

# **Statement of Licensing Policy**

## **2022 - 2027**

Licensing Act 2003

DRAFT

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**Please note:**

The information contained within this document may be made available in different languages and formats – please contact the Licensing Team for further information.

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## Executive Summary

The Licensing Act 2003 came into effect in 2005.

Under Section 5 of the Licensing Act 2003 the Licensing Authority is required to prepare a statement of principles that they propose to apply in exercising their functions under this Act. This process is to be repeated every five years.

Any decision taken by the Council in regard to determination of licences, certificates and notifications should aim to promote the licensing objectives which are:

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

The policy covers the licensable activities as specified in the Act which are:

- Sale by retail or supply of alcohol
- Regulated entertainment
- Late night refreshment

The policy also has regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. Additionally, the council has regard to several other local strategies such as the Equalities Strategy, Health and Wellbeing Strategy, Economic Action Plan, Tourism Action Plan.

The licensing regime is separate from other regulatory requirements e.g. the need for planning permission. The granting of a licence does not mean or imply that other regulations do not need to be complied with or other permissions obtained.

The council may grant licences for premises and certificates for club premises. It also grants personal licences and accepts temporary event notices.

Applicants for premises licences should be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. All applicants should review the section relating to Areas of Interest & Consultation within this document.

The policy includes information on specific localities in the city that the council considers to be particularly impacted by the effects of licensed premises. Applicants need to be aware of this information and liaise with the responsible authorities prior to submitting their application so that their Operating Schedule deals with these issues, and should a licence be granted/varied there will be no adverse impact on the licensing objectives and the area where the premise is located.

Where relevant the council consults with the responsible authorities as described in the Act.

Local people and Members of the council are able to have their say and their opinion heard through public consultation on this policy and by making representations about applications for premises licences or requesting reviews of licences for problem premises.

Enforcement of the legislation is a requirement of the Act that is undertaken by the council. This policy describes the council's enforcement principles and the principles underpinning the right of review.

## Section 1 The purpose and scope of the licensing policy

### Purpose of the policy

- 1.1 This policy is prepared under Section 5 of the Licensing Act 2003 and was approved by Leicester City Council as Licensing Authority on (insert date) to come into effect on (insert date). It will be kept under review and as a minimum will be reviewed no later than 2025, with a new policy in place by (insert date) unless statute changes. Unless otherwise stated any references to the council are to the Leicester Licensing Authority.
- 1.2 In preparing this policy the council has consulted with and considered the views of a wide range of people and organisations including:
  - Representatives of local businesses
  - Local residents and their representatives
  - Local members of parliament
  - Representatives of existing licence holders including
    - The British Beer and Pub Association
    - Licensing solicitors
    - Musicians Union
  - The responsible authorities namely:
    - Leicestershire Police who also act as Responsible Authority for Safeguarding of Children
    - Leicestershire Fire and Rescue Service
    - Leicester City Council – Noise and Pollution/ Public Safety Team
    - Leicester City Council – Planning
    - Leicester City Council – Director of Public Health
    - Leicester City Council - Trading Standards
    - Secretary of State (Immigration Enforcement)
  - Charitable organisations that deal with the social impact of alcohol misuse
  - Other charitable organisations
- 1.3 This policy also has regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- 1.4 The council will carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives namely:
  - Prevention of crime and disorder
  - Public safety
  - Prevention of public nuisance
  - Protection of children from harm.
- 1.5 The council adopts the overall approach of encouraging the responsible promotion of licensed activities. However, in the interests of all its residents, it will not tolerate irresponsible licensed activity. In partnership with responsible authorities, appropriate enforcement action will be taken against those that fail to promote the licensing objectives in line with the enforcement approach and protocols.
- 1.6 This will be in partnership with key agencies such as Leicestershire Police, Leicestershire Fire and Rescue Service, Health and Safety Executive, Crime and Disorder Reduction Partnerships, Director of Public Health and Leicester City Council Trading Standards.
- 1.7 This policy is concerned with the regulation of licensable activities taking place on licensed premises, at qualifying clubs and at temporary events. The conditions that the council attaches to the various licences will focus on matters that are relevant to the four licensing objectives and will centre upon the premises that are being used for licensable activities.

1.8 The council will monitor the effect of this policy throughout the period it covers through licensing liaison meetings with representatives of licence holders such as City Watch and also by way of regular meetings with the responsible authorities

### **Scope of the policy**

1.9 This policy covers licensable activities within Leicester as defined by the Licensing Act 2003. These are:

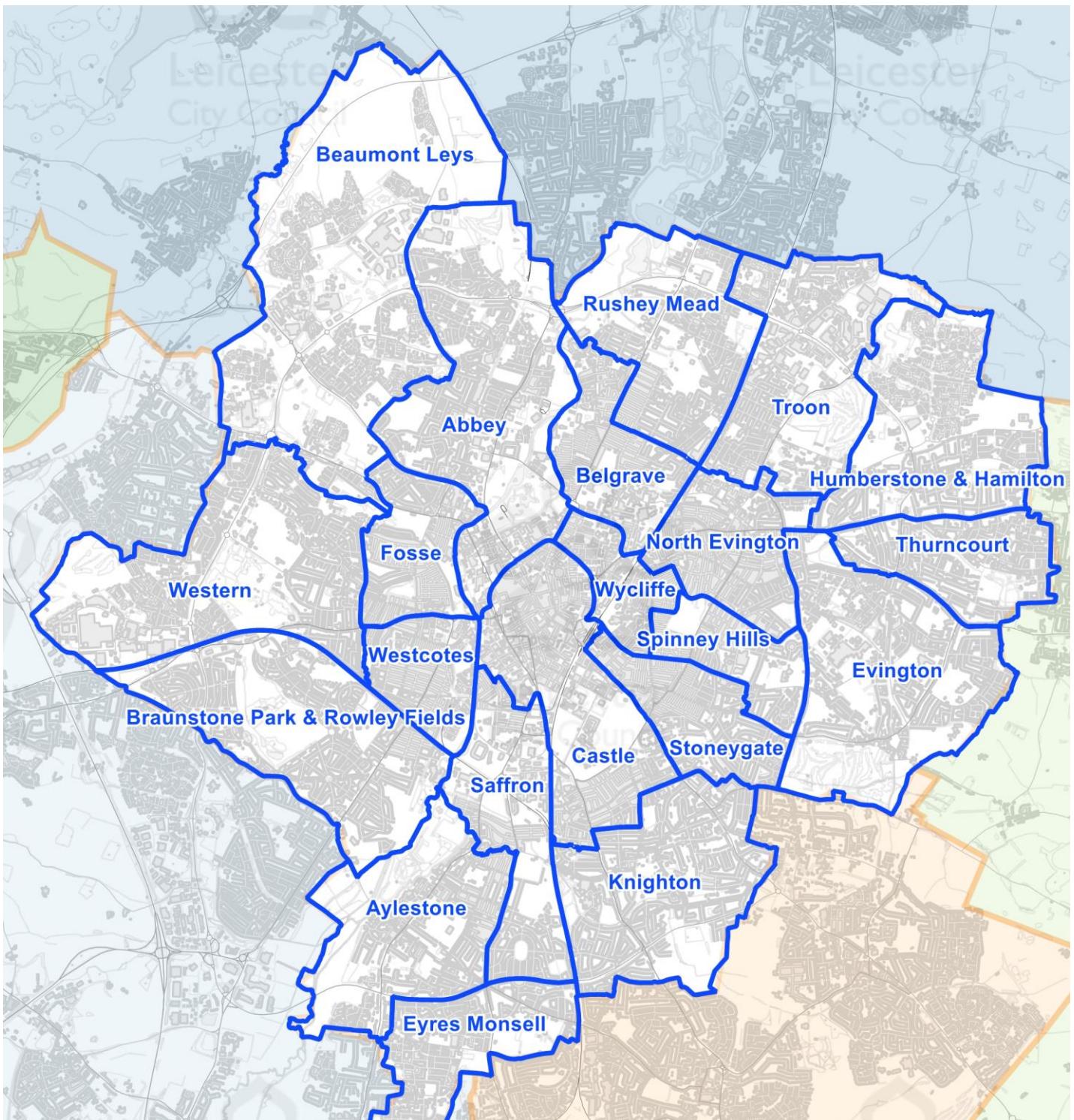
- The sale of alcohol
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club
- The provision of regulated entertainment
- The provision of late-night refreshment

1.10 The Act includes exemptions that apply in certain circumstances and should be the first point of reference when determining whether or not a licence is required.

