

3 Statements of Licensing Policy

- 3.1 This Chapter provides guidance on the development and preparation of local statements of licensing policy for publication by licensing authorities, the general principles that the Secretary of State recommends should underpin them, and core content to which licensing authorities are free to add.

General

- 3.2 Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy every three years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the 2003 Act. During the three year period, the policy must be kept under review and the licensing authority may make such revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the statutory objectives are being met.
- 3.3 Before determining its policy for any three year period, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:
- (a) the chief officer of police for the area;
 - (b) the fire authority for the area;
 - (c) persons/bodies representative of local holders of premises licences;
 - (d) persons/bodies representative of local holders of club premises certificates;
 - (e) persons/bodies representative of local holders of personal licences; and
 - (f) persons/bodies representative of businesses and residents in its area.
- 3.4 The views of all these persons/bodies listed should be given appropriate weight when the policy is determined. It is recognised that in some areas, it may be difficult to identify persons or bodies representative for all parts of industry affected by the provisions of the 2003 Act, but licensing authorities must make reasonable efforts to identify the persons or bodies concerned.
- 3.5 Licensing authorities should note that the terms of the 2003 Act do not prevent them consulting other bodies or persons before determining their policies. For example, certain authorities may consider it essential to consult the Crime and Disorder Reduction Partnerships (CDRPs), British Transport Police, local Accident and Emergency Departments, bodies representing consumers, local police consultative groups or those charged locally with the promotion of tourism. They may also consider it valuable to consult local performers, performers' unions (such as the Musicians' Union and Equity) and entertainers involved in the cultural life of the local community.
- 3.6 Beyond the statutory requirements, it is for each licensing authority to decide the full extent of its consultation and for it to decide whether any particular person or body is representative of the group described in the statute. When undertaking consultation exercises, licensing authorities should have regard to cost and time. Licensing authorities should note that the

Secretary of State will establish fee levels to provide full cost recovery of all licensing functions including the preparation and publication of a statement of licensing policy, but this will be based on the statutory requirements. Where licensing authorities exceed these requirements, they should note that they would have to absorb those costs themselves.

- 3.7 Licensing authorities consulting on their first statement of licensing policy should also note the requirements of paragraph 29 of Part 4 of Schedule 8 to the 2003 Act which provides that prior to making its first statement of policy, the authority must consult bodies representative of current licence holders before determining their statement. Current licence holders include those holding:
- justices' licences (off- and on- licences);
 - canteen licences issued under the Licensing Act 1964;
 - licences issued under Schedule 12 to the London Government Act 1963 (licensing of public entertainment in Greater London);
 - licences issued under the Private Places of Entertainment (Licensing) Act 1967;
 - licences issued under the Theatres Act 1968;
 - licences issued under the Late Night Refreshment Houses Act 1969;
 - licences issued under Schedule 1 to the Local Government (Miscellaneous Provisions) Act 1982 (licensing of public entertainments outside Greater London);
 - licences issued under section 1 of the Cinemas Act 1985; and
 - licences issued under Part 2 of the London Local Authorities Act 1990 (night cafe licensing).

Fundamental principles

- 3.8 All statements of policy should also begin by stating the four licensing objectives, which the licensing policy will be determined with a view to promoting. In determining its policy, a licensing authority must have regard to this Guidance and give appropriate weight to the views of those it has consulted. Having regard to this Guidance will be important for consistency, particularly where licensing authority boundaries meet.
- 3.9 While statements of policy may set out a general approach to the making of licensing decisions, they must not ignore or be inconsistent with provisions in the 2003 Act. For example, a statement of policy must not undermine the right of any individual to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its individual merits.
- 3.10 Similarly, no statement of policy should override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the 2003 Act.
- 3.11 Statements of policies should make clear that licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act, and that the conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others in

possession of relevant authorisations. Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity of those premises. Whether or not incidents can be regarded as being “in the vicinity” of licensed premises is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, the question will ultimately be decided by the courts. But statements of licensing policy should make it clear that in addressing this matter, the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned. A statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

The need for licensed premises

- 3.12 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. “Need” is a matter for planning committees and for the market.

