

NOTICE OF MEETING

MEETING	LICENSING ACT 2003 COMMITTEE
DATE:	TUESDAY 16 NOVEMBER 2010
TIME:	9.30 am
VENUE:	BOURGES/VIERSEN ROOMS - TOWN HALL
CONTACT:	Gemma George, Senior Governance Officer Telephone: 01733 452268 e-mail address: gemma.george@peterborough.gov.uk
<i>Despatch date:</i>	<i>8 November 2010</i>

AGENDA

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1. Apologies for Absence	
2. Declarations of Interest	
3. To Approve the Minutes of the Meetings held on:	
3.1 15 September 2009	1 - 2
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4. Licensing Act 2003 - Peterborough City Council's Statement of Licensing Policy	5 - 28



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MEMBERS OF LICENSING ACT 2003 COMMITTEE

Councillors: Dobbs (Chairman), Newton (Vice-Chairman), Morley, Nawaz, Winslade, Thacker, Swift, Saltmarsh, Khan and Murphy

**MINUTES OF A MEETING OF THE LICENSING ACT 2003 COMMITTEE
HELD AT THE TOWN HALL, PETERBOROUGH ON 15 SEPTEMBER 2009**

Present: Councillor Newton (Chair), Dobbs (Vice Chair), Thacker, Swift, Peach and Nawaz.

Officers in attendance: Terri Martin, Regulatory Officer
Amy Brown, Solicitor
Gemma George, Governance Officer

1. Apologies for Absence

Apologies were received from Councillor Murphy and Councillor Saltmarsh.

2. Declarations of Interest and Whipping Declarations

There were no declarations of interest or whipping declarations.

3. Minutes of the Meeting held on 16 June 2009

The minutes of the meeting held on 16 June 2009 were approved as a true and accurate record.

4. Introduction of changes to the Licensing Act 2003 brought about by Regulatory Reform

The Committee received a report which highlighted changes to the Licensing Act 2003 which had arisen from changes in legislation.

The Regulatory Reform process identified areas of the Licensing Act 2003 legislation which could be improved in order to improve the burden on applicants. In order to enable these changes, three new Statutory Instruments had been introduced with further guidance issued under section 182 of the Act. These instruments had come into force on 29th July 2009.

The changes in legislation recommended certain functions of the new application process to be delegated to an Officer. This required changes to Peterborough City Council's Constitution.

These changes would be recommended for adoption at Full Council on 14th October 2009 to enable the Council to continue to fulfil its statutory duties.

The three new Statutory Instruments had introduced two new application processes complete with new prescribed forms and fees. The first application process was the introduction of a 'Minor Variation Application', which allowed an applicant to make minor changes to the premises licence with a 'lighter touch' to the application process. The second new application process gave certain premises (church and village halls) the ability to make an application to disapply mandatory conditions with regards to the requirement of a Designated

Premises Supervisor (DPS) or personal licence holder to authorise sales of alcohol to take place, in exchange for an alternative condition.

Guidance recommended that decisions on minor variations should be delegated to Licensing Officers. Also an application to disapply the mandatory conditions and have the alternative licence condition instead, was very similar to the current DPS Variation application and should also be delegated in the same way. Therefore, when an application was received and had met the requirements of the regulations and no objections were received then this would be considered by officers.

Members were invited to comment on the report and the following issues and observations were highlighted:

- Members expressed concern regarding the possibility of officers having to make decisions on contentious issues. Members were assured that contentious issues would only be dealt with by the Committee.
- Members questioned whether once decisions had been made by officers, whether there was any appeal process available afterwards. Members were advised that there was no appeal process, but the issue could be taken to a judicial review.
- Members requested an example of a minor variation. Members were informed that an example of a minor variation could be the inclusion of live music to the licence.

Resolved:

The Committee noted the legislative changes to the Licensing Act 2003 which would need to be adopted in the Council's Constitution with regard to delegated authority for new application processes:

- (1) Statutory Instruments 2009 No.1772 Licences and Licensing, Regulatory Reform. The Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009
- (2) Statutory Instruments 2009 No.1724 Licences and Licensing, Regulatory Reform. The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009.
- (3) Statutory Instruments 2009 No.1809 Licences and Licensing. The Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009.

As per new guidance issued under Section 182 of the Licensing Act 2003.

9.30am-9.40am
Chairman

**MINUTES OF A MEETING OF THE LICENSING ACT 2003 COMMITTEE
HELD AT THE TOWN HALL, PETERBOROUGH ON 17 NOVEMBER 2009**

Present: Councillor Dobbs (Chair), Newton (Vice Chair), Thacker, Peach,
Morley, Nawaz, Saltmarsh and Khan.

Officers in attendance: Terri Martin, Regulatory Officer
Amy Brown, Solicitor
Gemma George, Senior Governance Officer

1. Apologies for Absence

Apologies were received from Councillor Swift.

2. Declarations of Interest

There were no declarations of interest.

3. Minutes of the Sub Committee Hearings held on:

- 3.1 9 September 2009 – Netherton Food and Wine
- 3.2 2 October 2009 – Netherton United Football Club Limited

The minutes of the Sub-Committee hearings were approved as true and accurate records.

4. Gambling Act 2005 – Peterborough City Council’s Revised Statement of Principles

The Committee received a report which highlighted Peterborough City Council’s revised statement of principles and the comments which had been received following the consultation process.

