

City of London Corporation

# **STATEMENT OF LICENSING POLICY 2017**

Licensing Act 2003



# CONTENTS

	<u>Page</u>
1. Foreword	3
2. Scope	4
3. Introduction	6
4. Licensing Hours	9
5. Making an Application	10
6. Crime and Disorder	14
7. Public Safety	17
8. Public Nuisance	19
9. Protection of Children from Harm	23
10. Temporary Event Notices	25
11. Late Night Levy	26
12. Cumulative Impact	27
13. Conditions	29
14. Enforcement & Other Legislation	30
15. Administration & Delegation of Functions	33

Appendices: (Available from the Licensing Manager on request)

i	List of Exempt Activities
ii	List of persons consulted
iii	Responsible Authorities
iv	Code of Good Practice
v	Model Conditions
vi	Mandatory Conditions
vii	'Traffic Light' Risk Scheme
viii	Local Plan as it relates to licensed premises
ix	Tables and Chairs Policy
x	Sexual Entertainment Venues Policy

# FOREWORD

Although not statutorily due for a further review until 2018 it was felt that due to changes in the City of London Corporation's policies and procedures, improvements to the code of practice and major legislative changes to the Licensing Act 2003 there was a need to revise and update the City of London's Statement of Licensing Policy sooner.

The primary function of the policy is to ensure that the City of London effectively upholds the four objectives of the Licensing Act 2003. These are listed in the first section of the Policy statement together with a list of licensable activities and the legal functions of the City as a licensing authority as confirmed by the Act.

However as well as helping us in performing our statutory functions as a Licensing authority we want to ensure that our residents, workers and visitors can enjoy high quality, varied but above all safe pubs, bars, restaurants, hotels and other licensed premises. There has been a steady increase in the number of licensed premises in recent years but despite this there has been a steep decline in the number of representations resulting in licensing hearings compared to 10 years ago when the changes introduced by the Licensing Act 2003 came into force.

This is a testament to the imagination and hard work of our Licensing Officers working closely with the City of London Police, Environmental Health Officers and the other responsible authorities. Our 'Traffic Light' scheme has been a great success - complaints received or incidents recorded identify potential problems in premises early on with an advisory approach often resolving these matters long before they become more serious or recurring issues. Our 'Safety Thirst' scheme which awards premises for best practice grows from year to year.

Whilst we support a night time economy in the City we continue to monitor its impact as well as developments that may create new challenges such as the 24 hour tube and the increasing size of the residential population. We want the City to remain a vibrant place with a thriving hospitality sector whilst upholding the Licensing objectives that exist to protect everyone that lives, works or visits here.

Peter Dunphy, Chairman

# SCOPE

1. The Licensing Act 2003 (the 'Act') relates to the sale of alcohol, the provision of certain entertainment and late night refreshment.
2. Activities that require a licence under the Licensing Act 2003 and covered by this Policy Statement include:
  - a) retail sale of alcohol
  - b) supply of hot food or drink from premises from 23.00 to 05.00 hours
  - c) supply of alcohol to club members
  - d) provision of entertainment listed below (known as regulated entertainment) to the public or club members or with a view to profit:
    - i. film exhibitions
    - ii. performance of a play
    - iii. indoor sporting events
    - iv. a boxing or wrestling entertainment
    - v. some live music performances
    - vi. playing of recorded music
    - vii. dance performances
    - viii. provision of facilities for making music
    - ix. provision of dancing facilities
3. The Live Music Act 2012, which came into effect on 1 October 2012, removes the licensing requirements for certain types of live music performances. The exemptions are set out in Appendix 1 of this document.
4. There are a number of other activities that are exempt from the licensing requirements, details of which are also set out in Appendix 1 of this document.
5. The Act prescribes:
  - a) personal licences which cover the licensing of individuals for the retail sale of alcohol
  - b) premises licences which cover the retail sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment
  - c) club premises certificates which are required to allow the supply of alcohol or the provision of regulated entertainment to certain clubs
  - d) temporary event notices which are required for certain licensable activities on a temporary basis
6. The scope of the Policy Statement covers new applications, transfers and variations of premises licences and club premises certificates, temporary event notices and renewals where applicable. It also includes the policy on the review of licences and certificates which could lead to revocation of the premises licence.

- 7 In general, a reference in the Policy Statement to a premises licence will include a club premises certificate. This policy Statement will cover the period January 2017 to January 2022 but may be amended if there are significant changes in City policy, legislation or case law.
- 8 In carrying out its licensing functions, the authority will promote the licensing objectives set out in the Act. These are:
  - a) the prevention of crime and disorder
  - b) public safety
  - c) the prevention of public nuisance
  - d) the protection of children from harm
- 9 To achieve these objectives, the authority will use its full range of powers and engage all relevant responsibilities including its planning controls, transport controls, crime and disorder policies and powers. The authority will enter into appropriate partnership arrangements, working closely with the Police, Planning Department, the Fire Authority, local businesses, community representatives and local people in meeting these objectives.

# INTRODUCTION

10. The City of London is the world's leading international financial and related business services centre – a global powerhouse at the heart of the UK's financial services. It provides dedicated services to the City, from maintaining its infrastructure to top level economic development, as well as carrying out all the services expected of a local authority. It also provides services that affect people outside its geographical boundary – making a contribution to both regional and national prosperity.
11. Although the City is predominantly a business area, there are significant pockets of residential accommodation. In addition to the well-established, concentrated housing developments at the Barbican, Golden Lane, Mansell Street and Middlesex Street, there are smaller scale residential areas including Queenhithe, the Temples, Carter Lane and parts of Smithfield. Residential development has also occurred on a scattered basis in the rest of the City, often involving the redevelopment and conversion of former business premises.
12. The City of London is unlike the vast majority of other licensing authorities in that the ratio of residents to the number of persons coming into the City of London to work and socialise is quite small. It is however vital that their residential amenity is protected and this is emphasised in the City's Core Strategy which aims 'To protect existing housing and amenity and provide additional housing in the City, concentrated in or near existing residential communities...'.
13. The City Corporation fully supports the provision of recreational and cultural activities and sees these as being of great benefit to the community, especially people working in a high pressure business environment. To this end, the City Corporation is the third biggest sponsor of the arts in the country, after the Government and the BBC. The LDF Core Strategy contains two specifically relevant strategic policies encouraging, where appropriate, the provision of a wide range of public and private recreational, art, heritage and cultural facilities.
14. The City Corporation aims to reconcile all these facets of life in the City to minimise the potentially damaging tensions that could arise between the business, residential and leisure communities. This Policy Statement sets out the framework within which the City Corporation will consider, where it can, the grant of licences for activities controlled by the Licensing Act 2003.

