



BRISTOL CITY COUNCIL

LICENSING ACT 2003 (THE ACT)

STATEMENT OF LICENSING POLICY

**To have effect for the five year period beginning
with 1 August 2020**

Contents

1. Introduction	3
2. Purpose and Scope.....	5
3. The Four Licensing Objectives	11
3.1 Prevention of Crime and Disorder.....	11
3.2 Public Safety	14
3.3 Prevention of Public Nuisance.....	17
3.4 Protection of children from harm.....	21
4. Administration, exercise and delegation of functions.....	22
5. The Film Classification Body.....	25
6.1 Licensing of Premises and Places.....	26
6.2 Flyposting and nuisance advertising	28
6.3 Cumulative Impact.....	29
6.4 Content of Regulated Entertainment.....	35
6.5 Licensing Hours.....	38
6.6 Young People and alcohol.....	39
6.7 Young people and films	42
6.8 Restricted 18 category films	42
7. The Licensing Authority as a responsible authority	44
8. Licensing and planning permission	45
9. Enforcement.....	46

APPENDICES

- A List of persons who made representations to the Council in its consultation exercise prior to determination of this policy;(To follow on completion of consultation)
- B Film Classification Policy
- C Model Operating Schedules
- D Maps of Cumulative Impact Areas – City Centre, Gloucester Road, Clifton, Whiteladies Road, Bedminster & Southville.

Introduction

- 1.1 The Licensing Act gained Royal Assent on 10 July 2003 and replaced regimes previously administered by either the Licensing Justices or the local authority with a unified system of licensing under the control of the local authority. The new regime came into effect on 24 November 2005. The Council set up a Licensing Committee as part of these changes.
- 1.2 The licensing regime is “applicant led”. When a proper application is made the Licensing Authority is obliged to grant permission for what is sought unless satisfied, after considering “relevant representations”, that it is appropriate for the achievement of the licensing objectives that steps should be taken that fall short of what the applicant wanted. For example modification of conditions, exclusion of activities or rejection of the application. Relevant representations are representations made by ‘responsible authorities’ or other person that are received within fixed timescales and which concern the likely effect of granting the application on the promotion of the licensing objectives
- 1.3 The licensing regime places a great responsibility on applicants themselves. Application forms need to be completed and advertised properly. Failure may result in an application not being one that the authority must determine. The legislation also places responsibilities on those permitted to make representations to do so in a timely fashion. Late representations are not permitted. If there are no relevant representations about an application that has been properly made and advertised etc. the Council will have no option in law but to grant it in line with what was applied for.
- 1.4 By way of example, where no relevant representations are made on an application for a premises authorisation, the Council may only attach conditions that are in line with the applicant’s operating schedule. Those conditions can only be modified where relevant representations are received and where the Council deems it appropriate to modify them to promote the licensing objectives. The test of relevance includes that the representations are received within the time allowed by statute.
- 1.5 It will therefore be appreciated that the regime can only work effectively if, among other things, applicants adopt a responsible approach in the way they complete and advertise their applications and that any relevant representations upon applications are received on time.
- 1.6 The Act requires the Council to carry out its licensing functions with a view to promoting the following specific objectives – called “the licensing objectives”:
 - The prevention of crime and disorder;
 - Public safety;

- The prevention of public nuisance; and
 - The protection of children from harm.
- 1.7 The Council must also have regard to guidance issued by the Secretary of State and must also have regard to its own statement of licensing policy.
- 1.8 The importance of Bristol's statement of Licensing Policy, in ensuring that local circumstances are taken into account in the decision making process of the Council (and by the courts in any appeal), should not be underestimated.
- 1.9 Through this policy the Council hopes that residents and visitors to Bristol will be able to enjoy their leisure time safely without fear of violence, intimidation or disorder while at licensed premises. In addition, and in response to concerns about the impact of longer trading hours on behaviour and disturbance at night, we give the protection of local residents a central place in our strategy.
- 1.10 In terms of enforcement our aim is to target those premises which are causing problems within our communities and to apply a lighter touch for the majority of businesses and community activities, which enhance peoples' lives by providing worthwhile opportunities for the enjoyment of leisure time without having a negative impact. Premises where inspections identify conditions are not being observed, that produce disorder, or threaten public safety, or generate public nuisance, or threaten the well-being of young people will be targeted for enforcement action.
- 1.11 An effective Licensing Policy, alongside other initiatives, works to promote the positive aspects of the flexibility afforded to applicants under the Act, such as promotion of tourism, increased leisure provision and encouraging the regeneration of both the city centre and local centres. It also facilitates control of the negative impacts such as increase in noise, nuisance, anti-social behaviour and crime and disorder.
- 1.12 Bristol is a major regional entertainment centre and regularly attracts in excess of 30,000 people into its city centre at weekends. The main entertainment areas are located within the city centre, Stokes Croft, Southville and Gloucester Road. Bristol has a rich history of creative music. The underground Bristol music scene from the 1990s produced bands such as Massive Attack, Portishead and Tricky and through its approach to drum and bass and trip hop produced a unique and distinctive Bristol sound. Bristol's cultural diversity plays a leading role in shaping the entertainment offer in the city and is showcased with the St Pauls Carnival which attracts around 100, 000 residents and visitors in a celebration of the city's Afro Caribbean culture and its history.. The Bristol Harbour Festival, which is the largest free event in the South West and attracts over 250,000 visitors, points back to the city's maritime history. Bristol Pride gives recognition to the LGBTQ community whilst South Bristol's Upfest event celebrates the strong links in the city between music and graffiti art. The Council is keen to promote the cultural life of Bristol and so licensing is approached with a view to encouraging forms of licensable activity consistent with the licensing objectives.

- 1.13 This policy builds on the work carried out by the Council to maintain Bristol as a dynamic, innovative and attractive place to live, work and relax. The policy has been prepared to promote the four licensing objectives and to be consistent with other local relevant policies and strategies developed by the Council. The Council wishes to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies by ensuring the licensing statement is consistent with the aims and objectives of these strategies. The Council is proud of how the night time economy is managed and in 2010 was one of the first cities to be awarded a Purple Flag by the Association of Town Centre Managers in recognition of this work. This award has been retained following reassessments.
- 1.14 The Act requires the Council to consult upon and determine a statement of licensing policy for every 5 year period and to keep it under review in the interim. All reviews will be subject to prior consultation with stakeholders and any revised policy will be published.
- 1.15 This policy was approved by Bristol City Council on XXXXXXXXXXXXX and came into effect on 1 August 2020.

2. Purpose and Scope

- 2.1 The Licensing Authority for Bristol ('the Council') makes this Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003. ("The Act")
- 2.2 The policy sets out how Bristol will exercise its licensing functions. Licensing functions are the duties and powers of the Council in its capacity as "the Licensing Authority". No licensing functions may be discharged by the Council's executive (the elected mayor and his cabinet) .The vast majority of licensing functions cannot be undertaken by the Council itself, but are the responsibility of a special Licensing Committee which has been established by the Council. The responsibilities and powers are detailed in the Act. Bristol's statutory Licensing Committee comprises between ten and fifteen councillors appointed by the whole Licensing Authority, that is, the Full Council.
- 2.3 The law does not allow the Licensing Committee or Council officers to be responsible for consulting upon and determining this statement of licensing policy or keeping it under review.
- 2.4 The Licensing Committee is directly responsible for most Licensing Functions. These include the following activities that are required to be authorised under The Act ("licensable activities"):
- **The retail sale of alcohol:**
including licensing of individuals (personal licences) and licensing of premises including wholesale of alcohol to members of the public and purchases via the internet or mail order.

- **The supply of alcohol to members of registered clubs**
- **The provision of regulated entertainment in the presence of an audience:**

(Regulated entertainment includes film exhibitions; performances of a play; indoor sporting events; boxing or wrestling events; live music performances; playing of recorded music and dance performances – unless criteria for various exemptions that are available is met)

- **The provision of late night refreshment:**

(Supply of hot food or drink from premises from 23.00 to 5.00 hours the following day).

2.5 These licensable activities typically require authorisation. The word “authorisation” in this policy includes all licences, certificates, temporary event notices and any other permission that can be given under the Act. In practice most business relates to the type of authorisation called a premises licence and examples given in this policy usually reflect that fact. However, the principles and purposes reflected in the policy should be applied to all types of authorisation where relevant.

All references to “The Licensing Committee” in this document mean the Committee established under section 6 of the Act, but also where the context permits it includes the sub committees and officers who are authorised by that Committee to exercise licensing functions. (From time to time other Council bodies may be able to exercise licensing functions and this policy also applies when those bodies are making licensing decisions)

2.6 The Act requires the Council to actively seek the views of the following persons upon the proposals contained in this policy:

- The chief officer of police;
- The Fire and Rescue Authority;
- The Director of Public Health
- each Local Health Board
- such persons as the licensing authority considers to be representative of holders of premises licences, club premises certificates and personal licences issued by that authority;
- such other persons as the licensing authority considers to be representative of businesses and residents in Bristol.

2.7 The Act requires the Council to consult with those persons or their representatives who have a special interest in the licensing policy. In this policy those with a special interest are sometimes referred to as “stakeholders”

- 2.8 The Council is able to go beyond the minimum statutory requirements. It has actively sought the views of all stakeholders on its proposals and not just those persons who are representative of them.
- 2.9 The Council extends its thanks to all of those who took the time to make their views known on its proposed statement of licensing policy and the revisions to it. A full list of all of those who did so is attached at Appendix A

The Council's legal obligations

- 2.10 There are a number of statutory provisions that apply to every action the Council takes as a public authority. These include, for example:
- its duty to have regard to the interest of Bristol's Council tax payers;
 - its obligations to act compatibly with rights conferred under the European Convention of Human Rights
 - its general and specific duties under Equalities Law
 - its obligations under Crime and Disorder legislation
- 2.11 The Licensing Act itself places an obligation on the Council to carry out its licensing functions with a view to promoting the four licensing objectives, namely:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm.
- 2.12 The Council is committed to fulfilling all of its obligations when exercising Licensing Functions.

Summary of the decision making process on applications for authorisations

- 2.14 Most applications need to be supported by an operating schedule. The schedule must specify (among other things) the steps the applicant proposes to promote each of the licensing objectives.