Under Section 349 of the Gambling Act 2005, it was a requirement for each Council to produce, adopt and publish a Statement of Principles. This Statement would govern the way decisions were made by the Council and how it would administer its duties under the Act. Without a Statement of Principles the Council may be subject to Judicial Review for failing in its responsibilities to carry out a statutory duty.

The Act required that the Statement of Principles was kept under continual review to incorporate where necessary any changes to the legislation and or Guidance as appropriate. In addition to this, the Act specified that the Statement must be reviewed and revised on a three yearly basis.

The first three year period began on 31 January 2007 and therefore, the first three year period was due to expire on 30 January 2010. The revised Statement was required to be drafted and consulted upon prior to it being adopted.

In order to meet statutory obligations, a revised Statement had been drafted. Also in accordance with the Act, the revised Statement had been consulted upon, and all comments received had been considered and incorporated as appropriate.

In formulating the revised Statement, officers had given full consideration to the requirements of the Act, guidance issued by the Gambling Commission and also the LACoRS (Local Authorities Coordinators of Regulatory Services) model document. Colleagues from neighbouring authorities had also been liaised with in order to ensure Statements were consistent.

RESOLVED:

1. to note the contents of the report
2. to note the comments received following public consultation
3. to approve the final Statement of Principles and to recommend that it be adopted by Full Council on 2 December 2009

Reasons for the Decision:

To ensure that Peterborough City Council complied with the Gambling Act 2005 and had the required policies in place in order to carry out its responsibilities under the Act.

9.30am - 9.35am
Chairman

LICENSING ACT 2003 COMMITTEE	AGENDA ITEM No. 4
16 NOVEMBER 2010	PUBLIC REPORT

Cabinet Member(s) responsible:	Councillor Peter Hiller - Cabinet Member for Housing, Neighbourhoods and Planning	
Contact Officer(s):	Peter Gell - Business Regulation Strategic Manager Adrian Day – Licensing Manager Kerry Leishman - Licensing Development Officer	Tel. 453419 Tel. 454437 Tel. 453502

LICENSING ACT 2003 – PETERBOROUGH CITY COUNCIL’S STATEMENT OF LICENSING POLICY

RECOMMENDATIONS	
FROM : Business Regulation Strategic Manager	Deadline date : 8 December 2010
The Committee is asked to:	
<ol style="list-style-type: none"> 1. Note the contents of the report 2. Note the comments received following public consultation (if any) 3. Approve the final reviewed Statement of Licensing Policy (the policy) and recommend that the policy be adopted by Full Council on December 2010 	

1. BACKGROUND

- 1.1 Under Section 5 of the Licensing Act 2003 (the Act), it is a requirement for each Council to produce, adopt and publish a statement of licensing policy. The policy will govern the way decisions are made by the Council and how it will administer its duties under the Act. Without a policy the Council may be subject to Judicial Review for failing in its responsibilities to carry out a statutory duty.
- 1.2 The Act requires that the Policy is kept under continual review to incorporate where necessary any changes to legislation. In addition to this, the Act specifies that the Policy must be reviewed on a triennial basis.
- 1.3 The most recent reviewed policy expires on 06 January 2011 therefore is now subject to further review.
- 1.4 In order to meet our statutory obligations, a revised Policy has been formulated. Also in accordance with the Act, this Policy has been consulted on and comments welcomed.

2. PURPOSE

- 2.1 The purpose of this report is to make members aware of the comments received (if any) following the consultation process.
- 2.2 To approve the reviewed Policy.
- 2.3 To recommend that the reviewed policy be adopted by Full Council on 08 December 2010.

2.4 This report is for the Committee to consider under its Terms of Reference No. 2.4.1.1 'to undertake and perform all of the Licensing Authority's statutory functions and duties under the Licensing Act 2003'.

3. **TIMESCALE**

Is this a Major Policy Item/Statutory Plan?	YESNO
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4. **CONSULTATION**

4.1 Before determining its policy for any 3 year period (as required under s.5 of the Act), the licensing authority must consult the persons listed in s5(3) as follows:

- a. Chief Officer of Police for the area;
- b. Fire Authority for the area;
- c. Persons/bodies representative of local holders of premises licences;
- d. Persons/bodies representative of local holders of club premises certificates;
- e. Persons/bodies representative of local holders of personal licences; and
- f. Persons/bodies representative of businesses and residents in its area.

The Licensing Authority also has the discretion to consult more widely where appropriate.

4.2 For information purposes a list of consultees is attached at **Appendix A**.

4.3 An 8 week consultation took place between 16 August and 11 October 2010.

The covering letter gave information and advice on the following:

- i) Options on where to access and obtain copies of the draft policy,
- ii) Opportunity to make relevant representations, in writing, on the draft policy ,
- iii) Notification that any comments received after the consultation deadline would not be taken into account; and
- iv) Notification of where the final policy could be accessed and the date of implementation.

4.4 On Saturday 28 August 2010 a Notice of Publication of the Council's review of the policy was advertised in the Peterborough Evening Telegraph giving advice as at paragraph 3.4 above.

4.5 On Tuesday 14 September 2010 Officers met with Members of the Licensing Act 2003 committee for an informal discussion on the revised policy where opinions were sought.