## Legal Background

15. The Licensing Act 2003 (the 'Act') repealed most of the previous legislation relating to liquor, entertainment and night café licensing and replaced it with a totally new licensing regime. In respect of liquor licensing, responsibility

was transferred from the Magistrates Court (Licensing Justices) to local authorities.

16. This gives the City Corporation authority to grant or reject applications for the sale of alcohol or the provision of entertainment or late night refreshment. Conditions designed to ensure the prevention of Crime and Disorder, public safety, the prevention of public nuisance and the protection of children from harm, can be attached to licences. For example, to prevent residents or businesses being disturbed, the City Corporation may restrict licensed hours where it can be shown to be appropriate. However, the ability of local authorities to take decisions is limited either by provisions in the Act, Regulations made under the Act or by guidance from the Home Office (see also paragraph 34).
17. The City Corporation is legally obliged to have regard to the Home Office guidance. The City Corporation may, however, if it is considered appropriate, deviate from the guidance but would need good reason to do so. This Policy Statement takes full account of the current Home Office guidance.
18. In addition, in formulating this Policy Statement, the City Corporation has had regard to the provisions of the European Convention on Human Rights that everyone has the right to respect for his home and private life and that every person is entitled to the peaceful enjoyment of his possessions. The Human Rights Act 1998 makes it unlawful for a public authority to act in a way that is incompatible with a convention right. Consequently, an aim of this Policy Statement, particularly in relation to the decision-making process of the City Corporation, is to ensure that a licensing decision does not breach such a right.
19. The Equality Act 2010 and prior legislation requires the City to give due regard to the elimination of unlawful discrimination when exercising its public duties, to promote equality and good relations between people who share and do not share a particular protected characteristic.
20. The Equality Act 2010 defines a number of protected characteristics and generally provides that no one should be discriminated against or subject to less favourable treatment on the basis of these characteristics. The characteristics are age, disability, ethnicity & race, gender, gender reassignment, marriage or civil partnership status, pregnancy or maternity status (including nursing mothers), religious or philosophical belief or non-belief and sexual orientation. It also ensures rights of access to everyday facilities and services and, in the context of disability, may require service providers to consider making permanent physical adjustments to their premises.
21. The City Corporation will expect licensees to be familiar with the contents of any codes of practice issued by the government under the Equality Act 2010.
22. The City Corporation has taken account of the provisions of the Crime and Disorder Act 1998. This requires local authorities to have regard to the likely

effect of the exercise of their functions on crime and disorder in their area and to do all they can to prevent such crime and disorder.

23. The Policing and Crime Act 2009 introduced further powers for local authorities regarding the regulation of lap-dancing and other sexual entertainment venues. It also contains provisions on alcohol misuse and imposed new mandatory licensing conditions (see Appendix 6 for all the current mandatory conditions).
24. The City Corporation has taken account of the Police Reform and Social Responsibility Act 2011 and the Live Music Act 2012, which both brought in legislative changes to the Licensing Act 2003. The changes have been reflected in this policy.
25. The Licensing Act requires that licensing authorities consult with other responsible authorities and representatives of licensees of all types, together with representatives of local residents and businesses. The City Corporation will have regard to the views of these persons in the determination of this policy and its periodic review. Those persons consulted prior to the introduction of this policy can be seen in Appendix 2 with a list of responsible authorities as Appendix 3.



## Licensing hours

26. In the night time economy the terminal hour is often a significant factor in determining the nature of the venue.
27. The Licensing Authority has not set framework hours believing that it is best placed to make decisions about appropriate opening hours in the area based on its local knowledge, in consultation with the responsible authorities and other persons. However, residents have a reasonable expectation that their sleep will not be unduly disturbed between the hours of 23.00 and 07:00.
28. In preparing the operating schedule applicants who wish to provide licensable activities between these hours should have particular regard to:
  - a) The location of the premises, the proximity of residents or other sensitive receptors and the character of the area in which they are located
  - b) The proposed hours during which licensable activities will take place
  - c) The adequacy of the applicant's proposals to prevent crime and disorder and prevent public nuisance
  - d) How customers will arrive and leave the premises and the use of public transport, taxis etc.
  - e) Policies and proposals for the orderly dispersal of customers
29. Applications that give rise to particular concern are those that operate during the daytime and early evening as a restaurant style venue and then as the evening progresses become alcohol led, changing significantly in nature. For applications such as these that are subject to a hearing, the Licensing Authority will impose conditions appropriate to the style of operation and category of the business.
30. When the current licensing regime passed to local government in 2005, one of the aims was to prevent concentrations of patrons exiting the premises at 23:00 as happened under the inflexible licensing hours of the previous liquor licensing arrangements. The Government has abolishing fixed licensing hours in favour of hours suitable for individual premises.
31. In areas containing a number of licensed premises, the policy of the City Corporation will be to encourage licensees to vary their closing times so that patrons leave for natural reasons over a longer period. Notwithstanding that, each application will be determined on its merits. (See also section 12 'Cumulative Impact')
32. In relation to shops, supermarkets and stores the Licensing Authority will look to allow opening hours the same as the other retail part of the premises, for sales of alcohol for consumption off the premises.
33. However, limitations may have to be imposed in the case of premises known to be a focus of disorder, in particular following police representations about the premises. The control of hours for the sale of alcohol may have to be used in order to meet the licensing objectives.

