

# Public Document Pack



**Nottingham**  
**City Council**

You are hereby summoned to attend a meeting of **City Council** at Council Chamber, Council House on Monday, 10 July 2023 at 2.00pm to transact the following business

<b>Agenda</b>	<b>Pages</b>
<b>1 Apologies for Absence</b>	
<b>2 Declarations of Interests</b>	
<b>3 Questions from Citizens</b>	To follow
<b>4 Petitions from Councillors on behalf of Citizens</b>	Verbal
<b>5 To confirm the Minutes of the last meeting of Council held on 22 May 2023</b>	5 - 12
<b>6 To receive official communications and announcements from the Leader of the Council and/or the Chief Executive</b>	Verbal
<b>7 Questions from Councillors - to the City Council's Lead Councillor on the Nottinghamshire and City of Nottingham Fire and Rescue Authority</b>	To follow
<b>8 Questions from Councillors - to a member of Executive Board, the chair of a committee and the chair of any other City Council body</b>	To follow
<b>9 Decisions taken under Urgency Procedures</b> Report of the Leader of the Council	13 - 18
<b>10 Executive Amendments to the Constitution</b> Report of the Leader of the Council	To follow
<b>11 Non-Executive Amendments to the Constitution</b> Report of the Chair of the Standards and Governance Committee	19 - 58
<b>12 Review of the Statement of Licensing Policy</b> Report of the Chair of Licensing Committee	59 - 106

### **13 Motion in the name of Councillor Cheryl Barnard**

Nottingham is a diverse, multi-cultural City in which, according to latest pupil statistics, 49% are from the Black, Asian and Minority Ethnic community, 48.8% from the White Community and 2.1% are unclassified.

This Council notes that Black and Dual Heritage children are three times more likely to be permanently excluded and are over-represented in most stages of the youth justice system and more likely to be convicted or cautioned.

Nottingham City Council commits to encouraging a diverse and inclusive City where different cultures are valued and recognised.

Nottingham City Council resolves to:

- work with schools to create a diverse and anti-racist curriculum that recognises the contribution of Black, Asian and Minority Ethnic individuals and educates children and young people on Britain's role in upholding systemic racism;
- work with partners in our schools, academies, universities and teacher training institutions to encourage a teaching workforce and governing bodies that reflect the make-up of our City and reduce disproportionality in exclusions;
- better reflect Nottingham's diversity in books held in our libraries, our communications and our cultural events;
- continue our work with the police and justice system to reduce disproportionality in outcomes for Black, Asian and Minority Ethnic young people.

### **14 Committee Membership Changes**

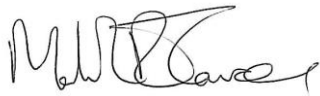
To note that the following changes have been made Committee membership:

- a) Councillor Sajid Mohammed has been appointed to a vacant seat on the Nottingham and Nottinghamshire Police and Crime Panel
- b) Councillor Zafran Khan has been appointed to a vacant seat on the Licensing Committee
- c) Councillor Audra Wynter has been appointed to a vacant seat on the Regulatory and Appeals Committee
- d) Councillor Gul Khan has been appointed to a vacant seat on the Regulatory and Appeals Committee
- e) Councillor Michael Edwards has replaced Councillor Georgia Power as a member of the Joint Committee on Strategic Planning and Transport
- f) Councillor AJ Matsiko has been appointed to a vacant seat on the Housing and City Development Scrutiny Committee
- g) Councillor AJ Matsiko has been appointed as a named substitute for the Standards and Governance Committee
- h) Councillor AJ Matsiko has been appointed as a named substitute for the Appointments and Conditions of Service Committee

**Please note that questions to Council are received after the agenda has been published. Questions will be published as a supplementary agenda by 5pm on Friday 7 July 2023.**

If you need any advice on declaring an interest in any item on the agenda, please contact a Governance Officer, if possible before the day of the meeting

Citizens are advised that this meeting may be recorded by members of the public. Any recording or reporting on this meeting should take place in accordance with the council's policy on recording and reporting on public meetings, which is available at [www.nottinghamcity.gov.uk](http://www.nottinghamcity.gov.uk). Individuals intending to record the meeting are asked to notify the governance officer shown above in advance.



Dated: 30 June 2023

Director for Legal and Governance

**To: All Councillors of Nottingham City Council**

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**Minutes of the meeting of the City Council**

held at the Council Chamber, Council House

on 22 May 2023 from 2.00 pm - 2.57 pm

**Attendances:**

✓ Wendy Smith (Lord Mayor until Item 3)	
✓ Councillor Carole McCulloch (Lord Mayor from Item 4)	
✓ Councillor Saj Ahmad	✓ Councillor Farzanna Mahmood
✓ Councillor Liaqat Ali	✓ Councillor Sulcan Mahmood
✓ Councillor Leslie Ayoola	✓ Councillor David Mellen
✓ Councillor Cheryl Barnard	✓ Councillor AJ Matsiko
✓ Councillor Steve Battlemuch	✓ Councillor Sajid Mohammed
✓ Councillor Graham Chapman	✓ Councillor Fozia Mubashar
✓ Councillor Kevin Clarke	✓ Councillor Salma Mumtaz
✓ Councillor Audrey Dinnall	✓ Councillor Sana Nasir
✓ Councillor Michael Edwards	✓ Councillor Devontay Okure
✓ Councillor Nadia Farhat	✓ Councillor Nayab Patel
✓ Councillor Faith Gakanje-Ajala	✓ Councillor Georgia Power
✓ Councillor Sam Gardiner	✓ Councillor Shuguftah Quddoos
✓ Councillor Sam Harris	✓ Councillor Ethan Radford
✓ Councillor Jay Hayes	✓ Councillor Nick Raine
✓ Councillor Patience Ifediora	✓ Councillor Eunice Regan
✓ Councillor Imran Jalil	✓ Councillor Sarita-Marie Rehman-Wall
✓ Councillor Corall Jenkins	✓ Councillor Samina Riaz
✓ Councillor Maria Joannou	✓ Councillor Andrew Rule
✓ Councillor Kirsty L Jones	✓ Councillor Naim Salim
✓ Councillor Kirsty M Jones	✓ Councillor Michael Savage
✓ Councillor Helen Kalsi	✓ Councillor Matt Shannon
✓ Councillor Angela Kandola	✓ Councillor Hayley Spain
✓ Councillor Anwar Khan	✓ Councillor Maria Watson
✓ Councillor Gul Khan	✓ Councillor Adele Williams
✓ Councillor Neghat Khan	✓ Councillor Linda Woodings
✓ Councillor Zafran Khan	✓ Councillor Audra Wynter
✓ Councillor Pavlos Kotsonis	
✓ Councillor Sam Lux	

✓ Indicates present at meeting

**1 Apologies for Absence**

Councillor Sam Lux - leave

**2 Declarations of Interests**

None.

**3 Election of Lord Mayor**

**Resolved to elect Councillor Carole McCulloch as the Lord Mayor until the next annual meeting of Council, as proposed by Councillor Graham Chapman and seconded by Councillor Patience Ifediora.**

#### **4 Appointment of Sheriff**

**Resolved to appoint Councillor Shuguftah Quddoos as Sheriff until the next annual meeting of Council, as proposed by Councillor Ethan Radford and seconded by Councillor Nayab Patel.**

#### **5 Election of Councillors - 4 May 2023**

**Resolved to note the election of councillors to Nottingham City wards as follows:**

**Aspley ward – Councillor Graham Chapman, Councillor Patience Ifediora and Councillor Carole McCulloch**

**Basford ward – Councillor Salma Mumtaz, Councillor Nick Raine and Councillor Linda Woodings**

**Berridge ward – Councillor Angela Kandola, Councillor Sulcan Mahmood and Councillor Shuguftah Quddoos**

**Bestwood ward – Councillor Jay Hayes, Councillor Georgia Power and Councillor Audra Wynter**

**Bilborough ward – Councillor Faith Gakanje-Ajala, Councillor Sam Harris and Councillor Helen Kalsi**

**Bulwell ward – Councillor Maria Joannou, Councillor Ethan Radford and Councillor Michael Savage**

**Bulwell Forest ward – Councillor Cheryl Barnard, Councillor Sam Gardiner and Councillor Sarita-Marie Rehman-Wall**

**Castle ward – Councillor Sam Lux and Councillor Matt Shannon**

**Clifton East ward – Councillor Kevin Clarke, Councillor Kirsty M Jones and Councillor Maria Watson**

**Clifton West ward – Councillor Andrew Rule and Councillor Hayley Spain**

**Dales ward – Councillor Gul Khan, Councillor Neghat Khan and Councillor David Mellen**

**Hyson Green and Arboretum ward – Councillor Liaqat Ali, Councillor Sana Nasir and Councillor Naim Salim**

**Leen Valley ward – Councillor Audrey Dinnall and Councillor Nadia Farhat**

**Lenton and Wollaton East ward – Councillor Imran Jalil, Councillor Pavlos Kotsonis and Councillor Samina Riaz**

**Mapperley ward – Councillor Leslie Ayoola, Councillor Kirsty L Jones and Councillor Sajid Mohammed**

**Meadows ward – Councillor Michael Edwards and Councillor Eunice Regan**

**Radford ward – Councillor Farzana Mahmood and Councillor Fozia Mubashar**

**Sherwood ward – Councillor AJ Matsiko, Councillor Nayab Patel and Councillor Adele Williams**

**St Anns ward – Councillor Corall Jenkins, Councillor Anwar Khan and Councillor Devontay Okure**

**Wollaton West ward – Councillor Saj Ahmed, Councillor Steve Battlemuch and Councillor Zafran Khan**

**6 Election of a Leader of the Council for a Four Year Term**

**Resolved to elect Councillor David Mellen as Leader of the Council for a four year term, as proposed by Councillor Adele Williams and seconded by Councillor Audra Wynter.**

**7 To confirm the Minutes of the last meeting of Council held on 6 March 2023**

The minutes of the meeting held on 6 March 2023 were confirmed as an accurate record and signed by the Chair.

**8 To receive Official Communications and Announcements from the Leader of the Council and/or the Chief Executive**

The Chief Executive made the following announcements:

I would like to congratulate all councillors who were elected to represent wards in the City in the local elections held on 4 May, and particularly welcome the 22 new councillors to the Council. I would also like to take this opportunity to thank staff from across the Council who worked hard to deliver a successful election process.