Uncontested applications

If no responsible authority or other person makes a relevant representation then, providing the application has been validly made and the applicant shows it has been advertised as required by law, the licensing authority must grant the application as set out in the operating schedule and the only conditions that can be

imposed are the mandatory conditions under the Licensing Act 2003 and those conditions that are consistent with the operating schedule. The Act still requires that the Licensing Authority have regard to relevant policy and guidance and act with a view to promoting the four licensing objectives when it is dealing with uncontested applications, just as is the case where relevant representations are in play; but the Authority cannot, in the absence of relevant representations, exercise substantial discretion. The judgment of what conditions, consistent with the operating schedule, should be imposed on the authorisation falls to be made by duly authorised officers in such cases.

Apart from the mandatory conditions, which are standard conditions applying to all relevant applications and are to be found in the Act or in Ministerial Orders, there is no obligation under The Act to impose any conditions. In cases where no relevant representations are received the licensing authority has power to impose conditions but only ones that are consistent with the steps advanced in the operating schedule. There is no legal obligation to impose a condition in respect of each and every step that may be contained in the operating schedule in such a case; there is simply a power to do so and that power must be exercised having regard to national guidance and local policy and acting with a view to promoting the four licensing objectives. That is:-

- only conditions that are consistent with the operating schedule may be imposed (but they do not have to be imposed);
- regard must be had to the Ministerial guidance and to local policy when deciding whether any conditions need to be imposed and if so what should be imposed;
- when considering these matters and making decisions the Authority must act with a view to promoting the Licensing objectives

It is a matter for applicants to decide how to set out the steps they propose to take to promote the licensing objectives when they complete their operating schedules, providing they act in accordance with their statutory obligations and do not make any false or misleading statements.

In order for this policy to be effective it is especially important that applicants comply with their obligation to provide the information prescribed on the form. This can be particularly important when providing a description of the premises, when providing information to describe the activities applied for or when responding to questions intended to ensure the protection of children from harm.

For example, the Authority expects applicants to accurately describe the type of premises, their general situation and layout and any other information which could be relevant to the promotion of the licensing objectives. What is relevant will vary from case to case but the following can reasonably be expected to be relevant to the consideration and evaluation of the licensing objectives and to therefore form part of the prescribed information required to make a compliant application:

- any proposed use that is contrary to existing planning consents;
- where the planned operation of the premises changes through the proposed licensed period. For example some licensed premises provide a food led offer during the day and early evening before changing to a drink led offer during later hours
- the proximity of the premises to residential accommodation, schools etc.
- any features that might pose special risks such as ornate suspended ceilings

Through this policy, the Council aims to set out its minimum expectations of the steps it hopes will be advanced by applicants seeking authorisation for certain types of premises, locations and activities. The policy indicates the conditions that it would usually expect to be imposed by officers when they are in line with such steps and no relevant representations have been received.

Annexed to this policy are a number of appendixes that set out these policy expectations and summary reasons (in italics) why the conditions there referred to are generally considered to be ones that are appropriate for the promotion of the licensing objectives. More detailed reasons for many such conditions are contained in the main body of this policy.

Some applicants may offer steps beyond the ones usually expected through this policy. That is their right. It is for applicants to decide what steps to put forward in their operating schedule. However, it does not follow that, where no relevant representations have been received, the licensing authority must impose conditions to reflect all of the steps that have been advanced. In some cases to do so could result in onerous conditions being imposed on the licence. The delegated officer determining an application where there are no relevant representations does enjoy limited discretion about which conditions should be imposed that are in line with the steps advanced. The officer should only impose steps beyond what is generally anticipated under this policy when it is considered appropriate to do so having regard to the Secretary of State's guidance, to this policy and acting with a view to promoting the four licensing objectives.

The annexed minimum steps/ conditions have been developed in consultation with responsible authorities and have been subject to statutory consultation. This policy does not aim to tell applicants what steps they should advance (other than expecting adherence to the legal obligation on applicants laid down in and under the Act) and nor does it seek to control the content of any relevant representations that any person or body may choose to make. However it is hoped that the schedules will be of assistance to applicants and responsible authorities alike, when making applications or evaluating them, by making clear the minimum policy expectation of the Licensing Authority as to what will usually promote the licensing objectives.

It should be made clear that the individual model operating schedules cannot cover all eventualities. For example there may be premises that operate as a restaurant for most of the time but that cease serving food at some point during the night and then function as an alcohol led late night bar or entertainment venue. In such cases, under this policy, the minimum steps for each type of venue, taken together, would be relevant policy provisions to guide in the processing of applications. The appendixes will be kept under review and further developed in the light of experience of their operation.

Contested applications

Where relevant representations are made the application must be determined by either the full Licensing Committee or one of its duly authorised sub committees. In Bristol it is usually a sub-committee that determines such applications and this determination will usually take place at a hearing. The sub-committee in such cases has full discretion to take such steps that are set out in the Act as it considers appropriate to promote the licensing objectives. These steps may include modifying the conditions that are in line with those proposed in the operating schedule (see preceding paragraph) (or in the case of variations, on the existing authorisation) and/or rejecting the application in part, and/or excluding a licensable activity; or wholly rejecting the application.

In exercising its discretion, the licensing sub-committee must have regard (amongst other things) to this licensing policy. Therefore, in drawing up their operating schedule, applicants should find it helpful to read this policy carefully and to understand what is expected by the licensing authority in order to promote the licensing objectives. As stated previously in this statement of policy, this does not mean an applicant has to apply in line with this policy. However it will enable applicants to decide if their prospective application might benefit from discussion with responsible authorities, for example to assuage any concerns that might otherwise result in relevant representations being made on the application.

When agreement is reached after relevant representations are received

In some cases agreement is reached between applicants and those who have made relevant representations as to how the licensing objectives may be promoted in the particular case. Three things need to be borne in mind in this situation:

- (i) the Act does not give applicants a power to amend their applications;
- (ii) if all relevant representations are withdrawn then the position is that there are no relevant representations and the Authority may only grant the application in line with what was applied for;
- (iii) if relevant representations are not withdrawn the application would usually have to proceed to a full hearing.

In Bristol a process has been established to deal with this situation that is in accordance with the provisions of the Act, as follows:

If all parties state in writing that they consider a hearing can be dispensed with then the sub-committee has a discretion (which cannot lawfully be delegated to officers) to dispense with a hearing. In deciding whether or not to dispense with a hearing the sub-committee is exercising a licensing function. As such it is required to have regard to any relevant guidance as well as to this policy and it must act with a view to promoting the licensing objectives.

The sub-committee receives a verbal report from a licensing officer who will provide any information needed to enable the committee to evaluate the agreement against the licensing objectives. If the sub-committee agrees that what has been agreed will promote the four licensing objectives then it will exercise its discretion to dispense with a hearing. If it does not agree, or if further clarification is required, an early date will be fixed for the parties to attend. It is rare for the committee to expect the attendance of parties in such cases.

Where relevant representations have been made and are not withdrawn or no agreement to dispense with a hearing is reached

It does not follow that an application that complies with the policy will necessarily be granted or that an application that does not comply with it will necessarily be rejected. Where there have been relevant representations, the licensing authority will always consider the merits of the case, acting within the statutory constraints.

Where a relevant representation refers to the absence of minimum expected steps as set out in this policy then in any hearing the applicant will be expected to rebut the policy presumption that the corresponding conditions should be imposed. In the absence of a clear case for an exception in the particular case the Authority intends the policy to be strictly applied in order to achieve the purpose for which the particular policy provision concerned has been made.

Not all premises types and activities are covered in the annexed schedules and the following policy on the promotion of the four licensing objectives remains relevant:

3. The Four Licensing Objectives

3.1 Prevention of Crime and Disorder

- 3.1.1 Applicants are required by law to set out in their operating schedule the steps they propose to promote the prevention of crime and disorder. Responsible applicants will ensure proper regard in their operating schedule to the location, character and condition of the premises, the nature and extent of the proposed use and the persons likely to be attracted to the premises.

- 3.1.2 The Council expects the authorisation holder to take steps to control excessive consumption and drunkenness on relevant premises. This will reduce the risk of anti-social behaviour occurring both on the premises and elsewhere after customers have departed. Authorisation holders are expected to be able to demonstrate a general duty of care to customers using their premises and others affected by their activities this may include developing a policy to prevent the sale of alcohol to drunk customers.
- 3.1.3 The Secretary of State's guidance sets out measures that applicants, responsible authorities and licensing authorities could consider to further the promotion of the licensing objectives. Examples include the use of toughened glass and restrictions preventing the sale of drinks in bottles for consumption on the premises. When determining an application that is subject of relevant representations the Licensing Committee would need to give careful consideration to the location and style of the venue when assessing whether any such condition was appropriate. In Bristol there have been a number of serious glass related injuries in and around licensed premises such as may make the imposition of such a condition appropriate for the promotion of the public safety objective.

Toughened/safety glass policy

Licensed venues that provide the sale of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies to those premises that would be considered as carrying a higher risk for potential crime and disorder. In particular it is expected in premises considered to be high volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues (but not premises in those areas that are viewed as low risk in this context).

For example in facilities for hotel residents and their guests it is not expected that a toughened/safety glass policy need operate and nor would it be appropriate in premises which operate as a restaurant where the bar is mainly provided for restaurant customers. The policy also applies where outside areas are provided for consumption of alcohol, particularly where the area is constructed of hard material and also where the outside area is in or adjacent to a public place.

Glass Bottle Policy

The Council considers it appropriate for the promotion of the licensing objectives to prevent the passing of a glass bottle over the bar of premises licensed to supply alcohol for consumption on the premises where there is a poor history of crime and disorder where this is deemed sufficient to address the crime and disorder concerns. In some such cases rejection or revocation may be the most appropriate response. This expectation may fall to be considered as a result of relevant representations having been received on an application. Like other conditions set

out in this policy it may also be considered at a hearing following an application for review of an authorisation.

3.1.4 The previous Government's Alcohol Strategy published in March 2012 recognised the issues arising from binge drinking. The strategy proposed, amongst other measures:

- To encourage greater use of existing powers to stop serving alcohol to people who have consumed too much.
- Give more powers for Licensing Authorities to restrict opening and closing times through the use of Early Morning Restriction Orders (which came into force in October 2012).
- Encourage local health bodies to share non confidential information with the police and to exercise their new powers as a Responsible Authority to make representations on licence applications and submit licence reviews.
- Restrict the supply of cheap alcohol with the introduction of a minimum unit price for alcohol.
- To work in partnership with business to drive down alcohol misuse and to encourage a culture of responsible drinking.