## MAKING AN APPLICATION

- 34 The City of London Licensing Authority only has discretion on whether to grant applications for new premises licences or variations to licences, or to impose conditions on granting or varying licences, if representations relevant to the licensing objectives are made by 'responsible authorities' or by 'other persons'. If no representations are received the Licensing Authority must grant all applications for premises licences.
- 35 Applicants for premises licences and club premises certificates are required to complete an operating schedule to accompany their application. In completing the operating schedule, applicants should set out in some detail how they intend to run the premises in order to promote the four licensing objectives. Applicants are expected to have regard to this statement of licensing policy when completing their operating schedules.

In all cases, the granting of a licence will depend on the impact of an activity, particularly on local residents or late night businesses. Consideration will be given to relevant matters including, but not limited to, the level of noise and vibration, litter, people coming and going, queuing and any potential for criminal activity or disorder.

- 36 The City Corporation takes note of the nuisance and potential danger to pedestrians and particularly to disabled people and those using access equipment or items such as pushchairs by the obstruction of the highway, which includes the footway, by customers of the licensed premises smoking, drinking and eating on the public highway.
- 37 The City Corporation will expect that all operating schedules indicate in detail the steps an applicant is taking to comply with the licensing objectives.
- 38 Any operating schedule submitted in respect of premises shall include proposed times of operating and details of how the applicant intends to comply with the licensing objectives and in particular, how the outside areas will be managed to prevent noise, smell, or obstruction nuisance to neighbours and the public
- 39 The City Corporation will expect:
- a) all applications to be accompanied by a covering statement explaining in some detail the nature of the proposed operation. If the application is for a licence variation, the statement must also set out the reasons for the variation and whether there are any proposals to change the nature of the operation at the premises
  - b) all applicants to address the licensing objectives in their operating schedule which they are required by the Act to prepare

- c) all applications to be accompanied by a plan scaled at 1:100 in electronic format together with a hardcopy on A3 size paper using colour where necessary
  - d) the operating schedule to have regard to the nature of the area where the premises are situated, the proximity of residents or other sensitive receptors, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community
  - e) the applicant to demonstrate in the operating schedule that they have taken appropriate measures to ensure that the premises will be 'good neighbours' and where appropriate demonstrate that consideration has been given to arrangements for the quick, safe and quiet dispersal of customers from their premises
  - f) applicants will complete their own detailed risk assessments on their businesses using the Code of Good Practice for licensed premises as a guide
  - g) any proposed changes to the operating schedule, including change of use, to be notified to the Licensing Authority and, depending on the nature of the changes proposed, the Licensing Authority may require a new premises licence application or the submission of an application to vary the existing licence
- 40 A failure to complete the operating schedule in sufficient detail could result in representations being made against the application.
- 41 The City Corporation has produced a Code of Good Practice for Licensed Premises to assist applicants in completing their operating schedules for the promotion of the four licensing objectives. The Code forms part of the City Corporation's statement of licensing policy and is attached as Appendix 4 to this document. The City Corporation will expect all applicants to have regard to the Code and to make a positive commitment to preventing problems from occurring at their premises.
- 42 In order to reduce the number of representations and the cost for all parties in having to attend a hearing, applicants are strongly urged to attend a pre-application meeting with officers of the City of London. This will give the applicant the opportunity to discuss any issues with the licensing officers and if necessary, the police and environmental health. Officers can discuss all aspects of the application and compliance with the City of London Licensing Policy to pre-empt any unnecessary representations and hearings.
- 43 The costs falling on all parties can be materially reduced if the applicant has early and detailed discussions with local residents in order to prevent representations from being made. Almost all representations made against the granting of a licence are made either by 'responsible authorities' or local residents.

## **Notification of new applications**

44. It is the policy of the City Corporation that it will always endeavour to make all those affected by an application aware of applications and of the opportunity to make representations. In doing so, every application for a premises licence will be required to be advertised by both the licensing authority and the applicant which will bring the details of the application to the notice of residents and other persons.
45. In addition to statutory requirements, the licensing authority will advertise all new licence applications, applications to vary existing licences and Temporary Event Notices on the City of London web site. We will also notify any person by email the details of new licence and variation applications where a person so requests to be kept informed.
46. Representations must be relevant and not vexatious or frivolous. To be relevant the representation will be accepted if it relates to the likely effect of the grant of a licence on the promotion of at least one of the licensing objectives. In other words representations should relate to the impact of licensable activities carried on from premises on the objectives. Representations based on vague references to what may happen if the licence is granted will almost certainly be considered frivolous and therefore not relevant.
47. Representations that are founded in whole or in part on stereotypical comments that are based on nothing more than protected characteristics as defined by the Equalities Act 2010, will be treated as vexatious and not considered relevant representations.
48. The grant of a licence could have a significant impact on the lives or businesses of those living or working in the area around the premises for which a licence is sought. It is only right, therefore, that all those likely to be affected by an application are made aware of it and of the opportunity to make representations.

## **Personal Licence Applications**

- 49 The City Corporation recognises it has little discretion regarding the granting of personal licences. In general provided an applicant has a qualification, accredited by the Secretary of State or a certified equivalent, and does not have certain serious criminal convictions, the application is required to be granted.
- 50 If an applicant has a relevant conviction the Police may oppose the application, in which case a hearing will be held.
- 51 Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the City Corporation under the Crime and Disorder Act 1998. A person holding a personal licence should be properly qualified and be able to assist the action against crime. Granting a licence to a known

criminal will in many cases undermine rather than promote the crime prevention objective.

- 52 At any hearing the licensing authority will consider the seriousness and relevance of the disclosed conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The City Corporation will refuse the application if it is satisfied that granting it would not promote the licensing objectives.