4.6 The licensing department received no formal written or verbal comments on the draft revised policy.

5. **CONSIDERATIONS**

5.1 A copy of the proposed final reviewed Policy is attached at **Appendix B**.

6. **IMPLICATIONS**

6.1 Corporate Resources

Legal Services will be required to provide legal representation in the event of any appeals to the Magistrates against decisions of the Council, prosecutions being instigated or enforcement action being undertaken by the Authority.

6.2 Cross Service Implications

The Licensing Act 2003 is far reaching and affects a number of different departments and as such a closer working relationship will continue to be developed to ensure delivery of The Licensing Act 2003.

6.3 Community Implications

The Licensing Act 2003 and the Guidance compiled under s.182 of it have a significant impact on the community both in terms of its protection and the furtherance of the provision of entertainment and economic growth.

6.4 Resources

The Authority will continue to review the resources necessary both internally and externally to enable the delivery of this statutory responsibility.

7. **BACKGROUND DOCUMENTS**

Licensing Act 2003

Revised Guidance issued under Section 182 of the Licensing Act 2003

LACORS Best Practice Framework for the review of Licensing Policy Statements

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APPENDIX A

- All Responsible Authorities
- Ward and Parish Councillors
- BII, Wessex House, 80 Park Street, Camberley, Surrey, GU15 3PT
- Cambs * Peterborough Chamber of Commerce, Chief Exec, Stuart House, St John's Street, Peterborough
- Residents Associations – from Public Folders in Outlook
- Richard Mathews, Regional Secretary, British Beer & Pub Association Midland Counties, PO Box 3876, Kidderminster, DY11 5YR
- Keith Barrand, P'boro Ass of Local Councils, 33 Stephenson Road, St Ives, PE27 3WJ
- Local Neighbourhood Associations – list possibly held by Community Services
- Crime and Reduction Partnerships (available from police)
- Tourist Information, 3-5 Minster Precincts, Peterborough, PE1 1XS
- Drinks Sense
- MANERP – Brian Gascoyne

- Gillian Beasley
- Paul Phillipson
- Adrian Chapman
- Kevin Tighe
- Annette Joyce

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PETERBOROUGH CITY COUNCIL

LICENSING ACT 2003

(Proposed)

**STATEMENT
OF
LICENSING POLICY**

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DEFINITIONS

Note: In this Policy, the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the Policy. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

'the Act' means the Licensing Act 2003 (c.17)

'Licensable Activities' means: -

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of Regulated Entertainment
- The provision of Late Night Refreshment

'The Guidance' means the guidance issued by the Secretary of State for the Department of Culture, Media and Sport under s.182 of the Act.

'Licensed Premises' includes club premises and events unless the context otherwise requires.

'Designated Premises Supervisor (DPS)' means the person (who must be a Personal Licence Holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder.

'Regulated Entertainment' includes both entertainment and entertainment facilities. Subject to the qualifying conditions, definitions, and exemptions, attached as appendices, regulated entertainment is: -

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;
- Boxing or wrestling entertainment;
- A performance of live music;
- Any playing of recorded music;
- A performance of dance;
- Entertainment of a similar description to that falling within the performance of live music; the playing of recorded music and the performance of dance.

'Late Night Refreshment' means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.

'Operating Schedule' means a document containing a statement of the following matters (and any others that may be prescribed): -

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public
- Information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- The steps being taken to promote the Licensing Objectives

‘Interested Party’ means any of the following:

- A person living in the vicinity of the premise;
- A body with appropriate authority, representing persons who live in that vicinity;
- A person involved in a business in that vicinity;
- A body, with appropriate authority, representing persons involved in such a business.
- A member of the relevant licensing authority

‘Responsible Authority’ means any of the following: -

- The Chief Officer of Police
- The Fire Authority
- The enforcing authority for Health and Safety at Work
- The local planning authority
- The local weights and measures authority (Trading Standards)
- The Council responsible for minimising or preventing the risk of pollution of the environment or of harm to human health
- The body representing matters relating to the protection of children from harm
- In relation to a vessel, a navigation authority, the Environment Agency, or the British Waterways Board

‘Relevant Representations’ are representations:

- About the effect of the Premise Licence on the promotion of the licensing objectives;
- Are made by an interested party or a responsible authority, have not been withdrawn and, in the case of representations made by an interested party they are not in the Council’s opinion frivolous or vexatious.

‘Temporary Event Notice (TEN)’ means a Permitted Temporary Activity involving one or more Licensable Activities subject to various conditions and limitations (see section 9.5).

KEY FACTS ABOUT THE CITY OF PETERBOROUGH AND DISTRICT

Peterborough is a modern and progressive City with a strong historical character that makes it a stimulating environment in which to live, work and visit. Between 1971 and 1991, Peterborough's population grew by 46% under the New Town expansion scheme. In the 2001 Census, Peterborough had a population of 156,061, which is expected to increase to 175,400 by 2011. The wider sub-region, in which Peterborough is the economic centre, has a population of approximately 350,000 people in both the East of England and East Midlands' regions. Neighbouring districts that look towards Peterborough as a key economic centre include Fenland, Huntingdonshire, South Holland, South Kesteven, East Northamptonshire and Rutland.