The Council will work with the police and other relevant Responsible Authorities and licensees to encourage good practice in this area . In considering authorisation applications that have attracted relevant representations, the Council will also have regard to the following, where relevant:

- Any representations made by the Police, or other relevant agency about the training given to staff in crime prevention measures appropriate to those premises. This could include training in specific areas such as recognising drunkenness, use of illegal substances and the assessment of drinks promotions.
- The physical security features installed in the premises. This may include matters such as the position of cash registers, where alcohol is stored in 'off-licences', the standard of CCTV that is installed, adequate lighting, metal detection and search facilities or the use of plastic bottles in pubs and clubs.
- Procedures for risk assessing promotions such as 'happy hours' which may contribute to the impact on crime and disorder, and plans for minimising such risks.
- The measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies.
- Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks.

- The likelihood of any violence, public order or policing problem if the authorisation is granted.
- Whether the design of the premises has been considered having regard to reducing conflict and minimising opportunities for crime.
- Whether steps are proposed to avoid the adverse impact of the promotion of the licensing objectives which result from high strength alcohol being sold at a low price.
- The measures taken to control admission to the premises and the use of and number of Security Industry Authority licensed door supervisors employed at the premises.
- Measures taken to ensure that no public nuisance or other crime results from customers seeking to smoke tobacco and related products at or in the vicinity of the premises, and the extent to which these measures are likely to be effective.
- Other appropriate measures, such as participation in a local pub watch scheme or other body designed to ensure effective liaison with the local community, subscription to dedicated security radio circuits and other examples of industry best practice.

3.1.5 It is recommended that applicants discuss the crime prevention procedures in their premises with the Licensing Authority officers and the police before submitting their application.

3.1.6 Where the law permits, authorisations for any form of regulated entertainment will be subject to conditions to prohibit entertainment (including film exhibitions) which is likely to lead to disorder, stir up hatred or incite violence towards any section of the public on the grounds of colour, race, ethnic or national origin, disability, religious beliefs, sexual orientation or gender.

3.2 Public Safety

3.2.1 Applicants must by law detail in their operating schedule steps they propose to ensure public safety. This should include a fire risk assessment. The need to do so has been highlighted by Avon Fire and Rescue in the light of the enactment of the Regulatory Reform (Fire Safety) Order.

3.2.2 Subject to certain provisos, at any time when this Order applies in relation to licensed premises, any term, condition or restriction imposed by the Licensing Authority has no effect in so far as it relates to any matter in relation to which

requirements or prohibitions are or could be imposed by or under that Fire Safety Order. In other words many fire safety concerns that need to be addressed following receipt of written representations on an application will not be capable of being addressed by means of a condition. This does not remove the Licensing Authority's duty to act with a view to promote the licensing objectives. If following the receipt of relevant representations it was judged at a hearing that premises represented a fire risk because of the absence of proper fire safety measures having already been undertaken then it would not be consistent with the duty to promote the licensing objectives to grant an authorisation permitting those premises, or if applicable the affected part, to be used for licensable activities. In the absence of being able to address that issue by means of condition the likelihood increases that the sub-committee would judge it appropriate to take the step of rejecting the application in whole or in part.

Therefore through this policy the Licensing Authority emphasises to applicants the benefit to them (and to the promotion of the licensing objectives) of ensuring that steps sufficient to satisfy the appropriate responsible authorities are advanced for the promotion of public safety in their applications. Applicants are expected to make it clear on their application forms that suitable and sufficient assessments of risks to health and safety, including fire safety, are in place before trading begins under any authorisation and can be provided to the relevant responsible authorities upon request. This is especially appropriate in connection with those applications where the premises are not already known to the responsible authorities, perhaps not even yet constructed. In such cases scrutiny of what is proposed could help to avoid a situation where the Licensing Authority inadvertently authorises the carrying on of licensable activities in dangerous premises with potentially catastrophic outcomes that are inimical to the promotion of the licensing objectives.

3.2.3 In considering what steps may be appropriate; applicants will be expected to have particular regard to:

- The premises itself (are there for example any inherent hazards such as steps, open fires, use of shared areas, etc.).
- The neighbouring area (are there for example particular problems with crime and disorder, is it a primarily residential area, etc.).
- The types of regulated entertainment they wish to provide and any hazards.
- The type of persons that may be using the premises or place (for example persons who are particularly vulnerable in some way such as the very old or very young, disabled, possibly impaired through drink or drugs, etc.).
- The situation and circumstances of use (for example low lighting levels, loud noise, crowds, use of special effects, etc.).

The Act requires that applicants set out the steps they propose to promote public safety. The following are examples of the adequate steps regarding this that the Licensing Authority expects in premises where particular risks may arise:

Where public safety may be compromised by an excessive number of customers, applicants are expected to propose capacity limits. This is especially important for premises where regulated entertainment (within the meaning of the Act) is being provided at nightclubs, cinemas and theatres. Other appropriate measures may include the use of door staff, CCTV, staff training, etc.

3.2.4 Where the public needs to be protected from potentially dangerous sources of electricity expected measures may include:

- An assurance that any alterations to the existing system will be made in line with the Electrical Equipment of Buildings issued by the Institution of Electrical Engineers (BS 7671) or as amended.
- The use of residual current devices (RCDs) on high-risk circuits, such as those which may be used by entertainers for plugging in musical equipment or used for plugging in equipment to be used outdoors.
- Other appropriate measures may include portable appliance and fixed appliance testing.

3.2.5 The physical layout of the premises may present particular risks and in some situations (such as those in which vulnerable persons may be especially at risk) applicants will be expected to advance steps accordingly. For example:

- For premises that have stairs, whether it is appropriate for appropriate handrails to be fitted together with contrasting nosings to the steps.
- In respect of premises which have uneven flooring, how to minimise risks.
- In respect of premises with outdoor areas that may be accessed by customers or the public (whether or not those areas form part of the place that is licensed) whether it is appropriate to provide appropriate lighting of these areas, use of toughened glasses and the provision of customer bins.
- Steps expected for premises with working fireplaces include guarding or similar; this is especially important where children may be permitted on the premises.
- Applicants with premises which will be relying on the usage of shared areas, such as escape routes, are expected to advance measures that will ensure the usage of these areas will not create any risks to the public.

Applicants are also expected to consider how the proposed activities may impact upon public safety/public nuisance and put forward steps accordingly. For example:

- Applicants for authorisation of premises that are of high capacity or whose regulated entertainment may give rise to an increased risk of injuries occurring are expected to advance steps regarding first aid provision.
- Applicants for authorisation of premises where special effects (such as fireworks/ foam/ lasers/ etc.) are planned will be expected to propose measures that will ensure this will not create any safety risks.

Where proposed licensable activity includes the consumption of alcohol or provision of late night refreshments on the premises, it is expected that applicants should advance steps regarding the provision of adequate and well-managed toilet and hand washing facilities.

3.3 Prevention of Public Nuisance

“A person is guilty of a public nuisance (also known as common nuisance), who (a) does an act not warranted by law, or (b) omits to discharge a legal duty, if the effect of the act or omission is to endanger the life, health, property,..... or comfort of the public, or to obstruct the public in the exercise or enjoyment of rights common to all Her Majesty’s subjects.”(Archbold)

In the House of Lords case of Rimmington, Lord Rodger said:

“A core element of the crime of public nuisance is that the defendant’s act should affect the community, a section of the public, rather than simply individuals. Obvious examples would be the release of smoke or fumes which affect a village or neighbourhood or the emission of loud noises which disturb the neighbourhood.”

- 3.3.1 The Act requires and the Council expects applicants to demonstrate within their operating schedule how they intend to prevent public nuisance arising in the nature of noise or other disturbance. This will be of particular importance where there are residential properties in the vicinity of the licensed premises. It should be noted that there is now residential accommodation in most parts of the city, including an increasing number of properties in the city centre that are being, or have already been, converted for residential use.
- 3.3.2 When appropriate on application or review the Council will consider the adequacy of proposed measures to remove or effectively manage the potential for public nuisance, anti-social behaviour and other crime which may impact on the promotion of the licensing objectives.
- 3.3.3 When an operating schedule does not sufficiently address the prevention of public nuisance and relevant representations are made in that regard the Licensing Authority will consider those representations and identify how to prevent public nuisance. In some locations it may be appropriate to limit opening hours or the times of other licensable activities.

3.3.4 The factors that the Council will particularly consider when determining an application or undertaking a review include:

Noise from Entertainment

Steps taken or proposed to be taken to prevent noise and vibration from entertainment causing nuisance and damage to residents hearing. This may include noise from music, human voices and other forms of entertainment whether amplified or not.

Measures to prevent nuisance may include, where appropriate to the promotion of the licensing objectives:

- The Installation of soundproofing.
- Sound limitation devices.
- Acoustic lobbies.
- The prevention of music being played out of doors.
- The restriction of times or types of entertainment.
- Positioning of speakers.

Noise & Disturbance from Customers

Steps taken or proposed to be taken to prevent noise and disturbance from customers causing nuisance. This may include noise and disturbance from customers on the premises and customers in outdoor areas such as terraces, beer gardens and smoking areas. It will also include noise, disturbance and obstruction from customers in the vicinity of the premises including customers congregating outside a premises to smoke or drink, customers arriving, leaving or queuing outside a premises.

Applicants are expected to give particular consideration to the potential for public nuisance to occur from the use of any outside areas where customers are permitted to smoke. There is no legal requirement for licensed premises to provide an outdoor smoking area. The Licensing Authority does not consider the expressed need or wish for a smoking area can justify public nuisance. There is no licensing objective in favour of smoking; the Authority is under a duty to promote the prevention of public nuisance.

Noise and disturbance from people outside and leaving premises can cause public nuisance even when those people are not behaving badly. This will be of more significance in areas with residential accommodation and will usually, but not exclusively, be of greater importance between 10 pm and 7 am. However it must be

noted that noise and disturbance from customers in outside areas can cause public nuisance outside of these times.