The cumulative impact of a concentration of licensed premises

- 3.13 “Cumulative impact” is not mentioned specifically in the 2003 Act but means in this Guidance the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. For example, the potential impact on crime and disorder or public nuisance on a town or city centre of a large concentration of licensed premises in that part of the local licensing authority area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.
- 3.14 A licensing authority may not impose conditions on or refuse to grant or vary a premises licence or club premises certificate unless it has received a representation from a responsible authority, such as the police or an environmental health officer, or an interested party, such as a local resident or local business which is a relevant representation. It is however important that applicants, responsible authorities and interested parties should know through the statement of licensing policy, whether the licensing authority already considers that a particular concentration of licensed premises in a particular part of its area is considered to be already causing a cumulative impact on one or more of the licensing objectives. Whether an area is nearing this point should be one of the issues on which local residents are consulted. The open meetings recommended at paragraph 2.7 should assist licensing authorities in keeping the situation as to whether an area is nearing this point under review.

- 3.15 In some town and city centre areas, where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from licensed premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport. Queuing in turn may be leading to conflict, disorder and anti-social behaviour. While the general lengthening of licensing hours can be expected to reduce this impact by allowing a more gradual dispersal of customers from premises, it is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater in these cases than the impact of customers of individual premises.
- 3.16 Where, after considering the available evidence and consulting those individuals and organisations listed in section 5(3) of the 2003 Act and any others, a licensing authority is satisfied that it is appropriate and necessary to include an approach to cumulative impact in the licensing policy statement, it should indicate in the statement that it is adopting a special policy of refusing new licences whenever it receives relevant representations about the cumulative impact on the licensing objectives from responsible authorities and interested parties which it concludes after hearing those representations should lead to refusal (see paragraph 3.19 below).
- 3.17 There should be an evidential basis for the decision to include a special policy within the statement of licensing policy. For example, Crime and Disorder Reduction Partnerships will often have collated information which demonstrates cumulative impact as part of their general role on anti-social behaviour; and crime prevention strategies may have already identified cumulative impact as a local problem. Similarly, environmental health officers may be able to demonstrate concentrations of valid complaints relating to noise disturbance.
- 3.18 In summary, the steps to be followed in considering whether to adopt a special policy within the statement of licensing policy are:
- identification of concern about crime and disorder or public nuisance;
 - consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
 - consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole statement of licensing policy;
 - subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of this Guidance in the statement of licensing policy;
 - publication of the special policy as part of the statement of licensing policy required by the 2003 Act.
- 3.19 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants would need to address the special policy issues in their

operating schedules in order to rebut such a presumption. However, a special policy must stress that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before a licensing authority may lawfully consider giving effect to its special policy. If no representation is received, it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted. However, responsible authorities, such as the police, or interested parties, can make a written representation maintaining that it is necessary to refuse the application for the promotion of the prevention of crime and disorder and referring to information which had been before the licensing authority when it developed its statement of licensing policy.

- 3.20 Once adopted, special policies should be reviewed regularly to assess whether they are needed any longer or need expanding. While a special policy is in existence, applicants will need to demonstrate why the operation of the premises would not add to the cumulative impact being experienced.
- 3.21 The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

Limitations on special policies relating to cumulative impact

- 3.22 It would normally not be justifiable to adopt a special policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. Special policies will address the impact of a concentration of licensed premises selling alcohol for consumption on the premises which may give rise to large numbers of people who have been drinking alcohol on the streets in a particular area.
- 3.23 A special policy should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives to be granted. Following receipt of representations in respect of a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If after such consideration, the licensing authority decides that an application should be refused, it will still be for the licensing authority to show that the grant of the application would undermine the promotion of one of the licensing objectives and if it would, that necessary conditions would be ineffective in preventing the problems involved.
- 3.24 Special policies should never be used as a ground for revoking an existing licence or certificate when relevant representations are received about problems with those premises. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder or nuisance) situation in a town centre would generally not be regarded as a relevant representation if it cannot be positively tied or linked by a causal connection to particular

premises that would allow for a proper review of its licence or certificate. In this context, it should be noted that the “cumulative impact” on the promotion of the licensing objectives of a concentration of multiple licensed premises should only give rise to a relevant representation when an application for the grant or variation of a licence or certificate is being considered. A review must relate specifically to individual premises, and by its nature, “cumulative impact” relates to the effect of a concentration of many premises. Identifying individual premises in the context of a review would inevitably be arbitrary. Where it becomes clear that there is a problem in a part of the licensing authority area after a premises licence or club premises certificate has been granted, and it becomes clear that an individual premises is undermining the promotion of the prevention of crime and disorder in that area, the licence may only be reviewed if representations are made about that objective by either an interested party, such as a residents’ association, or a responsible authority such as the police.

