditions will only be attached where they are necessary for the promotion of the licensing objectives. If matters are already provided for in other legislation they cannot be considered necessary in the context of licensing law.

## 13 Standardised Conditions

- 13.1 Conditions may only be attached to premises licences and club premises certificates
- in order to implement the relevant operating schedule,
  - following a hearing where a relevant representation has been upheld, or
  - following a review hearing where the grounds for review have been upheld.<sup>xxxvi</sup>
- 13.2 The Licensing Authority will only attach to premises licences and club premises certificates those conditions that are tailored to the individual style and characteristics of the premises and the events concerned, and where they are necessary for the promotion of one or more of the licensing objectives.
- 13.3 However, to aid administration attached to this statement, but not forming part of it, at Appendix 2 are pools of conditions from which the authority may draw appropriate and proportionate conditions to cover particular circumstances. This is not intended to be an exhaustive list and other specific conditions may be appropriate.
- 13.4 A number of conditions are mandatory and are required to be applied to licences. These relate to the requirement for a designated premises supervisor where alcohol is to be sold, the need for every sale of alcohol to be authorised by a personal licence holder<sup>xxxvii</sup>, preventing under age admission to age restricted films and the requirement that door supervisors are registered with the Security Industry Authority. These are set out in Sections 19, 20 and 21 of the Act. In addition, section 73 of the Act requires conditions to be imposed on club premises certificates that authorise the supply of alcohol for consumption off the premises.

## 14 Personal Licences

- 14.1 The Licensing Authority recognises the important role that personal licence holders have to play in the promotion of the licensing objectives at premises selling alcohol. For this reason personal licence holders are required to have prescribed training and not have relevant convictions that would indicate their unsuitability.

- 14.2 Every sale of alcohol at a licensed premises is required to be authorised by a personal licence holder. Because of the importance of their role, the Licensing Authority considers it to be good practice for personal licence holders to have significant operational involvement in the sale of alcohol rather than to undertake a remote, periodic authorisation of other staff. In practical terms this would mean authorisation on at least a daily basis, and to be available on the premises throughout most of the day to deal with circumstances requiring their expertise and authority.<sup>xxxviii</sup>
- 14.3 When applying for a personal licence, the Licensing Authority would expect applicants to produce an up to date Criminal Record Bureau certificate. All applicants would also be expected to make a clear statement as to whether or not they have been convicted outside England and Wales of a relevant offence or an equivalent foreign offence.
- 14.4 In accordance with the Secretary of State's advice the Licensing Authority will normally refuse applications where the police have issued an objection notice unless there are, in the opinion of the Licensing Authority, exceptional and compelling reasons which justify granting the application.

## **15 Temporary Event Notices<sup>xxxix</sup>**

- 15.1 Part 5 of the Licensing Act allows licensing activities to be carried out in specified circumstances on a temporary basis, subject to a temporary event notice being served on the Licensing Authority, with a copy to the chief officer of police, ten working days before the event. The chief officer of police may object to the event if he is satisfied that the crime prevention objective would be undermined.
- 15.2 The Licensing Authority considers that it is important that the police have sufficient time to properly evaluate the likely impact of a temporary event. Where insufficient notice of the event is given this may lead to objections being made that may have been unnecessary if a fuller evaluation had been possible. Equally, if notice of an event is given too far in advance it may be difficult to evaluate because of future uncertainty.
- 15.3 The Licensing Authority would therefore suggest as best practice that a temporary event notice is served between one and two months ahead of the event taking place.

## **16 Enforcement**

- 16.1 The Licensing Authority will carry out its responsibilities for enforcement so as to promote each of the four licensing objectives referred to in Section 1.
- 16.2 The Licensing Authority will develop and review enforcement protocols in agreement with the police and other enforcement agencies as appropriate<sup>xl</sup>.

16.3 The Licensing Authority will endeavour to abide by the Hampton principles. In particular, enforcement activities will be targeted in terms of risk and so as best to promote the licensing objectives. In addition account will be taken of the general enforcement policy of the licensing authority, which aims to ensure that enforcement is open, fair, reasonable and proportionate.<sup>xii</sup>

16.4 Enforcement activities will include operations designed to:

- Ensure compliance with conditions attached to licences, operating schedules, requirements specified in the this Statement of Policy, and the requirements of the Licensing Act itself;
- Protect public safety;
- Prevent nuisance;
- Prevent crime and disorder;
- Protect children from harm;
- Identify unlicensed activities;
- Respond to complaints and representations from relevant individuals and responsible authorities;
- Prevent the sale of alcohol to minors
- Prevent the sale of alcohol to people who are drunk
- Identify the keeping of smuggled goods
- Prevent drug misuse

## **17 Live Music, Dancing, Theatre, Circuses and Street Arts**

17.1 The Licensing Authority will ensure that when it considers applications for licences for entertainment involving live music, dancing, theatre, circuses and street arts it will act so as to promote the licensing objective of preventing public nuisance.