Measures to prevent nuisance may include the:

- Use of time restrictions on certain areas.
- Cessation of the use of certain areas.
- Supervision of outdoor areas.
- Suitable signage.
- Restriction of seating or heating in outdoor areas.
- Restriction on the times that food or drinks can be consumed or sold to be consumed outside the premises.
- Limiting the hours at which premises are open to the public or during which outside areas may be used.

Noise from Plant and Equipment

Steps taken or proposed to be taken to prevent noise and vibration from plant or equipment causing nuisance. This includes noise and vibration from ventilation, air conditioning, refrigeration equipment, outlet pipes.

Measures to prevent nuisance may include the:

- Installation of acoustic enclosures.
- Sound proofing, timing devices
- Relocation or replacing equipment.

Noise from Servicing

Steps taken or proposed to be taken to prevent noise from servicing of the premises causing nuisance. This may include noise from deliveries, collections and the on-site disposal of bottles and other waste or recyclable materials.

Measures to prevent nuisance may include the:

- Restrictions on times of activities near to noise sensitive premises
- the prevention of activities on certain parts of the premises.

Odour

Steps taken or proposed to be taken by the applicant to prevent odour from the premises causing nuisance. This can include the generation of odour from food preparation, refuse storage and or from smoking areas.

Lighting

Steps taken or proposed to be taken by the applicant to prevent artificial light from causing nuisance. This includes the siting of external lighting, security lighting and advertising lighting displays.

Waste

Steps taken or proposed to be taken to prevent nuisance being caused from the storage of refuse on or in the vicinity of the premises, measures may include:-

- All waste and refuse to be contained in appropriate lockable containers.
- Adequate off street storage for refuse bins between collections.
- Refuse only to be placed out for collection at a specified time.
- Cleansing regimes to ensure for the immediate clearing up of any waste spillages.
- Implementation of a signed Trade Waste Agreement.

Litter

Steps taken or proposed to be taken to prevent public nuisance from customers depositing litter without due care in the vicinity of the premises. Measures may include the:

- Provision and regular emptying of litter bins.
- Provision for the disposal of cigarette litter at entrances as well as where people are most likely to congregate.
- Regular monitoring and cleaning of areas.
- Reduction in the amount of packaging passed on to customers.
- Provision of posters asking customers not to drop litter.

Fly posting, Fliers and Graffiti

- Steps taken to prevent fly posting and the distribution of fliers advertising the premises or events at the premises.
- Steps taken by the applicant to remove graffiti and fly posting from their surfaces as soon as practicable after it appears.
- Maintenance of a register of promoters in order to promote the prevention of crime and public nuisance objectives.

Parking and Transport

- The availability of public and other transport provision in the locality (including taxis and private hire vehicles) for patrons.
- The arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents (including motorised vehicles and cycles).
- The level of likely disturbance from associated vehicular movement.
- Steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic) or to manage queues.

General

- Any other relevant activity likely to give rise to nuisance.
- The history of the applicant in controlling anti-social behaviour and preventing nuisance.
- Any representations made by the Police, or other relevant agency or representative.
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees.

3.4 Protection of Children from Harm

3.4.1 A number of specified "responsible authorities" will be notified of all authorisation variations and new applications. These responsible bodies include the Police and Avon Fire and Rescue. They also include:

- 3.4.2 "A body which represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and is recognised by the Licensing Authority for that area for the purposes of this section as being competent to advise it on such matters"
- 3.4.3 Full Council recommends that the Licensing Committee continue to ask the Council (in its capacity as Social Services Authority) to undertake this responsibility.
- 3.4.4 The Council expects that, whether or not alcohol is supplied or proposed to be supplied on or in the vicinity of the premises, operating schedules will identify:
- The extent to which it is proposed that children be admitted to the premises.
 - Whether it is proposed that unaccompanied children will be admitted.
 - If they are, the type of regulated entertainment provided whilst children are present.
 - The specific steps undertaken to ensure the safety of children and to further ensure that no products or services are sold to children that are not appropriate for their use or consumption.
 - In respect of alcohol delivery services steps taken to ensure alcohol is not sold or, delivered to children (that is, people under the age of 18).
- 3.4.5 Applicants who propose to admit children, particularly where they would not require them to be accompanied by a responsible adult, should be especially careful in ensuring they meet the statutory requirement that their schedule fully and clearly sets out the nature of the activities for which permission is sought. In such cases the Council expects the operating schedule to specify in sufficient detail the measures and management controls proposed to protect children from harm.
- 3.4.6 Nothing in the Council's policy seeks to interfere with the right of an authorisation holder to preclude children from entry to their premises.

4. Administration, exercise and delegation of functions

4.1 Guidance

- 4.1.1 Guidance issued by the Secretary of State recommends that statements of licensing policy should indicate how the licensing authority intends to approach its various functions. As far as functions which are not the responsibility of the Licensing Committee are concerned, the Council has published its constitution which includes detailed and comprehensive information about how the Council and its Executive approach the discharge of their functions. This Constitution accords with the relevant statutory provisions which deal with the discharge of functions, in particular the Local Government Acts of 1972 and 2000.

4.1.2 The discharge of functions by the Licensing Committee, however, is not primarily governed by the Council's constitution and the legislation referred to above. The proceedings of the Licensing Committee and its ability to delegate its functions to sub committees and officers are contained in the Licensing Act itself; for example at sections 7, 9 and 10.

4.2 Functions related to licensing functions

4.2.1 The Licensing Authority is allowed to arrange for "related functions" to be carried out by its Licensing Committee (section 7(3) of the 2003 Act). A related function is one which relates to a matter which stands referred to the Licensing Committee but is not itself a licensing function. The Council has made arrangements in its constitution for the Licensing Committee to exercise functions related to the licensing of sex establishments. Through this policy the Council states its agreement that those empowered to discharge non-executive functions, be they Committees, sub committees or officers, should utilise this provision where they judge it appropriate. Through this policy the Council further requests that the Elected Mayor consider making the same arrangements in respect of any of the functions for which he is responsible and which may fall into this category. This may be considered particularly relevant in respect of those functions of the Weights and Measures Authority concerned with enforcement of underage sales on licensed premises.

4.2.2 Section 7 (5) allows for the licensing authority to arrange for related functions to be considered together either by the Licensing Committee or by "another of its committees". This provision appears to assume that all related matters would fall within the responsibility of a Council committee. In Bristol this is unlikely to be the case. This is because, firstly, in accordance with Executive arrangements made under the provisions of the Local Government Act 2000, many functions are no longer legally capable of being decided by traditional Council committees. Secondly, even where a matter is one which is legally capable of being the responsibility of a Council committee, in practice most of the Council's functions are discharged by officers and not by committees, in accordance with official guidance issued under the 2000 Act which anticipated an increase in decision making by officers acting under delegated powers.

4.2.3 Even where the provision may be of relevance there are likely to be practical obstacles to invoking these arrangements. For example the time limits imposed in the Licensing Act in respect of determination of various applications may render it impractical to achieve the making of such arrangements. This is particularly so in respect of the requirement that there be reports passing between the two committees concerned before decisions can be reached.

4.2.4 It is therefore unlikely that Bristol will be well placed to take advantage of this provision on a regular basis. However through this policy statement the Council makes clear that, where it is judged that the provision would aid effective decision-making, then its officers are authorised to make the arrangements to put it into

effect. Applicants who are aware of related matters are requested to draw this to the attention of the Licensing officers, preferably before their application is lodged, so as to facilitate consideration of the decision making process in respect of all related matters at a sufficiently early stage to facilitate this provision being utilised where it would be of benefit to effective administration.

An example would be where a fresh application, or variation of an existing authorisation, necessitates planning application e.g. for longer hours than the current planning permission permits, or for a change of use, or perhaps other permissions in addition to the authorisation being applied for.

4.3 Sub delegation of functions by the Licensing Committee

4.3.1 The Council considers that the Licensing Committee is best placed to determine how its functions should be discharged within the constraints of the Licensing Act provisions. The Council notes the committee has exercised its Section 10 powers to make arrangements and recommends that the committee continues to review their effectiveness from time to time and at least at each annual meeting.

4.4 Frivolous and vexatious representations

4.4.1 The Secretary of State has provided a table in the guidance which the committee may find a useful starting point in its considerations. However the Council would not recommend that the Licensing Committee follow the recommendation regarding the decision on whether a matter is “frivolous or vexatious”. The Secretary of State suggests this decision should be made by officers “in all cases”. The Council considers this is not appropriate.

4.4.2 This provision of the Act is unusual in a local authority context since it requires that the Licensing Authority form an opinion about representations received from interested persons who are not “responsible authorities” regarding whether or not those representations are “frivolous or vexatious”.

4.4.3 However deciding that interested citizens cannot be heard is a serious step to take, involving as it must judgments of the Council’s human rights obligations together with other considerations. This is a process from which elected politicians should not be excluded. The Council agrees with the Secretary of State that in a finely balanced case the maker of the representations should be given the benefit of the doubt.

4.4.4 It may well be appropriate to make this judgment in the context of the application as a whole in order to properly understand the nature of the representations of the interested party. In the Council’s experience to date, representations may turn out to be poorly expressed rather than frivolous or vexatious. The Licensing Authority should not lose sight of the fact that many people are not experienced in making a case to a decision making body and it is not unknown for the full meaning of their concern to emerge during a hearing when the representations are clarified.

- 4.4.5 The Council therefore recommends to the Licensing Committee that it continues to effect its delegations such that officers can only make this decision in those cases where officers would be empowered to go on to make the decision themselves if they judged the particular representations to fall into this category. In all other cases it should be the body which will ultimately make the decision which should make this judgment.
- 4.4.6 Whichever person or body makes the decision it is particularly important that appropriate legal advice is sought before a final decision is made that a person's views will not be heard or taken into account, as they are judged to be frivolous or vexatious.