- 3.25 Special policies can also not be used to justify rejecting applications to vary an existing licence or certificate except where those modifications are directly relevant to the policy (as would be the case with an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly necessary for the promotion of the licensing objectives.
- 3.26 A special policy relating to cumulative impact cannot justify and should not include provisions for a terminal hour in a particular area. For example, it would be wrong not to apply the special policy to applications that include provision to open no later than, for example, midnight, but to apply the policy to any other premises that propose opening later. The effect would be to impose a fixed closing time akin to that under the “permitted hours” provisions of the Licensing Act 1964. Terminal hours dictated by the Licensing Act 1964 were abolished to avoid the serious problems that arise when customers exit licensed premises simultaneously. Attempting to fix a terminal hour in any area would therefore directly undermine a key purpose of the 2003 Act.
- 3.27 Special policies must not impose quotas – based on either the number of premises or the capacity of those premises – that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas. Quotas that indirectly have the effect of pre-determining the outcome of any application should not be used because they have no regard to the individual characteristics of the premises concerned. Public houses, nightclubs, restaurants, hotels, theatres, concert halls and cinemas all could sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard should be given to those differences and the differing impact they will have on the promotion of the licensing objectives.

Other mechanisms for controlling cumulative effect

- 3.28 Once away from the licensed premises, a minority of consumers will behave badly and unlawfully. To enable the general public to appreciate the breadth of the strategy for addressing these problems, statements of policy should also indicate the other mechanisms both within and outside the licensing regime that are available for addressing such issues. For example:
- planning controls;

- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- the confiscation of alcohol from adults and children in designated areas;
- police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance; and
- the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

These should be supplemented by other local initiatives that similarly address these problems.

Licensing hours

- 3.29 With regard to licensing hours, the statement of policy should generally emphasise the consideration which will be given to the individual merits of an application. The Government strongly recommends that statements of policy should recognise that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance. The Government also wants to ensure that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for investment and employment locally and attractive to domestic and international tourists without compromising the ability to resource local services associated with the night-time economy. Providing consumers with greater choice and flexibility is an important consideration.
- 3.30 The term “zoning” is used in this Guidance to refer to the setting of fixed trading hours within a designated area. As experience in Scotland suggests that zoning leads to the significant movement of people across boundaries in search of premises opening later and puts greater pressure on town and city centres than is necessary, it should not be adopted as a policy. Zoning can result in greater disturbance in the streets at particular times and concentrations of disturbance and noise, particularly where licensing authorities seek to adopt fixed “terminal hours” as a matter of policy. It also assumes that the representations of residents in one area should be treated less favourably than others in other areas simply because they live in busy central areas of towns and cities or because residential housing is less dense than in other areas. It is acceptable for a statement of policy to make clear that stricter

conditions with regard to noise control will be expected in areas which have denser residential accommodation, but this should not limit opening hours without regard to the individual merits of any application.

- 3.31 With regard to shops, stores and supermarkets, the Government strongly recommends that statements of licensing policy should indicate that the norm will be for such premises to be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are very good reasons for restricting those hours. For example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there. Statements of licensing policy should therefore reflect this general approach.
- 3.32 Chapter 6 of this Guidance provides further advice on the issue of licensing hours.

Children

- 3.33 The 2003 Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or temporary event notice. Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity at those venues. Accordingly, between 5am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and even many pubs where the main business activity is the consumption of both food and drink. This does not mean that children should automatically be admitted to such premises and the following paragraphs are therefore of great importance notwithstanding the new offences created by the 2003 Act.
- 3.34 It is not intended that the definition “exclusively or primarily” in relation to the consumption of alcohol should be applied in a particular way by reference to turnover, floor space or any similar measure. The expression should be given its ordinary and natural meaning in the context of the particular circumstances. It will normally be quite clear that the business being operated at the premises is predominantly the sale and consumption of alcohol. Mixed businesses may be harder to pigeonhole and it would be sensible for both operators and enforcement agencies to consult where necessary about their respective interpretations of the activities taking place on the premises before any moves are taken which might lead to prosecution.
- 3.35 The fact that the new offence may effectively bar children under 16 unaccompanied by an adult from premises where the consumption of alcohol is the exclusive or primary activity does not mean that the 2003 Act automatically permits unaccompanied children under the age of 18 to have free access to other premises or to the same premises even if they are accompanied or to

premises where the consumption of alcohol is not involved. Subject only to the provisions of the 2003 Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The 2003 Act includes on the one hand, no presumption of giving children access or on the other hand, no presumption of preventing their access to licensed premises. Each application and the circumstances obtaining at each premises must be considered on its own merits.