I would like to congratulate all those associated with Notts County Football Club on double success this season with the Men's Team securing promotion to the English Football League and the Women's Team securing promotion to the Women's National League.

It is with great sadness that I have three deaths to report to Council today:

- On 27 March, then Councillor Sue Johnson sadly passed away. Sue had represented the St Anns ward since 2007.
- Former Councillor Joyce Donn also sadly passed away in March. Joyce represented the Radford ward between 1995 and 2000 and was elected as Lord Mayor in 1998.
- Leslie McDonald, member of the City's Health and Wellbeing Board, sadly died in April. Leslie had been a member of the Board for many years, representing the views of the voluntary and community sector in the City.

My thoughts are with all of their families, friends and everyone affected by their passing.

Councillor Corall Jenkins spoke in tribute to former Councillor Sue Johnson, Councillor David Mellen spoke in tribute to former Councillor Joyce Donn and Councillor Faith Gakanje-Ajala spoke in tribute to Leslie MacDonald.

A minute's silence was held.

## **9 Establishment of, and Appointments to Committees and Joint Bodies 2023/24**

Councillor Carole McCulloch, Lord Mayor and Chair of Council, proposed the report setting out proposed terms of reference and first meeting dates for Council committees in municipal year 2023/24, along with proposed memberships, substitute and chairing arrangements. The report was seconded by Councillor Shuguftah Quddoos.

**Resolved to:**

- (1) agree the terms of reference for Council committees and joint bodies for 2023/24, as set out in Appendix 1 to the report;**
- (2) agree the first meeting dates for Council committees and joint bodies for 2023/24, as set out in Appendix 2 to the report;**
- (3) agree the membership and substitutes, where applicable, for Council committees and the City Council membership and substitutes, where applicable, for joint bodies for 2023/24, as set out in Appendix 3 to the report;**
- (4) appoint the committee chairs and vice chairs for 2023/24 for committees that Council is responsible for appointing, as set out in Appendix 3 to the report;**
- (5) amend Article 9 – Non Executive Functions and Committees of the Constitution to reflect the agreed terms of reference of Council committees and joint bodies for 2023/24; and**
- (6) amend Article 4 – Councillors and Article 11 – Overview and Scrutiny of the Constitution to reflect changes to the structure for the overview and scrutiny function arising from the approval of terms of reference for the scrutiny committees in 2023/24 under (1).**

## **10 Executive Appointments, Committees and Delegations**



Councillor David Mellen, Leader of the Council, presented the report informing Council of his appointment of Deputy Leader, Portfolio Holders and other executive roles and establishment of Executive Committees for 2023/24. The report was seconded by Councillor Audra Wynter.

**Resolved to note:**

- (1) the appointment of Councillor Audra Wynter as Deputy Leader of the Council;**
- (2) the appointment of Portfolio Holders and their areas of responsibility, as set out in Appendix 1 to the report;**
- (3) the appointment of Executive Assistants as set out in Appendix 2 to the report;**
- (4) the terms of reference and first meeting dates for Executive committees in 2023/24, as set out in Appendix 3 to the report;**
- (5) the appointments, including substitute arrangements where appropriate, to and chairing arrangements for Executive committees, as set out in Appendix 4 to the report;**
- (6) that the Constitution will be amended to reflect these appointments and delegations of responsibility and roles;**
- (7) that all other Executive delegations, as set out in the Executive Scheme of Delegation in the Constitution, are confirmed; and**
- (8) that the Constitution was amended to reflect incorporation of new responsibilities in relation to housing management and maintenance functions to the role of Corporate Director for Growth and City Development from 1 April 2023.**

## **11 Strategic Council Plan 2023-27 Refresh**

Councillor David Mellen, Leader of the Council, proposed the report setting out a process for revising the Strategic Council Plan 2023-2027 in light of the local election held on 4 May 2023. The report was seconded by Councillor Audra Wynter.

**Resolved to adopt the process for refreshing the Strategic Council Plan 2023 – 2027 as set out in paragraphs 7.5 and 7.6 of the report.**

## **12 Decisions taken under Urgency Procedures**

Councillor David Mellen, Leader of the Council, presented the report detailing urgent decisions that the Council is required to note, which have been taken under provisions within the Overview and Scrutiny Procedure Rules and Access to Information Rules. The report was seconded by Councillor Audra Wynter.

Resolved to note:

(1) the following decisions taken under the Call-in and Urgency provisions of the Overview and Scrutiny Procedure Rules:

Decision Reference	Subject	Decision Taker	Reason for Urgency
4898	Household Support Fund 4 Grant	Leader of the Council	To enable distribution of support for the Easter holiday period.
4902	Homelessness Accommodation Grant Funding	Leader of the Council	In order to receive the funding a business case and properties under offer had to be in place by the end of the financial year.
4915	Local Energy Advice	Leader of the Council	The Memorandum of Understanding with the Department for Energy Security and Net Zero had to be signed by 14 April 2023 to avoid loss of funding for the Midlands Net Zero Hub.
4922	Energy Bills Support Scheme Alternative Funding and Alternative Fuel Payments	Leader of the Council	To enable the Council to alleviate the extreme financial hardship experienced by some citizens due to the cost of energy

(2) the following Key Decisions taken under the Special Urgency provisions of the Access to Information Procedure Rules:

Decision Reference	Subject	Decision Taker	Reason for Special Urgency
4917	Homelessness Prevention Grant 2022/23	Leader of the Council	The Council had to confirm spend to Government and have an authorised final position
4922	Energy Bills Support Scheme Alternative Funding and Alternative Fuel Payments	Leader of the Council	To enable the Council to alleviate the extreme financial hardship experienced by some citizens due to the cost of energy

### 13 Future Meeting Dates

Resolved to meet on the following Mondays at 2pm:

- **10 July 2023**
- **11 September 2023**
- **13 November 2023**
- **15 January 2024**
- **26 February 2024**

The Meeting concluded at 2.57 pm

## City Council – 10 July 2023

### Report of the Leader of the Council

#### Corporate Director/ Director:

Director of Legal and Governance

#### Report Author:

Jane Garrard, Senior Governance Officer

[jane.garrard@nottinghamcity.gov.uk](mailto:jane.garrard@nottinghamcity.gov.uk)

0115 8764315

#### Title: Decisions taken under Urgency Procedures

#### Does the report form part of the Budget or Policy Framework?

Yes  No

#### Does this report contain any information that is exempt from publication?

No

#### Relevant Council Plan Key Outcome:

Clean and Connected Communities	<input type="checkbox"/>
Keeping Nottingham Working	<input type="checkbox"/>
Carbon Neutral by 2028	<input type="checkbox"/>
Safer Nottingham	<input type="checkbox"/>
Child-Friendly Nottingham	<input type="checkbox"/>
Healthy and Inclusive	<input type="checkbox"/>
Keeping Nottingham Moving	<input type="checkbox"/>
Improve the City Centre	<input type="checkbox"/>
Better Housing	<input type="checkbox"/>
Serving People Well	<input checked="" type="checkbox"/>

### 1. Summary

- 1.1 As required by the Council's Constitution, this report informs Council of any urgent decisions that have been taken under provisions within the Overview and Scrutiny Procedure Rules (Article 11) and Access to Information Procedure Rules (Article 13) in the Constitution.
- 1.2 Since the last report to Council in May 2023, there have been no decisions taken under these urgency provisions. This reflects the significant reduction in the use of urgency procedures since the adoption of the new Constitution in October 2021.

### 2. Recommendations

- 2.1 To note that no decisions have been taken under urgency provisions within the Overview and Scrutiny Procedure Rules (Article 11) and/or Access to Information Procedure Rules (Article 13) of the Constitution since the last report to Council in May 2023.

### 3. Reasons for recommendations

3.1 To ensure compliance with requirements of the Council's Constitution.

**4. Other options considered in making recommendations**

4.1 None. It is a Constitutional requirement that Council is informed of any urgent decisions taken under provisions within the Overview and Scrutiny Procedure Rules (Article 11) and Access to Information Procedure Rules (Article 13).

**5. Consideration of Risk**

5.1 Consideration of the risks associated with individual decisions are published as part of each of those decisions.

**6. Background (including outcomes of consultation)**

6.1 Decisions taken under the Call-in and Urgency provisions of the Overview and Scrutiny Procedure Rules

The call-in procedure set out in Article 11 of the Council's Constitution does not apply where the decision taken is urgent. A decision is urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The urgency provisions require the Chair of the Corporate Scrutiny Committee (or in the absence of the Chair, the Vice-Chair; or in the absence of all three, the Chief Executive) to agree that the decision proposed is reasonable in all the circumstances and that the reasons for urgency are valid. The Constitution requires that decisions taken under these urgency provisions are reported to the next meeting of the Standards and Governance Committee and Full Council.

6.2 Decisions taken under the Special Urgency provisions of the Access to Information Procedure Rules

Where it is impracticable to give at least five clear working days notice that a Key Decision is going to be made, a Key Decision may only be made in accordance with the Special Urgency provisions set out in the Access to Information Procedure Rules (Article 13 of the Council's Constitution). The Special Urgency provisions require agreement from the Chair of the Corporate Scrutiny Committee (or in the absence of the Chair, the Lord Mayor as Chair of Council; or in the absence of both, the Sheriff as Vice Chair of Council) that the decision is urgent and cannot reasonably be deferred. The Constitution requires that decisions taken under these urgency provisions are reported to the Standards and Governance Committee and Full Council.

6.3 Since the last report to Council in May 2023, there have been no urgent decisions taken under either of these provisions. This reflects a positive trend since the adoption of the new Constitution in October 2021 of a significant reduction in the use of urgency procedures.

Number of Exemptions from standard Governance Processes				
	Period (Municipal Year)			
	2019/20	2020/21	2021/22*	2022/23
Exemption from Call-in	16	27	12	10
Special Urgency	6	14	4	2
Total	22	41	16	12

\*New Constitutional Arrangements introduced 1 October 2021

**7. Finance colleague comments (including implications and value for money)**

7.1 Comments from Finance colleagues in relation to individual decisions are published as part of those decisions.

**8. Legal colleague comments**

8.1 Comments from Legal colleagues in relation to individual decisions are published as part those decisions.

**9. Other relevant comments**

9.1 None

**10. Crime and Disorder Implications (If Applicable)**

10.1 Where applicable, details of the crime and disorder implications of individual decisions are published as part of those decisions.