5. The Film Classification Body

- 5.1 Section 20 of the Act enables the Council to specify the film classification body in the authorisation. The film classification body means the person designated under section 4 of the Video Recordings Act 1984 as the authority to determine suitability of video works for classification; this is the British Board of Film Classification (the BBFC).
- 5.2 Where the authorisation specifies the BBFC then admission of children must be restricted in accordance with any recommendations made by it.
- 5.3 Where the BBFC is not so specified, or where the licensing authority has notified the holder of the authorisation that subsection 3(b) of section 20 of the Act applies, then admission of children must be restricted in accordance with any recommendation made by the licensing authority.
- 5.4 The guidance issued by the Secretary of State (Paragraph 10.59) supports the specification of the BBFC on the basis of that organisation's expertise.
- 5.5 The Council agrees with the Secretary of State with regard to the expertise of the BBFC. The Council also agrees that the Board's classifications should be those which normally apply. However the Council considers there is good local reason for not specifying the board in Bristol authorisations. Bristol is an area with an active and innovative arts and cultural scene. There are many examples of films exhibited in Bristol which do not have a BBFC classification and which are not intended to be exhibited widely or even beyond the Bristol area; in such cases the film maker may not judge it to be economic to seek classification from the Board. In such cases it has been the practice in Bristol for the Council itself to view the material and indicate the appropriate classification having regard to the BBFC guidelines. The Council considers this practice to be of benefit to the arts in the local area. It does not undermine the licensing objectives to allow it to continue.
- 5.6 In Bristol the BBFC has not therefore been specified as the film classification body. Instead the Licensing Committee should enable its sub committees and/or officers

to recommend classification and should publish its classification policy. The classification policy should include the general application of the classification recommended by the BBFC where films have been submitted for classification. Where the Council is asked to consider classifying films which have not been submitted to the BBFC then the Council can if it wishes to do so consider issuing its own classification in respect of which regard should be had to the BBFC guidelines. The Licensing Authority wishes to retain the discretion to depart from the BBFC although it expects this discretion to be exercised sparingly. As this is a discretionary service and having regard to the cost to the Council tax payer which would otherwise arise, any such request should be processed only on payment of a suitable fee. A discretion should be retained under the classification regime of the Council enabling it to refuse to consider an application for classification itself but instead recommending the film for submission to the BBFC. This should be done in cases where the summary of the film suggests that it may be considered for a Restricted 18 classification. A suggested film classification policy for Bristol is included at Appendix B.

- 5.7 All premises authorisations permitting the exhibition of film should contain a condition permitting non classified films to be exhibited at the premises for the purpose of a private viewing by the Licensing Authority in its role as the classification body (but for no other purpose) in order to facilitate the effective implementation of this policy.

6.1 Licensing of Premises and Places

- 6.1.1 As emphasised throughout this policy, where there are no relevant representations, the Council may only impose conditions in line with the operating schedule submitted by the applicant. Having considered relevant representations and determining to grant the application (in whole or in part), the Council may impose conditions which modify the conditions that are consistent with the applicant's operating schedule to the extent that the Committee considers appropriate for the promotion of the licensing objectives.
- 6.1.2 The Policy is not intended to encourage the duplication of existing legislation and regulatory regimes which place obligations on employers and premises owners seeking authorisations under the Act. The Council would therefore not encourage the imposition of conditions which serve no purpose other than to replicate existing controls.
- 6.1.3 However, where such controls do not exist, or where they fall short of what is reasonably required to promote the licensing objectives, it is proposed that the Licensing Committee should, where the law permits it to do so, impose conditions which do promote the achievement of those objectives.

- 6.1.4 Where there are relevant representations which persuade the Licensing Committee that the application cannot proceed as proposed, then the committee should consider if the problems identified can be overcome by means of imposing appropriate conditions in accordance with the statutory provisions.
- 6.1.5 If the committee is satisfied that implementing the permissions contained in the proposed authorisation would result in the commission of a criminal offence, the Council may think it appropriate to reject the application in order to promote the Licensing Objectives.

One example of when this may occur is where there is a dispute about whether or not an authorisation can be relied upon in particular circumstances.

In the Licensing Authority's experience, this can occur in respect of premises where petrol is sold and an applicant seeks authority to supply alcohol. Section 176 of the Act provides that premises used primarily as a garage or which form part of premises which are primarily so used are 'excluded premises'. No authorisation has effect to permit the sale by retail or supply of alcohol on or from excluded premises.

The question whether or not the premises are indeed excluded premises can be controversial; there may be a genuine dispute between the Authority and an applicant about whether or not supplies of alcohol could take place without an offence being committed.

The Licensing Authority will take care to secure all relevant information that is reasonably available to it to enable it to judge whether or not the premises for which authorisation is sought are excluded premises. If the Authority reasonably believes that the premises are excluded premises then rejection of an application (or revocation on a review) is an appropriate and proportionate step given that the sale of alcohol in reliance upon such an authorisation from excluded premises would involve the commission of a crime. The Authority should bear in mind that its role is to act with a view to preventing crime; it should not therefore allow a situation to develop where crime is likely to be committed.

A further example of the risk of crime being committed in reliance on an authorisation can be found in the provisions, which enable the Council to regulate 'sexual entertainment venues'. The Council adopted these provisions in January 2011 and has developed policy in respect of the regulation of sexual entertainment venues, which it would not be appropriate to replicate in this policy but which can be viewed here:- <https://www.bristol.gov.uk/licences-permits/sexual-entertainment-venues>

Those who hold a Licensing Act authorisation under which 'relevant entertainment' within the meaning of the sexual entertainment venue provisions may be provided will be able to claim an exemption from the need to secure a sexual entertainment venue licence if they fall within certain categories, one such is an occasional use exemption.

The definition of relevant entertainment is such that whether or not premises are being used for its provision may be an issue on which disagreement could arise. The Council considers that certain measures are appropriate in order to prevent the commission of the crime of providing relevant entertainment without a Sexual Entertainment Venue Licence. First, authorisations issued under the 2003 Act should clearly state whether or not adult entertainment/services etc. are permitted.

Second, where adult entertainment is permitted, then a condition requiring the authority to be notified of those occasions when adult entertainment is proposed to take place under the occasional exemption is a reasonably appropriate step to ensure the promotion of the crime prevention objective.

- 6.1.6 In addition to mandatory conditions (as specified in the Act or by Order), other conditions may be tailored to the individual style and characteristics of the premises and events concerned.
- 6.1.7 Where following receipt of relevant representations the Licensing Authority considers that to grant the authorisation, whether as sought, or with additional conditions, would result in a real risk of harm of the type that the licensing objectives seek to prevent then refusal (in whole or in part) should be considered. The health, safety and well-being of the public in the context of the duty to promote the four licensing objectives should be of paramount importance.
- 6.1.8 The Pools of Conditions which have been developed by the Licensing Committee and can be found at www.bristol.gov.uk/licensingpolicy are considered by the Council to be a useful resource to the Licensing Committee in attaching conditions that are appropriate in the particular circumstances of the case. However, the Council supports the Licensing Committee in utilising other conditions where they are judged reasonable and in particular where it is judged to be conducive to facilitate the promotion of a relevant statutory obligation. The local pools of conditions are contained in Appendix C.

6.2 Flyposting and nuisance advertising

- 6.2.1 In Bristol there is a particular and widespread problem with illegal and nuisance advertising. There are limited controls in place under planning law which make “flyposting” an offence; however those controls are inadequate as far as much nuisance advertising is concerned. This is because the relevant planning regulations do not cover much of the activity which causes nuisance to residents and visitors alike, such as the flyers which litter our streets and the evidence on our City’s streets make plain that the existing legislation is not achieving the prevention of this criminal and nuisance activity. Also some licensees leave the advertising of regulated entertainment in the hands of others, (e.g. events promoters), which can result in the licensees themselves not being answerable for crime which relates to activity on their premises.

- 6.2.2 The Licensing Act is based upon an expectation of most licensees being responsible and law abiding.
- 6.2.3 The Council expects licensees will ensure that the licensing objectives (particularly those relating to crime and disorder and public nuisance) are promoted by ensuring entertainment at their premises is not advertised in a manner which causes nuisance or which results in the commission of offences. To this end, a responsible licensee is expected to take all reasonable steps and exercise due diligence to ensure advertising of licensable activities does not cause nuisance or annoyance or which results in a criminal offence. Those steps should include the maintenance of a register of promoters that can be inspected by authorised officers or constables on request. This should help to deter irresponsible promoters from allowing events to be unlawfully advertised and thereby serves to promote the licensing objectives.
- 6.2.4 The Council therefore proposes that the Licensing Committee be encouraged to impose conditions to that effect in every case where the permitted regulated entertainment involves music/dance or similar entertainment and where such a condition would be consistent with the applicant's operating schedule.
- 6.2.5 The Council hopes that responsible applicants will want to work with the Council in tackling nuisance and criminal advertising and will play their part by submitting operating schedules that are consistent with this objective. Applicants are referred to the model operating schedules to assist in this regard.
- 6.2.6 Where the Council believes the applicant's operating schedule is not consistent with tackling nuisance and criminal advertising and where relevant representations have been made conditions to control fly posting, in line with this policy, should usually be considered to be appropriate to promote the Licensing Objectives.

6.3 Cumulative Impact

- 6.3.1 The cumulative impact of the number, type and density of premises in particular areas, such as the city centre, may lead to them becoming saturated with premises of a certain type making them a focal point for large groups of people together leading to severe or chronic problems of public nuisance and anti- social behaviour. The licensing authority may consider publishing a cumulative impact assessment (CIA) to help limit the number of types of licence applications granted in such areas if it is satisfied that it is appropriate to include an approach to cumulative impact in its Licensing Policy Statement. It will take the decision only after it is satisfied that there is evidence to support such a decision.
- 6.3.2 The effect of adopting a CIA of this kind is to create a rebuttable presumption if relevant representations to that effect are received, that applications for new premises authorisations or club premises certificates or material variations will normally be refused, unless it can be demonstrated that the operation of the

premises involved will be unlikely to add to the cumulative impact already being experienced. What constitutes a material variation will depend upon the policy in place and the reasons for the area being designated as suitable for adoption of a special policy.