# CRIME AND DISORDER

- 53 This section details criteria that the applicant should have in mind when drawing up an operating schedule in relation to 'The Prevention of Crime and Disorder' licensing objective. The criteria apply to all applications and will be a consideration when responsible authorities or 'other persons' are deciding whether to make representations or whether to call for a review.
- 54 The City of London Licensing Authority sees the Police as the main source of advice on crime and disorder. The Authority also work closely with the Safer City Partnership and co-operate with other bodies such as the Security Industry Authority (SIA).
- 55 The following are matters that the Licensing Authority will seek advice particularly from the Police:
- a) The levels of crime and disorder currently experienced in and around the premises.
  - b) Whether suitable use of CCTV is proposed both inside and outside the premises.
  - c) Any measures in place that promote sensible drinking and discourage excessive drinking and drunkenness.
  - d) The management competency of designated premises supervisors and licence holders in circumstances where poor management competency could give rise to issues of crime and disorder and/or public safety.
  - e) The use of SIA registered door supervisors where appropriate.
  - f) Search policies for the detection of drugs and weapons where appropriate.
- 56 Of particular relevance to the prevention of Crime and Disorder is the number of problems associated with premises operating promoted events. A promoted event is defined as, 'an event involving music and/or dancing where the musical entertainment is provided at any time by a disc jockey or disc jockeys one, or some, of whom are not employees of the premises licence holder and/or the event is (independent of the premises licence holder) promoted to the general public.'
- 57 Where it is considered that operating a promoted event could give rise to issues of crime and disorder it is expected that these matters are to be addressed in the operating schedule. If the premises are deemed not suitable to operate a promoted event a 'No Promoted Events' condition would expect to be found (see also section 13).
- 58 If it is the intention to run promoted events the Licensing Authority would expect to see in the operating schedule:
- a) a comprehensive risk assessment undertaken by the licence holder to ensure that crime and disorder and public safety matters are identified and addressed

- b) that the appropriate City of London Police Promoted Event Risk Assessment Form be used for each event and submitted to the Police at least 14 days before the event takes place
- c) that promoters have obtained BIIAB Level 2 for Music Promoters
- d) that the door supervisor per customer ratio should be a minimum of 1 : 50

- 59 Recent surveys indicate the use of illegal drugs is still prevalent within premises licensed to sell alcohol. This is particularly true of what are often referred to as 'recreational drugs' with the range of substances increasing. The misuse of such drugs holds grave danger and has led to fatalities.
- 60 Other factors may have contributed to these deaths, such as a lack of drinking water, excessive drinking of water, an overly hot environment with inadequate ventilation, or a lack of adequate information about drugs.
- 61 Drugs alter the way people behave, so their distribution and possession is controlled by law. Controlled drugs are usually manufactured and supplied illegally, which attracts criminal involvement in their distribution. Drugs manufactured illegally often vary in quality and strength which puts people taking such drugs in further danger.
- 62 The City Corporation recognises that drug use by young people in a club environment is not something that applies to all licensed premises. However, many entertainment venues, such as night clubs and dance venues, can be popular with both drug users and suppliers.
- 63 In particular, the City Corporation will expect licensees of such venues to be familiar with the contents of Chapter 4 (drug awareness) of the BIIAB Level 2 National Certificate for Entertainment Licensees and to be following the recommendations of that handbook. The BIIAB is a legal entity, and is the British Institute of Inn Keeping Awarding Body. The City Corporation will also expect licensees to be following the recommendations of the book 'Safer Clubbing' issued by the London Drug Policy Forum and endorsed by the Home Office.

The City Corporation will expect licensees of venues to take all reasonable steps to prevent the entry of drugs into premises under their control, to take appropriate steps to prevent drugs changing hands within the premises and to take practical measures to prevent tragedies as a result of drug misuse by way of management and design of the premises.

Failure to follow these recommendations, and those set out in the Code of Good Practice for Licensed Premises, on a voluntary basis could lead to the licence being reviewed with the possibility of revocation.

- 64 The City of London Corporation runs a Safety Thirst scheme whereby licence holders can show their premises are operating in a way that promotes the four licensing objectives. It is recognised by the Licensing Authority that premises which meet the safety thirst criteria are less likely to cause problems which will be looked at favourably if ever they were to come before a licensing hearing.



## PUBLIC SAFETY

- 65 This section details criteria that the applicant should have in mind when drawing up an operating schedule in relation to the 'Public Safety' licensing objective. The criteria apply to all applications and will be a consideration when responsible authorities and 'other persons' are deciding whether to make representations or whether to call for a review.
- 66 Public safety is about protecting the safety and the lives of patrons. It is the wish of the City Corporation that anyone visiting a licensed venue in the City can do so in complete safety and premises may be inspected to ensure that they have been constructed with safety in mind and are well managed and maintained. The City of London Licensing Authority sees the London Fire Service as one of the main sources of advice on public safety.

The City Corporation will expect:

- i) the premises to be presented to the highest possible standards of safety
- ii) the applicant to have addressed the requirements of Health & Safety at Work and Fire Safety legislation and, where appropriate, the Technical Standards published by the District Surveyors Association. The plans of the premises which must be submitted will be expected to provide evidence of compliance with health and safety matters. Evidence of current safety certificates may be required
- iii) the operating schedule to detail how the premises will be properly managed and maintained to ensure public safety at all times

- 67 It is the policy of the City Corporation that there should be comprehensive facilities and access for people with disabilities wherever practicable. The City Corporation will, therefore, expect the needs of disabled people to be addressed in the operating schedule.
- 68 Wherever practicable, disabled people should not be treated in a less advantageous way than non-disabled people. In addition, there are responsibilities under the Equality Act 2010 and prior legislation that place statutory duties on licensees to ensure that such facilities cater for everyone's needs.
69. With regard to the licensing objective of public safety, the issue of capacity should be addressed in the fire risk assessment for the premises use. This does not mean that every premises must have a capacity figure. However

there should be evidence that the responsible person has considered the number of persons who can be safely evacuated through the available exits.