- 3.36 A statement of licensing policy must not therefore seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them. Licensing policy statements should not attempt to anticipate every issue of concern that could arise in respect of children with regard to individual premises and as such, general rules should be avoided. Consideration of the individual merits of each application remains the best mechanism for judging such matters.
- 3.37 A statement of policy should highlight areas that will give rise to particular concern in respect of children. For example, these should include premises:
- where entertainment or services of an adult or sexual nature are commonly provided;
 - where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
 - with a known association with drug taking or dealing²;
 - 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); and
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 3.38 In the context of paragraph 3.37 above, it is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to apply common sense to this matter. However, such entertainment or services, for example, would generally include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.
- 3.39 A statement of policy should make clear the range of alternatives which may be considered for limiting the access of children where that is necessary for the prevention of harm to children. These, which can be adopted in combination, include:
- limitations on the hours when children may be present;
 - limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place;

² Police, licensing authorities and licensees need to be aware that following its commencement on the 20th January 2004, a new power is available under the Anti-Social Behaviour Act 2003 to close premises where there is the production supply or use of class A drugs and serious nuisance or disorder. This power provides an extra tool to the police to enable rapid action against a premises where there is a Class A drug problem, enabling its closure in as little as 48 hours should this be necessary. Police authorities are advised to consult the Notes of Guidance on the use of this power (Home Office, 2004) available on the Home Office website. These powers will also be covered in brief in the update to Safer Clubbing available in 2004.

- limitations on the parts of premises to which children might be given access;
- age limitations (below 18);
- 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); and
- full exclusion of those people under 18 from the premises when any licensable activities are taking place.

3.40 Statements of policy should also make clear that conditions requiring the admission of children to any premises cannot be attached to licences or certificates. Where no licensing restriction is necessary, this should remain a matter for the discretion of the individual licensee or club or person who has given a temporary event notice. Venue operators seeking premises licences and club premises certificates may also volunteer such prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where no relevant representations are made to the licensing authority concerned, these volunteered prohibitions and restrictions will become conditions attached to the licence or certificate and will be enforceable as such. No other conditions concerning the presence of children on premises may be imposed by the licensing authority in these circumstances.

3.41 Details of “responsible authorities” are given in Chapter 5 of this Guidance. They include public bodies that must be notified about, and that are entitled to lodge representations about, applications for premises licences or club premises certificates or major variations of such licences or certificates or who may ask the licensing authority to review a premises licence or club premises certificate. Applicants for premises licences and club premises certificates will be required to copy details of their applications to these bodies when an application is made and it must therefore be clear which bodies are concerned. In connection with the protection of children from harm, the responsible authorities include a body that represents those who 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 as being competent to advise it on such matters. A statement of licensing policy should therefore indicate which body the licensing authority judges to be competent in this area and therefore to which applications will need to be copied. In most cases, this may be the Area Child Protection Committee. However, in some areas, the Committee’s involvement may not be practical and the licensing authority should consider alternatives. For example, the local authority social services department. It would be practical and useful for statements of licensing policy to include the correct descriptions of the responsible authorities in any area and appropriate contact details.

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

3.42 The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an

Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important weapon in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors. The Secretary of State commends the Code to licensing authorities and recommends that they should commend it in their statements of licensing policy.

Children and cinemas

- 3.43 The statement of policy should make clear that in the case of premises giving film exhibitions, the licensing authority will expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the licensing authority itself. Where a licensing authority intends to adopt its own system of classification, its statement of policy should indicate where the information regarding such classifications will be published and made available to licensees, clubs and the general public.
- 3.44 The 2003 Act also provides that it is mandatory for a condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by a body designated under section 4 of the Video Recordings Act 1984 – the British Board of Film Classification is the only body which has been so designated – or by the licensing authority itself.