1.11 Throughout this policy the wording will refer to ‘applicants’ for licences. However, it should be noted that the principles set out within this policy apply equally to new applications, applications for variations and consideration of any request to review a licence.

1.12 Under the Licensing Act applicants should make applications and assess what matters, if any, need to be included within the operating schedule to address the licensing objectives. If an application is lawfully made and no relevant representations are received then the council must grant the application. Only if relevant representations are made will the council’s discretion be engaged.

1.13 Applicants for premises licences should be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. This policy seeks to provide advice to applicants about the approach they should take to making applications and the view the council is likely to take on certain key issues where representations have been made.



- 2.1    Leicester is the largest City in the East Midlands Region.
- 2.2    The Census 2011 estimated that Leicester is home to almost 330,000 people, making it the most populous urban centre in the East Midlands. The City has many cultures, languages, races and faiths. In all, Leicester residents hail from over 50 countries from across the globe, making the city one of the most ethnically and culturally diverse places in the UK. Leicester has the highest proportion of people of Indian heritage of any place in England and Wales and hosts the largest Diwali Celebration outside of India. More information on the 2011 Census is available on the council's website <https://www.leicester.gov.uk/your-council/how-we-work/equality-and-diversity/a-changing-city/>

- 2.3 Each area of the city has its own character and challenges. The council has provided general advice in this policy to assist applicants in preparing applications. Applicants are also expected to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. The policy includes links to data sources where information can be found about localities in Leicester that are of special interest due to the impact of licensed premises on the four licensing objectives. Please see section 8 for further information.

### Cultural Activities in Leicester

- 2.4 Leicester City Council is a major provider of facilities for public recreation. The Council has a tradition of promoting a wide range of cultural activity for the benefit of the city. **The Live Music Act 2012 deregulated certain types of entertainment when provided under certain circumstances – organisers of events are encouraged to look at the Section 182 Guidance which highlights what is regulated/deregulated entertainment when organising events.**
- 2.5 Commercially promoted events take place in a variety of locations throughout the City.
- 2.6 **The Festival and Events Team organise and support a wide variety of culturally diverse events all year across Leicester. These include the St. George's Festival, the Caribbean Carnival and Diwali.**
- 2.7 Within local communities, groups and associations use church halls and community centres for social and fund-raising activities. Within the city there are church halls, community halls and schools licensed for regulated entertainment and/or the sale or supply of alcohol.
- 2.8 Leicester has a long-established reputation for the encouragement of community and diverse cultural events and public entertainment as an essential aid to community involvement and an increasing sense of common identity. The Golden Mile in the Belgrave area of the city hosts the largest Diwali celebration outside India.

### Section 3 Integrating other guidance, policies, objectives and strategies

- 3.1 In preparing this licensing policy the council has had regard to and sought to ensure that the licensing policy is aligned with other Corporate Strategies and Policies.
- 3.2 The council (through its Licensing and Public Safety Committee) may, from time to time, receive reports on other policies, strategies and initiatives that may impact on licensing activity within the remit of the committee. Subject to the general principles set out in this policy and the overriding need to promote the four licensing objectives it may have regard to them when making licensing decisions.
- 3.3 The Committee may, after receiving such reports, make recommendations to the council or other bodies about the impact of the licensing policy on such policies, strategies and initiatives. Equally the Committee may make recommendations relating to the impact of such policies, strategies and initiatives on the licensing policy. This may include recommendations to amend the licensing policy itself.

#### Vision for Leicester

- 3.4 The City Mayor has a vision for the City: "**It is vital to enhance people's confidence and pride in our city, because when people feel proud about where they live they become part of it. These pledges set out our bold and challenging vision for the future of our city:**
  - Fair City
  - Homes for All
  - Connecting Leicester
  - Sustainable Leicester
  - Health and Care
  - Lifelong learning
  - A city to enjoy
  - A safe and inclusive city”
- 3.5 More details can be found on the council's website <https://www.leicester.gov.uk/your-council/city-mayor-peter-soulsby/my-vision/>
- 3.6 This licensing policy seeks to promote the licensing objectives within the overall context of these aims set out in the City Mayor's Vision for Leicester. These are underpinned by Key Strategic Policies which can be found on the council's website:
  - **Leicester Economic Recovery 1<sup>st</sup> Steps**
    - This document can be found here:- [Economic Recovery First Steps \(leicester.gov.uk\)](#)
  - **Joint Health and Wellbeing Strategy 2019-2024**
    - This document can be found here:- [The Joint Health and Wellbeing Strategy 2019-2024 \(leicester.gov.uk\)](#)
  - **Tourism Action Plan 2020-2025**
    - This document can be found here:- [tourism-action-plan-2020-2025.pdf \(leicester.gov.uk\)](#)
  - **Leicester City Alcohol Harm Reduction Strategy 2021-2026**
    - The aim of the Leicester City Alcohol Harm Reduction Strategy is 'To reduce alcohol harm in Leicester in all its forms'. The Leicester Alcohol Strategy Development Group has overseen the development of the strategy and is committed to creating an action plan to take forward actions that will achieve our aim in Leicester to reduce alcohol harm.
    - The Alcohol Harm Reduction Strategy has specific actions relating to licensing. These include working with licensing colleagues to encourage new licensees when making licensing applications to demonstrate how they will provide alcohol alternatives.
    - *Once the strategy has been approved a link to the document will be inserted here.*

## Section 4 Promotion of the licensing objectives

- 4.1 The council will carry out its functions under the Licensing Act 2003 with a view to promoting four licensing objectives. These are:
  - The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 4.2 Each objective is of equal importance, and the four objectives will be paramount considerations for the council at all times.
- 4.3 It is for the applicant to decide what, if any, measures to suggest in their operating schedule in order to address any potential concerns that might arise in the promotion of the licensing objectives. Applicants are reminded that measures proposed in their operating schedule will be interpreted into conditions on their licence.
- 4.4 The council recommends that applicants risk assess their operation against the four licensing objectives to identify potential areas of concern.
- 4.5 Applicants are reminded that responsible authorities or other people may make representations if they feel that the applicant's proposals do not adequately promote the licensing objectives. An applicant who proposes no measures to promote the licensing objectives may therefore face more representations than an applicant who risk assesses their operation and proposes necessary and proportionate measures. We have provided policy guidelines in relation to Areas of Interest and Consultation for applicants to consider within section 8 of this policy.
- 4.6 The council recommends early consultation with responsible authorities. The responsible authorities will be prepared to discuss matters with applicants with a view to reaching agreement on measures to be proposed. Contact details for the responsible authorities can be found on the council's website at [Alcohol, entertainment and late night refreshment \(leicester.gov.uk\)](http://Alcohol, entertainment and late night refreshment (leicester.gov.uk))
- 4.7 Ultimately where conditions cannot adequately address the issues, an application may be refused if this is necessary for the promotion of one or more of the licensing objectives.

### Crime and Disorder

- 4.8 Under the Crime and Disorder Act 1998, the council must exercise its functions having regard to the likely effect on crime and disorder in its area and must do all it can to prevent crime and disorder.
- 4.9 Where its discretion is engaged, the council will seek to promote the licensing objective of preventing crime and disorder in a manner which supports any local crime reduction strategy.
- 4.10 There are many steps an applicant may take to prevent crime and disorder. The council will look to the Police as the main source of advice on these matters.
- 4.11 If relevant representations are made in relation to an application the council will arrange a hearing to consider whether it is necessary to impose conditions to regulate behaviour on and access to the premises. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, their staff or agents, but may seek to impact on the behaviour of customers on or in the immediate vicinity of premises as they seek to enter or leave.

- 4.12 Conditions will be targeted on deterrence and the prevention of crime and disorder. The council may consider matters including but not limited to:
- The need for and location of CCTV cameras
  - The need for door supervision
  - The need for a text or radio pager system allowing communication between premises and with the Police
  - Conditions setting capacity limits where this is necessary to prevent overcrowding likely to lead to disorder and violence
  - Membership of a recognised pub watch or similar scheme
- 4.13 Crime and disorder conditions will not seek to control adult entertainment involving striptease and lap dancing, which will be governed by laws in relation to indecency and obscenity and will be licensed under the Local Government (Miscellaneous Provisions) Act 1982. However, conditions for such adult entertainment may be imposed for reasons of public safety, or the protection of children from harm if they relate to the occasional use of the premises for adult entertainment.