17.2 The Licensing Authority recognises that there is a need to encourage and promote a broad range of entertainment, particularly those activities identified above, because of the wider cultural benefits to communities. The potential for limited disturbance will therefore be balanced against these wider benefits.

## **18 Other permissions**

18.1 This Licensing Policy deals with the requirements of the Licensing Act 2003. However, individual applicants may also require permission from other sections of the City Council or from outside bodies. More information is available on the City Council's website – [www.leicester.gov.uk](http://www.leicester.gov.uk) .

## **18 Delegation of Functions**

18.1 The following matters will be determined by either the Licensing Committee or

one of its sub-committees:

- Application for a personal licence where there are relevant unspent convictions;
- The review of a premises licence or club premises certificate;
- Decision to object when the local authority is the consultee and not the relevant authority considering the application;
- Determination of a police objection to a temporary event notice.

18.2 The following matters will be determined by either the Licensing Committee or one of its sub-committees where a relevant representation has been made:

- Application for a personal licence;
- Application for a premises licence or club premises certificate;
- Application for a provisional statement;
- Application for variation to a premises licence or club premises certificate;
- Application to vary a designated premises supervisor;
- Application for transfer of a premises licence
- Application for interim authority
- Determination of a temporary event notice.

18.3 The relevant Corporate Director will determine all other matters.

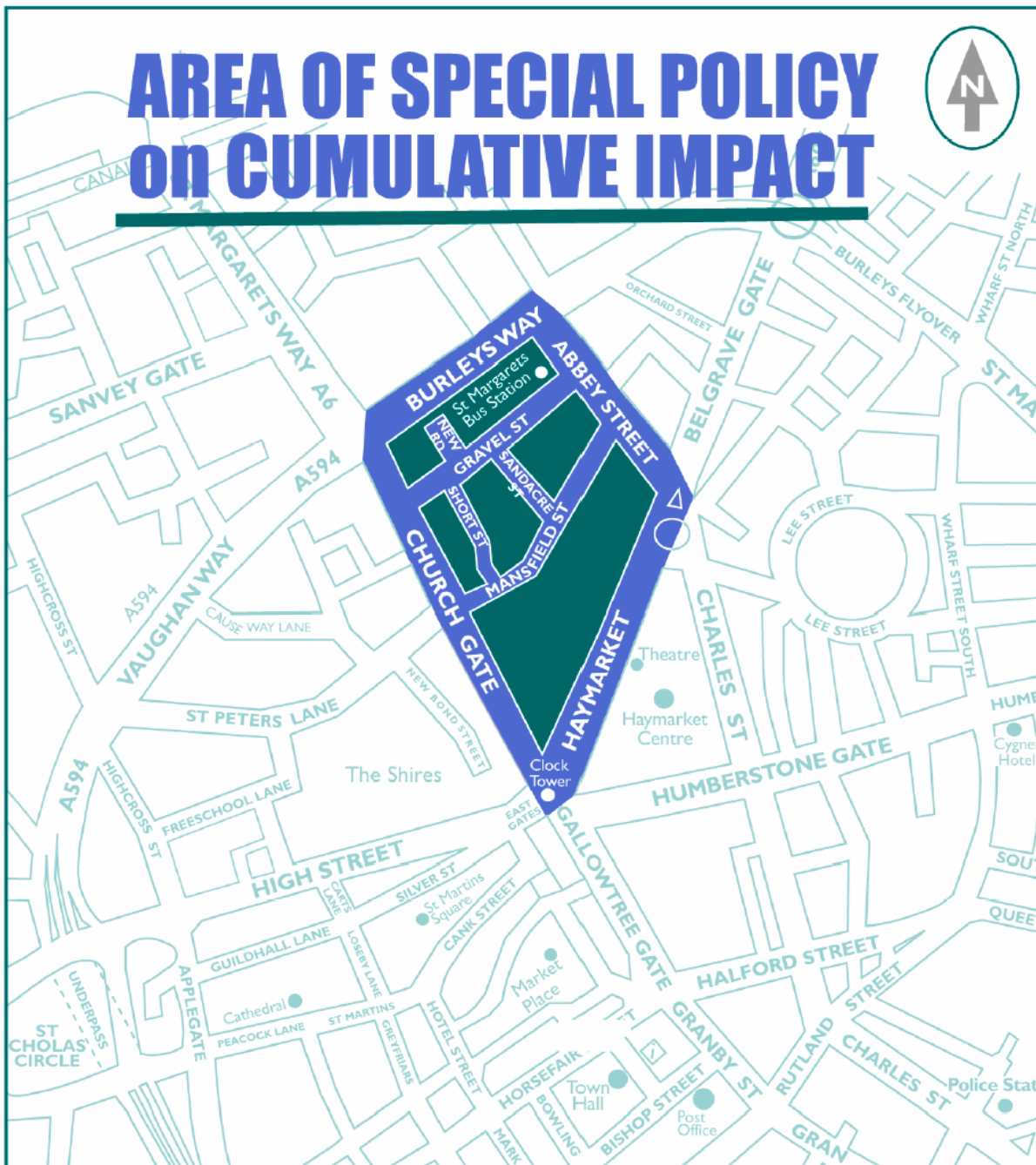
## 19 Period of Validity & Review

19.1 This statement of licensing policy will come into force on **7 February 2008** and be valid for three years.

19.2 The policy will be kept under review during the period of validity and if necessary amendments made.

19.3 Before a new policy is adopted or amendments made to the existing one the Licensing Authority will undertake consultation in accordance with Section 5 of the Licensing Act 2003.

# AREA OF SPECIAL POLICY on CUMULATIVE IMPACT



## Reasons for changes:

- i Revised guidance
- ii Revised guidance
- iii Revised guidance
- iv Changed for readability
- v Repetitive
- vi Revised guidance
- vii Moved from lower down so this section reads better
- viii Clarification

- 
- <sup>ix</sup> Philip Tiplady (Leicester CAMRA) – it should remain possible to open new premises that offer a quality drinking environment
- <sup>x</sup> Moved higher up so the section reads better
- <sup>xi</sup> Revised guidance
- <sup>xii</sup> Barlow Poyner Foxon
- <sup>xiii</sup> Barlow Poyner Foxon / Mike Richardson, Planning Department
- <sup>xiv</sup> BBPA – Licensing Authority not in a position to expect risk assessment