Integrating strategies

- 3.45 The Secretary of State recommends that statements of policy should provide clear indications of how the licensing authority will secure the proper integration of its licensing policy with local crime prevention, planning, transport, tourism, race equality schemes, and cultural strategies and any other plans introduced for the management of town centres and the night-time economy. Many of these strategies are not directly related to the promotion of the four licensing objectives, but, indirectly, impact upon them. Co-ordination and integration of such policies, strategies and initiatives are therefore important.

Crime prevention

- 3.46 Licensing policy statements should indicate that conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies. For example, the provision of closed circuit television cameras in certain premises. Where appropriate it should reflect the input of the local Crime and Disorder Reduction Partnership.

Cultural strategies

- 3.47 In connection with cultural strategies, licensing policy statements should include clearly worded statements indicating that they will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing. Care will be needed to ensure that only necessary, proportionate and reasonable licensing conditions impose any restrictions on such events. Where there is any indication that such events are being deterred by licensing requirements, statements of licensing policy should be re-visited with a view to investigating how the situation might be reversed. Broader cultural activities and entertainment may also be affected. In developing their statements of licensing policy, licensing authorities should also consider any views of the local authority's arts committee where one exists.
- 3.48 Over 325 local authorities from all over England and Wales are members of the National Association of Local Government Arts Officers (NALGAO), which is the largest organisation in the country representing local government art interests. Some local authorities do not yet have arts specialists or arts development officers and in such circumstances, a licensing authority may wish to consult NALGAO for practical help and advice.
- 3.49 The United Kingdom ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1976. Article 15 of the Covenant requires that progressive measures be taken to ensure that everyone can participate in the cultural life of the community and enjoy the arts. It is therefore important that the principles underpinning ICESCR are integrated, where possible, with the licensing authority's approach to the licensing of regulated entertainment.

Transport

- 3.50 A statement should describe any protocols agreed between the local police and other licensing enforcement officers and indicate that arrangements will be made for them to report to local authority transport committees so that those committees may have regard to the need to disperse people from town and city centres swiftly and safely to avoid concentrations which produce disorder and disturbance when developing their policies. When developing the statement licensing authorities should have regard to the existing policies and strategies of the relevant local transport authority, as set out in their local Transport Plan³.

Tourism, employment, planning and building control

- 3.51 A statement should also indicate:
- that arrangements have been made for licensing committees to receive, when appropriate, reports on the needs of the local tourist economy for the area to ensure that these are reflected in their considerations;

³ Local Transport Plans are the mechanism by which local authorities should work in partnership with all appropriate bodies to deliver effective local transport strategies. Effective strategies will include provision of night-time and evening services, where this is appropriate to the local situation. It is for local authorities to identify where and how to take action.

- the licensing authority's intention to keep their licensing committee apprised of the employment situation in the area and the need for new investment and employment where appropriate;
- that planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Similarly, the granting by the licensing committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control⁴ where appropriate. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.

Promotion of Racial Equality

3.52 A statement of licensing policy should also recognise that:

- the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups;
- local authorities are also required under the 1976 Act, as amended, to produce a race equality scheme, assess and consult on the likely impact of proposed policies on race equality, monitor policies for any adverse impact on the promotion of race equality, and publish the results of such consultations, assessments and monitoring;
- Home Office guidance on how to prepare race impact assessments is available at www.raceimpact.homeoffice.gov.uk;
- the statement of licensing policy should therefore refer to this legislation and in turn, the statement of policy should be referenced in the race equality scheme.

Duplication

3.53 Statements of licensing policy should include a firm commitment to avoid duplication with other regulatory regimes so far as possible. For example, legislation governing health and safety at work and fire safety will place a range of general duties on the self-employed, employers and operators of venues both in respect of employees and of the general public when

⁴ It should be borne in mind that an alteration is "material" for the purposes of the Building Regulations if it has the potential to affect structural stability, fire safety or access.

on the premises in question. Similarly, many aspects of fire safety will be covered by existing and future legislation. Conditions in respect of public safety should only be attached to premises licences and club premises certificates that are “necessary” for the promotion of that licensing objective and if already provided for in other legislation, they cannot be considered necessary in the context of licensing law. Such regulations will not however always cover the unique circumstances that arise in connection with licensable activities, particularly regulated entertainment, at specific premises and tailored conditions may be necessary.