### **Public Safety**

- 4.14 The public safety objective is concerned with the safety of both the building and premises as well as the safety of persons in attendance.
- 4.15 On 1 October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. The council will not seek to impose fire safety conditions as conditions on licences where the Order applies.
- 4.16 Capacity limits will only be imposed where appropriate for the promotion of public safety or for reasons of crime and disorder. Capacity limits will not be imposed as a condition of the licence on fire safety grounds.
- 4.17 Applicants are advised to consult with the Public Safety Team, who can offer guidance on appropriate measures to be included in risk assessments, and potentially in operating schedules. On receipt of relevant representations, the council will have regard to the views of the Public Safety Team. The team can also offer advice in relation to workplace health and safety matters, including compliance with the Health Act 2006 (smoke free).
- 4.18 Conditions requiring possession of certificates on the safety or satisfactory nature of equipment or fixtures on premises will not normally be imposed as those are dealt with by other legislation. However, if it is considered necessary in light of the evidence in an individual case, conditions may be imposed requiring checks on the equipment to be conducted at specified intervals, and evidence of the checks to be retained. Conditions may also seek to require equipment of particular standards to be maintained on premises.
- 4.19 Special events in the open air or within temporary structures raise particular issues. Applicants are referred to section 5 of this document where guidance on holding these types of event is given.

### **Public Nuisance**

- 4.20 In considering the promotion of this licensing objective applicants need to focus on the effect of licensable activities on people living and working in the area around the premises, particularly where that effect may be disproportionate and/or unreasonable.

- 4.21 The council is aware that the prevention of public nuisance is not narrowly defined in the Act and can include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, the reduction of the living and working amenity and environment of other people living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 4.22 The council encourages applicants to have regard to the location of the proposed or actual premises, and in particular whether proposals may have a disproportionate impact in dense residential areas or near to sensitive premises such as nursing homes, old people's accommodation, hospitals, hospices or places of worship.
- 4.23 Applicants are recommended to consult the Noise and Pollution Control Team for advice on measures that may need to be incorporated into the operating schedule.
- 4.24 If relevant representations are made in relation to an application the council will consider whether it is necessary to impose conditions to regulate behaviour on and access to the premises. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, their staff or agents, but may seek to reduce the impact of the behaviour of customers entering or leaving the premises on people living or working near to the premises. The council considers that patrons who are using external smoking areas or shelters are there as a direct result of the licensed premises and are within the control of the licensee.
- 4.25 The council will consider whether issues relating to public nuisance can be effectively dealt with by appropriate and proportionate conditions. These conditions will normally focus on the more sensitive periods, for example, noise from premises in the late evening or early morning when residents may be attempting to sleep.
- 4.26 There are many steps an applicant may take to prevent public nuisance. The council will look to the Noise and Pollution Control Team as the main source of advice on these matters. We have provided policy guidelines in relation to Areas of Interest and Consultation for applicants to consider in section 8 of this policy.
- 4.27 The council may consider matters including but not limited to:
- Whether doors and windows can be kept closed in rooms where amplified music and voice are played.
  - Whether other noise control measures such as lobby doors or speaker mounts are required.
  - The fact that lighting outside the premises may help to prevent crime and disorder but may give rise to light pollution for neighbours.
  - Signs placed at the exit to buildings can encourage patrons to be quiet until they leave the area, and to respect the needs of residents.
  - The size and location of smoking areas and any facilities provided may encourage patrons to use the external areas more extensively than for just smoking.
  - Provision of litter bins in the vicinity of premises serving hot food after 11pm.
  - Display of contact details or a direct telephone link to a private hire/taxi firm.
  - Restrictions on times for activity such as disposal of bottles that may cause noise disturbance.
- 4.28 The council recognises that it is necessary to balance the rights of local residents, businesses and others with those wishing to provide licensable activities, and those who wish to use such facilities.

#### **Protection of children from harm**

- 4.29 The council recognises Leicestershire Police, acting on behalf of the Safeguarding Children's Board, as the responsible authority for the protection of children from harm.

- 4.30 The protection of children from harm includes protection from physical and psychological harm.
- 4.31 The council notes that the admission of children to premises holding a premises licence or club premises certificate should be freely allowed unless there is good reason to restrict entry or exclude children completely.
- 4.32 Issues about access of children to premises may give rise to concern:
- where adult entertainment is provided on an occasional basis and is not already licensed under other legislation;
  - where there have been convictions of the current management for serving alcohol to minors;
  - where the premises have a reputation for allowing under-age drinking;
  - where requirements of proof of age is not the norm;
  - where premises have a known association with drug taking or dealing;
  - where there is a strong element of gambling on the premises; and
  - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided.
- 4.33 Such situations can be identified through a risk assessment of the operation. In these circumstances, applicants are advised to consider offering appropriate conditions through their operating schedule. In addition, licensees may identify that the access of children to particular parts of the premises poses more risk than others and seek only to exclude children from areas of highest risk.
- 4.34 On receipt of relevant representations, the council will consider whether conditions are necessary. If conditions are necessary, these may include:
- limitations on the hours when children will be present
  - limits on the parts of the premises to which children may have access
  - age limitations
  - limitations or exclusions only when certain activities are taking place
  - requirements for an accompanying adult
- 4.35 In such cases, representations by the Police will be given considerable weight where they address issues regarding the admission of children.
- 4.36 It is mandatory for premises which sell or supply alcohol to have an age verification policy in place. However, the council supports the Challenge 25/Check 25 type schemes and such a scheme volunteered as part of an operating schedule will be given the appropriate weight when the council determines the licence application.
- 4.37 No condition will be imposed by the council requiring the admission of children to any licensed premises. No condition will normally be imposed by the council prohibiting the admission of children except in the case of exhibition of films where a mandatory condition is applied to all licences with this activity.

## Section 5 General principles

- 5.1 In determining a licensing application the overriding principle will be that each application will be determined on its own merit, having regard to the need to promote the four licensing objectives and taking into account this licensing policy and the guidance issued under Section 182 of the Act. Where it is necessary to depart from the guidance or this policy the council will give clear and cogent reasons for doing so.
- 5.2 Nothing in this policy will undermine any person's right to apply for a variety of permissions under the Act.

### Human Rights

- 5.3 The European Convention on Human Rights makes it unlawful for a public authority to act in a way that is incompatible with a Convention right. The council will have particular regard to the following relevant provisions of the European Convention on Human Rights:
  - Article 1 of the first protocol that every person is entitled to the peaceful enjoyment of his or her possessions.
  - Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
  - Article 8 that everyone has the right to respect for his home and private life.

### Protection of Privacy and Data

- 5.4 The Council's corporate privacy notice, which includes details of the authority's Data Protection Officer and your information rights is available at: <https://www.leicester.gov.uk/your-council/how-we-work/our-website/privacy/>

### Equality Act 2010

- 5.5 The council is committed to eliminating unlawful discrimination, harassment and victimisation, advancing equality of opportunity and fostering good relations within and between our communities.
- 5.6 It is recommended that licensees make themselves familiar with the requirements of this Act for the access and provision of services for persons within the protected groups identified by the legislation. The Act makes it unlawful to discriminate against anyone because of
  - Age
  - being or becoming a transsexual person
  - being married or in a civil partnership
  - being pregnant or on maternity leave
  - disability
  - race including colour, nationality, ethnic or national origin
  - religion, belief or lack of religion/belief
  - sex
  - sexual orientation
- 5.7 In order to promote equality, and to fulfil its statutory duties under the Equality Act 2010, the council asks that applicants aim to achieve inclusive access to their venues and events. For example, discrimination will be experienced if access to the venue is denied due to lack of a ramp or if the venue does not provide means for someone to book a ticket who cannot speak. Further guidance is available at [Equality Act 2010: guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/equality-act-2010-guidance)
- 5.8 The council cannot enforce the Act but those who experience discrimination may take legal action

following a complaints procedure. Where complaints are received by the council we advise the complainant of their rights under the Equality Act.