**11. Social value considerations (If Applicable)**

11.1 Where applicable, details of the social value considerations of individual decisions are published as part of those decisions.

**12. Regard to the NHS Constitution (If Applicable)**

12.1 Where applicable, details of the social value considerations of individual decisions are published as part of those decisions.

**13. Equality Impact Assessment (EIA)**

13.1 Where required, Equality Impact Assessments are published alongside individual decisions.

**14. Data Protection Impact Assessment (DPIA)**

14.1 Where required, the data protection impact of individual decisions is assessed and, where appropriate, details published as part of those decisions.

**15. Carbon Impact Assessment (CIA)**

15.1 Where required, the carbon impact of individual decisions is assessed and, where appropriate, details published as part of those decisions.

**16. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)**

16.1 None

**17. Published documents referred to in this report**

17.1 Nottingham City Council Constitution

**Councillor David Mellen**  
**Leader of the Council**



**Appendix 1 - Decisions taken under the Call-in and Urgency provisions of the Overview and Scrutiny Procedure Rules**

There have been no decisions taken under the Call-in and Urgency provisions of the Overview and Scrutiny Procedure Rules since the last report to Council in May 2023.

**Appendix 2 – Key Decisions taken under the Special Urgency provisions of the Access to Information Procedure Rules**

There were no Key Decisions taken under the Special Urgency provisions of the Access to Information Procedure Rules since the last report to Council in May 2023.

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## City Council – 10 July 2023

### Report of the Chair of the Standards and Governance Committee

**Corporate Director/ Director:**

Malcolm Townroe, Director of Legal and Governance

**Report Author and Contact Details:**

Jane Garrard, Senior Governance Officer

[jane.garrard@nottinghamcity.gov.uk](mailto:jane.garrard@nottinghamcity.gov.uk)

**Title: Non Executive Amendments to the Constitution**

**Does the report form part of the Budget or Policy Framework?**

Yes     No

**Does this report contain any information that is exempt from publication?**

No

**Relevant Council Plan Key Outcome:**

Green, Clean and Connected Communities	<input type="checkbox"/>
Keeping Nottingham Working	<input type="checkbox"/>
Carbon Neutral by 2028	<input type="checkbox"/>
Safer Nottingham	<input type="checkbox"/>
Child-Friendly Nottingham	<input type="checkbox"/>
Living Well in our Communities	<input type="checkbox"/>
Keeping Nottingham Moving	<input type="checkbox"/>
Improve the City Centre	<input type="checkbox"/>
Better Housing	<input type="checkbox"/>
Serving People Well	<input checked="" type="checkbox"/>

### 1. Summary

- 1.1 Council is asked to approve changes to the following sections of the Council's Constitution: Article 9 – Non Executive Functions and Committees; Article 15 Councillor Code of Conduct; and Article 18 – Contract Procedure Rules.

### 2. Recommendations

- 2.1 To amend Article 9 – Non Executive Functions and Committees of the Constitution to add the Terms of Reference for the Communities and Environment Scrutiny Committee, as set out in Appendix A to the report.
- 2.2 To amend Article 15 – Councillor Code of Conduct of the Constitution to replace the Corporate Director of People with the Chief Executive as the individual who can designate training as mandatory.
- 2.3 To approve a revised Article 18 – Contract Procedure Rules of the Constitution, as set out in Appendix B.

### 3. Reasons for recommendations

3.1 The Constitution sets out how the Council conducts its business including how decisions are made, who can make them and what rules and procedures must be followed. It is therefore important that it is up-to-date, accurate and reflects legislative and good practice requirements.

#### 4. **Other options considered in making recommendations**

4.1 Not to amend the Constitution. This option was rejected because the Council needs to have a Constitution that is fit for purpose and the proposed amendments support delivery of that objective.

#### 5. **Consideration of Risk**

5.1 The proposed clarification of procedures for procuring and awarding contracts reduces the risk of non-compliance with relevant procurement legislation and potential challenge.

#### 6. **Best Value Considerations**

6.1 The proposed amendments to the Constitution support efficiency of decision making by the Council.

#### 7. **Background (including outcomes of consultation)**

7.1 The Constitution describes how the Council conducts its business including how decisions are made, who can make them and what rules and procedures must be followed. It also outlines the roles and responsibilities of officers and councillors.

7.2 The current Constitution can be viewed online via the following link: [Nottingham City Council's Constitution - Nottingham City Council](#)

7.3 It is the responsibility of Council to adopt and amend the Constitution.

7.4 It is a role of the Standards and Governance Committee to ensure that the Council's governance arrangements, in particular its Constitution, are fit for purpose and support the Council in making effective, well-informed and accountable decisions. It can make recommendations to Council regarding amendments to non-executive aspects of the Constitution. At its meeting on 22 June 2023, the Committee considered the proposed amendments to Article 15 and Article 18 and agreed to recommend these to Council.

#### 7.5 **Article 15 – Councillor Code of Conduct**

It is proposed to amend paragraph 15.42 Local Provisions of Article 15 so that it is the Chief Executive rather than the Corporate Director for People who can designate training as mandatory. This amendment is proposed because mandatory training could relate to any area of Council business and not just those relating to People Services.

#### 7.6 **Article 18 – Contract Procedure Rules**

Following the introduction of the Council's new operating model for Commercial, Procurement and Contract Management, several amendments to Contract Procedure Rules are proposed (set out at Appendix B to this report). These update terminology and responsibilities to reflect the new model, introduce a new oversight process and clarify some existing procedures.

## 7.7 There are seven substantial changes:

- a) Inclusion of the Commercial Oversight Board approval route for high risk/value projects (18.11 & 18.53), for improved corporate oversight of commercial activity and management of risk.
- b) Introduction of a rule specifying procedures for below-threshold concession contracts (18.20). This states turnover values above which a quotation or tender process is required. A competitive process improves value for money outcomes from these contracts.
- c) Introduction of a rule covering below-threshold contracts meeting the 'Teckal' criteria (18.31). These are exempted from competitive procedures.
- d) Amended terminology and additional detail on the Delivery Model Assessment (former 'make-or-buy') process (18.21-18.29). This introduces periodic review of services overseen by the Commercial Oversight function, and completion of a Delivery Model Assessment, before developing or extending in-house provision.
- e) Introduction of processes for managing Accreditation Schemes/Any Qualified Provider Frameworks (18.36-40). Specific to the health and care sector, this specifies circumstances under which non-competitive accreditation schemes may be established. ie: where a) the Council has no choice/discretion over service provider, b) an external regulatory body determines qualification of providers and c) all qualified providers are admitted.
- f) Addition of the Negotiated procedure as a recognised procurement route with appropriate authority for above-threshold contracts. Use of this procedure is to be recorded using the Exemptions process (18.65, 18.94, 18.95 and Exemptions form)
- g) Addition of statement that where we are unable to estimate the value of a scheme we must assume that the relevant 'above-threshold' procedure applies (18.65) – reflects recent change to Central Government guidance.

## 7.8 In addition, there are minor amendments which clarify current practice, these include:

- updates to job titles and terminology to align to the new operating model;
- clarity of existing procedures/governance including requirement for formal approval to spend prior to procurement, responsibility for contract management, added references to Dynamic Purchasing Systems and the 'Light Touch' regime;
- removal of reference to 'Use of Consultants' Form which is no longer in use and now part of the delegated decision-making process; and
- addition to the section on extension and variation of contracts to refer to below-threshold arrangements, reflecting current practice.

\*Note: 'above-threshold' and below-threshold' refer to the relevant monetary thresholds above which procedures detailed in the Public Contracts Regulations 2015, Concession Contracts Regulations 2016 and Utilities Regulations 2016 apply.

## 7.9 Article 9 – Non Executive Functions and Committee

Although the Communities and Environment Scrutiny Committee was established by Council at its AGM on 22 May 2023, the Terms of Reference were not approved at that time. The Terms of Reference are attached as Appendix A to this report.

## **8 Finance colleague comments (including implications and value for money)**

- 8.1 There are no direct costs/ savings involved so in that respect no financial implications. This does not apply to decisions made as a result of these changes.

Nishil Rabheru, Strategic Finance Business Partner – 20 June 2023

## **9 Legal colleague comments**

- 9.1 The recommendations contained in this report raise no significant legal issues and are supported. In terms of the proposed amendment to Article 15 it is important that the ability to delegate mandatory training is given a wider remit than currently exists. As far as the amendments to Article 18 are concerned these proposals have been fully reviewed by the Head of Procurement and reflect existing, and proposed, changes in the Council's arrangements as well as up-dating the Contract Procedure Rules to reflect current recommended practice and issued guidance.

Malcolm R. Townroe, Director of Legal and Governance – 30 June 2023

## **10 Other relevant comments**

- 10.1 None – the Head of Procurement led on the revision of Contract Procedure Rules and the recommendation of proposed amendments.

## **11 Crime and Disorder Implications (If Applicable)**

- 11.1 Not applicable

## **12 Social value considerations (If Applicable)**

- 12.1 Not applicable

## **13 Regard to the NHS Constitution (If Applicable)**

- 13.1 Not applicable

## **14 Equality Impact Assessment (EIA)**

- 14.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because the amendment of the Constitution does not involve a new or changing policy or service. Equality, diversity and inclusion considerations have been explicitly built into the decision making processes in the Constitution

## **15 Data Protection Impact Assessment (DPIA)**

- 15.1 Has the data protection impact of the proposals in this report been assessed?

No



A DPIA is not required because the amendment of the Constitution does not involve the collection or transfer of data.

## **16 Carbon Impact Assessment (CIA)**

16.1 Has the carbon impact of the proposals in this report been assessed?

No



A CIA is not required because the amendment of the Constitution does not have any significant carbon impact.