Over the last 30 years, Peterborough has undergone a major expansion, which has reinforced the City's strength and position within the East of England. A number of new developments, including the City Centre Framework and the development of a new hospital, will provide central elements for new economic growth. Recognition of Peterborough's ability to grow has been supported by the Government with the City's recent designation within the revised 'London-Stansted - Cambridge-Peterborough growth corridor', as proposed within the Sustainable Communities Plan. This designation will ensure that Peterborough's profile is strengthened, enabling it to deliver a stronger economy now and in the future.

Peterborough as a district offers a wide range of leisure activities although a large concentration of premises in the City provides regulated entertainment and/or the retail sale of alcohol in the form of nightclubs. Other forms of entertainment revolve around public houses, private clubs, cinemas, theatres, and sports venues both within the centre and surrounding villages. Along with takeaways, and late night refreshment premises, a variety of restaurants offer a choice of assorted types of cuisine.

Peterborough offers a large accessible river embankment, along with the county showground providing facilities for several open-air larger type festivals and concerts. Visitors can enjoy a vast range of outdoor leisure activities and picturesque countryside – including 2,000 acres of riverside parkland. Many local venues such as village halls and community centres provide locations for cultural activities.

An essential contribution to the continued development of the City of Peterborough is the differing types of premises and events to be licensed under the Licensing Act 2003 as they provide an essential contribution to the local economy of the District, through tourism and cultural development.

1. INTRODUCTION

- 1.1 This Statement of Licensing Policy has been produced in accordance with s.5 of the Licensing Act 2003 (the Act) which requires the Council to review and where necessary renew its contents on a 3 yearly basis (subject to changes in legislation or otherwise prescribed by or on behalf of the Home Secretary).
- 1.2 In reviewing the Statement of Licensing Policy the Council has considered the Guidance issued under s.182 of the Act.
- 1.3 This policy provides information and guidance to licence applicants, licence holders, objectors and interested parties on the general approach to be taken by the Council in respect of its obligations under the Act.
- 1.4 This policy is made available in key Council offices and via the Council's website: www.peterborough.gov.uk under business.
- 1.5 The order of contents within the policy has been amended in line with LACORS' Best Practice Framework for the Review of Licensing Policy Statements.

2. DISCLAIMER

- 2.1 The content of the Council's Statement of Licensing Policy is aimed only to provide guidance and should not be interpreted as legal advice. It is strongly recommended that persons obtain their own legal advice if they are not sure of the requirements of the Act and/or the Guidance and Regulations issued in accordance with it.

3. LICENSABLE ACTIVITIES

- 3.1 This policy relates to all those activities identified as falling within the provisions of the Act, provided to the public, to registered club members or with a view to profit as defined within the Act. These are as follows:-
 - Retail sale of alcohol
 - 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

4. OBJECTIVES

- 4.1 The Council has a duty under the Act to carry out its licensing functions by promoting the licensing objectives, which are:-
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 4.2 Each objective has equal importance.
- 4.3 The Council will also in carrying out its duties have regard to the Guidance.
- 4.4 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not be seen as a means for solving all problems within the community. The Council will therefore continue to work in partnership with its neighbouring authorities, responsible authorities such as the Police, Fire Service, etc, local businesses, licensed trade, residents and others, towards the promotion and delivery of the objectives.

4.5 The Council will expect individual applicants to address the licensing objectives in their Operating Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.

5. CONSULTATION

5.1 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration as part of the licensing functions and the promotion of the licensing objectives. The Council will continue to consult with these parties upon receipt of applications where relevant, and for the further continuation and development of the Licensing Policy.

5.2 In preparing this Policy, the Council will consult over an 8 week period 16/08/10 – 10/10/10 with the following:

- (a) Chief Officer of Police for the area;
- (b) Fire Authority for the area
- (c) Persons/bodies representative of local holders of premises licenses;
- (d) Persons/bodies representative of local holders of club premises certificates;
- (e) Persons/bodies representative of local holders of personal licenses
- (f) Persons/bodies representative of businesses and residents in its area;

5.3 All comments will be considered prior to finalising the policy.

6. FUNDAMENTAL PRINCIPLES

6.1 Licensing is about regulating the carrying on of licensable activities by the appropriate control of licensed premises, qualifying clubs, and temporary events together with the people who manage such premises or hold Personal Licences within the terms of the Act.

6.2 In circumstances where conditions are required to be attached to the various authorisations, the focus will be on matters which are within the control of the individual licensee and others in possession of relevant authorisations (please see section 14 for more information on licence conditions).

6.3 In setting conditions the Council will primarily focus on the direct impact of the activities taking place at, or resulting from the licensed premises on those living, working or engaged in normal activity in the vicinity of the licensed premises.

6.4 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. However:

- (a) licensing law is a key aspect of such control and therefore will always form part of an all round approach to the management of the entertainment evening and night-time economy within Peterborough; and
- (b) licensees and Certificate Holders should take all reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example, on the pavement, in a beer garden, or with the smoking ban in force, in a smoking shelter, where and to the extent that these matters are within their control.

6.5 Nothing in this policy prevents each licence application being considered on its own merits nor will it override the right of any individual to apply under the terms of the Licensing Act 2003 for a variety of permissions.

6.6 This policy does not seek to override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

6.7 When developing this policy, the Council has taken into account the City Centre Framework.

7. OTHER LEGISLATION

7.1 Crime and Disorder Act 1998: Under this Act local authorities must have regard to the likely effect of the exercise of their functions, and do all they can to prevent crime and disorder in their area.