- 5.9 In addition the planning process, which is likely to be relevant to new premises or events, will also seek to support the council's objective of making Leicester a great place to live.
- 5.10 Further guidance on how the Equality Act affects pubs is available from the British Beer and Pub Association. [British Beer and Pub Association - Accessibility – British Beer and Pub Association](#)

### **Impact of Licensed Activity**

- 5.11 Where no representations are made the council will grant a licence subject to conditions consistent with the operating schedule.
- 5.12 When determining any application where relevant representations are made, the council will consider it in the light of the four licensing objectives and in order to support a number of other key aims and purposes as set out in this policy. The requirement to promote the licensing objectives will be the paramount consideration. The council will focus upon the impact of the activities taking place on members of the public living, working or engaged in normal activity near the premises.
- 5.13 Where relevant representations are made in relation to a premises licence, club premises certificate or temporary event notice the following factors will normally be taken into account when the council is looking at the impact of the activities concerned:
  - the style of operation, the numbers of customers and customer profile likely to attend the premises
  - the location of the premises and the proximity of noise sensitive properties
  - the proposed hours of operation
  - any proposed methods for the dispersal of customers
  - the scope for mitigating any impact
  - the extent to which the applicant has offered conditions to mitigate the impact
  - how often the activity occurs
- 5.14 In considering any application for a variation to a premises licence or club premises certificate where a relevant representation has been received, the council may take into account, in addition to the above matters, any evidence
  - of past demonstrable adverse impact from the activity especially on local residents or businesses
  - that if adverse impact has been caused, appropriate measures have been agreed and put into effect by the applicant to mitigate that adverse impact
- 5.15 Other relevant matters may be considered as the individual case dictates.

### **Special Events in the Open Air or in Temporary Structures**

- 5.16 The promotion and the organisation of live music and similar entertainment in the open air or in temporary structures can provide opportunities for community involvement, civic pride and can attract visitors to the City.
- 5.17 However, the success of such events by way of contribution to the council's cultural and tourist strategies depends upon the quality, levels of safety and consideration for the rights of people who live or work in the vicinity and the standard of provision of facilities for those coming to enjoy the event.
- 5.18 In recognition of the special factors that are relevant, particularly with respect to major open-air events such as a concerts or festivals, the council has an established multi-agency safety advisory group to assist organisers in coordinating such events. This includes council departments who have an interest in, or legislative role relevant to, such events, together with representatives of the emergency services.

- 5.19 Members of the forum are notified about all proposals to hold such events and where necessary one or more special meetings will be organised in order to consider any issues that need to be addressed and to open up lines of communication with organisers.
- 5.20 The Health and Safety Executive provides specialist guidance on event safety through their website at [www.hse.gov.uk](http://www.hse.gov.uk)
- 5.21 Guidance on the planning of such events is available to organisers but it is important that substantial notice is given so that proper preparations and precautions can be put in place for the event. This also applies if the event is proposed under a Temporary Event Notice.

### **Community Applicants**

- 5.22 Whilst this policy is aimed at all licensable activities under the Licensing Act 2003 it should be noted that the council sees a distinction between large or permanent activities, such as those proposed by commercial operators, and small or temporary activities, such as those which might be proposed by cultural or community groups.
- 5.23 Where events are proposed by cultural or community groups, it is recognised that those groups may not have the same skill or expertise or access to professional advice. Such groups may wish to seek legal advice and contact the Responsible Authorities well in advance of any proposed event to seek guidance on what would be expected of them when running an event.
- 5.24 Whatever the nature of the applicant and activity proposed, the overriding principle is that the council will consider the individual merits of the application and act so as to promote the licensing objectives.

### **Other Regulatory Regimes**

- 5.25 The licensing policy is not intended to be the primary mechanism for the general control of nuisance, anti-social behaviour and environmental crime but nonetheless is a key aspect of such control. The licensing policy and licensing decisions are intended to be part of an holistic approach to the delivery of the council plan and the management of the evening and night time economy in Leicester.
- 5.26 In preparing this policy the council has sought to avoid unnecessary duplication of existing legislation and regulatory regimes. However, on occasions it has been necessary to set out some of the detail in this policy for ease of understanding. Nothing in this policy is intended to revoke or replace the need for applicants to act in accordance with legal requirements. All applicants are advised to seek proper advice to ensure that the activities they propose are within the boundaries set by existing legislation and regulations.

### **Application Process**

- 5.27 Applications must be made to the council in the form prescribed by Regulations. The forms and additional information are available on the council's website at [Alcohol, entertainment and late night refreshment \(leicester.gov.uk\)](http://Alcohol, entertainment and late night refreshment (leicester.gov.uk)).

### **Licensing and Public Safety Committee**

- 5.28 The council has appointed a licensing committee of 10 Councillors. Licensing functions will often be delegated to a licensing subcommittee of 3 Councillors or, in appropriate cases to officers of the council. Councillors will have regard to the Leicester City Council Code of Conduct for Members. Where a Councillor who is a member of the Licensing and Public Safety Committee or sub-committee has a disclosable pecuniary interest in the application before them, in the interests of good governance they will disqualify themselves from any involvement in the decision making process in respect of that application.

- 5.29 A sub-committee may refer an application to another sub-committee or to the Licensing and Public Safety Committee where it is unable to deal with the application because of the number of members unable to vote on the matter in question.
- 5.30 The Licensing and Public Safety Committee will subsequently refer an application to the full Council where it is unable to deal with the application because of the number of members unable to vote on the matter in question.

### **Representations**

- 5.31 Depending on the type of application, representations may be made by a responsible authority or other people (as defined by the Licensing Act 2003). The council has agreed protocols with responsible authorities and issued guidance to other people making representations, setting out the detail of the process. Guidance is available on the council website [Alcohol, entertainment and late night refreshment \(leicester.gov.uk\)](http://Alcohol,_entertainment_and_late_night_refreshment_(leicester.gov.uk)).
- 5.32 Members of the public who wish to submit a representation about an application need to be aware that their personal details will be made available to the applicant. If this is an issue, they may ask a local representative such as a councillor or any other locally recognised body such as a resident's association to submit a representation on their behalf. The council is not able to accept anonymous representations. Any petitions received in relation to an application will be treated as a single representation made by the person submitting the representation, supported by all of the signatories.
- 5.33 Where a representation is received which is not from a responsible authority the council will in the first instance make a judgement on whether it is relevant, i.e. based upon one or more of the four licensing objectives.
- 5.34 A 'relevant representation' is a representation about the likely effect of the premises licence on the promotion of the licensing objectives that has not been withdrawn and is not, in the opinion of the council, frivolous or vexatious.
- 5.35 Where one or more relevant representations are received about an application the council will hold a hearing to consider them unless the council, the applicant and everyone who has made representations agree that a hearing is not necessary. Applicants and those making representations should seek, in advance of any hearing, to try to reach agreement or to narrow the areas in dispute, particularly where both are professionally represented. Where either party is not professionally represented this mediation should be conducted via the Licensing team.
- 5.36 Where hearings are required as a result of relevant representations, the council may extend the time limits involved in calling hearings in order to allow the parties to negotiate suitable conditions to be added to the operating schedule and thus avoid the need for a hearing. Such an extension of time is considered to be in the public interest.

### **Reasons for Decisions**

- 5.37 Every decision made by the Licensing and Public Safety Committee, subcommittee or officers shall be accompanied by clear reasons for the decision.

## Section 6 Premises licences and club premises certificates

- 6.1 Premises licences and club premises certificates may authorise the sale or supply of alcohol, regulated entertainment and late-night refreshment (sale of hot food and drink after 11pm). Businesses wishing to apply for a licence or certificate must use the prescribed form which includes details of the hours of operation, any hours for licensable activities and an operating schedule.

### Planning

- 6.2 The use of premises for the sale or supply of alcohol, regulated entertainment or late-night refreshment is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation. Planning permission is generally required for the establishment of new premises or the change of use of premises.
- 6.3 In line with the Section 182 Guidance the planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by planning committees, and vice versa.
- 6.4 Where businesses have indicated when applying for a licence under the Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers may consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.
- 6.5 Where relevant representations are received, any determination of a licence application will not consider whether any decision to grant or refuse planning permission or building consent was lawful and correct.

### Licensing Hours

- 6.6 The government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The Act gives the council the power to make decisions regarding the opening hours of licensed premises based on local knowledge and in consultation with other responsible authorities.
- 6.7 In some circumstances, staggered licensing hours with regards to the sale of alcohol are important to ensure that the concentration of customers leaving premises simultaneously is reduced. The intention behind this is to reduce the friction at late-night fast-food outlets, taxi ranks and other sources of transport which currently lead to disorder and disturbance.
- 6.8 Providing the customers with greater choice is an important consideration in the development of a thriving and safe evening and night-time economy. However, any licensable activity has the potential to impact adversely on the surrounding area due to disturbance or crime and disorder. Customers may be noisy when leaving, leave litter or use on-street car parking. The impact of these activities can be particularly intrusive at night when ambient noise levels are much lower.
- 6.9 The council supports the development of a wide ranging and culturally diverse night-time economy. However, this must be achieved whilst promoting the four licensing objectives and without compromising local services associated with the night-time economy such as street cleansing.