- 6.3.3 The Secretary of State's guidance encourages applicants to address the CIA in their Operating Schedules in order to rebut such a presumption. Any CIA will stress that the presumption does not relieve responsible authorities or other persons of the need to make a relevant representation before the local authority may lawfully consider giving effect to its CIA.
- 6.3.4 The Licensing Authority recognises that many different kinds and styles of premises sell alcohol, serve food and provide entertainment. It recognises that some applications in a CIA area will be unlikely to add to the problems arising from saturation. Where it can exercise discretion in determining applications in an area where a CIA is in force, that is, where relevant representations have been received, it will have full regard to the impact different premises may have on the local community.
- 6.3.5 The Licensing Authority must grant any application in a CIA area subject only to conditions that are consistent with the operating schedule submitted by the applicant if it receives no relevant representation.
- 6.3.6 The Licensing Authority will keep cumulative impact assessments under review. Cumulative impact assessments' were introduced in the 2003 Act by the Policing and Crime Act 2017, with effect from 6 April 2018. The amendments require the Licensing Authority to review the CIA within three years of its publication.
- 6.3.7 The absence of a CIA does not prevent any responsible authority or other person making evidence based relevant representations on a new application for the grant of an authorisation on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 6.3.8 Cumulative impact assessments are intended to be strictly applied. Applications which would seek to be allowed as an exception to a special cumulative impact policy will generally be favourably considered if they are judged to encourage a greater variety of types of entertainment than currently exists in these areas. It is important to be clear that this does not mean that an applicant who believes their offer is different to what already exists in the area can assume a favourable outcome. "Greater variety" must be understood in the context of the licensing objectives. In particular, the Licensing Authority welcomes those proposals which can be viewed as more family friendly and which offer a wider range of entertainment than that which is currently available because it is considered that such proposals will not usually add to the stress in the area and undermine the licensing objectives.

However matters such as for example,

- the premises will not add people to the area;
- longer hours will create slower dispersal;
- history of good management;
- premises are well run;
- premises application is small in nature
- alcohol is not sold;
- clientele are a cut above the usual;

will not be considered exceptional circumstances, as the issue is crime and disorder/public nuisance in the area as a whole rather than that associated with individual premises and the promotion of the licensing objectives.

Existing licensees who wish to materially alter and/or extend the premises to which the authorisation relates are required to seek a new authorisation. This is because the Act prohibits the use of a variation application to substantially alter the premises to which the authorisation relates. Where the only change is to the physical extent or material layout of the premises themselves (i.e. in the absence of additional features such as change in style of operation, capacity etc.) it is highly unlikely this would trigger the special policy. Of course this policy cannot restrict the right of any responsible authority or other person to make relevant representations in that regard and if such are forthcoming they will be diligently considered, but the policy expectation is that the application should be granted unless the relevant representations demonstrate the change will be likely to add to the cumulative impact being experienced. Where other change is envisaged then the presumption may arise.

Applicants are reminded that they are entitled to seek a provisional statement in such circumstances.

Applicants who have the benefit of a provisional statement and who have completed their works substantially in line with that statement should not have the assessment applied to them. This is because the CIA could (indeed may) have been raised and considered prior to the provisional statement having been granted.

6.3.9 Having had regard to the guidance referred to above, consulted upon the issue, taken into account the views of respondents and considered the evidence the Council has adopted a CIA in respect of five areas of Bristol, namely:

It is anticipated that this part of the policy may change as a result of the formal consultation. The Licensing Authority is required under new legislation to undertake an evidence based review of any CIAs

City Centre CIA

The central area within the Cabot Sector as identified by Avon and Somerset Police and as extended to include the Welsh Back area, Stokes Croft and Cabot Circus (Map at Appendix D)

Reason for Assessment

The Avon and Somerset Police produced evidence to support their request that the central area of Bristol be designated a CIA. It remains at saturation point and the Police produced evidence for extending the area to which the special policy should apply so as to include Stokes Croft and Cabot Circus. In particular the area, which has a significant concentration of alcohol led late night venues, witnesses a high number of assaults and other related crime and disorder including public nuisance and risk to public safety. The CIA will apply to further applications for the grant of new licenses or significant variations of existing licenses in respect of premises that primarily sell alcohol for consumption on the premises, other late night uses, restaurants and take away outlets. The main focus of the assessment is likely to be on alcohol led establishments and premises that keep customers in the area at times when the promotion of the licensing objectives is most challenging (for example late night refreshment from “fast food” outlets).

Gloucester Road CIA

The area covers a stretch of Gloucester Road from its junction with Pitt Road and Rudthorpe Road to the Arches on Cheltenham Road and also includes a section of Zetland Road (Map at Appendix D).

Reason for Assessment

This stretch of Gloucester Road, which is a major transport route in and out of the city, features a mix of retail and leisure uses with primarily residential areas behind the frontages. The request for a CIA to be introduced was made by the Police and supported by local residential amenity groups. The potential for increased public nuisance and crime and disorder arising from further licenses being granted is a major concern for local residents in this area and the Police. In particular the area, which has a significant concentration of alcohol led late night venues, witnesses a high number of assaults and other related crime and disorder including public nuisance and risk to public safety.

The ability to prevent further encroachment into the normal sleeping times of local residents is also a key aspect of this CIA. The assessment will apply to further applications for the grant of new licenses or significant variations of existing licenses in respect of premises that primarily sell alcohol for consumption on the premises, other late night uses, restaurants and take away outlets. The main focus

of the assessment is likely to be on alcohol led establishments and premises that keep customers in the area at times when the promotion of the licensing objectives is most challenging (for example late night refreshment from “fast food” outlets)

Whiteladies Road CIA

The area bounded by West Park and that length of Whiteladies Road which extends from its junction with West Park to its junction with Imperial Road and that length of Cotham Hill extending from its junction with Whiteladies Road to its junction with West Park (Map at Appendix D)

Reason for Assessment

This stretch of Whiteladies Road is predominantly characterised by properties with A3 leisure uses behind which are sited residential areas. The request for the CIA to be implemented was made by local amenity groups and supported by the Redland Sector of Avon and Somerset Police. This area differs from the city centre in that there is a greater emphasis on the need to promote the prevention of public nuisance objective. The ability to prevent further encroachment into the normal sleeping times of local residents is a key aspect of this policy. The policy will apply to the consideration of applications for the grant of new authorisations or for significant variations of existing authorisations in respect of premises that primarily sell alcohol for consumption on the premises, other late night uses, restaurants and take away outlets.

Clifton CIA

An area comprising of Clifton Village and extending to Queens Road and Whiteladies Road (Map at Appendix D)

Reason for Assessment

Clifton Village and the surrounding area has seen a rapid growth in restaurants, bars and cafes. These A3 uses are mixed with residential areas and have led to an increase in public nuisance. The request for the CIA was made by the Clifton and Hotwells Improvement Society and is supported by local residents and Avon and Somerset Constabulary. Clifton Village is a popular destination with a vibrant day and night time economy. The CIA will help to protect the residential amenity and ensure that further expansion with licensed premises is not to the detriment of this important and iconic part of Bristol. The CIA, when triggered, will apply to applications for the grant of new licenses or significant variations of existing licenses in respect of premises that primarily provide alcohol for supply on the premises, restaurants and takeaway outlets. Applicants for licenses in the CIA area will need to be able to demonstrate that they can offer something different from what is currently available without adding to the impact already being experienced.

Bedminster and Southville CIA

The CIA comprises of two adjacent areas that have different characteristics. The North Street section places a greater emphasis on seeking to prevent public nuisance whilst the Cannon street area has more of an emphasis on preventing crime and disorder (Map at Appendix D)

North Street (From the junction with Ashton Road to the junction with Greville Street)

Reason for Assessment

This stretch of North Street is characterised by a varied range of food, drink and entertainment offers leading to a busy area, which has resulted in anti- social behaviour and loss of amenity for local residents. The CIA will help to protect residential amenity from being harmed by public nuisance and will, when triggered by the receipt of relevant representations, give rise to a presumption of refusal of applications for the grant of new premises licences or for significant variation of existing licenses particularly where such proposals could increase anti-social behaviour. The CIA is not designed to preclude high-quality food-led developments that are commensurate with the community's longer term ambitions for the area.

Cannon Street Area (Cannon Street, North Street (from junction of Greville Street to junction with Cannon Street), East Street (from junction with Little Paradise to junction with West Street/Sheene Road and West Street (from junction with East Street to junction with Victor Road)

Reason for Assessment

The Cannon Street locality comprises of a close concentration of late night 'destination' bars, take away food outlets and premises supplying alcohol for consumption away from the premises (off-licences) that has resulted in a cumulative adverse impact on the promotion of the licensing objectives, in particular those concerning the prevention of crime and disorder and the prevention of public nuisance. The CIA, when triggered by the receipt of relevant representations, will apply to applications for the grant of new premises licences or for significant variation of existing licenses and is intended to prevent the further proliferation of the type of premises on offer in this locality. In order to rebut the presumption of refusal applicants for licences will be expected to demonstrate through the operating schedule accompanying the application that what they propose is a significantly different type of operation than that which is currently on offer; a proposal that will result in a greater variety of range of venues and that it is demonstrated will not add to the problems currently being experienced which this policy aims to address. The CIA is intended to be strictly applied, i.e. to refuse applications with operating schedules that could enable a venue to operate as an

additional late night alcohol led venue, or as a late night food take away outlet, or as an “off-licence”.

6.3.10 The publication of a CIA for these areas should not be understood to be an absolute bar to new authorisations being issued or granting significant variations to existing licenses. Applicants are entitled to seek any of the permissions available to them in the Act and the Council does not in this policy intend to prevent applicants from exercising their statutory rights. Each application will be considered on its own merits, within the constraints of the legislation and having due regard to the relevant guidance and policy.

Interpreting the extent of a Cumulative Impact Assessments

6.3.11 In respect of past policy, issues have occasionally arisen with regard to whether or not a particular premises that is located abutting or just outside of the indicated boundary for each CIA should be considered as being covered by the assessment. Through this policy the Council seeks to clarify that each CIA boundary line is intended to be indicative of the area that is affected by the stress underpinning the cumulative impact for the area concerned. The CIA purpose is to prevent that stress from worsening and to reduce it over time. That policy purpose is frustrated if premises such as those referred to above are automatically considered as being outside of the CIA.

It is intended that the wording of the cumulative impact assessments should be understood by the decision taker in a way that best ensures the purpose of the assessment is achieved. This is sometimes called a purposive interpretation. Each application that falls to be considered at a hearing will be assessed on its own individual facts and merit. Where relevant representations are received in respect of an application for any premises that is adjoining or is in close proximity to (but not within) the CIA defined boundary and where those representations raise a material impact on the CIA then the CIA may be triggered if the sub-committee reasonably judges that to grant the particular application would add to the cumulative impact being suffered in the defined area.