7.2 The Council will have particular regard to the likely impact of licensing on related crime and disorder in the district, particularly when considering the location, impact, operation and management of all proposed licence/certificate applications, renewals and variations of conditions. Any conditions attached to premises licences and club premises certificates will, so far as possible, consider and reflect the local crime prevention strategies.

8. OTHER REGULATORY SYSTEMS / POLICIES

8.1 By consultation and liaison, the Council will secure the proper integration of this licensing policy with local crime prevention, environment, planning, tourism, race equality schemes and cultural strategies and any other relevant policy, in addition to plans introduced for the management of the City and the night-time economy. Many of these strategies are not directly related to the promotion of the four licensing objectives, but, indirectly impact upon them.

8.2 **Planning, building control and the licensing regimes:** Will be separate to avoid duplication and inefficiency. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the planning committee or following appeals against decisions taken by that committee. Where a terminal hour has been set as a condition of planning permission for the use of premises for commercial purposes that are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

8.3 **Cultural Strategies:** The Council will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing. As part of implementing cultural strategies, proper account will be taken of the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays, for the wider cultural benefit of the communities.

8.4 **Public Spaces:** The Council wishes to promote a broad range of entertainment within its area including live music, dancing and theatre. To promote this policy the Council may, where appropriate, seek to obtain premises licences for Council owned public spaces within the community such as market squares, village greens, etc.

8.5 **Circuses:** Under the Licensing Act 2003, circuses will require to be licensed due to their provision of regulated entertainment. However, it should be noted that the circuses with performing animals will not be permitted, and therefore not licensed, on Council owned land.

9. TEMPORARY EVENT NOTICES

9.1 A temporary events notice (TEN) is required for the sale of alcohol by retail, provision of regulated entertainment and/or the provision of late night refreshment, which is to take place at premises, which are currently unlicensed for the activities involved. Applicants are reminded that a limit of fewer than 500 persons at any one time applies to a temporary event and failure to comply with this limit may lead to the event closure or even prosecution. It is strongly recommended, therefore, that a means of recording the number of persons entering

and leaving the premises is put into operation. There is nothing to stop a TEN being given for a premise where a premises licence is already in force although does not cover the type of event proposed.

9.2 Whilst a minimum of 10 working days notice must be given to the Council and the Police for applications, it should be noted that this gives very little time for the Council to process the application and for the Police to respond. Applicants are therefore encouraged to provide a minimum of 28 days notice of a licensable event.

9.3 If there are over 500 persons attending the event then this will fall outside the provisions of a temporary event notice and a premises licence will be required.

9.4 Applicants are reminded that an authorisation made under a TEN does not remove their obligations under any other legislation including that of statutory nuisance. Where necessary, permissions should be sought from the appropriate body. The Council strongly recommends that applicants familiarise themselves with these responsibilities which amongst others may include:-

- Planning permission
- Health and Safety
- Noise Pollution
- Erection of temporary structures
- Road closures
- Use of pyrotechnics
- Anti-social behaviour

9.5 As well as the limit on the number of persons permitted under a TEN the following conditions and limitations apply:-

- Duration – they are limited to events lasting for up to 96 hours;
- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used; and
- The number of notices given by an individual within a given period of time – a Personal Licence Holder is limited to 50 notices in one year and another person to 5 notices in a similar period.

10. DUPLICATION

10.1 So far as is possible, this policy is not intended to duplicate existing legislation and other regulatory regimes that already place obligations on the self-employed, employers and operators of venues both in respect of employers and of the general public when on the premises in question.

11. CUMULATIVE EFFECT

11.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter, which the Council can consider within this licensing policy statement. This should not, however, be confused with 'need' which concerns the commercial demand for a particular type of premises, e.g. a pub, restaurant or hotel. The issue of 'need' is therefore primarily a matter for the market to decide and does not form part of this licensing policy statement.

11.2 Where, after considering the available evidence and consulting relevant individuals and organisations listed within the Act, the Council is satisfied that it is appropriate to address the problems caused by an accumulation impact, the Council may adopt a 'special policy'.

11.3 The Council, in considering whether to adopt a special policy will consider the following: -

- Identification of concern about crime, disorder, and other anti-social behaviour and whether it can be demonstrated that crime and disorder and anti-social behaviour are arising, and have a direct or indirect impact on the customers of the licensed premises, or as a result of the premises.
- The area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent.
- Undertaking consultation and considering mechanisms, both within and outside the licensing regime, that are available for addressing such issues. For example:
 - Positive measures to create a safe and clean environment in partnership with local businesses, transport operators and others;
 - Building control;
 - The provision of CCTV and ample taxi ranks;
 - Powers to designate parts of the City as places where alcohol may not be consumed publicly;
 - Confiscation of alcohol from adults and children in designated areas;
 - Police and local authority enforcement of the law with regard to disorder and anti-social behaviour, including the issuing of fixed penalty notices;
 - Police and local authority powers to close some premises for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise;
 - The fire authority has powers to close premises for an indefinite period on the grounds of public safety.
 - The power of Police, local businesses or residents to seek a review of the licence or certificate;
 - Enforcement action against those selling alcohol to people who are drunk or under age;
 - Crime and Disorder Act 1998;
 - Health and Safety at Work etc Act 1974;
 - Environmental Protection Act 1990;
 - Alcohol Harm Reduction Strategy;
 - The Local Government Act 2000 – Community Strategy;
 - Safer Clubbing Guidance;
 - Human Rights Act 1998;
 - Any other legislation, guidance or identifiable issues as recognised by the Council.