70. A safe capacity figure will however be expected in the following circumstances:
- a) In premises that could potentially become overcrowded, for example bars, pubs, clubs, and other places of public assembly, particularly when a promoted event is to take place
  - b) Where an engineered solution or BS 9999 has been used to increase capacity
  - c) Where capacity is risk critical, for example where the premises use has a higher occupancy factor than that which the building was designed for
  - d) Where applicable, capacity should normally be inclusive of staff and performers. Management should be able to demonstrate a realistic method of controlling capacity
71. In order to promote the licensing objective of public safety, the issue of the use of candles should be addressed in the fire risk assessment of all premises where candles may be used. The City Corporation requires all measures identified and recommended by the London Fire Brigade during their audit/ inspection to be adopted and implemented at all times, so as to reduce or remove the risk of danger to public safety.

## PUBLIC NUISANCE

- 72 This section details criteria that the applicant should have in mind when drawing up an operating schedule in relation to 'The Prevention of Public Nuisance' licensing objective. The criteria apply to all applications and will be a consideration when responsible authorities or 'other persons' are deciding whether to make representations or whether to call for a review.
- 73 Although largely commercial, much of the City is very sensitive to the impact of licensed activities because it is close to either residential areas or areas of late night financial and other businesses. The impact of traffic going to and from licensed premises can be considerable. Even where a majority of customers arrive on foot or by public transport, the numbers of people dispersing may be significant.
- 74 The view of the Government is that longer licensing hours should be encouraged in the interests of avoiding a concentration of disturbance and ensuring that nuisance is minimised to local residents. The Government believes that shops and public houses should generally be permitted to sell alcohol during the hours they intend to open. Entertainment providers should be encouraged to provide a range of entertainment during their operating hours and to promote live music, dancing and theatre for the wider cultural benefit of the community.
- 75 The City Corporation understands the view of the Government, but considers that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example, the risk of residents' sleep being disturbed by patrons leaving licensed premises is obviously greater at 02.00 than at 23.00. Residents have a reasonable expectation that their sleep will not be unduly disturbed between the hours of 23.00 and 07:00.

It is therefore the policy of the City Corporation to strike a fair balance between the benefits to a community of a licensed venue, and the risk of disturbance to local residents and workers. Notwithstanding that all applications will be determined on their individual merits

- 76 In particular, the City Corporation will expect the applicant to be proposing practical steps to prevent disturbance to local residents. The City Corporation will expect the applicant to supply an acoustic report in applicable circumstances confirming that there will be no noise breakout from the premises that is likely to cause public nuisance to persons living or working in the area around the licensed premises. Any doubts as to whether such a report is required can be discussed in the pre-application meeting. Any sound leakage must be addressed in practical ways such as:

- i) keeping doors and windows closed and providing adequate mechanical ventilation
  - ii) reducing sound levels and installing an approved sound limiting device to prevent sound exceeding the appropriate level, both the device and the level to be approved by a suitably qualified acoustic consultant
  - iii) providing double door entry to premises with a ventilated lobby, to reduce noise levels generally and during entry and exit of persons to the premises
  - iv) installing soundproofing measures to contain sound and vibration
  - v) mounting speakers in carefully considered locations using rubber mounts
77. The Licensing Authority expects that premises intended for the provision of noise generating licensable activities are acoustically controlled and engineered to a degree where the noise from the premises when compared to the ambient noise level will not cause undue disturbance. The Licensing Authority recognises specific difficulties associated with other premises structurally linked to would-be licensed premises and the limit of sound insulation performance that can be achieved. In some circumstances licensed premises with amplified music adjoining, or in very close proximity to, residential properties may not be appropriate.
78. The aim of the Policy is, therefore, to achieve a holistic and balanced approach to these difficult issues although it must be realised that there may be circumstances where measures within the control of the applicant are likely to be insufficient to prevent one or more of the licensing objectives being undermined. In these circumstances it may not be appropriate for a premises licence to be granted.
79. The City Corporation acknowledges the difficulty a licence holder has in preventing anti-social behaviour by individuals once they are beyond the direct control of that licence holder. However, it will also take into account that the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly engage in anti-social activities to the detriment of nearby residents or businesses. Furthermore, it will also take into account its responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder in the City.
80. In order to mitigate the noise from patrons leaving a premises, particularly where residents are close by and where it is late at night or early in the morning, the Licensing Authority will expect the applicant to operate a dispersal policy and to include in the operating schedule practical steps such as:
- a) Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors
  - b) At appropriate times making announcements to the same effect within the premises
  - c) Instructing door staff to ask customers leaving the premises to leave the area quietly

- d) Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down
  - e) In appropriate cases, having door supervisors or a manager patrolling nearby streets to assess for themselves whether there is a problem and how best to deal with it
  - f) Banning from the premises people who regularly leave in a noisy fashion
  - g) Increasing outside lighting levels
  - h) Instituting a mini cab/taxi booking scheme
81. However, a situation can arise in relation to disturbance caused by the dispersal of customers where in some circumstances, large numbers of customers leaving a premises late at night or early in the morning is simply not appropriate.
82. The City Corporation will expect the operators of popular venues, which attract queues, to formulate a system to avoid disturbance to residents. This may sometimes be achieved by simply ensuring that the direction of the queue is away from residential accommodation.
83. However, excessive noise and/or disorder will require more rigorous action. It is important that queues formed later in the evening are supervised to keep noise to a minimum. Door supervisors will generally be expected to carry out this role, but they must be given clear instructions as to their duties and responsibilities which should cover other areas of crime and disorder, for example underage drinking and drugs.
84. Any activity involving public entertainment or eating or drinking on the premises has the potential to impact adversely on the surrounding area due to noise, smells, or congestion on the footway. It may also be caused by the customers being noisy on departure or leaving litter. The impact of noise generated by these activities, especially customers departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.
85. Since a change in legislation in 2007 preventing people from smoking in premises, public nuisance is now a real possibility from customers smoking outside the premises.
86. Therefore, the proposals in the operating schedule should include an assessment of the potential for public nuisance arising from customers eating, drinking and smoking in outdoor areas and on the public highway outside the premises and how this is to be managed with particular reference being made to:
- a) restricting the number of customers permitted in certain outside areas and/or at certain times
  - b) limiting the number of customers permitted on the premises at any one time