- 6.10 Under the Act there are no permitted hours for the sale of alcohol. Applicants have the freedom to state in their operating schedule the hours they wish to open and to apply to vary their existing licences if they wish to open beyond their current permitted hours. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives will be the paramount consideration at all times.
- 6.11 If relevant representations are made the council will only grant the hours of use proposed where the operating schedule and any risk assessment adequately demonstrates that:
- the applicant has properly considered what is appropriate for the local area when considering what hours and activities to apply for
  - the potential effect on the licensing objectives is not significant
  - the agreed operating schedule demonstrates that the applicant is taking appropriate steps to minimise any adverse impact on local residents and businesses
- 6.12 Restrictions may be made to the proposed hours of use where, after receiving relevant representations, the council considers it appropriate for the promotion of the licensing objectives to do so. The council will take into account the operating hours of existing licensed premises in an area when considering what steps, if any, are appropriate to promote the licensing objectives. Applications that request hours significantly different to others in the same locality will need to demonstrate that granting the hours sought will not impact on the licensing objectives. This is important given the potential for neighbouring premises to seek the same additional hours in order to remain competitive.
- 6.13 As a general rule shops, stores and supermarkets should normally 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, based on the licensing objectives, for restricting those hours.

#### **Local, national and international occasions**

- 6.14 It should be possible for applicants for premises licences and club premises certificates to anticipate special occasions which occur regularly each year, for example bank holidays, and to incorporate appropriate opening hours for these occasions in their operating schedules.
- 6.15 Additional occasions for which extensions may be required may be covered by Temporary Event Notices.

#### **Drinking up time**

- 6.16 The traditional ‘drinking up time’ was not carried over into the Licensing Act 2003. However the hours during which applicants are licensed to sell or supply alcohol and the opening hours need not be identical and therefore applicants seeking permission for the sale of alcohol for consumption on the premises are recommended to consider a drinking up/cooling down period during which music volume may be reduced, customers may consume their drinks and make arrangements for transport from the premises. The council considers that a 30-minute drinking up time, where relevant, will assist in the gradual dispersal of customers and consequently reduce the impact on the area.
- 6.17 Where relevant representations are made the council will consider incorporating drinking up time where this is necessary and proportionate in order to promote the licensing objectives in any individual case.

#### **Operating Schedules**

- 6.18 Under the Licensing Act 2003 applicants are required to complete an ‘operating schedule’. They are expected to have regard to the council’s Statement of Licensing Policy. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.

- 6.19 Operating schedules are the key to ensuring that the four licensing objectives are promoted. An operating schedule should include enough information to enable any responsible authority or other person to assess whether the steps to be taken to promote the licensing objectives are satisfactory.
- 6.20 Applicants should make their own enquiries and demonstrate how they have considered the following, amongst others, in their operating schedule:
- The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children and young people may congregate;
  - Any risk posed to the local area by the proposed licensable activities; and
  - Any local initiatives (for example, local crime reduction initiatives or voluntary schemes such as local taxi-marshalling schemes, street pastors and other schemes), which may help mitigate potential risks.
- 6.21 Whilst applicants are not legally required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. The council encourages co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.
- 6.22 Applicants may find contacting their local ward Councillor helpful. Leicester City Councillors provide a voice to the people living in the ward that they represent. They are aware of the needs of their community and are in touch with the issues that local people face. As well as influencing council decisions on funding and development, they work with other organisations, such as the police, local schools and health services to help bring about improvements to services and the environment for their local community. Information about Ward Councillors is available on the council's website - [Councillors and wards \(leicester.gov.uk\)](#)
- 6.23 Other publicly available sources which may be of use to applicants include:
- Crime statistics - <https://www.police.uk/pu/your-area/leicestershire-police/>
  - Local information - <https://data.leicester.gov.uk/pages/home/Data> – this is on the Council website and provides information on the city and its governance, public safety and wellbeing, business and economy, population and communities as well as host of other bits of information
  - English indices of deprivation - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/835115/IoD2019\\_Statistical\\_Release.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/835115/IoD2019_Statistical_Release.pdf) - this document produced by the Ministry of Housing, Communities and Local Government and its predecessors have calculated local measures of deprivation in England. This Statistical Release contains the latest iteration of these statistics, the English Indices of Deprivation 2019 (IoD2019). The IoD2019 is an update to the 2015 Indices and retains the same model of multiple deprivation, using the same approach and utilising data inputs from the most recent time points where possible.
  - websites or publications by local voluntary schemes and initiatives; and
  - on-line mapping tools.
- 6.24 The council expects individual applicants to complete the operating schedule in a manner that is specific to the application being made in respect of those premises and the licensable activity to be carried on rather than in general or standard terms. Information should be given to demonstrate how the individual application proposes to address and promote the licensing objectives.
- 6.25 Any application or operating schedule not completed in accordance with the Act and the regulations will be returned to the applicant unprocessed with a request to complete the forms correctly before the application is accepted by council.

## Risk assessments

6.26 The council recommends that applicants complete a risk assessment of their business in order to understand what steps are required to complete the operating schedule in a manner which enables the council and responsible authorities to assess how they will seek to promote the licensing objectives.

### Local Concerns regarding Alcohol Consumption in Leicester

6.27 Alcohol use can contribute to a variety of harms, including health, economic, social and community harms. Below are some of the way's alcohol harm manifests in Leicester City.

- Despite high abstinence amongst the Leicester population, alcohol mortality is high in Leicester men compared to the England rates. The most recent Health and Wellbeing Survey in Leicester (2018) indicated one in ten (9%) of those who drink do so at levels above the CMO's recommended limit in a typical week that they are drinking<sup>1</sup>.
- Not only is alcohol a greater cause of death in Leicester men than England, hospital admissions linked to alcohol are higher in Leicester men also.
- Alcohol misuse is a major contributing factor in many cases of homelessness, and homelessness can be a barrier to recovery. During 2016/17, 35% of all clients using Leicester City Council funded homelessness services indicated that they had drug or alcohol problems.
- Alcohol is a contributing factor to crime in Leicester, in 2018/19 almost 5500 alcohol-related violent crimes were recorded, including more than two-fifths of all violent crimes in the city. Alcohol is a factor in 1 in 8 crimes in the city.
- Alcohol impacts children and families in Leicester. 1 in 5 of all children in need<sup>2</sup> in Leicester had alcohol cited as a factor.
- Alcohol harm in Leicester is against a backdrop of high abstinence, which indicates that those drinking are possibly drinking at more harmful levels, that not everyone who drinks acknowledges or admits to drinking or that more accurate surveillance of drinking habits is required. It is important to note that many people who have alcohol-related health problems aren't people who would necessarily see themselves as 'having a problem', but may be people who have regularly drunk more than the recommended levels for some years.
- Anecdotally there is hidden drinking within Leicester, with some communities hiding their drinking as it is not seen as culturally or religiously acceptable. There is also an issue with street drinking in some areas, local services are working to reduce this in collaboration with local communities.

6.28 In these more deprived areas there is concern about:

- Sale of alcohol
  - The wide and obvious availability of alcohol in convenience stores, newsagents, corner shops and off licences.
  - The contributory factor and possible links between violent crime and domestic violence which may be exacerbated by the availability of alcohol sold in these areas.
  - The higher proportion of premises licensed for alcohol for consumption off the premises.
  - The ability for people with mental health or alcohol problems to easily obtain alcohol.
  - The ability for people who are already intoxicated to easily obtain more alcohol.
  - The pack size super strength white cider is sold in, which leads to people with alcohol dependency issues to drink more than they need to.
- Protection of children
  - The normalisation of alcohol abuse and the effect this has on children living in the area

<sup>1</sup> Based on a sample of 1076 who said they drank, out of a total 2224 responses in Leicester

<sup>2</sup> Children in need are defined in law as children who are aged under 18 and:

- need local authority services to achieve or maintain a reasonable standard of health or development
- need local authority services to prevent significant or further harm to health or development
- are disabled