11.4 If the Council adopts a special policy, it will define the areas affected and there will be a presumption that new applications will be refused whenever it receives relevant representations by responsible authorities and interested parties, unless the applicant can demonstrate that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants would need to address the special policy issues in their operating schedules in order to rebut such a presumption.

11.5 If adopted, a special policy will be reviewed every 12 months to establish its need or content.

11.6 The absence of a special policy however, does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

11.7 A special policy will never be absolute. Each application will be considered on its own merits. Licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives will be granted, subject to meeting the remaining criteria.

11.8 Where no representations have been received from a responsible authority or interested party, the licensing authority must grant applications in terms that are consistent with the operating schedules submitted.

11.9 Following receipt of representations in respect of a new premises or club premises application or for a variation of a licence or certificate, the Council will consider whether it

would be justified in departing from its special policy in the light of the individual circumstances.

- 11.10 If, after such consideration, the Council decides that the application should be refused, the Council will show that the grant of the application would undermine the promotion of one or more of the licensing objectives and if it would, that any associated conditions would be ineffective.
- 11.11 A special policy relating to cumulative impact cannot justify, and will not include provisions for a terminal hour in a particular area or impose quotas - based on either the number of premises or the capacity of those premises.
- 11.12 In accordance with the Guidance the Council may depart from any adopted special policy if the individual circumstances of any case merit such a decision in the interest of the promotion of the licensing objectives. Full reasons will be given for departing from the special policy.

12. LICENSING HOURS / ZONING

- 12.1 The Council will not adopt fixed trading hours as a matter of policy. It recognises that flexible licensing hours with regard to the sale of alcohol is important to ensure that the concentrations of customers leaving premises simultaneously are avoided.
- 12.2 The Council recognises that providing consumers with greater choice and flexibility is important to a thriving evening and night-time economy however, this will be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.
- 12.3 There is no general presumption in favour of lengthening licensing hours and accordingly the Council may when issuing new licenses or following reviews of existing licenses reject a proposal or grant it with appropriate conditions and/or different hours from those requested.
- 12.4 Shops, stores and supermarkets will normally be permitted 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 four licensing objectives for restricting those hours. For example, a limitation on licensing hours may be appropriate following Police representations in the case of premises known to be a focus of disorder and disturbance because youths gather there.

13. CHILDREN AND LICENSED PREMISES

- 13.1 Conditions requiring the admission of children to any premises will not generally be attached to licences or certificates (except those identified in 13.7). Where no licensing restriction is necessary, this will remain a matter for the discretion of the individual licensee or club.
- 13.2 Where it is deemed necessary to attach conditions to the licence in relation to access by children, this will be for the prevention of physical, moral or psychological harm to them.
- 13.3 Venue operators seeking premises licences and club premises certificates will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events. It may also be that their own risk assessments have determined that the presence of children is undesirable or inappropriate.
- 13.4 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedules, having regard to their particular type of premises and/or activities:-
 - Effective and responsible management of the premises

- Provision of a sufficient number of people employed or engaged to secure the protection of children, including child performers, from harm
 - Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
 - Limitations on the hours when children may be present in all or parts of the premises
 - Limitations or exclusions by age when certain activities are taking place
 - Imposition of requirements for children to be accompanied by an adult
 - Acceptance of accredited 'proof of age' cards and/or 'new type' driving licences with photographs.
- 13.5 Where no relevant representations are made to the Council, any offered conditions in the operating schedule will be attached as conditions to the licence or certificate and will be enforceable.
- 13.6 Following receipt of any relevant representations, the Council will consider and determine each application, on its merits, as to whether to limit access by children or exclude them altogether from licensed premises by attaching any relevant conditions.
- 13.7 The conditions limiting and restricting access by children may include a combination of the following: -
- Limitations on the hours when children may be present in all or parts of the premises
 - Requirements for children to be accompanied by adults
 - Full exclusion of those people under 18 from the premises when any licensable activities are taking place
 - Limitations on the parts of premises to which children might be given access
 - Limitations or exclusions by age when certain specified activities are taking place e.g.
 - Where entertainment or services of an adult or sexual nature for example, lap-, table- or pole dancing, topless bar staff or striptease are commonly provided
 - Where there is a strong element of gambling on the premises (but not where there is a small number of cash prize gaming machines);
 - With a known association to drug activities – taking or dealing;
 - Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking.
- 13.8 The Council recognises the Peterborough Safeguarding Children Board as the competent body to advise on these matters.
- 13.9 **The Portman Group:** The Council commends the Portman Group Code of Practice on the naming, packaging and promotion of alcoholic drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older.
- 13.10 **Proof of Age Schemes:** The Council commends proof of age cards accredited under the Proof of Age Standards Scheme (PASS).
- 13.11 **Children and Cinemas:** In the case of premises which are used for film exhibitions conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Council itself.

14. LICENCE CONDITIONS

- 14.1 One of the key concepts of the Act is that any conditions (other than the statutory mandatory conditions) attached to licences or certificates will be tailored to the individual style and characteristics of the premises and events concerned.