- c) not permitting customers who are smoking to take drinks outside with them
- d) the arrangements in place for the regular removal of used glasses, crockery and cutlery
- e) locating smoking areas away from residential premises
- f) using door supervisors and employees to monitor possible public nuisance issues with a ratio not less than 1 door supervisor for every 100 customers
- g) providing a form of demarcation and or physical barrier acceptable to the Highways Authority to be used to mark the boundary of the area outside the premises where customers are allowed to drink
- h) the steps they intend to take to educate their customers and prevent public nuisance arising from litter and prevent the use of alleyways, street corners, and open pavements in the area around their premises as urinals
- i) how they will work with other licensees in the area to combat nuisance caused by night time visitors creating noise and urinating in the alleyways, street corners and open pavements in the area around the premises

When considering whether any licensed activity should be permitted, the City Corporation will assess the likelihood of it causing unacceptable adverse impact, particularly on local residents and businesses, by considering the following factors amongst other relevant matters:

- i) the type of use
- ii) the proposed hours of operation
- iii) the means of access to and exit from the premises by patrons
- iv) the measures that are proposed to avoid nuisance being caused to residents and businesses in particular from outside smoking, drinking and eating in terms of noise, obstruction of the highway and anti-social behaviour
- v) any negative cumulative impact of licensed premises in an area and, in considering any application for review of premises already licensed, the City Corporation may take into account evidence of the following:
  - a) past demonstrable adverse impact from the activity especially on local residents and businesses
  - b) any appropriate measures which have been agreed and put into effect by the applicant to mitigate any adverse impact
  - c) adoption of the City Corporation's Code of Good Practice for Licensed Premises

# PROTECTION OF CHILDEN FROM HARM

87. This section details criteria that the applicant should have in mind when drawing up an operating schedule in relation to 'The Protection of Children from Harm' licensing objective. The criteria apply to all applications and will be a consideration when responsible authorities or 'other persons' are deciding whether to make representations or whether to call for a review.
88. The protection of children from harm is an important licensing objective. Nevertheless, the City Corporation will not normally impose conditions requiring or prohibiting the admission of children to any premises, believing this should remain a matter of discretion for the licence holder. However, it will, where appropriate, impose conditions designed to protect children.
89. The Licensing Authority will take strong measures to protect children from harm and introduce additional controls where appropriate. Examples of premises likely to receive additional controls are:
- a) where entertainment or services of an adult or sexual nature are commonly provided
  - b) where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
  - c) where there is a known association with drug taking or dealing
  - d) where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines)
  - e) where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises
90. The Government position is that everyone working in an environment where there may be children present should safeguard and promote the wellbeing of children. All such persons must follow Government guidance entitled, 'What To Do If You're Worried A Child Is Being Abused'.
91. A policy entitled, 'Safeguarding Children Policy for Licensed Premises' has been drawn up by the Pan-London Safeguarding Board. The licensee is responsible for ensuring that they and their staff are familiar with, and competent in following both the Safeguarding Policy and the Government guidance referred to within the document.
92. All owners/licence holders and their staff should have a basic awareness of child protection issues. This includes:
- a) Being alert to the possibility of child abuse and neglect, i.e. the definition, prevalence, identifying features in a child or adult, legal parameters and social consequences.



- b) Having enough knowledge to recognise an abusive or potentially abusive event or set of circumstances
  - c) Licensing Authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions
  - d) Knowing who in the organisation to raise your concerns with
  - e) Being competent in taking appropriate immediate or emergency action
  - f) Knowing how to make a referral to Local Authority Children's Social Care and/or the Police.
93. Where the exhibition of films is permitted, the authority will expect the age restrictions of the British Board of Film Classification (BBFC) or the City Corporation in respect of the films to be exhibited to be complied with.
94. In relation to specialist Film Festivals where it is desired to show films not classified by the BBFC, the City Corporation will classify the films concerned. Adequate notice will need to be given by the Festival organiser if Corporation classification is required. To achieve consistency and the protection of children, the City Corporation will use the guidelines published by the BBFC.
95. In addition, the City Corporation will use its other statutory functions to ensure the protection of children from harm with particular emphasis on the sale of alcohol to underage persons.

While in some circumstances it may be appropriate to impose a complete prohibition, the City Corporation will in other situations consider imposing requirements such as:

- i) limitations on the hours when children may be present
- ii) limitations or the exclusion of the presence of children under certain ages when particular specified activities are taking place
- iii) limitations on the parts of premises to which children might be given access
- iv) age limitations (eg. no person under 18)
- v) requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult)
- vi) full exclusion of those people under 18 from the premises when any licensable activities are taking place

96. These policies are designed to allow flexibility for the licensee to ensure that, where appropriate, licensed premises are suitable for children but to ensure they are adequately protected.



# TEMPORARY EVENT NOTICES

- 97 Temporary Event Notices (TENs) allow licensable activities to take place without the need for a premises licence where the event shall have less than 500 attendees.
- 98 The TEN can only cover a period up to 168 hours (seven days). A maximum of fifteen TENs can be submitted within one calendar year with a maximum number of aggregate days that the TENs may cover within a calendar year being twenty-one.
- 99 If any of the above limits are exceeded the City of London will issue the premises with a counter notice, nullifying the TEN, and prohibiting licensable activities from taking place.
- 100 A TEN submitted to the Licensing Authority at least ten working days before the event is due to take place is known as a 'Standard TEN' and can only be objected to by the Police or Environmental Health within three working days from receipt of the notice. The Licensing Authority has no discretion whether to allow a TEN. Where objections take place the matter is subject to a hearing by elected Members unless an agreement can be made between the 'objector' and the premises user, in which case the objections are treated as withdrawn.
- 101 A TEN submitted to the Licensing Authority between five and nine working days before the event is due is known as a 'Late TEN'. If objections are made by either the Police or Environmental Health the event will not be permitted and a counter notice issued nullifying the TEN. Because of the short timescales the matter is not subject to a hearing and therefore the event will not be permitted to take place.
- 102 It should be noted that a temporary event does not absolve the premises user of any responsibilities under any other legislation e.g. a terminal hour of operation on its planning permission.
- 103 A TEN will however supersede any condition already on the premises licence. The Licensing Authority strongly recommends that those giving TENS for premises already holding a licence in order to extend the terminal hour for licensable activities, to carefully consider applying any conditions on their licence to the TEN. This is particularly relevant for conditions relating to noise control as areas are likely to become more noise sensitive with later hours.