## **17 List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)**

17.1 None

## **18 Published documents referred to in this report**

18.1 Nottingham City Council Constitution

18.2 Minutes of the meeting of the Standards and Governance Committee held on 22 June 2023

**Councillor Kirsty L Jones**  
**Chair of the Standards and Governance Committee**

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## **Communities and Environment Scrutiny Committee**

### **Terms of Reference**

#### **Description**

The Communities and Environment Scrutiny Committee (the Committee) is a politically balanced Non-Executive Committee of Council. It is established to discharge functions conferred by the Localism Act 2011 and other relevant legislation in relation to matters affecting local communities and the environment including community protection, environmental health, community safety, sport, culture, tourism, waste and cleansing, energy and the environment. The Committee is accountable to Council and will report annually to Council on its activities during the previous year.

The Committee will offer constructive review, feedback and challenge to the Council's Executive and other relevant local decision makers on their decisions, actions, policy, strategy and performance.

#### **Purpose**

The purpose of the Communities and Environment Scrutiny Committee is to carry out the following roles for matters relating to communities and the environment:

- (a) hold local decision-makers, including the Council's Executive and relevant Boards of the Council's group of companies, to account for their decisions, actions, performance and management of risk
- (b) review existing policies and strategies of the Council and other local decision-makers where they impact on Nottingham citizens
- (c) contribute to the development of new policies and strategies of the Council and other local decision-makers where they impact on Nottingham citizens
- (d) explore any matters affecting Nottingham and/ or its citizens
- (e) make reports and recommendations to relevant local agencies with respect to the delivery of their functions, including the Council and its Executive
- (f) review decisions made but not yet implemented by the Council's Executive in accordance with the Call-in Procedure.

#### **Objectives**

The Communities and Environment Scrutiny Committee will:

- (a) develop and manage a work programme to ensure all statutory and other roles and responsibilities are fulfilled for matters relating to communities and the environment to the required standard and which covers review and development of key strategic issues, policies and strategies relevant to Nottingham and its residents, and which adds value through the examination of issues of local importance and concern, in accordance with the scope and approach set out in Article 11 – Overview and Scrutiny.
- (b) to work with the other scrutiny committees to support effective delivery of a co-ordinated overview and scrutiny work programme
- (c) monitor the effectiveness of its work programme and the impact of outcomes from overview and scrutiny activity
- (d) regularly review the decisions, actions and performance of the Council's Executive and other relevant local decision makers, including the Council's

group of companies, in order to fulfil its role in holding those decision makers to account. Where relevant this role will be co-ordinated with those of the Audit Committee and the Companies Governance Executive Committee.

- (e) receive petitions in accordance with the Council's Petitions Scheme
- (f) consider any relevant matter referred to it by any of its members and consider any relevant local government matter referred to it by any Nottingham City Councillor.

The Communities and Environment Scrutiny Committee has no decision making powers but has the power to:

- (a) require members of the Council's Executive, and certain other local decision makers, to: provide information to the Committee, to attend meetings, and answer questions posed by the Committee in relation to their Executive role
- (b) invite other persons to attend meetings of the Committee to provide information and/ or answer questions
- (c) make recommendations and provide reports to relevant decision makers, and in particular the Council's Executive, on matters within their remits. The Council's Executive and other relevant decision makers have a duty to respond in writing to such recommendations within two months of receipt.

The Committee is required to consider Crime and Disorder matters at least once every Municipal Year.

Further detail on the rules and procedures relating to Overview and Scrutiny, including the Call-in Procedure, can be found in Article 11 – Overview and Scrutiny.

### **Membership and Chairing**

The Communities and Environment Scrutiny Committee has 8 members.

Members of the Executive are excluded from membership of the Committee.

Executive Assistants responsible for assisting on a Portfolio within the remit of this Committee are excluded from membership of the Committee.

The Chair of the Committee will be appointed by Full Council at its Annual General Meeting. The Chair cannot be a Chair of the Board of a company in the Council's Group of companies that relates to matters within the Committee's remit.

The Communities and Environment Scrutiny Committee may choose to appoint co-opted members to the Committee. Voting arrangements for co-optees will be in accordance with the scheme of voting rights for co-opted members of overview and scrutiny committees set out in Article 11 – Overview and Scrutiny.

### **Substitutes**

Substitute members are permitted for this committee.

### **Quorum**

The standard quorum for Council committees applies to this committee.

### **Frequency of Meetings**

The Communities and Environment Scrutiny Committee will meet six times per year.

**Duration**

There is no limit on the lifespan of the Communities and Environment Scrutiny Committee.

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Nottingham

City Council

# Constitution

## Article Eighteen: Contract Procedure Rules

# Article Eighteen: Contract Procedure Rules

## 18.1 Compliance

The purpose of these Contract Procedure Rules is to safeguard the interests of the City Council, its employees, or any person acting on behalf of the City Council.

18.2 These Contract Procedure Rules must be followed by every City Council employee and any person acting on behalf of the City Council every time there is a requirement of the City Council to purchase/procure works, supplies or services under a contract. They must take all necessary legal, financial and professional advice to ensure they comply with these Contract Procedure Rules. These Contract Procedure Rules must be followed in consultation with and in accordance with any guidance provided by the Council's Procurement Team.

18.3 Where the Council provides any financial support to an organisation in delivery of their services and **does not receive a direct benefit in return; for example the service is provided purely for community benefit and not for or on behalf of the Council**, this may be considered a grant rather than a contract for works, supplies or services and may not be subject to these Contract Procedure Rules. Legal Services can advise on the status of grants and advice should be taken if in doubt. If legal services determine that a grant is not appropriate, then these Contract Procedure Rules must be complied with.

18.4 Every City Council employee must ensure that they are aware of and observe the provisions of Article 16 – Employee Code of Conduct.

18.5 The Corporate Directors and the Director for Public Health shall ensure that the City Council complies with the statutory obligation to secure Best Value and that the City Council complies with all other legislation in force at the time.

18.6 These Contract Procedure Rules must be read in conjunction with the City Council's Procurement Strategy and any specific guidance issued by the Procurement Team.

18.7 Corporate Directors and the Director for Public Health **must use the City Council's e-tendering system** to procure works, supplies or services unless a departure from that process is expressly given by the Head of Procurement or nominated representative.

## 18.8 Best Value

Best Value requires the City Council to make proper arrangements for securing continuous improvement in the economy, efficiency and effectiveness in the use of its resources and is the optimum combination of whole life costs and benefits to meet customer requirements.

- 18.9 Best Value requires the City Council to identify those quotations and tenders which will secure the best balance of price against quality over the whole life of the scheme.
- 18.10 Corporate Directors and the Director for Public Health must adopt the Quotation/Tender Templates and Evaluation Models recommended by the Procurement Team, to ensure compliance with the requirements of these Contract Procedure Rules. Quotations and tenders must only be sought once the spend approval and procurement strategy for the requirement have been formally approved by the relevant decision maker/body, except for emergency circumstances which are exempt from Contract Procedure Rules as set out in 18.94.
- 18.11 The commercial strategy for key and high risk decisions must be agreed by Commercial Oversight Board, or its successor, prior to seeking formal approval to spend. Assessment of risk for all contracts valued £100k and above will be carried out in consultation with the Head of Procurement or nominated representative, using a standard template, as set out in 18.53.
- 18.12 **Aggregation of contract and framework value**  
The value of a contract is the estimated total amount payable (net of VAT) over the life of the contract (including extensions) as set out explicitly in any procurement documents.
- 18.13 Where framework agreements and/ or dynamic purchasing systems are created, the value is calculated as the total estimated value of all call off contracts envisaged over the life of the framework or dynamic purchasing agreement (including extensions).
- 18.14 In the case that framework agreements and/ or dynamic purchasing systems are created for other local authorities or public bodies to use, the value for any procurement documents should be the total value of estimated usage across all public bodies named. However, for the purposes of internal approval, the value of the contract stated on any delegated decision or executive approval will be the expected expenditure of the Council only and should not include external public bodies.
- 18.15 Requirements must not be artificially sub-divided into two or more separate requirements with the intention of avoiding the application of these Contract Procedure Rules or the obligations of the UK procurement legislation.
- 18.16 In the event that multiple departments are procuring the same works, supplies or services,, the expenditure should be consolidated and procured via the same contract to maximize economies of scale and avoid disaggregation of contracts risking breach of procurement regulations. In this event, Corporate Directors and the Director for Public Health should ensure that the department with the highest proportion of total expenditure is appointed as the lead department and is therefore responsible for obtaining formal approval, signing off the procurement documentation and completing any associated documents such as the Data Protection Impact Assessment. The lead department will also be

responsible for managing the contract once let, ensuring provider performance is managed in line with the terms of the contract.

**18.17 Concession contracts**

Where the Council provides an opportunity to a supplier to exploit the delivery of works, goods or services and the supplier receives benefit or payment for those directly from a third party rather than the Council paying for them directly, this may be a concession contract which requires a procurement process in line with the Concession Contracts Regulations 2016 (CCR).

18.18 A concession contract must involve the transfer of an operating risk to the supplier, the risk transferred must involve real exposure to the market and the services must be for the benefit of the Council or its residents.

18.19 The value of a concession contract, subject to the CCR, is the estimated total turnover that the supplier can generate in consideration for the works, goods and services over the duration of the contract, net of value added tax, as estimated by the Council. Legal Services, in consultation with Procurement colleagues can advise if a contract is a concession contract which falls within the CCR.

18.20 Where the value of a concession contract is below threshold for CCRs only those with an estimated total turnover in excess of £750k need to comply with the need to tender as laid out in 18.65 (the total turnover value is for the life of the contract or 5 years whichever is the longest). For turnover values between £100k and £750k three quotes should be sought in line with 18.65. For turnover values below £100k over the lifetime of the contract Corporate Directors or the Director of Public Health can directly award to a supplier.

**18.21 Delivery Model Assessment (Make or Buy)**

The Council's Procurement Strategy states: "Procurement is the process of acquiring the goods, services and works an organisation needs.... Procurement also involves options appraisal and 'make or buy' decisions, which may result in the provision of services in-house where appropriate." A relevant DMA must be included in the commercial strategy for all works, supplies and services.

A joined up, strategic, Delivery Model Assessment (DMA) will be periodically undertaken for all Council services, led by the Strategic Commercial Oversight function. Any exception to an agreed DMA must be agreed by the Commercial Oversight Board or its successor.

18.22 Before the Council considers developing or extending an internal provision, a DMA must be completed and prove that the internal service provides best value for money.