- The sale and supply of alcohol to young people and children and the impact this has on the behaviour in the community and impact on their health.
  - Public nuisance
    - The accumulation of premises providing takeaway food and off sales of alcohol
    - Littering of food wrappers and waste food originating from takeaways
    - Harassment of women and girls by groups of men drinking in the streets
- 6.29 The availability of alcohol is a major concern, as harmful and hazardous drinking is a contributory factor in many of the concerns mentioned in this policy. As such the council would expect anyone wishing to open or extend premises that sell alcohol or sell hot food to provide extra measures to ensure these problems are not exacerbated.
- 6.30 An application for premises in an area which has been highlighted as being of specific interest, which includes the sale by retail of alcohol or the sale of hot food and drink may attract representations from a number of interested people. Applicants are encouraged to contact Licensing, Leicestershire Police, Environmental Health and Public Health to see if there are any specific measures that can be included in the operating schedule to mitigate local concerns.
- 6.31 Applicants in the areas of specific interest should carefully consider if the measures relating to the following concerns could be offered as part of their operating schedule:
- **Crime and disorder**
    - Measures that control the display of alcohol including proximity to the door, display of spirits and high strength alcohol
    - The sale of high-strength lager and cider
    - CCTV coverage of alcohol displays
  - **Prevention of public nuisance**
    - Hourly checks of the surrounding area and removal of litter
  - **Protection of children**
    - Display of alcohol, name of premises and windows advertising which normalise the availability of alcohol
- Excessive Consumption of Alcohol**
- 6.32 The council is acutely aware of the link between the supply of alcohol that is subject to certain promotions and the possibility of resultant incidents of alcohol related crime and disorder and implications for public safety, public nuisance and the risk of harm to children.
- 6.33 The council also recognises the impact that excessive or binge drinking can have on public health and that positive action on promoting the licensing objectives is equally likely to have an indirect impact on public health.
- 6.34 The British Beer and Pub Association states that a promotion is irresponsible where it encourages or incites individuals to drink to excess, behave in an anti-social manner or fuels drunkenness. The council, as the licensing authority, will use the powers contained within the Licensing Act to ensure operators' promotional activities do not undermine the licensing objectives.
- 6.35 In April 2010 mandatory conditions came into effect which:
- Ban irresponsible promotions
  - Ban the dispensing of alcohol directly into the mouth; an
  - Ensure that customers have access to free tap water so that they can space out their drinks and not get too intoxicated too quickly.
- 6.36 The legislation makes it clear that an irresponsible promotion is one that is "carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carried a significant risk of leading or contributing to crime and disorder, prejudice to public

safety, public nuisance or harm to children".

- 6.37 As a consequence, any on-trade premises that participates in irresponsible drinks promotions may be breaching licence conditions as such may face relevant enforcement action.

#### **Portman Group**

- 6.38 The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks contains rules which prevent the encouragement of immoderate consumption of alcohol and also prevent the marketing of products based on high alcoholic strength and intoxicating effect.
- 6.39 The Code was reviewed in 2019 and as part of this the guidance was updated to specifically address harm caused by high strength products packaged in single-serve non-resealable containers. Guidance states that if a high strength product in a single-serve non-resealable container contains more than 4 units then such products need to incorporate mitigating factors to ensure that they do not encourage immoderate consumption. This could be through inclusion of a sharing message or a per serve recommendation. This position has received support from the Chief Medical Officers' and the Department of Health and Social Care as an appropriate threshold to help reduce alcohol-related harms.
- 6.40 The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner, only to those who are 18 and over, and in a way that does not appeal particularly to those who are vulnerable.
- 6.41 The Code, now in its sixth edition, has continued to evolve in step with changes in society over the last 25 years, with the latest edition in 2019 contains new rules to prevent marketing considered to cause serious or widespread offence, as well as a tightening of the rules surrounding links to illegal behaviour and suggestions of mind-altering qualities.
- 6.42 If the Council or any other person/organisation is aware of products breaching the Code, they can be brought to the attention of the Portman Group Complaints Team - [complaints@portmangroup.org.uk](mailto:complaints@portmangroup.org.uk).

#### **Conditions**

- 6.43 The council may only impose conditions where relevant representations are made following an application to grant or vary a licence or where a review request is being considered.
- 6.44 The council recognises that the only conditions that should be imposed on a licence are those which are appropriate and proportionate to the promotion of the licensing objectives. There may be circumstances where existing legislation and regulations already effectively promote the licensing objectives and no additional conditions are required.
- 6.45 Where conditions are imposed they will be tailored to the individual style and characteristics of the premises and events concerned.
- 6.46 Applicants are strongly encouraged to make early contact with the appropriate responsible authorities to discuss proposed conditions in advance of the submission of their application to the council.

#### **Designated Premises Supervisor**

- 6.47 An applicant for a premises licence which includes the sale and supply of alcohol must nominate a Designated Premises Supervisor (DPS). That person will normally have been given day to day responsibility for running the premises. The DPS will also be in possession of a personal licence.

- 6.48 The Act does not require the presence of the DPS at all material times and authorisation for the sale of alcohol may be made by another personal licence holder. It is the council's recommendation that this authorisation is made in writing.
- 6.49 If a DPS is not specified on the licence no sale or supply of alcohol may be made. Similarly, no sale or supply of alcohol can be made if the DPS does not hold a personal licence. Licence holders must ensure that the nominated DPS is still involved with the business and, if not, that they are replaced promptly.

### **Staff Training**

- 6.50 The council recommends that all people employed at licensed premises who are engaged in the sale and supply of alcohol be encouraged to attend training programmes to raise awareness of their responsibility and particularly of the offences contained within the Act. Similarly people employed at on-licensed premises should be encouraged to attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and suitable training should also be provided to all staff involved in managing or supervising the premises.
- 6.51 It is also recommended that people employed on premises providing entertainment for children and youths attend training programmes in basic child protection and safety, and if appropriate have the necessary DBS checks.
- 6.52 All people employed on licensed premises should be provided with in-house training on basic public safety and the housekeeping arrangements relative to those premises.

### **Club Premises Certificate**

- 6.53 The Act recognises that premises to which public access is restricted and where alcohol is supplied other than for profit, give rise to different issues for licensing law than those presented by commercial enterprises selling direct to the public. For this reason, qualifying clubs may apply for a club premises certificate as an alternative to a premises licence.
- 6.54 A Designated Premises Supervisor and personal licence holders are not required where a club premises certificate is in force. However, an applicant for a club premises certificate is still required to act in a manner which promotes the licensing objectives. An application for a club premises certificate must be in the form prescribed by regulations.
- 6.55 Any qualifying club may choose to obtain a premises licence if it decides that it wishes to offer its facilities commercially for use by the public, including the sale of alcohol. Any individual on behalf of the club may also give Temporary Event Notices (TENs).

### **Community Halls**

- 6.56 The management committees of community premises can apply to remove the requirements for a designated premises supervisor and the authorisation of the sale of alcohol by a personal licence holder. If they do so all sales of alcohol are authorised by the management committee. Applicants should refer to the guidance issued under section 182 of the Licensing Act 2003 for information on the process to be followed.

### **Minor Variations**

- 6.57 Small changes to premises licences or club premises certificates may be made through the minor variation process, which is cheaper, easier and quicker than the full variation process. The test for whether a proposed variation is 'minor' is whether it could impact adversely on any of the four licensing objectives. Applicants should refer to the guidance issued under section 182 of the Licensing Act 2003 for information on the process to be followed.

## **Alcohol Deliveries**

- 6.58 An applicant seeking a licence that will enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures they intend to operate to ensure that:
- The person they are selling alcohol to is over the age of 18
  - That alcohol is only delivered to a person over the age of 18
  - That a clear audit trail of the order process including order, dispatch from the licensed premises and delivery to the customer is maintained (with times and signatures) and available for inspection by an authorised officer on reasonable request
  - The time that alcohol is sold on the website/over the phone is within the hours stated on the licence for the sale of alcohol.

## Section 7 Cumulative Impact

- 7.1 The concept of “cumulative impact” has been described in the Section 182 guidance issued by the Home Office since the commencement of the Licensing Act 2003. Cumulative impact assessments were introduced at Section 5A in the Licensing Act 2003 by the Policing and Crime Act 2017. Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area.
- 7.2 In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of customers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.
- 7.3 Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also attract criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of people leading to issues such as street fouling, littering, traffic and public nuisance.
- 7.4 Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will be greater than the impact of customers of individual premises. These conditions are more likely to arise in town or city centres but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises.
- 7.5 Once away from the licensed premises, a minority of customers will behave badly. Other mechanisms for addressing such concerns may be more appropriate than the introduction of a cumulative impact area or may work alongside the licensing policy. For example:
- Planning control
  - Positive measures to create a safe and clean town or city centre environment in partnership with local businesses, transport operators and other departments of the local authority, including best practice schemes such as City Watch or Business Improvement Districts
  - Community Protection Orders
  - The provision of CCTV surveillance in town centres, taxi ranks, public conveniences open late at night, street cleansing and litter patrols
  - Public Space Protection Orders
  - Police enforcement of the law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
  - Prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale)
  - Late Night Levy
  - Early Morning Restriction Orders
- 7.6 Other licensing measures such as fixed closing times, staggered closing times and zoning may also be considered, subject to evidence.