6.4 Content of Regulated Entertainment

6.4.1 The Act prohibits the Council from seeking to regulate the content of the performance of a play (Section 22). This is the case whether or not there are relevant representations.

6.4.2 However no such prohibition is contained in the Act in relation to other forms of regulated entertainment. This does not mean that the Council has a free hand to

control the content of regulated entertainment. As previously stated the Council is not able to impose conditions that are not consistent with the applicant's operating schedule unless relevant representations have been made. Even where such representations are made and the Licensing Committee is satisfied they are well founded, due regard would need to be had to the Secretary of State's guidance. Through this policy the Council supports the Licensing Committee in deciding to depart from that guidance where there is good reason to do so.

- 6.4.3 Under the previous public entertainment licensing regime the Council did restrict the content of entertainment in some respects. For example the Council controlled the use of pyrotechnics and none of its licensed cinemas was authorised to exhibit R18 rated films. Such restrictions now fall to be considered in the context of the Licensing Act. Restrictions may be applied where they are consistent with the applicant's operating schedule if there are no relevant representations.

In respect of some forms of adult entertainment, it is a fact that there are people who find this unacceptable and who have a moral opposition to it being permitted.

Licensing Authorities cannot approach the issue in that way and cannot lawfully seek to prevent Applicants from exercising their right to submit any applications that they are entitled to make under the Act.

Insofar as any particular form of regulated entertainment is not prohibited under the general law then it can be made subject of an application for authorisation.

When a valid application is made and properly advertised then, in the absence of relevant representations being received, it must be granted subject only to conditions that are consistent with the operating schedule that must accompany the application. If relevant representations are received then this will trigger notice of a hearing. Relevant representations are defined in the Act by reference to the persons who are entitled to make them, the time and manner in which they must be made and the necessity that they are about the likely effect of the grant of the authorisation/variation as appropriate on the promotion of the licensing objectives.

As Bristol has adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) the position regarding the provision of many forms of what would be classified as adult entertainment e.g. strip tease style entertainment now falls under those provisions and Licensing Act authorisations can only be relied upon for the provision of 'relevant entertainment' in certain circumstances, i.e. where an exemption applies.

Because of the potential for adult entertainment or services to impact on the promotion of the licensing objectives the Secretary of State has ensured that prescribed information is forthcoming that will enable the impact on the objectives, in particular that concerned with protecting children from harm, to be assessed.

Applicants are required to:

“highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children”.

The prescribed forms of application for authorisations and variations direct applicants to a guidance note which states that in providing this prescribed information, which forms part of the operating schedule, they should:

“give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi nudity, films for restricted age groups, the presence of gaming machines”

If in response to this question an applicant makes no disclosure of such activity then a condition may be imposed on the authorisation to ensure that nothing may occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether or not children have access to the premises, for example (but not exclusively relevant entertainment within the meaning of the 1982 Act) nudity or semi nudity, films for restricted age groups, provision of relevant entertainment within the meaning of the 1982 Act etc.

Such a condition is consistent with an operating schedule completed in that manner and ensures the promotion of the licensing objectives, for example by ensuring that a licensee who wishes to use the premises for such activity in the future would need to seek to vary the authorisation so as to modify that condition, thus ensuring future impact on the promotion of the licensing objectives is afforded due scrutiny and, if representations are received, active consideration by the licensing authority.

- 6.4.4 Authorisation holders will be expected to ensure that they and their premises comply at all times with any conditions attached to an authorisation. The Licensing Authority has developed pools of conditions which seek to promote the four licensing objectives, including restricting the content of regulated entertainment with a view to promoting the prevention of crime and disorder; and of public nuisance and to securing public safety and protecting children from harm.

Equalities Obligations

- 6.4.5 In view of the Councils duties under equalities legislation and its general strong commitment to equalities issues, the Council supports a robust approach to ensuring, so far as the law permits it to do so, that entertainment in the Bristol area should not include content which would be in conflict with its legal obligations and policy commitments in the area of Equalities.

6.4.6 The introduction to this policy, including the section on how this policy applies, summarises the circumstances in which the Council can exercise substantial discretion when determining applications and indicates the constraints imposed by the statute governing the exercise of that discretion when it is engaged.

6.5 Licensing Hours

6.5.1 There are no fixed hours for trading under the Licensing Act. Applicants are required to identify the hours they propose to operate.

6.5.2 The applicant needs to demonstrate in their operating schedule what steps they would take to promote the four licensing objectives.

It is suggested that the Licensing Committee, when considering each application on its merits following receipt of relevant representations, should have particular regard to the following factors when trading hours are an issue before the committee at a hearing:

- Whether the licensed activities are likely to cause an adverse impact, especially on local residents, and what, if any, appropriate measures are proposed to prevent it;
- Whether there will be a substantial increase in the cumulative adverse impact on an adjacent residential area;
- Whether there is a suitable level of public transport accessibility to and from the premises at the appropriate times;
- Whether the activity will be likely to lead to a harmful and unmanageable increase in the demand for car parking in any surrounding residential streets suffering from high levels of parking stress;
- Whether the premises have an authorised or lawful use for the permissions sought under Town and Country planning legislation.

6.5.3 The Council's policy will not seek to prevent shops, stores and supermarkets providing sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless satisfied, following the statutory process prompted by the receipt of relevant representations, that there are good reasons based on evidence for restricting those hours with a view to promoting the licensing objective

Early Morning Restriction Orders (EMROs)

6.5.4 The Police Reform and Social Responsibility Act enables licensing authorities to restrict the sale of alcohol in the whole or a part of their area for any specified time between 12 midnight and 6 am through the application of an Early Morning Restriction Order. The Council recognises that this may be a useful tool to help address specific, alcohol related problems in local communities, particularly where it is difficult to attribute the cause of the associated problems to any particular premises. This could be particularly relevant where there is a concentration of late night activity in one area.

By virtue of section 7 of the act, the function of making, and varying or revoking, an early morning restriction order, or any matter relating to the discharge of such function, is not the responsibility of the licensing committee and under current law must be decided by the full Council.

6.6 Young People and alcohol

6.6.1 An unaccompanied young person (i.e. somebody under the age of sixteen who is not accompanied by a person over the age of eighteen) must not be allowed into any premises which are "exclusively or primarily used for the supply of alcohol for consumption on the premises".

6.6.2 Whether or not premises with a mixed use are "exclusively or primarily used" is a matter of judgment and will depend upon the particular circumstances of the case. The guidance makes it clear that this does not mean that where the supply of alcohol is not the exclusive or primary use then young people should automatically be given access.

6.6.3 Where it is appropriate and permissible within the law (i.e. where it is in line with the application or where relevant representations have been received enabling a hearing to take place) the Licensing Committee should impose conditions that restrict young people from entering all or part of any premises licensed to supply alcohol:

- at certain times of the day and/or;
- when certain licensable activities are taking place and/or;
- where there is an age limitation (over 18);
- unless accompanied by an adult.

6.6.4 Examples of premises where this policy expectation applies include premises where:

- there is entertainment of an adult nature provided;
- the premises have a reputation for under-age drinking and/or there have been convictions for age related alcohol offences;
- there is a known association with drug taking or dealing;
- there is a significant element of gambling on the premises;
- there is a presumption that young people under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held);
- there are licensable activities appealing to young people under 16 taking place during times when they may be expected to be attending compulsory full-time education.

Save for mandatory conditions imposed by the Licensing Act itself, there are no standard conditions that automatically apply and this policy should be understood within that context. The introduction to this policy, including the section on how this policy applies summarise the circumstances in which the Council can exercise substantial discretion when determining applications and indicates the constraints imposed by the statute governing the exercise of that discretion when it is engaged.

- 6.6.5 The Licensing Authority expects an adequate number of staff to be provided at premises specifically to ensure young people's safety and to control their entrance and exit.
- 6.6.6 Conditions may be imposed on authorisations for premises where young people will be present at places of public entertainment to the effect that a sufficient number of adults must be present to control the entrance and exit (including safe transport home) and to ensure the safety of young people in the premises.
- 6.6.7 The Council will expect operating schedules to specify the measures and management controls in place to prevent alcohol being served to young people, other than in those limited circumstances where such service is permitted under the Act.
- 6.6.8 In 2016 a report by the Health and Social Care Information Centre into smoking, drinking and drug use among young people in England collected information in respect of children at secondary schools aged between 11 and 15 drinking alcohol. The results showed that 44% of pupils aged 11-15 had drunk alcohol at least once (15% at age 11, and 73% at age 15 years). 10% of pupils said they drank alcohol at least once a week, of these the mean average was 9.6 units. 38% of pupils said that they drank alcohol at least a few times a year. This increased sharply by age, from 8% of 11 year olds to 68% of 15 year olds, and therefore, the age profile of current drinkers is heavily weighted towards older pupils. Current drinkers were most likely to buy alcohol from friends or relatives (22%), someone else (16%), an off-licence (10%) or a shop or supermarket (8%). 61% of current drinkers said they never buy alcohol. The figures would suggest that a number of young people are

attempting to buy alcohol from premises that hold an off licence (including supermarkets and smaller independent stores/off licences). When compared to 2010 figures the percentage of pupils purchasing from retail outlets has reduced.

- 6.6.9 A major problem of underage drinking connected to disorder and crime in the city is from the purchasing of alcohol and drinking of it off site, mainly in parks and open spaces.
- 6.6.10 It is consistent with the duty to promote the four licensing objectives for the Council to aim to ensure access to alcohol for consumption by young people is restricted.
- 6.6.11 The Licensing Authority expects that staff responsible for ensuring that customers are old enough to purchase alcohol are fully trained in this respect. This is particularly relevant for bar staff working at premises where door supervisors control entry to premises. Experience has shown that on occasions where door supervisors are employed there can be less vigilance shown by bar staff with regard to refusing the sale of alcohol to under age customers, perhaps due to an assumption that all identification has been verified. Particular care and appropriate measures should be in place for venues that, due to the nature of the events, attract both over and under 18 year old patrons.
- 6.6.12 This statement of licensing policy therefore includes specific measures aimed at promoting the four licensing objectives in certain types of premises, especially off licences, located in areas where there are issues of social disorder, underage drinking etc. Such measures include a general expectation that Applicants propose certain steps in their operating schedules (or, following relevant representations, conditions the committee is expected to impose where the applicant has not offered the appropriate step in their application).