18.23 Arrangements for internal provision should be periodically reviewed through a DMA process to ensure that they do not become out-of-date and continue to be the most suitable arrangements, taking into account, for example, that:

- requirements change over time and may no longer be reflected in the agreed service (eg in terms of quality, quantity or range of options)



offered)

- innovations or alternatives may have been developed since the original agreement
- new entrants to a market could potentially offer greater value than the in-house alternative.

The regularity of these reviews will depend upon the degree of change in the market, the degree of change in the requirements and the flexibility of the existing agreement.

18.24 An externally provided solution may provide better value for money for the Council because:

- the extra cost required to provide the service internally is less than the price available externally (including any potential TUPE costs if currently provided externally, and/or break costs in the terms of PFI contracts)
- there is insufficient capacity (including any necessary specialism) to provide the service in-house
- the quality that can be offered internally does not meet the needs of the internal customer.

18.25 Inappropriate reasons for contracting out (or not using internal services) include:

- unsolved management problems (including issues of ‘long-standing resentment or mistrust of one group of staff by another’)
- ability to transfer risk (as this will be built into prices)
- a legacy of capital starvation (as prudential borrowing can rectify this).

18.26 The expectation is that in most cases, the service managers from the customer and provider sections will discuss and agree if any of the criteria in paragraph 18.24 are met and thus if it is appropriate to externally procure. If the parties cannot agree it should be referred to the Procurement Team who will apply and keep updated a specific process and route of escalation for these types of decisions.

18.27 The Chief Financial Officer is responsible for updating and reviewing procedures and processes for resolving any disputes within the DMA process between departments.

18.28 Corporate Directors are responsible for checking whether in-house provision is an alternative before commencing purchasing or tendering activities. This decision should ideally be made six months before the expiry of the existing contract so that adequate time is allowed for the re-tendering process. If a robust business case for delivering the service internally has not been approved at that point, the procurement should proceed to ensure a compliant contract is in place at all times.

18.29 Where the Council chooses to deliver services itself (‘in-house’) such arrangement will not be subject to these Contract Procedure Rules.

**18.30 Nottingham City Council owned companies – Teckal (Local Authority Trading Company)**

When buying services the Council can consider entering into arrangements with one of its subsidiary companies if it meets certain requirements falling under the UK procurement legislation (known as the ‘Teckal’ exemption).

18.31 Arrangements falling within the Teckal exemption are excluded from these Contract Procedure Rules regardless of value. The Council will still be required to enter into a contract with the subsidiary company and approval will be required to enter into such contract and demonstrate best value.

For contracts below the thresholds of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concession Contracts Regulations 2016 or otherwise not subject to the Public Contracts Regulations, with a company that would otherwise satisfy the Teckal exemption, the Council will consider these arrangements exempt from these Contract Procedure Rules.

18.32 Legal services should be consulted to advise whether the Teckal exemption applies and to provide appropriate support with the contract

**18.33 Co-operation with other public bodies**

In limited circumstances it may be possible for the Council to co-operate with other public bodies without undertaking a procurement process.

18.34 As a minimum co-operation between the Council and another public body must have the aim to ensure that the public services they have to perform are provided with a view to achieving objectives they have in common (including the achievement of value for money) and that the co-operation is governed solely by considerations relating to the public interests.

18.35 Legal Services should be consulted to advise whether co-operation would be permitted for the proposed arrangement, in which case these Contract Procedure Rules will not apply.

**18.36 Accreditation Schemes / Any Qualified supplier**

Where an arrangement is deemed to be a supplier accreditation scheme or ‘Any Qualified Supplier’ scheme and is not a procurement as defined by the Public Contracts Regulations 2016, the Utilities Contracts Regulations 2016 and the Concession Contracts Regulations 2016, the procedural requirements of these Contract Procedure Rules do not apply in so far as they relate to the selection of suppliers. There is no requirement for exemption from the Contract Procedure Rules in accordance with Article 18.94 in order to award contracts.

18.37 The key principles to be applied in determining whether a scheme is an accreditation scheme and not a procurement are:

- Lack of any choice or discretion on the part of the Contracting Authority in the selection of which organisation/s are contracted

- The assessment of whether an organisation can qualify is determined by a separate regulatory body
- Openness of the scheme to qualified providers without limit or restriction of access

18.38 The Procurement team and Legal Services should be consulted in making this determination and if Legal Services determine that the arrangement is a procurement and not an accreditation scheme then the requirements of these Contract Procedure Rules must be complied with.

18.39 When awarding contracts under an accreditation scheme, Corporate Directors and the Director for Public Health shall ensure that the most suitable arrangement is secured, the details are recorded in writing and appropriate approval is sought for the Council's financial commitment under any of these arrangements. The obligations of these Contract Procedure Rules relating to best value must be complied with to ensure the economy, efficiency and effectiveness in the use of the Council's resources and to secure the optimum combination of whole life costs and benefits to meet customer requirements.

18.40 When contracting under an accreditation scheme, the provisions of these Contract Procedure Rules relating to contracts and orders, transparency (including publishing on the contracts register) and supplier performance must be complied with.

#### **18.41 Selection of Suppliers**

Corporate Directors and the Director for Public Health shall ensure compliance with the City Council's Corporate Contracts currently in force to procure works, supplies or services. These are arrangements established by the City Council's Head of Procurement or nominated representative.

18.42 Only where a corporate contractual arrangement has not been established can the Corporate Directors and the Director for Public Health ensure that quotations and tenders are invited in consultation with the Head of Procurement or nominated representative. Any quotation or tender process must comply with these Contract Procedure Rules and the UK Public Procurement legislation - which is mandatory for any scheme which has a procurement requirement falling within the UK public procurement legislation and, if so, whose value, or (if made up of a series of related schemes), whose aggregate value is likely to exceed the relevant UK threshold figure for the time being in force.

18.43 Quotation or tender processes must comply with one of the following approaches:

- Joint procurement arrangements/dynamic purchasing systems+/frameworks/purchasing consortia arrangements established by other contracting authorities
- For "light touch" services (ie: Social and Other Specific Services identified in Schedule 3 of the Public Contract Regulation 2015) accreditation or any qualified provider process
- Use of frameworks from organisations such as Crown Commercial Services, the Eastern Shires Purchasing Organisation (ESPO) etc

- Suitable suppliers derived from a competitive selection process as set out in 18.64 conducted in consultation with the Head of Procurement or nominated representative and where necessary, also with the Head of Legal and Governance.

18.44 Corporate Directors and the Director for Public Health are encouraged to adopt a collaborative approach to procurement, where appropriate.

18.45 When forming a partnership with a supplier a partner must be obtained through a competitive selection process which can be demonstrated by using any of the arrangements set out in paragraph 18.65 of these Contract Procedure Rules.

**18.46 UK Public Procurement including Framework Agreements**

Corporate Directors and the Director for Public Health shall ensure that the letting of a scheme which has a procurement requirement falling within the UK procurement legislation and, if so, whose value, or (if made up of a series of related schemes), whose aggregate value is likely to exceed the relevant UK threshold figure for the time being in force, complies with the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concession Contracts Regulations 2016 and any re-enactment(s) of them in respect of technical specifications and procedures covering the seeking of tenders, the selection of the successful supplier(s) and awards.

18.47 Corporate Directors and the Director for Public Health shall ensure that any scheme which has a procurement requirement falling within the UK procurement legislation and, if so, whose value, or (if made up of a series of related schemes), whose aggregate value is likely to exceed the relevant UK threshold figure for the time being in force is referred to the City Council's Head of Procurement or nominated representative to ensure compliance with the Public Contracts Regulations 2016, the Utilities Contracts Regulations 2016 and the Concession Contracts Regulations 2016 and any re-enactment(s) of them.

18.48 Corporate Directors and the Director for Public Health shall ensure that the appropriate advertisements are placed on Contracts Finder and/or Find a Tender and other relevant publications in conjunction with the City Council's Procurement Manager. The City Council's Head of Procurement or nominated representative shall maintain a register of such advertisements so placed.

18.49 Corporate Directors and the Director for Public Health shall ensure compliance with the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them where it is intended that the City Council should enter into a framework agreement for any scheme which has a procurement requirement falling within the UK procurement legislation and, if so, whose value, or (if made up of a series of related schemes), whose aggregate value is likely to exceed the relevant UK threshold figure for the time being in force (refer to paragraph 18.45 of these Contract Procedure Rules for the use of framework agreements established by other contracting authorities).

18.50 Corporate Directors and the Director for Public Health shall have the discretion, in consultation with the City Council's Head of Procurement or nominated representative, to adopt the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them where it is intended to enter into a framework agreement for any scheme which does not have a procurement requirement falling within the UK procurement legislation or, if it does, whose value, or (if made up of a series of related schemes) whose aggregate value is not likely to exceed the relevant UK threshold figure for the time being in force, otherwise the requirements of these Contract Procedure Rules shall be complied with.

18.51 Corporate Directors and the Director for Public Health shall ensure that framework agreements are created and maintained whenever it is deemed appropriate in pursuit of securing continuous improvement in the economy, efficiency and effectiveness in the use of City Council's resources to secure Best Value for the City Council. Note: More information on the Public Contracts Regulations 2015, Utilities Contracts Regulations 2016 and Concessions Contracts Regulations 2016 can be found at <https://www.gov.uk/guidance/public-sector-procurement-policy>.

**18.52 Joint Procurement Arrangements/ Dynamic Purchasing Systems/ Frameworks/ Purchasing Consortia**

To fulfil their requirements, Corporate Directors and the Director for Public Health may use a number of arrangements established outside the City Council by other parties, provided that those parties are "contracting authorities" as defined by the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them, these arrangements being:

- joint procurement arrangements with other local authorities or other contracting authorities
- dynamic purchasing systems established by other contracting authorities
- framework arrangements established by contracting authorities such as the East Midlands Property Alliance (EMPA)
- purchasing consortia established by contracting authorities such as Crown Commercial Services and the Eastern Shires Purchasing Organisation (ESPO).

18.53 For requirements above £100k the risk assessment process referred to in 18.11 will need to be undertaken. Where high risk or a key decision, the Commercial Strategy must be approved at the relevant Commercial Oversight Board or its successor.