## LATE NIGHT LEVY

- 104 It is a requirement in the City of London that all licensed premises authorised to sell alcohol between 00:01 and 06:00 hours will have to pay an annual levy between £299 and £4,400 depending on their rateable value and whether the premises are primarily or exclusively used to sell alcohol for consumption on the premises.
- 105 It can be seen from local crime statistics that the majority of serious crimes, that have a connection with a licensed premises, are committed after midnight. The City of London therefore took the option to introduce the Levy in order to use the money raised to help reduce the incidence of crime and disorder and public nuisance. The Levy was introduced from 1 October 2014.
- 106 The Levy money is split between the City of London Police and the City Corporation.
- 107 The City Corporation is required to spend its allocation in specific areas namely:
- The reduction or prevention of crime and disorder
  - The promotion of public safety
  - The reduction or prevention of public nuisance
  - The cleaning of any highway maintainable at the public expense within the City of London (other than a trunk road) or any land to which the public are entitled or permitted to have access with or without payment and which is open to the air
- 108 A report detailing how the money raised is spent will be produced for the Licensing Committee annually. The effectiveness of the Levy, and whether it should be continued, will be reviewed on a three yearly basis with the first review due in 2017.

# CUMULATIVE IMPACT

109. The Licensing Authority recognises that the cumulative impact of licensed premises can be experienced by residents in areas even where there is no current cumulative impact policy. Cumulative impact is not defined in the Licensing Act, but is addressed in national guidance which defines it as *“the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area”*.
110. The Licensing Authority will consider any representation that refers to the impact of a number of premises in an area. The absence of a special policy in an area will not prevent any responsible authority or other person from making representations on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives in the area in question.
111. Representations referencing cumulative impact need to be evidence based i.e. show how the present number of licensed premises are impacting on the objectives and demonstrate how a specific licensed premises in a particular area will add to those problems.

The Licensing Authority will then consider, amongst other things, the question of whether the grant of further premises licences, or club premises certificates, would further undermine one or more of the licensing objectives.

A decision will be made on the individual merits of each application and, if the application is likely to significantly add to the cumulative impact then the licence may not be granted. The converse is also true. If the application is unlikely to significantly add to the cumulative impact, then the licence may be granted.

112. If there are serious problems in a particular area which affect one or more of the licensing objectives, because of the number of licensed premises in the area, the Licensing Authority may implement a Cumulative Impact policy for that particular area. The Licensing Authority would first look to impose conditions on the individual premises in that area, where relevant representations are made.
113. The Licensing Authority will adopt the following procedures if a Cumulative Impact Policy (CIP) for a particular area is required:
- a) Identify the concerns from a responsible authority or ‘other person’.
  - b) Investigate the situation to identify the causes
  - c) Establish if one or more of the licensing objectives are being undermined by customers of a licensed premises

- d) Establish whether any issues can be alleviated using licensing functions currently open to them e.g. review of a particular licence
- e) Consult with those persons that appear appropriate
- f) Adopt and publicise a CIP

114. It is important to note that such a policy if adopted will not cause any existing licences to be changed. It can only apply to new applications and variations of existing licences. It is also not an absolute policy and it would be open to the applicant to show that what is being proposed will not add to problems related to the number of licensed premises in a particular area.

## CONDITIONS

115. The Licensing Authority will only issue a licence with conditions that are both necessary and appropriate. Where an application is not subject to a representation any conditions placed on the licence will only be taken that are deemed consistent with the application's operating schedule.
116. Where the application is subject to a representation, or a current licence is subject to review, the Licensing Authority will only place sufficient conditions on the licence in order that the licensing objectives are not undermined.
117. Licence conditions will not be disproportionate to the type of activity to be licensed and will not be imposed where the Licensing Authority is satisfied that other regulatory regimes provide sufficient protection to the public eg. Health and Safety at work and fire safety legislation.
118. It is the policy of the Authority that, when considering and applying conditions, such conditions should be clear, appropriate and enforceable. Conditions will be focussed on matters that are within the control of the individual licence holder.
119. Suggested model conditions have been produced to assist applicants, responsible authorities and other persons when proposing and determining conditions for a premises licence, but all should ensure that the conditions apply specifically to the premises and meet the criteria of clarity, appropriateness and enforceability. (See Appendix 5)
120. Suggested model conditions are neither exclusive nor exhaustive. They do not restrict applicants, responsible authorities or other persons in proposing additional or alternative conditions. Nor do they restrict the Licensing Authority, when determining contested applications, from imposing any reasonable condition on a licence that it considers appropriate for the promotion of the licensing objectives.
121. A premises licence that contains conditions imposed by the City Corporation, or agreed by the applicant, shall also be subject to the statutory mandatory licensing conditions (these mandatory conditions applying to all premises licences). See Appendix 6 for the full list of mandatory conditions.