- 3.54 It is particularly important that licensing authorities and responsible authorities, including fire authorities, fully appreciate that regulations under which a fire safety inspection would normally be carried out do not apply to ships/boats unless they are in dry dock. The safety regime for passenger vessels is enforced under the Merchant Shipping Acts by the Maritime and Coastguard Agency who operate a passenger ship certification scheme. Accordingly, it will not normally be necessary to duplicate the controls imposed through the certification scheme.

Standardised conditions

- 3.55 Statements of policy should make clear that a key concept underscoring the 2003 Act is for conditions to be attached to licences and certificates which are tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should therefore be avoided and indeed, may be unlawful where they cannot be shown to be necessary for the promotion of the licensing objectives in any individual case. However, it is acceptable for licensing authorities to draw attention in their statements of policy to pools of conditions from which necessary and proportionate conditions may be drawn in particular circumstances. Chapter 7 of this Guidance provides further details and stresses that there will be circumstances where no additional conditions may be necessary in circumstances where existing legislation and regulation already effectively promote the licensing objectives, and where, for whatever reason, licensed premises could not conceivably add to any crime and disorder or other relevant issues.

Enforcement

- 3.56 As part of their statement of policy, the Government **strongly** recommends that licensing authorities should express the intention to establish protocols with the local police on enforcement issues. This would provide for a more efficient deployment of licensing authority staff and police officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises.
- 3.57 In particular, these protocols should also provide for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run. In some local authority areas, the limited validity of public entertainment, theatre, cinema, night café and late night refreshment house licences has in the past led to a culture of annual inspections regardless of whether the assessed risks make such inspections necessary. The 2003 Act does not require inspections to take place save at the

discretion of those charged with this role. The principle of risk assessment and targeting should prevail and inspections should not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are more effectively concentrated on problem premises.

Live music, dancing and theatre

- 3.58 Statements of licensing policy should also recognise that as part of implementing local authority cultural strategies, proper account should be taken of the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays, for the wider cultural benefit of communities. A natural concern to prevent disturbance in neighbourhoods should always be carefully balanced with these wider cultural benefits, particularly the cultural benefits for children. In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives, licensing authorities should be aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a disproportionate nature. Performances of live music and dancing are central to the development of cultural diversity and vibrant and exciting communities where artistic freedom of expression is a fundamental right and greatly valued. Traditional music and dancing are parts of the cultural heritage of England and Wales. Music and dancing also help to unite communities and particularly in ethnically diverse communities, new and emerging musical and dance forms can assist the development of a fully integrated society. It should also be noted that the absence of cultural provision in any area can itself lead to the young people being diverted into anti-social activities that damage communities and the young people involved themselves.
- 3.59 To ensure that cultural diversity thrives, local authorities should consider establishing a policy of seeking premises licences from the licensing authority for public spaces within the community in their own name. This could include, for example, village greens, market squares, promenades, community halls, local authority owned art centres and similar public areas. Performers and entertainers would then have no need to obtain a licence or give a temporary event notice themselves to enable them to give a performance in these places. They would still require the permission of the local authority as the premises licence holder for any regulated entertainment that it was proposed should take place in these areas. It should be noted that when one part of a local authority seeks a premises licence of this kind from the licensing authority, the licensing committee and its officers must consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they must be considered fairly by the committee. Those making representations genuinely aggrieved by a positive decision in favour of a local authority application by the licensing authority would be entitled to appeal to the magistrates' court and thereby receive an independent review of any decision made.
- 3.60 The Secretary of State recommends that licensing authorities should publish contact points in their statements of licensing policy where members of the public can obtain advice about whether or not activities fall to be licensed.

Administration, exercise and delegation of functions

3.61 The 2003 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. Statements of licensing policy should indicate how the licensing authority intends to approach its various functions. Many of the decisions and functions will be purely administrative in nature and statements of licensing policy should underline the principle of delegation in the interests of speed, efficiency and cost-effectiveness.

3.62 Where under the provisions of the 2003 Act, there are no relevant representations on an application for the grant of a premises licence or club premises certificate or police objection to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters should be dealt with by officers in order to speed matters through the system. Licensing committees should receive regular reports on decisions made by officers so that they maintain an overview of the general situation. Although essentially a matter for licensing authorities to determine themselves, the Secretary of State recommends that delegation should be approached in the following way:

3.63 Recommended delegation of functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
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
Request to be removed as designated premises supervisor			All cases

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All 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 objection to a temporary event notice		All cases	