- <sup>xv</sup> Barlow Poyner Foxon
- <sup>xvi</sup> BBPA – some of the steps the LA supports in section 7 are unenforceable or undesirable as conditions, although the BBPA supports many of them as good practice
- <sup>xvii</sup> Philip Tiplady (Leicester CAMRA) – the use of CCTV should not be imposed on well managed public houses, where an increase in cost may damage the viability of the premises
- <sup>xviii</sup> Philip Tiplady (Leicester CAMRA) – support this
- <sup>xix</sup> Andrew Collins (Camra) - asked that plastic glasses are only required where there is a history of glasses being used as weapons, but I believe this is covered already
- <sup>xx</sup> Philip Tiplady (Leicester CAMRA) – don't support plastic glasses in all premises in a particular area; plastic may be appropriate in premises with a history of disorder
- <sup>xxi</sup> BBPA – some of the steps the LA supports in section 8 are unenforceable or undesirable as conditions, although the BBPA supports many of them as good practice
- <sup>xxii</sup> Mark Speight, LFRS
- <sup>xxiii</sup> Greene King – commented that we should be careful not to imply that a capacity limit is required, as it should depend on the nature of regulated entertainment being provided
- <sup>xxiv</sup> Greene King – according to guidance these matters are adequately covered by existing legislation and should not be in the licensing policy. Officers do not agree and have left these two points in.
- <sup>xxv</sup> Clarification
- <sup>xxvi</sup> Revised guidance
- <sup>xxvii</sup> John Fox, Trading Standards
- <sup>xxviii</sup> Mike Richardson, Planning – conflict with paragraph 5.5 (which has now been amended accordingly)
- <sup>xxix</sup> Revised guidance / clarification
- <sup>xxx</sup> Grammatical correction
- <sup>xxxi</sup> Mark Speight, LFRS
- <sup>xxxii</sup> Mark Speight, LFRS
- <sup>xxxiii</sup> This is from the original EIA, but how do we do it??!
- <sup>xxxiv</sup> Barlow Poyner Foxon – says this paragraph goes too far and the final sentence is inappropriate. Officer disagree and the final sentence has been left unchanged.
- <sup>xxxv</sup> Clarification
- <sup>xxxvi</sup> Greene King – say we need to make it clear that conditions can't be added other than from the operating schedule or following a hearing
- <sup>xxxvii</sup> Omission on previous policy
- <sup>xxxviii</sup> BBPA – LA can't insist on DPS being on the premises all the time
- <sup>xxxix</sup> Mark Speight, LFRS – asked for LFRS to be informed if event involves more than 499 people. However, if this is the case a TEN is not suitable anyway.
- <sup>xl</sup> Revised guidance
- <sup>xli</sup> BBPA – would welcome recognition of the Hampton principles of inspection & enforcement:
- No inspection without a reason
  - Regulators should recognize that a key element of their activity will be to allow or even encourage economic progress, and only intervene when there is a clear case for protection