### Cumulative Impact Assessments

- 7.7 A cumulative impact assessment (CIA) may be published by a licensing authority to help it limit the number or type of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives.
- 7.8 The council first published a cumulative impact assessment under section 5A of the Licensing Act 2003 for the Churchgate area in 2005 and in 2011 for the Belvoir Street, Braunstone Gate, London Road /

Granby Street areas. These relate to new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates.

- 7.9 In this assessment the council have reviewed the evidence for all four existing cumulative impact areas (Churchgate, Belvoir Street, London Road / Granby Street, Braunstone Gate).
- 7.10 This assessment included a call for evidence from the responsible authorities, crime statistic reports commissioned by Leicestershire Police and nuisance statistics provided by the Council's Licensing Enforcement and Noise and Pollution Control Teams.
- 7.11 As required by the law, the council has undergone a formal consultation process on the cumulative impact assessments. This was carried out alongside the consultation for the licensing policy and involved:
  - the responsible authorities
  - licensees and those representing licensees
  - local residents and businesses
  - those representing local residents and businesses
- 7.12 Responses from these consultations have been reviewed.
- 7.13 In light of the evidence produced around the cumulative impact areas that were in place – the Council has determined not to designate any Cumulative Impact Areas in the City.
- 7.14 The Council has also deemed it appropriate, based on far reaching evidence including Public Health data and information from Leicestershire Police as well as the Licensing Enforcement and Noise and Pollution Control Teams, to highlight areas within Leicester that are of special interest in terms of alcohol harm, street drinking, anti-social behaviour etc. Please see section 8 for more details.
- 7.15 The above decisions will be reviewed after the Policy has been in place for 12 months.

## Section 8 Areas of Special Interest and Consultation

- 8.1 It is imperative that all applicants fully consider the environmental factors of the area in which they are applying. Section 182 guidance states that applicants should proactively engage with the responsible authorities to ensure that a premises and their management uphold the licensing objectives.
- 8.2 Within Leicester, there are several such areas where the environmental factors may require further considerations by the applicant in order to uphold the objectives. Some examples of these can be some or all, yet not exclusively, any of the below:
- Number of existing licensed premises
  - Types of licensed premises
  - Sensitive premises
  - Density and locality of residential premises
  - Traffic or pedestrianised sensitive areas
  - Conservation and cultural areas, children/young person's facilities, etc
  - Alcohol related public health concerns (see public health information section within policy and website)
  - Areas of alcohol related crime, disorder or anti-social behaviour including Noise Pollution concerns.
- 8.3 The areas of Leicester that this section of the policy relate to are:
- Granby Street, Belvoir Street & Market Street
  - High Street (from the junction of Carts Lane) & St Nicholas Place
  - Braunstone Gate & Narborough Road (up to the railway bridge)
  - Evington Road
  - Belgrave Road & Melton Road (up to the junction of Marfitt Street)
- 8.4 Other areas will be considered on a case by case basis and their inclusion will be based on what relevant evidence is produced to support their inclusion.
- 8.5 Further information for applicants is attached at Appendix XX. This provides more detail about the responsible authorities' concerns and will help applicants when preparing their operating schedules prior to pre-consultation with the responsible authorities.
- 8.6 Actions required by applicants
- Applicants should fully review the relevant 'Information for applicants' documents related to this policy summarising the types of issues that relate to that particular area.
  - The applicant is encouraged to make early contact with the responsible authorities to discuss their plans, and suggested control measures. Applicants should also have particular regard to the guidance issued by the Home Office under section 182 of the Act.
  - Applicants are encouraged to submit a full and thoroughly considered application at the earliest opportunity. The onus is on the applicant to demonstrate to the responsible authorities the suitability and detail for their site.
- 8.7 The circumstances of each application will be considered properly and if there are no representations the application will be granted as applied for. If relevant representations are received in relation to a new application or a variation of an existing licence, the council will consider whether it would be justified in departing from its policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. If the council considers the application is unlikely to have an impact on the licensing objectives it may be granted. If the council decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.
- 8.8 The council may update these areas and add additional areas or locations or extra supporting information as appropriate.

## Section 9 Early Morning Restriction Orders

- 9.1 The power conferred on licensing authorities to make, vary or revoke an Early Morning Restriction Order (EMRO) is set out in section 172A to 172E of the Licensing Act 2003. This power was brought into force on 31<sup>st</sup> October 2012 and the government has provided guidance as part of the S182 Guidance to Licensing Authorities.
- 9.2 An EMRO enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 9.3 EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance and other instances of alcohol related anti-social behaviour which are not directly attributable to specific premises.
- 9.4 It is the council's intention to support businesses rather than hinder them whilst ensuring promotion of the licensing objectives. However, where this has deemed to fail then an EMRO could be considered as a possible solution.
- 9.5 An EMRO:
  - Applies to the supply of alcohol authorised by premises licences, club premises certificate and temporary event notices;
  - Applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week and can apply for different time periods on different days of the week;
  - Applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
  - Applies to the whole or any part of the licensing authority's area
  - Will not apply to any premises on New Year's Eve (defined as 12am to 6am on 1 January every year);
  - Will not apply to the supply of alcohol to residents by accommodation providers between 12am and 6am, provided the alcohol is sold through mini-bars/room service; and
  - Will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the Licensing Act 2003.

### **EMRO Request**

- 9.6 It is expected that the need for an EMRO may be identified by a number of different organisations. It is likely that more than one organisation may be involved in the process.
- 9.7 Any request would be referred to the Licensing Team for an initial assessment of the evidence. If it appears that an EMRO may be appropriate the request would be referred to the Deputy City Mayor and the Licensing and Public Safety Committee. Members would be supplied with evidence of the issues being experienced in the area in support of the EMRO. The Licensing and Public Safety Committee/Deputy City Mayor will decide if, on the strength of the evidence provided, an EMRO is appropriate for the promotion of the licensing objectives and if further work is to be undertaken to support the case. Members may decide that other measures would be more effective in dealing with the problems, or that licence holders should engage with the authorities in an attempt to rectify matters before the request is considered further.

### **Evidence**

- 9.8 The Section 182 Guidance to Licensing Authorities states that:  
*"The licensing authority should be satisfied that it has sufficient evidence to demonstrate that its*

*decision is appropriate for the promotion of the licensing objectives. This requirement should be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premise licences. The licensing authority should consider the evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine when an EMRO would be appropriate for the promotion of the licensing objectives.”*

- 9.9 The council will follow the procedure set out in the 2003 Act to determine whether or not to introduce an EMRO.

#### **Formal Decision**

- 9.10 If the licensing authority is satisfied that the proposed order is appropriate for the promotion of the licensing objectives, its determination will be put to full Council for its final decision. Once the EMRO is made, the authority will send a notice to all affected people and make it available for 28 days on the website.
- 9.11 A variation or a revocation of an order will follow the same process. However, an order could be applied for a specified time and in this case the order ceases to apply on the final day.
- 9.12 Once an EMRO is in place, the licensing authority will update this policy as soon as possible to include reference to the EMRO in this section.

#### **Current position**

- 9.13 There are currently no EMROs in place in the city.

## Section 10 Personal licences

- 10.1 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence. The Act does not require the presence of a personal licence holder at all material times but if any sales are made when a personal licence holder is not present, then they must have been authorised by somebody who holds a personal licence. Regardless of whether a personal licence holder is present or not they will not be able to escape responsibility for the actions of those they have authorised to make such sales.
- 10.2 The council recommends that authorisations for the sale of alcohol be made in writing to ensure that those authorised are clear what their legal responsibilities are. Any premises at which alcohol is sold or supplied may have multiple personal licence holders.
- 10.3 The council recognises it has no discretion regarding the granting of personal licences where
  - the applicant is 18 or over,
  - possesses a licensing qualification,
  - has not had a licence forfeited in the last five years and
  - has not been convicted of a relevant offence.
- 10.4 An application for a personal licence to sell alcohol must be made in the form specified in government guidance or regulations. The application form must be accompanied by the requisite fee. The applicant should also produce evidence of the relevant qualifications and their right to work in the UK.
- 10.5 Applicants should produce a basic disclosure from the Disclosure & Barring Service certificate along with the application form. The certificate must be current and comply with the regulations on personal licence applications. Applicants are also expected to make a clear statement as to whether or not they have been convicted outside England and Wales of a relevant offence or a similar offence.
- 10.6 Where the application discloses relevant unspent convictions, the council will notify the police of that application and the convictions. The police may make a representation on the grounds of crime and disorder. If the police do not make a representation the personal licence will be granted, but if a representation is lodged a hearing must be held.
- 10.7 The council will, at such a hearing, consider carefully whether the grant of the licence will compromise the promotion of the crime prevention objective. It will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The council will normally refuse the application unless there are exceptional and compelling circumstances which justify granting it.