- 14.2 The Council will only attach conditions to premise licenses and club certificates where they are necessary for the promotion of one or more of the four licensing objectives.
- 14.3 Conditions that are necessary for the promotion of the licensing objectives should emerge initially through the operating schedule and risk assessment carried out by a prospective licensee or certificate holder at the time of application.
- 14.4 The Council will not impose any conditions unless they are volunteered or its discretion has been engaged following relevant representations having been received and upheld. In these circumstances, it may then only impose conditions as are necessary to promote the licensing objectives arising out of the consideration of representations.
- 14.5 The Council will take into account:
- The character of the surrounding area;
 - The nature and character of the proposed operation;
 - The impact that the activity will have on those living, working or engaged in normal activities in the area concerned.
- 14.6 Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.
- 14.7 The pool of conditions cover, among other things, issues surrounding:
- Crime and disorder, incorporating local crime prevention strategies, e.g. CCTV at certain premises;
 - Public safety (including fire safety and means of escape);
 - Theatres and cinemas (promotion of public safety);
 - Anti-social behaviour (inc: public nuisance, provision of clearance of litter outside premises, fly posting);
 - Protection of children from harm;
- 14.8 Any conditions not listed in the pool may be specifically tailored by this Council and attached as conditions where appropriate.
- 14.9 In determining what conditions should be attached to licences and certificates, as a matter of necessity for the promotion of the licensing objectives, the Council will be aware of the need to avoid measures which might deter live music, dancing or theatre by imposing indirect costs of a substantial nature.

15. ENFORCEMENT

- 15.1 The Council will establish arrangements with the responsible authorities on enforcement issues in addition to carrying out their own regular inspections. These protocols will provide for the targeting of agreed problem and high-risk premises.
- 15.2 All decisions and enforcement action taken by the Council will have regard to the relevant provisions of the Act, national guidance and the enforcement policy of the Council. To this end, the key principles of consistency, targeting, transparency and proportionality will be maintained.

16. REVIEWS

- 16.1 Reviews of premise licences represent a key protection for the community where matters arise at the premise in connection with any of the four licensing objectives.
- 16.2 At any stage following the grant of a Premise Licence a responsible authority or an interested party may request a review. Evidence would be required based on one or more of the licensing objectives.

- 16.3 If relevant representations are made about a current licence, the Council will hold a hearing to consider them, unless the Council, the applicant and those making representations agree that the hearing is not necessary.
- 16.4 Additionally a review of the licence will normally follow any action by the Police or Local Authority to close down the premise for up to 24 hours on grounds of disorder or public nuisance.
- 16.5 No more than one review will normally be permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances or where it arises following a Closure Order.
- 16.6 A summary review (or expedited) is appropriate for premises experiencing serious crime or disorder. It is a fast track licence review where the Council can attach interim conditions (where appropriate) to a premises licence where the responsible authority consider that the premises concerned is associated with serious crime or disorder or both. The Council can take the following interim steps:
- Modification of the conditions of the premises licence
 - The exclusion of the sale of alcohol (or other licensable activities) from the scope of the licence
 - Removal of the DPS
 - Suspension of the licence
- 16.7 The decision takes effect immediately or as soon as the Council directs. The Council will have regard to the Guidance when processing summary reviews.
- 16.8 Licensing officers may not initiate their own review of premises licences

17. DELEGATION / DECISION MAKING / ADMINISTRATION

- 17.1 When determining applications the Council will have regard to the Guidance. Therefore, determination of applications made under the Act will be made by either the Licensing Committee, by a Sub-Committee of the Licensing Committee, or by one or more authorised officers acting in accordance with the Council's Scheme of Delegation.
- 17.2 A decision made by an officer under the Council's Scheme of Delegation, will be considered a decision made by the Council.
- 17.3 The Council will consider relevant representations made both in support of or opposition to any application.
- 17.4 Where a relevant representation is made then the authorised officer will liaise with the applicant and relevant parties to try and reach an agreement between them and the Council, as to the need for final determination by the Licensing Committee or Sub-Committee.
- 17.5 Where relevant representations are raised which cannot be resolved by mediation, matters will be referred to either of the aforementioned committees for determination.
- 17.6 In cases where only positive relevant representations are received and upon agreement of the Applicant, the Licensing Authority and the Interested Parties making those representations, it will not be necessary to hold a hearing to determine the application.
- 17.7 Each application will be determined on its individual merits taking into consideration the four licensing objectives.
- 17.8 Where it is determined that it is appropriate to attach conditions to a licence or certificate it will ensure that those conditions are focused on the direct impact of the activities taking place at the premises concerned, on members of the public living, working or engaged in normal activity in the area concerned. Such conditions will be proportionate to the activity to be controlled and will only be imposed in the interests of the licensing objectives.

- 17.9 If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Council's consideration will balance those representations against the wider benefits of the community. Furthermore, the Council acknowledges the advice received from the DCMS that the views of local minorities should not be allowed to predominate over the general interests of the community.
- 17.10 It may be necessary in some circumstances for a site visit to take place. In such circumstances, Members will observe the Members' Licensing Code of Good Practice and Procedure for Licensing Sub-Committee Site Visits.
- 17.11 All parties will receive a fair hearing.
- 17.12 The Council will ensure that Members and Officers having responsibility under the Act will receive appropriate training to administer and enforce the Act.
- 17.13 Licence Committees will receive regular reports on decisions made by officers to ensure that an overall picture of the state of licences in the area is maintained.
- 17.14 The Council will give comprehensive reasons for its decisions and such reasons shall also address the extent to which the decision has been made with regard to this Policy and Guidance.