18.54 Any requirement of the City Council involving the procurement of works, supplies or services via joint procurement arrangements with other local authorities, where a competitive process has been followed that complies with the contract procedure rules of the leading organisation, shall be deemed to comply with the corresponding requirements of these Contract Procedure Rules.

- 18.55 Dynamic Purchasing Systems and Framework arrangements established by contracting authorities must be evaluated and approved by the Head of Procurement or nominated representative who will confirm with a Legal Services Manager before agreeing for use. A list of approved frameworks will be held by Procurement which can be used by Directors once approval has been given to the Commercial Strategy for each project in line with 18.53
- 18.56 Any requirement of the City Council involving the procurement of works, supplies or services via the use of purchasing consortia shall be deemed to comply with the requirements of these Contract Procedure Rules covering the seeking of quotations or tenders, the selection of the successful supplier(s) and awards.
- 18.57 In all cases where the fulfilment of requirements using arrangements referred to in paragraph 18.52 of these Contract Procedure Rules is being considered, Corporate Directors and the Director for Public Health must be satisfied that the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them have been complied with by the other contracting authorities, otherwise the requirements of these Contract Procedure Rules shall be followed.
- 18.58 Corporate Directors and the Director for Public Health shall ensure that the proposed terms and conditions that are to apply are adequate and appropriate and where necessary shall refer them to the Head of Procurement (or nominated representative) or Head of Legal and Governance for a consideration of the suitability of the arrangement concerned and of the City Council's legal liability before proceeding with or entering into any arrangement referred to in paragraph 18.52 of these Contract Procedure Rules.
- 18.59 Corporate Directors and the Director for Public Health shall ensure that the terms and conditions entered into are complied with.
- 18.60 Corporate Directors and the Director for Public Health shall ensure that where following the call-off procedure to use a framework agreement, the provisions of such agreement regarding the number of suppliers to be invited to provide quotations or to submit tenders in pursuance of that agreement are followed, notwithstanding the requirements of paragraphs 18.65 – 18.78 of these Contract Procedure Rules.
- 18.61 **Vetting of Suppliers**  
Corporate Directors and the Director for Public Health shall ensure that suppliers are vetted in consultation with the Head of Procurement or nominated representative and in accordance with the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 for financial stability, technical competence, managerial capability, previous performance and (but only so far as is relevant to a procurement process and is lawful) for the ability to comply with any national legislation and City Council policies and procedures before each scheme is let or before being included into the relevant approved list(s), whichever is the

earlier. Where applicable, Corporate Directors and the Director for Public Health shall ensure that suppliers meet adequate and appropriate standards of health and safety.

18.62 Corporate Directors and the Director for Public Health shall ensure that all suppliers of construction and engineering related work, have adopted the City Council's Construction Charter or its successor, and have endorsed its principles and agreed to implement its actions, before each scheme is let.

#### 18.63 **Purchasing Cards**

Corporate Directors and the Director for Public Health shall:

- only use the City Council's Purchasing Card Scheme as outlined in The Purchase Card Guidance as part of their procurement regime
- ensure that purchasing cards are used:
  - in the procurement process for works, supplies services where arrangements for their use has been made in conjunction with the City Council's Head of Procurement or nominated representative
  - only for items below the single transaction limit of £1,000. Any transactions over this amount shall be processed by purchase order or in line with the City Council's Payment Policy. Any officers who require a transaction limit above this value must receive approval from the Head of Procurement or a nominated representative in support of procurement
  - over the internet on secure sites and in accordance with the guidance provided in The Purchase Card Guidance
  - in other circumstances agreed with the Chief Finance Officer.

18.64 There shall be no artificial sub-division of spend in order to bring a single transaction below the £1,000.00 limit. The Head of Procurement or a nominated representative will investigate any concern of sub-division of payments.

#### 18.65 **Invitations to Suppliers**

Procurement of schemes for works, supplies and services (including schemes involving construction and engineering related work) (a summary is attached at the end of these Contract Procedure Rules):

- Where the estimated value of a scheme over the whole life of the scheme is between £25,000 and £100,000 (between £5,000 and £50,000 for Schools), Corporate Directors and the Director for Public Health shall refer to guidance and templates provided by the Procurement Team and make every effort to obtain at least 3 quotations in writing, except where corporate contracts have been established by the City Council's Head of Procurement or nominated representative or where framework agreements or other arrangements have been approved for use pursuant to 18.55. Corporate Directors and the Director for Public Health, however, may elect to seek tenders in lieu of quotations.
- Where the estimated value of a scheme over the whole life of the scheme exceeds £100,000 (£50,000 for Schools), Corporate Directors and the Director for Public Health shall seek support from the Procurement Team and make every effort to obtain at least 3 tenders in writing, except where corporate contracts have been established by the City Council's Head of

Procurement or nominated representative or where framework agreements or other arrangements have been approved for use pursuant to 18.55.

- In specific exceptional circumstances, for procurement valued above the relevant threshold stated in the Public Contract Regulations 2015, there will be occasions where a competitive quotation or tender process is not possible and direct negotiation of a contract is permissible. Where this is identified the Corporate Director of Finance and Resources can, in Consultation with the Head of Legal and Governance, authorise the subsequent contract award provided a record is kept of the rationale for the decision via the exemptions process attached at the end of this Article. Under no circumstances will retrospective approval be allowed.
- In all circumstances where a contract value cannot be estimated it must be assumed that the requirement is above the relevant Public Contracts Regulation regime threshold and a compliant process undertaken accordingly

18.66 Quotations and Tenders as detailed in 18.65 above need not be sought:

- if the estimated value of a scheme over the whole life of the scheme is less than £25,000 (£5,000 for Schools)
- in the event of an emergency (see Financial Regulations)
- when the arrangement is for in-house delivery by Nottingham City Council or a subsidiary company in accordance with the Teckal exemption as per paragraphs 18.30 – 18.32 above
- when the arrangement is through co-operation with another public body in accordance with paragraphs 18.33 – 18.35 above.

18.67 Corporate Directors and the Director for Public Health, however, shall ensure that the most suitable arrangement is secured for the City Council and the details are recorded in writing and appropriate approval is sought for the Council's financial commitment under any of these arrangements.

18.68 Corporate Directors and the Director for Public Health shall ensure that the City Council's e-tendering system shall be used when inviting and receiving quotations and tenders electronically, unless the express approval of the Head of Procurement or nominated representative is given to dispense with the use of the system in advance of any process commencing.

18.69 In consultation with the Head of Legal and Governance, the Head of Procurement shall ensure that the City Council's e-tendering system complies with the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them.

18.70 Other methods such as e-auctions and dynamic purchasing systems may be used to invite and receive quotations and tenders electronically, provided there is no conflict with the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them, otherwise the requirements of these Contract Procedure Rules shall be complied with.



- 18.71 Corporate Directors and the Director for Public Health shall ensure that any individual scheme is not artificially divided into two or more separate schemes with the intention of avoiding the application of these Contract Procedure Rules.
- 18.72 Corporate Directors and the Director for Public Health shall ensure that each individual scheme be packaged to secure Best Value for the City Council.
- 18.73 Corporate Directors and the Director for Public Health shall ensure that suppliers invited to provide quotations or to submit tenders are contacted and (regardless of the process being used) a record maintained on the City Council's e-tendering system of the requests made and their agreement to provide quotations or submit tenders.
- 18.74 Corporate Directors and the Director for Public Health shall ensure that where there is a multiple stage process for inviting quotations or tenders then any criteria to be used for short-listing suppliers throughout such process is robust and transparent and shall make use of the assistance available from the Procurement Team.
- 18.75 Corporate Directors and the Director for Public Health shall ensure that a realistic period be stipulated in the invitations to suppliers to provide quotations or to submit tenders, and is in line with UK Public Contracts Regulations 2015 or where these need not be applied a minimum period of ten working days allowed for a response. This period may be reduced provided the special circumstances are recorded.
- 18.76 Corporate Directors and the Director for Public Health shall ensure that invitations to suppliers to provide quotations or to submit tenders for works, supplies or services, incorporate:
- the requirements set out in these Contract Procedure Rules appropriate to the circumstances of the invitation
  - a specification that describes the City Council's requirements in sufficient detail to enable the submission of competitive offers
  - the nature and quantity of the works, supplies or services that is required
  - the time, or times, within which the works or services are to be performed or the goods and materials are to be delivered
  - a notification that assignment or sub-contracting is not permitted without prior written consent from the City Council, unless the circumstances of the particular invitation require a different approach
  - a notification that quotations are provided and tenders are submitted to the City Council on the basis that they are compiled and delivered at the supplier's expense and that, in no circumstances, will the City Council contribute to such expenses whatever the outcome of the procurement process
  - a notification that the City Council is not bound to accept the lowest or any quotation or tender for a specific scheme
  - a Certificate of Bona Fides
  - a Form of Tender

- adequate and appropriate provisions regarding insurances, health and safety, equality and diversity, data protection and freedom of information
- adequate and appropriate price adjustment provisions (unless the circumstances of the particular invitation require a different approach), anti-collusion provisions; anti-corruption provisions and anti-fraud provisions (refer to paragraph 18.104 of these Contract Procedure Rules)
- robust and transparent award criteria to be used in evaluating quotations or tenders received to ensure compliance with the requirements of these Contract Procedure Rules
- any other relevant items that are considered necessary.

18.77 Corporate Directors and the Director for Public Health shall ensure that the information contained in any invitation to provide quotations or to tender is issued to each supplier at the same time. Any supplemental information must be given on the same basis.

18.78 Corporate Directors and the Director for Public Health shall ensure that TUPE issues are considered when any employee either of the City Council or of an incumbent provider of work or services may be affected by any transfer arrangement and obtain advice from a Legal Services Manager before proceeding with invitations to suppliers to provide quotations or to submit tenders.

## **Procedures for Quotation and Tender Discussion and/or Clarification**

### **18.79 Pre-Quotation and Pre-Tender Discussion**

Discussion with potential suppliers prior to inviting quotations or tenders may be appropriate in special circumstances as part of the competition process and in order to secure Best Value for the City Council, provided there is no conflict with the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them. The objective of such discussion is to ensure that an effective invitation is prepared. All potential suppliers must be treated equally within this process.