## Section 11 Temporary event notices

- 11.1 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or TEN).
- 11.2 Temporary event notices are subject to various limitations. These are concerned with:
- the number of times a premises user may give a TEN – 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people);
  - the number of times a TEN may be given for any particular premises (15 times in a calendar year);
  - the maximum duration of an event authorised by a TEN is 168 hours (seven days);
  - the maximum total duration of the events authorised by TENs in relation to individual premises (21 days in a calendar year);
  - the maximum number of people attending at any one time (fewer than 500); and
  - the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises’ user (24 hours).
- 11.3 The most important aspect of the system of temporary event notices is that no permission is required for these events from the council. In general, only the police or Environmental Health (Noise and Pollution Control Team) may intervene to prevent such an event or modify the arrangements for such an event. The council will only intervene in its role as licensing authority if the limits on the number of notices that may be given in various circumstances would be exceeded.
- 11.4 Many premises users giving temporary event notices will not have a commercial background or ready access to legal advice. They will include, for example, people acting on behalf of charities, community and voluntary groups, all of which may stage public events to raise funds, at which licensable activities will take place.
- 11.5 There are two types of TEN; a standard TEN and a late TEN. These have different notice periods. A standard TEN is given no later than ten working days before the event to which it relates; a late TEN is given not before nine and not later than five working days before the event. In both instances this does not include the date of the event or the date the council receives the notice.
- 11.6 The council encourages notice providers to give the earliest possible notice of events likely to take place. This is particularly relevant to events which are to take place in the open air or in a temporary structure.

### **Police or Environmental Health (Noise and Pollution Control Team)**

- 11.7 The Act provides that in exceptional circumstances, the police or environmental health team (Noise and Pollution Control) may issue an objection notice because they believe the event would undermine one or more of the four licensing objectives. The Police or Noise and Pollution Control Team must issue an objection notice within three working days of being served with a TEN. The issuing of such an objection notice requires the consideration of the objection by the council at a hearing in the case of a standard TEN. If an objection notice is issued in relation to a late TEN then the TEN is cancelled and licensable activities are not authorised.
- 11.8 The ability of Police and Noise and Pollution Control Team to serve such a notice is a further reason why event organisers are strongly encouraged by the council not to rely on giving the minimum amount of notice and to contact the local police and Noise and Pollution Control Team at the earliest possible opportunity about their proposals.

## **Additional limitations**

- 11.9 The council will also check that the requirements of the Act as to duration and numbers of notices are met. For these purposes, a notice is treated as being from the same premises user if an associate gives it.
- 11.10 The Act defines an associate as being:
  - the spouse or civil partner of that person;
  - a child, parent, grandchild, grandparent, brother or sister of that person; or
  - an agent or employee of that person;
  - the spouse or civil partner of a person listed in either of the two preceding bullet points.
- 11.11 A person living with another person as his or her husband or wife is treated for these purposes as his or her spouse.

## Section 12 Enforcement and reviews

- 12.1 The Licensing Act contains measures to ensure that the responsible authorities are able to deal with premises that willfully and persistently undermine the licensing objectives. The responsible authorities are committed to encouraging a thriving day time, evening and night-time licensed economy but will act appropriately on those premises whose activities infringe upon the quality of life for local residents and businesses in line with legislation.
- 12.2 The Licensing Enforcement Team has established a multi-agency enforcement protocol which sets out the framework for the risk and information based enforcement of the Licensing Act 2003 and allows for carrying out of joint inspections with the police, the fire authority and other relevant agencies including sharing of relevant information.
- 12.3 The enforcement strategy is to protect the public, interested parties and the environment from harm caused as a result of negative activity made licensable by virtue of the Licensing Act 2003 whilst encouraging those that promote the licensing objectives.
- 12.4 The Licensing Enforcement Team's professional approach will be:
- Fair
  - Impartial
  - Respectful
  - Lawful
  - Proportionate
- 12.5 The Licensing Enforcement Team's enforcement protocol wherever possible will follow the four E's as good practice. Each case and matter will be taken on its own merits and may require different enforcement strategies or processes. The four E's are:
- To Engage
  - To Explain
  - To Encourage
  - To Enforce

### **Prosecution of breaches**

- 12.6 Consideration will be given to the appropriate powers that should be used to address a problem where other agencies such as the police, fire authority, environmental protection and trading standards also have their own powers.
- 12.7 The council has incorporated the principles of the Hampton Report in its enforcement approach. Formal enforcement will be a last resort if possible and proportionate to the degree of risk. To this end the key principles of consistency, transparency and proportionality will be maintained.

### **Reviews of Licences**

- 12.8 The council recognises that the ability of the police, other responsible authorities and other people to apply for a review of a premises licence, is an incentive to effective self-regulation.
- 12.9 On receipt of a relevant request to carry out a review the council has a range of options available to it under the Act. These include:
- To take no formal action
  - To issue an informal warning or require in a particular period of time
  - To modify the conditions of the licence including imposing new conditions, altering existing conditions or removing conditions (permanently or temporarily)
  - To exclude a licensable activity from the scope of the licence (permanently or temporarily)

- To remove the Designated Premises Supervisor
  - To suspend the licence for a period not exceeding three months
  - To revoke the licence
- 12.10 The council will seek to establish the cause or causes of the concern and remedial action will be targeted at such causes. Any action will be proportionate to the problems involved.

### **Prosecution of breaches**

- 12.11 In accordance with the enforcement protocol, the council adopts a multi-agency approach to the prosecution of offences under the Licensing Act.
- 12.12 Consideration will be given to the appropriate powers that should be used to address a problem where other agencies such as the police, fire authority, environmental protection and trading standards also have their own powers.
- 12.13 The council has adopted the principles of the Hampton Report in its enforcement concordat. Formal enforcement will be a last resort and proportionate to the degree of risk. To this end the key principles of consistency, transparency and proportionality will be maintained.
- 12.14 The council has a zero tolerance to antisocial behaviour and environmental crime.
- 12.15 Where a Magistrates Court makes a Closure Order under part 8 of the Licensing Act 2003 (on grounds of disorder) the council must carry out a review of the licence.
- 12.16 Where a Magistrates Court makes a Closure Order under the Anti-Social Behaviour, Crime and Policing Act 2014 (on grounds of the use, supply or production of Class A drugs associated with disorder or serious nuisance) the police will usually ask the council to carry out a review of the licence.
- 12.17 Where a closure order has been made under the Anti-Social Behaviour, Crime and Policing Act 2014 (on grounds of noise) the council's Environmental Health section may request a review of the licence.
- 12.18 Where any agency provides evidence of the keeping of smuggled goods, such as counterfeit alcohol or tobacco, or the employment of persons who do not possess the right to work in the UK, the relevant agency may request a review of the premises licence.

### **Matters to be considered**

- 12.19 When considering a review request or the possibility of enforcement action the council will take into account all relevant circumstances but will view the following matters particularly seriously:
- use of the premises for criminal activities such as the supply of drugs or money laundering
  - failure to promptly respond to a warning properly given by a responsible authority
  - failure to engage with the responsible authorities in an effective manner
  - previous convictions for licensing offences
  - previous failure to comply with licence conditions

### **The Violent Crime Reduction Act 2006**

- 12.20 The Violent Crime Reduction Act 2006 has amended parts of the Licensing Act 2003 and now expands police and council powers to deal with problem premises in a more expedient manner.
- 12.21 A power to carry out summary reviews in serious cases of crime and disorder is given by section 53A of the Licensing Act 2003. Where a review application is accompanied by a certificate issued by a senior police officer, the licensing authority is required within 48 hours to consider whether it is necessary to take any interim steps pending the completion of the review process. This may include the immediate suspension of the premises licence.