Proposed measures to reduce underage drinking

- 6.6.13 Examples of steps/conditions that the Council expects in such cases (where evidence suggests such conditions are appropriate for the promotion of the licensing objectives) include:
- Implementation of the “Challenge 25” scheme (challenging anyone who looks under 25 to prove their age by use of an approved means of identification); for this to be advertised and enforced on the premises and to be a condition of the authorisation.
 - The premises to have working CCTV in fixed locations (identified by reference to the plan) which is able to clearly capture, record and store images of customers with that information to be retained (for a minimum of 28 days) and made available to the police or the licensing Authority on justified request. This is proposed for the purposes of identifying underage purchases or purchases by adults on behalf of underage individuals. It

should be a condition of the license that this equipment be kept in working order at all times.

- Participation in any labelling (or similar sales identification process) scheme in operation in the area within which the premises are situated (where alcohol is permanently marked by the seller with a unique identifier for the premises where it is purchased, so better enabling authorities to investigate the source of alcohol when seized from underage drinkers).
- That a refused sales log is maintained and kept available for inspection by a constable or authorised officer of the Council;
- That, in respect of retail premises where the supply of alcohol is not the primary business, applicants be expected to specify in their operating schedules (by reference to the plan of the premises) the area or areas within the premises where it is intended that alcohol can be displayed and that consideration should be given to placing displays in less prominent areas;
- Details of training provided to members of staff to prevent underage sales to be maintained in a register and kept available for inspection by a constable or authorized officer of the Council.

Save for mandatory conditions imposed directly through the Licensing Act itself, there are no standard conditions that automatically apply and this policy should be understood within that context. The introduction to this policy including the section on how this policy applies summarise the circumstances in which the Council can exercise substantial discretion when determining applications and indicates the constraints imposed by the statute governing the exercise of that discretion when it is engaged.

6.7 Young people and films

6.7.1 The Council expects the operating schedule for premises with film exhibition to include a stipulation that young people will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Licensing Authority as appropriate.

6.7 Restricted 18 category films

6.8.1 The British Board of Film classification guidelines for awarding an R18 certificate can be viewed here (www.bbfc.co.uk and select the R18 logo).

6.8.2 The BBFC has statutory powers to designate videos so as to ensure that those rated R18 may only be sold through licensed sex shops.

- 6.8.3 Under the previous licensing regime official guidance was issued that encouraged Councils to impose conditions which strictly regulate the circumstances in which R18 films can be viewed. The provisions under which this guidance was issued were repealed when the Licensing Act came into force and the Council will need to have regard to the Secretary of State's guidance under the Licensing Act 2003 when determining applications concerned with the exhibition of films.
- 6.8.4 Whilst the Council does not seek to encourage applications seeking permission to show R18 rated films, it recognises the right of any applicant to make any application allowed under the Licensing Act 2003. It is therefore appropriate for the Council to state in this policy its approach to such applications.
- 6.8.5 Given the explicit nature of the content of films classified as R18 the Council considers that they are suitable for showing only in suitable premises and under restricted "club" conditions. In order to give effect to this, the Council has included a set of conditions based upon those contained in the guidance issued under the previous regime, namely Annex B to Home Office circular 98 of 1982, in the relevant model operating schedule.
- 6.8.6 These conditions ensure that where R18 films are permitted they can only be shown when the cinema has, in effect, turned itself into a "club" for the purpose of restricting admission to members only, who must have enrolled at least 24 hours in advance of the exhibition. Membership must be restricted to those aged over 18 and a film in the Restricted 18 category may not be shown in a multi-screen complex at any time when people under the Age of eighteen are being admitted to other exhibitions at the premises unless an entirely separate entrance is provided and other facilities are completely segregated. Persons aged under 18 would not be permitted to be employed in any capacity in the premises and membership rules would have to include matters specified in the conditions. The content of advertising should also be subject of an appropriate condition.
- 6.8.7 The Council considers the above approach serves to promote the licensing objectives.
- 6.8.8 Any applicant seeking to be permitted to exhibit films in the Restricted 18 category is therefore encouraged to discuss their proposed application at an early stage with the responsible authorities, in particular the Chief Constable and the body responsible for advising the Licensing Committee about the protection of children from harm. Where representations are received in respect of an application to exhibit films in the Restricted 18 category then the application will be subject to anxious scrutiny, in particular where the operating schedule does not include the steps reflected in the conditions outlined above or where it is proposed that the supply of alcohol should also be permitted.

7. The Licensing Authority as a Responsible Authority

The licensing authority is able to act as a responsible authority and so can make relevant representations on applications or seek reviews of existing authorisations. This means that Bristol City Council can now bring to bear on the decision making process another area of expertise - that of the professional licensing officer - in addition to the other areas of expertise it brings to the process in its various capacities as, for example, local planning authority, statutory nuisance authority, child protection body, Director of Public Health, health & safety inspectors and weights & measures authority. Although the Council operates these functions separately there is only one Council engaged in an administrative decision making process.

- 7.1 The statutory purpose of the duty to adopt this policy (and indeed for the Secretary of State to issue guidance) is specific to the Council in its capacity as the licensing authority and then only in respect of the exercise of licensing functions, that is the powers and duties of the licensing authority under the Licensing Act 2003. Therefore it is not usually the role of a statement of licensing policy to guide the making of relevant representations by any of the responsible authorities. The only exception being when the licensing authority itself is acting as a responsible authority.
- 7.2 The Secretary of State's guidance raises a potential "conflict of interest" and concerns about procedural fairness. The Licensing Act itself ensures a fair process however; firstly by ensuring that officers simply cannot determine applications where relevant representations have been made and secondly by providing a right of appeal to a tribunal that is both independent and impartial. In Bristol's experience the elected members have proved themselves very capable of acting independently and impartially notwithstanding officers from the Council itself are parties before it. There is no reason to suppose that will change when a licensing officer is in attendance as a party. There are however some practical measures that are recommended to the Licensing committee:
- the Licensing Committee ought not exercise its statutory right to delegate the making of relevant representations to one of its own sub committees; this role should be delegated to those officers the committee considers best placed to provide expert licensing advice since that will best serve to promote the licensing objectives;
 - The Licensing Committee should make it a rule that no officer who has been directly involved in the making of relevant representations on a particular application may make any decisions in relation to the fixing of a hearing, or act as policy advisor to the decision making sub committee during a hearing, or remain with the sub committee when they are deliberating (unless all other parties are also permitted to remain);

- Insofar as any member scrutiny of the exercise of this new function is required the Licensing Committee should request this be undertaken by the Council scrutiny function.

7.3 These measures should ensure the effective separation of those in the licensing authority entitled to determine applications where a hearing is triggered (elected members who are bound to act in the interests of the public) and those in the Council whose professional judgment may cause them to act so as to trigger a hearing (officers of the Council acting in various capacities, including but not exclusively as the licensing authority).

7.4 In regard to the content of the representations and when they should be made, the Secretary of State appears to suggest that the Licensing Authority ought to avoid making representations they think another responsible authority may raise and only speak to limited matters seen as within the scope of the Licensing Authority. This approach is not without risk to the promotion of the licensing objectives in particular if engaging in second guessing results in representations not being made that ought to have been forthcoming. The Council's expectation is that the Licensing Authority responsible authority will give due priority to the following:

- issues arising out of the Licensing authorities role in regulating and enforcement;
- the role as "gate keeper" of this statement of licensing policy

8 Licensing and Planning

8.1 The Secretary of State has provided guidance on the relationship between planning and licensing stating that they are separate regimes (Para 13.55). Where the Licensing Authority receives relevant representations that a licensing proposal is contrary to a planning consent and that to grant a licence for such activity would be likely to affect the licensing objectives then a refusal, or the attaching of conditions to prevent such a use until the position has been regularised may be appropriate. In appropriate situations a hearing could be deferred until planning consent has been obtained, or arrangements made for the applications to be considered together. A responsible and prudent applicant would ensure that an appropriate planning consent was in place before submitting a licence application or choose to submit both at the same time.

Whilst recognising that licensing and planning are separate regimes the Licensing Authority will work closely with planning to ensure that where possible the two regimes will align with each other. The 'agent of change' principle which seeks to protect existing uses, particularly with regard to venues that provide regulated

entertainment through permissions under the Licensing Act, is recognised as an important concept under both regimes.

9 Enforcement

- 9.1 All enforcement carried out under the Licensing Act should be undertaken having regard to Bristol City Council enforcement policies, the Secretary of State's guidance and this policy. The exercise of all other licensing functions and enforcement functions under the act that are the responsibility of the Licensing Authority must be undertaken with a view to promoting the four licensing objectives.

DRAFT

List of persons who responded to the consultation

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APPENDIX B

FILM CLASSIFICATION POLICY

1. Subject to any decision made under par 3 below, any classification of the BBFC shall be deemed to be a classification of the Licensing Authority;
2. No film classified by the BBFC as "R18" may be exhibited in any premises unless that exhibition is specifically and explicitly permitted under an authorisation (within the meaning of Section 136 of the 2003 Act);
3. (a) Any person may request that the Council either:
 - (i) determine the appropriate classification of any film which has not been subject of classification by the BBFC;
 - (ii) determine a different classification to that determined by the BBFC to apply generally in Bristol and/or to apply to specific performance of the film in question.
- (b) a request under 3 (i) or (ii) above should be made in the first instance to the Licensing manager and the applicant should enclose the following:
 - (i) synopsis of film
 - (ii) length of film
 - (iii) appropriate fee being a sum the licensing authority considers to be reasonable compensation to it for considering the initial application
- (c) the licensing manager (or deputy in his absence) will respond in one of the following ways:
 - (i) S/he will indicate if the application will be considered and if so will indicate what arrangements are required for the exhibition of the film for the purpose of determining its classification, whether that determination will be made by officers, the Licensing committee or one of its sub committee and the further fee payable which is calculated having regard to the costs incurred by the Licensing Authority in considering the application; or
 - (ii) The Licensing Manager will respond that the Council is not inclined to consider the application and will indicate the reason for that decision as follows:
 - (a) that in respect the synopsis indicates a classification of R18 falls to be considered;

- (b) that the applicant seeks a more restrictive classification than that recommended by the BBFC and has not made a clear and convincing case that the BBFC guideline have been incorrectly applied;

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