### **18.80 Post-Quotation and Post-Tender Clarification**

Clarification after receipt of quotations or tenders and before the letting of scheme(s) with those supplier(s) who have submitted such quotations or tenders may be appropriate as part of the competition process and in order to secure Best Value for the City Council, provided there is no conflict with the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them. The objective of such discussion is to obtain an improvement in content of these quotations or tenders in circumstances which do not put the other supplier(s) at a disadvantage, distort competition or affect adversely trust in the competition process. All potential suppliers must be treated equally within this process.

18.81 Where post-quotation or post-tender clarification results in a fundamental change to the specification or the proposed terms and conditions that are to apply, an official order must not be issued or a formal contract must not be made and quotations or tenders must be re-invited.

**18.82 Notification**

Corporate Directors and the Director for Public Health may authorise such discussion and/or clarification within a specific scheme, provided the special circumstances are recorded, including a record of the discussion and/or clarification. Corporate Directors and the Director for Public Health shall notify the Head of Procurement (or nominated representative) or the Head of Legal and Governance of the discussion and/or clarification and actions taken, at the earliest opportunity.

**18.83 Acceptance of Quotations and Tenders**

Whenever the City Council's e-tendering system is not used as per 18.7, Corporate Directors and the Director for Public Health shall ensure that a record of the quotations received be prepared, signed, dated and timed, which record shall include the date and time each quotation is received, together with the main terms of each quotation (eg value, price, delivery period, or other significant issues unique to each quotation).

18.84 Subject to any legal obligations on the City Council, Corporate Directors and the Director for Public Health shall ensure that the confidentiality of quotations and tenders received and the identity of the corresponding supplier is preserved at all times and that information about one supplier's offer shall not be given to another supplier.

18.85 Corporate Directors and the Director for Public Health shall ensure that quotations and tenders received are adequately and appropriately evaluated in accordance with the Quotation/Tender Evaluation Model recommended by the Procurement Team or set out in Procurement Team guidance

18.86 Corporate Directors and the Director for Public Health shall ensure that errors or discrepancies found in quotations or tenders be adequately and appropriately dealt with. Where such error or discrepancy cannot be adequately and appropriately dealt with the matter shall be immediately referred to the Head of Procurement or nominated representative for a decision.

18.87 Corporate Directors and the Director for Public Health shall ensure that the quotation or tender which secures Best Value for the City Council be accepted, provided that there is no conflict with the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them.

18.88 Corporate Directors and the Director for Public Health shall ensure that a record is kept of the withdrawal of a quotation or tender by a supplier within a specific scheme together with the circumstances of such withdrawal.

- 18.89 Corporate Directors and the Director for Public Health shall ensure that where the accepted quotation or tender is changed following the rectification of errors or discrepancies and/or post-quotation/tender clarification, such amendment(s) be initialled by Corporate Directors or the Director for Public Health or authorised signing officer(s).
- 18.90 Corporate Directors and the Director for Public Health shall ensure that suppliers whose quotation or tender for a specific scheme is not accepted be notified and given the name/s of the successful tenderer/s and reasons for the decision including the characteristics and relative advantages of the successful tender, and the score (if any) obtained by the recipients of the notice and the winner/s. Where a scheme falls within the UK procurement legislation and has a value or (if made up of a series of related schemes) an aggregated value likely to exceed the relevant UK threshold figure for the time being in place, the notification of the decision must comply with the requirements of the Public Contracts Regulations 2015, the Utilities Regulations 2016 or the Concession Contracts Regulations 2016 as applicable.
- 18.91 Each scheme shall be let on the authority of a Corporate Director or the Director for Public Health, following a spend decision having been taken in line with 18.10 and 18.11 by an appropriate decision-maker (i.e. for executive business a Corporate Director or the Director for Public Health (or other specifically delegated officer), Portfolio Holder/Leader or Executive Board/Committee) in accordance with the currently prevailing financial limits.
- 18.92 Notwithstanding any current requirements for reporting of decisions, Corporate Directors and the Director for Public Health shall ensure that a quarterly report be forwarded to the Chief Finance Officer which sets out all schemes exceeding £100,000 (£50,000 for Schools) let under the authority of such Corporate Directors and the Director for Public Health in the preceding quarter. Any special circumstances (eg emergency and/or operational action) or items of an exceptional nature must be included in the report.
- 18.93 Corporate Directors and the Director for Public Health shall ensure compliance with the relevant provisions of these Contract Procedure Rules where the accepted quotation or tender incorporates provisional, prime cost or non-defined items or other such similar items.
- 18.94 **Request for an Exemption from Procurement Procedures**  
Corporate Directors or the Director of Public Health, on application to the Chief Finance Officer, may waive, suspend or change any provision of these Procedures, which are not part of the Financial Regulations. The Chief Finance Officer shall report any such waiver, suspension or change on an annual basis to the Audit Committee. In these circumstances the initiating Director must use a Request for an Exemption from Procurement Procedures Form as attached at the end of this Article, this must be sent to the Head of Procurement or nominated representative. Under **no** circumstances will a retrospective exemption be approved.

18.95 In specific exceptional circumstances there will be occasions where an award of a contract is allowed within Public Contract Regulations 2015 where a competitive quotation or tender process is not possible. This should be approved and recorded in accordance with 18.65 via the exemptions process attached at the end of this Article.

**18.96 Orders and Contracts**

All schemes regardless of value must be evidenced by means of an official order or a formal contract. Such official order must be issued or such formal contract must be made to all suppliers for the provision of schemes, before the relevant supply, service or work begins, except in exceptional circumstances as provided for in paragraph 18.94 of these Contract Procedure Rules.

18.97 Corporate Directors and the Director for Public Health shall ensure that official orders are raised through the City Council's main financial system, except where the City Council's Purchasing Card Scheme has been used in compliance with the requirements of paragraph 18.56 – 18.58 of these Contract Procedure Rules.

18.98 Corporate Directors and the Director for Public Health shall ensure that official orders are also raised through the City Council's main financial system:

- for call-offs, draw-downs or other similar arrangements, where an official order has already been issued or formal contract has already been made, or where a series of official orders have already been issued or formal contracts have already been made with the same external organisation, which relate to the same scheme
- for budgetary purposes, where a formal contract has already been made. However, such budgetary orders shall not be issued to suppliers, but shall be retained by the relevant City Council department.

18.99 The law prevents formal contracts being made between City Council Departments. However, any agreement between City Council Departments relating to a scheme must be evidenced by the issue of an official order.

18.100 Contracts under seal are made to provide a 12 year period within which action can be taken for breach. Under simple contracts (contracts which are only signed), this period is reduced to 6 years. In the determination of which to choose, risk is a factor in addition to value

18.101 The Director of Legal and Governance, and Head of Legal and Governance, have authority to make contracts under seal. Simple contracts may only be made in accordance with paragraph 18.118 of these Contract Procedure Rules.

18.102 The Chief Finance Officer may authorise specific exceptions to the requirement that all schemes be evidenced by means of an official order or formal contract. The Chief Finance Officer may only provide such authorisation after consultation with the Director for Legal and Governance.

18.103 In exceptional circumstances, where an official order has been raised electronically, ie by telephone or e-mail, Corporate Directors and the Director

for Public Health shall ensure that an official confirmatory order be issued through the City Council's main financial system without undue delay. Such official confirmatory order shall be clearly marked "CONFIRMATION ONLY".

18.104 Where any scheme has a value of £2,000,000 or more:

- the Director of Legal and Governance or the Head of Legal and Governance must make a formal contract under seal where the value of any scheme is £2,000,000 or more. The affixing of the seal to such contract must be authorised by hand by the Director of Legal and Governance or the Head of Legal and Governance
- the Head of Legal and Governance (taking into consideration the risks involved) may deem a formal contract under seal to be inappropriate in any particular case (except for schemes involving construction and engineering related work), even where the value of the scheme not involving construction and engineering related work is £2,000,000 or more. In this case, the Corporate Director concerned or the Director for Public Health shall ensure that an official order or a simple contract relating to such scheme is made in such terms that have the prior approval of a Legal Services Manager. For the avoidance of doubt, such official order, as well as such simple contract, must be signed by at least two signing officers.

18.105 Where any scheme has a value of less than £2,000,000:

- the Corporate Director concerned or the Director for Public Health must issue an official order or make a simple contract where the value of any scheme is less than £2,000,000. Such official order or such simple contract must be made in such terms that have the prior approval of the Head of Legal and Governance and be signed by at least one authorised officer
- the Head of Legal and Governance (taking into consideration the risks involved) may deem an official order or simple contract inappropriate in any particular case, even where the value of the scheme is less than £2,000,000. In this case, the Corporate Director concerned or the Director for Public Health shall ensure that a formal contract under seal relating to the scheme is made in such terms that have the prior approval of the Head of Legal and Governance and in accordance with paragraph 18.104 of these Contract Procedure Rules
- Corporate Directors and the Director for Public Health may authorise, in writing, other officers to sign official orders or simple contracts or to authorise such orders or contracts electronically in a main financial system on their behalf at a value agreed with the Chief Finance Officer provided Corporate Directors and the Director for Public Health are satisfied that their officers have received relevant financial training as approved by the Chief Finance Officer (Financial Regulations) and the relevant form has been completed.

Corporate Directors and the Director for Public Health shall supply the names and signatures of signing officers together with the corresponding signing/ authorising limits to the Chief Finance Officer. Corporate Directors and the Director for Public Health shall prepare and keep up-to-

date a register of names and signatures of signing officers together with the corresponding signing limits, which shall be made available to the Chief Finance Officer upon request.