# ENFORCEMENT AND OTHER LEGISLATION

122. Where necessary, enforcement action will be taken in accordance with the principles of good enforcement, as set out in the Legislative and Regulatory Reform Act 2006, the Enforcement Concordat and the Regulators' Compliance Code, which promote consistency of enforcement throughout the country. Action taken will meet the requirements of the City of London's Department of Markets and Consumer Protection's Policy Statement on Enforcement.
123. In particular, enforcement action will have regard to the fundamental principles recommended by the Better Regulation Task Force for good enforcement:
- i) risk assessment – i.e. focusing on activities that give rise to the most serious risks or where hazards are least well controlled
  - ii) consistency – i.e. similar approaches in similar circumstances to achieve similar ends
  - iii) transparency – i.e. helping licensees to understand what is expected and distinguishing between statutory requirements and guidance
  - iv) proportionality – i.e. action taken should be proportional to the risk presented
124. The authority will establish protocols with the local Police and the Fire Authority on enforcement issues to avoid duplication and to provide for the most efficient deployment of City Corporation, Police and Fire Authority officers in respect of inspection of licensed premises and the enforcement of licensing law.
125. The Licensing Authority operate a 'Traffic Light' risk scheme providing a simple but effective monitoring tool which brings together the findings of the licensing authority and responsible authorities in a way that flags up problematic premises at an early stage. It takes a holistic partnership approach to dealing with problem premises under all four licensing objectives and also recognises good practice.
126. Advice and support will be offered to problematic premises with a view to improving standards at their premises and to prevent or minimise subsequent problems. The aim is to avoid the need for enforcement action such as prosecution or licence review but will not replace action where it is necessary for the promotion of the licensing objectives.
127. The scheme does not override the right of any person or authority to review a premises licence or club premises certificate at any stage where problems occur at that premises that are relevant to the promotion of one or more of the licensing objectives. A copy of the scheme can be seen as Appendix 7.

128. The policy of the City Corporation will always be a light touch inspection regime for well-managed and maintained premises, with a targeted and graduated inspection and enforcement regime for problem and high-risk premises.

## **Planning**

129. Licensing and Planning are two separate regimes. As a matter of law the Licensing Authority cannot refuse an application because of the absence of appropriate planning consent.
130. However, It will be the policy of the City Corporation that applicants for premises licences will be reminded of the need to secure the necessary planning consent, if not already obtained, before carrying on their licensable activities. Applicants' attention will be drawn to relevant planning policies in order to assist their application process e.g. policies concerning managing night time entertainment. An application for any variation of a licence would not relieve the applicant of the need to apply for planning permission or building control consent where appropriate.
131. Also, the Planning Department is a statutory consultee and has the opportunity to identify premises where the planning permissions and premises licence(s) are not aligned.
132. Coordination of these functions will be facilitated by the Licensing Committee and the Planning & Transportation Committee, each committee being kept informed of the actions taken. In this way unnecessary duplication can be avoided with licensing applications not being a re-run of the planning process and not cut across decision made by the local planning authority.
133. Planning 'policy' is laid down in the Local Plan. A copy of the plan relevant to licensed premises can be seen as Appendix 8.

## **Tables and Chairs**

134. The provision of tables and chairs outside premises, either on the highway or on private land, can enhance the attractiveness of the venue. It can have the benefit of encouraging a continental style café culture. However, late at night these same tables and chairs can contribute to noise problems. This is because they can encourage patrons and passers-by to loiter rather than disperse.
135. The placing of tables and chairs on the public highway requires the consent of the City Corporation's Planning & Transportation Committee. On private land, such consent is not required albeit this may constitute a 'material change of use' that requires planning permission. Applicants should also be mindful of current conditions attached to existing planning permissions and

that the placing of tables and chairs outside their premises do not contravene any planning requirements.

136. The Licensing Authority may determine hours of operation, for example by setting additional conditions where appropriate to meet the licensing objectives, taking into consideration crime and disorder, noise safety and local residents' amenities and would wish to see details of the proposed operation in the operating schedule.
137. The City of London Corporation has produced a Tables and Chairs Policy which all applicants must adhere to. The policy is designed to strike a fair balance between the needs of those wishing to enjoy refreshment in the open air and the need to prevent problems concerning safety and nuisance. A copy of the Tables and Chairs Policy can be seen as Appendix 9.

### **Sexual Entertainment**

138. The City Corporation has a separate policy for applications for Sexual Entertainment Venues (SEV's) in the City and applicants should familiarise themselves to its contents. A copy of the SEV Policy can be seen as Appendix 10.
139. Applicants wishing to offer adult entertainment are expected to complete Box N of the operating schedule and give details of the entertainment to be provided.
140. Limited entertainment can be provided without the need of an SEV licence however, venues wishing to provide this kind of entertainment will generally be expected to offer the following conditions:
  - a) No person under the age of 18 shall be admitted to the premises at any time
  - b) No person under the age of 18 shall be admitted to the premises when adult entertainment is taking place
  - c) The premises shall be so arranged that adult entertainment is not visible from the street.
  - d) There shall be no external advertisement at the premises for adult entertainment (including leafleting)
  - e) Nudity shall only be permitted by performers and not customers.
  - f) A minimum of one metre distance shall be maintained between dancers and customers during adult entertainment
  - g) A written code of conduct for staff participating in the provision of striptease or nudity shall be in place, and shall be kept on the premises for inspection by Police or a duly authorised officer of the Licensing Authority.



- h) A written code of conduct for dancers participating in the provision of striptease or nudity shall be in place, and shall be kept on the premises for inspection by Police or a duly authorised officer of the Licensing Authority.

# ADMINISTRATION AND DELEGATION OF FUNCTIONS

141. The Act provides that the functions of the licensing authority (including its determinations) are to be taken or carried out by its Licensing Committee (except those relating to the making of a statement of licensing policy or where another of its committees has the matter referred to it). The Licensing Committee may delegate these functions to sub-committees or, in appropriate cases, to officials supporting the licensing authority. Where licensing functions are not automatically transferred to licensing committees, the functions must be carried out by the licensing authority as a whole and not by its executive.
142. The discharge of functions are as follows:

<b>Matters to be dealt with</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence	If a Police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a Police objection	All other cases
Application for transfer of premises licence	If a Police objection	All other cases
Application for interim authorities	If a Police objection	All other cases
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.		All cases

Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a police or environmental health objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If Police objection	All other cases
Decision whether to consult other responsible authorities on a minor variation		All cases
Determination of a minor variation application		All cases

- 143 This statement of licensing policy will cover the period January 2017 to January 2022. It has to be replaced at least every five years with the next one due therefore in January 2022.
- 144 The City of London licensing authority will however review the policy at more frequent intervals and make any necessary and appropriate changes.