18. APPEALS

- 18.1 **Magistrates' Court Appeals:** Other than in the case of personal licences, all appeals in connection with various decisions made by the Council will be determined by the Magistrates' Court in the area which the premises concerned are situated.
- 18.2 In the case of personal licences, the appeal must be made to the Magistrates' Court for the petty sessions area in which the Council (or any part of it) which made the decision is situated.
- 18.3 Beginning with the day the appellant was notified by the Council of the decision to be appealed against; the appellant has a period of 21 days to commence his appeal by the giving of a notice of appeal to the Justices' Chief Executive for the Magistrates' Court.
- 18.4 The Council will always be a Respondent to the appeal, but in cases where a favourable decision has been made for an applicant licence holder, club or premises user against the representations of a responsible authority or an interested party or the objections of the chief officer of Police, the holder of the premises or personal licence or club premises certificate or the person who gave an interim authority notice or the premises user will also be a respondent to the appeal and the person who made the relevant representation or the chief officer of Police will be the appellants.
- 18.5 On determining an appeal, the court may:
- Dismiss the appeal;
 - Substitute for the decision appealed against any other decision which could have been made by the Council; or
 - Remit the case back to the Council to dispose of it in accordance with the direction of the court.
- 18.6 The court may make such order as to costs as it sees fit.
- 18.7 The court, on hearing any appeal, may therefore review the merits of the decision on the facts and consider points of law or address both.
- 18.8 In hearing an appeal against any decision made by the Council, the Magistrates' Court will have regard to this licensing policy statement and the Guidance.

- 18.9 The Court can depart from both if it is justified to do so, depending on the individual circumstances.
- 18.10 This Council, therefore, when determining applications will give comprehensive reasons for its decisions.
- 18.11 Any decision made by the Magistrates' Court will be implemented by the Council immediately.
- 18.12 No further appeal against the decision of the Magistrates' Court is available except in the case of closure orders. The Act does not provide for a further appeal and normal rules of challenging decisions of Magistrates' Courts will apply.
- 18.13 A right of appeal only exists in respect of the terms of a Provisional Statement issued rather than one that is refused because the Licensing Act 2003 does not empower the Council to refuse to issue a provisional statement.

19. EFFECTIVE DATE AND REVIEW

- 19.1 This policy statement will take effect on 7 January 2011.
- 19.2 This policy statement will be kept under review, consulted on, and will remain in existence for a period of up to 3 years. It will be subject to review and further consultation before 7 January 2014 (subject to changes in legislation prescribed by or on behalf of the Home Secretary).
- 19.3 Any adopted special policy relating to saturation the Council has adopted will be reviewed every 12 months from the date of the insertion of that special policy to assess whether it is still required or necessitates further expansion.

19. CONTACT DETAILS

THE LICENSING AUTHORITY:

The Licensing Team
Peterborough City Council
Bridge House
Town Bridge
Peterborough
PE1 1HU
T: 01733 747474
E: eh.licensing@peterborough.gov.uk

www.peterborough.gov.uk
(under the Business section)

THE RESPONSIBLE AUTHORITIES:

Cambridgeshire Constabulary

Licensing Department
Cambs Constabulary North Division
Bridge Street
Peterborough
PE1 1EH
T: 01733 424462 / 424449

Cambridgeshire Fire and Rescue:

Cambs Fire & Rescue Service
Peterborough District
Dogsthorpe Fire Station
Dogsthorpe Road
Peterborough
PE1 3RE
T: 01733 353222 / 353226

Safeguarding Children Board

Safeguarding Service Manager
Children's Services – Social Care
Floor 2, Bayard Place
Broadway
Peterborough
PE1 1FB
T: 01733 746020

Environmental Health - Pollution

Pollution Control Team
Peterborough City Council
Bridge House
Town Bridge
Peterborough
PE1 1HU
T: 01733 453571

Health and Safety:

e.g. Public houses, nightclubs,
shops, restaurants, takeaways.
community centres managed by
a committee

Health & Safety Team
Peterborough City Council
Bridge House
Town Bridge
Peterborough
PE1 1HU
T: 01733 453574

Premises **managed** by Peterborough
City Council e.g. schools, leisure
centres

Health and Safety Executive
14 Cardiff Road
Luton
LU1 1PP
T: 01582 444200

Planning

Planning Services
Peterborough City Council
Stuart House (East Wing)
St Johns Street
Peterborough
PE1 5DD
T: 01733 453427

Trading Standards

Trading Standards Department
Peterborough City Council
Bridge House
Town Bridge
Peterborough
PE1 1HU
T: 01733 453563

For vessels carrying more than 12 passengers the certifying authority will be: -

Maritime & Coastguard Agency
Surveyor In Charge
Harwich Marine Office
East Terrace
Walton-on-Naze
Essex
CO14 8PY
T: 01255 682107

For Vessels carrying 12 or less passengers the certifying authority will be: -

Environment Agency
Kingfisher House
Goldhay Way
Orton Goldhay
Peterborough
PE2 5ZR
T: 01733 464277