18.106 Corporate Directors and the Director for Public Health shall ensure that:

- no official order be issued or formal contract made for a scheme which will commit the City Council to expenditure unless provision exists to finance that expenditure, except in the event of an emergency
- no official order be issued or formal contract made for work, goods, materials or services for the private use of any person
- only official order forms in a format approved by the Chief Finance Officer be used
- each official order or formal contract indicates clearly the nature and quantity of the work, goods, materials or services, the agreed value or price and provisions for payment, any trade or cash discount or allowance, the time, or times, within which such order or contract is to be performed, together with any reference to a quotation, tender or other arrangement via the selection of the relevant Contract Purchase Agreement (CPA) when raising a purchase order. Reference to the CPA on a purchase order ensures those specific terms apply to the purchase, rather than the Council's standard purchase order terms of agreement
- each official order or supplier's form of order used to call-off, draw-down or make other similar arrangements where a formal contract in respect of such requirements is already made (whether such contract be under seal or a simple contract) contains full details of the contract in question, including as a minimum: the date of the contract, the names of the parties to it and a description of the works, supplies or services (as the case may be) which form the subject-matter of the contract
- each official order or formal contract contains adequate and appropriate (and in addition, the applicable requirements of paragraph 18.77 of these Contract Procedure Rules):
  - price adjustment provisions
  - anti-collusion provisions
  - anti-corruption provisions
  - anti-fraud provisions
- each official order or formal contract contains the following clause (or such other similar clause as a Legal Services Manager may decide):

"The City Council shall be entitled to immediately cancel this contract and to recover from the supplier all costs and losses resulting from such cancellation, if the supplier, or any person employed by, or acting on behalf of the supplier (whether with or without the knowledge of the supplier), shall:

  - a) have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing, or forbearing to do, or for having done, or refrained from doing any action in relation to the obtaining the execution of this contract, or any other contract with the City Council
  - b) for showing, or forbearing to show, favour or disfavour to any person in relation to this contract, or any other contract with the City Council
  - c) has been convicted of any offence under the Bribery Act 2010

d) shall have given any fee or reward the receipt of which is an offence under section 117(2) of the Local Government Act 1972. For the avoidance of doubt, the events under sub-clauses (c) and (d) above shall apply to this contract, or any other contract with the City Council or with any other party, or in respect of any relevant function or activity, as the case may be.”

- where applicable, and with the advice of the Head of Legal and Governance, each official order or formal contract for schemes exceeding £10,000 in value contain provisions for (and in addition to the other requirements of this paragraph of these Contract Procedure Rules):
  - the cancellation of such official order or formal contract
  - the making of retentions
  - the deduction of liquidated and ascertained damages in the event of the supplier’s non-compliance by the due or any extended completion date for a scheme.

Where the City Council has a right to liquidated and ascertained damages, such right must be enforced by deductions from monies owing to the supplier. Any deduction of liquidated and ascertained damages shall be made in accordance with a certificate or instruction issued by Corporate Directors, the Director for Public Health or authorised issuing officers

- the proposed terms and conditions that are to apply to each official order or formal contract are adequate and appropriate and where necessary, be referred to a Legal Services Manager for consideration of the City Council’s legal liability before proceeding with or entering into such official order or formal contract
- where the terms of any official order or a formal contract are changed, such amendment(s) be initialled by Corporate Directors, the Director for Public Health or authorised signing officers. In addition, the copy of an official order so changed and held by the issuing City Council department, be amended accordingly
- as soon as possible after any official order has been made, a register be kept of such orders made
- a scanned copy of every executed formal contract is sent to the Senior Procurement Manager for storing on the City Council’s e-tendering system, together with an electronic record of the names of the City Council and supplier contacts relevant to each such contract.

#### 18.107 **Transparency obligations**

Corporate Directors and the Director for Public Health shall ensure that as soon as possible after any formal contract has been made, the Chief Finance Officer and Head of Procurement or nominated representative are notified and a register be kept of such contracts made.

18.108 All formal contracts must be notified to the Procurement Team and recorded on the Council’s Contracts Register.



- 18.109 The award of all contracts of value exceeding the relevant UK procurement threshold for the time being in force, must within a reasonable time, be published nationally in accordance with the requirements of the of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 or the Concessions Contracts Regulations 2016. This obligation applies to contracts awarded regardless of whether they fall within the UK procurement legislation or are of a value likely to exceed the relevant UK threshold figure for the time being in force.
- 18.110 **Amendments and variations to contracts** An official order or formal contract relating to any scheme may be extended to include further requirements relating to the scope of that scheme provided that any such variation complies with the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them, Best Value continues to be secured for the City Council and is made in consultation and with the agreement of the Head of Procurement or nominated representative. In relation to contracts where the original contract is below the thresholds of the Public Contracts Regulations 2016, the Utilities Regulations 2016 and the Concessions Contracts Regulations 2016, or otherwise not covered by these Regulations, amendments and variations will be considered in accordance with the relevant Procurement legislation then the principles of the relevant legislation should be applied to any extension or variation. Any extension or variation not approved by the Head of Procurement or their nominated representative will need an exemption in line with 18.94.
- 18.111 Corporate Directors and the Director for Public Health shall ensure that any contingency allowance incorporated into an official order or formal contract does not exceed 10% of the estimated cost of a scheme.
- 18.112 Corporate Directors and the Director for Public Health shall ensure that variations to the scope of construction and engineering related work provided for by an official order or formal contract be authorised in accordance with the terms of such official order or formal contract, provided provision exists to finance that expenditure, except in the event of an emergency. Such authorisation shall be given in writing and shall state the agreed price of each variation or the agreed basis on which the cost of such variation is to be calculated. In urgent cases, verbal authorisation(s) may be given, but this must be confirmed in writing within 7 days, or in accordance with the appropriate term(s) of the official order or formal contract.
- 18.113 Provision of Works, Supplies or Services by the City Council to Other Organisations: The Head of Legal and Governance must be consulted where it is contemplated that any works, supplies or services will be provided to organisations other than the City Council whether on such organisation's terms and conditions or those of the City Council.
- 18.114 **Supplier Performance**  
Corporate Directors and the Director for Public Health shall ensure that each official order or formal contract for works, supplies or services contains

adequate and appropriate provisions for supervising and monitoring supplier performance including the quality and standard of such works, supplies or services.

18.115 During the performance of an official order or formal contract for works, supplies or services, Corporate Directors and the Director for Public Health shall ensure that supplier performance, compliance with specification, expenditure, progress, risk and user satisfaction are monitored and also, where necessary, ensure that adequate and appropriate actions are taken to rectify and overcome any short-comings.

18.116 Corporate Directors and the Director for Public Health shall ensure that claims received from suppliers of works, supplies or services in respect of matters not clearly in accordance with the terms of the official order or formal contract, or from other external organisations, be referred to the Head of Legal and Governance for consideration of the City Council's legal liability as soon as they are notified to the City Council.

18.117 Corporate Directors and the Director for Public Health shall ensure that claims made against suppliers of works, supplies or services or other external organisations be referred to the Head of Legal and Governance for consideration of the City Council's legal liability as soon as they become reasonably apparent.

18.118 Corporate Directors and the Director for Public Health shall ensure that where suppliers are required to provide guarantees then such guarantees are adequate and appropriate and underwritten by an insurance company or similar financial institution.

18.119 **Payments**

Corporate Directors and the Director for Public Health shall ensure that payments to suppliers for works, supplies or services are certified and made in accordance with:

- the appropriate term(s) of the official order or formal contract
- Financial Regulations.

18.120 **Performance Security Arrangements**

Corporate Directors and the Director for Public Health shall ensure that procurement exercises allow for the obtaining of security for the due performance of all schemes (whether they be schemes involving supplies or services or involving construction and engineering related work) between the City Council and any external organisation where the value of such scheme is estimated to be £2,000,000 or more. Such security may be by way of performance bonding, parent company/third party guarantees, deposit of money as security or other means considered appropriate by the Head of Legal and Governance. The Head of Legal and Governance may decide that such security is not required for the procurement, in which case the following requirements shall not apply.

18.121 Each external organisation invited to submit a tender in respect of a scheme having a value estimated to be £2,000,000 or more must be required to make its own security arrangements and allow for the cost of such provision in its tender. Corporate Directors and the Director for Public Health shall ensure that:

- the need for such allowance is made clear in the tender documents
- in conjunction with a Legal Services Manager, that the terms of such security arrangements are adequate and appropriate
- the scheme must not commence until a decision has been made by a Legal Services Manager as to whether such security arrangements should be put into effect.

18.122 For the purpose of this Contract Procedure Rule 10, the estimated value of a scheme shall be the higher value of either:

- the value of any official order to be issued to or formal contract to be made with the external organisation
- the value of a series of official orders to be issued to or formal contracts to be made with the same external organisation where such official orders or formal contracts relate to the same scheme
- the aggregate value of call-offs, draw-downs or other similar arrangements to be made against:
  - any official order to be issued to or formal contract to be made with the external organisation
  - a series of official orders to be issued to or formal contracts to be made with the same external organisation where such official orders or formal contracts relate to the same scheme.

18.123 Nothing in these Contract Procedure Rules shall prevent security arrangements in accordance with this Contract Procedure Rule being put in place where the value of a scheme is estimated to be under £2,000,000 and the Corporate Director or the Director for Public Health in consultation with a Legal Services Manager determines that the subject-matter of such scheme justifies the need for such security arrangements.

#### 18.124 **Insurances**

Corporate Directors and the Director for Public Health shall ensure that there is adequate and appropriate insurance cover in force during the continuance of a scheme for both the City Council and its suppliers in conjunction with the City Council's insurance officers.

#### 18.125 **Consultants**

Where a supplier is providing consultancy services to the City Council (eg professional, technical, IT and managerial), Corporate Directors and the Director for Public Health shall ensure that the relevant provisions of these Contract Procedure Rules are followed and included in the terms of such supplier's appointment.

18.126 Corporate Directors and the Director for Public Health shall ensure that the taxation procedures set out within CFP D.115 – D.128 are followed in the employment of consultants.

18.127 Corporate Directors and the Director for Public Health shall ensure compliance with the requirements of the Audit Commission's Checklist for commissioning and managing consultants the principles of which have been adopted by the City Council.

18.128 **Records**

Corporate Directors and the Director for Public Health shall ensure that the records required by these Contract Procedure Rules are kept and securely retained.

18.129 For the purpose of these Contract Procedure Rules, Corporate Directors and the Director for Public Health shall ensure that the relevant documentation set-out in the City Council's Retention and Disposal Schedule is securely kept and retained for at least the periods stated in such schedule.

18.130 **Audit Examination**

The authority of the City Council's Internal Audit is outlined in the City Council's Financial Regulations and further detail is outlined in CFP C.24 – C.35.

18.131 Before the final payment is certified in respect of any scheme for construction and engineering related work, such scheme and all documentation associated with it may be examined by the City Council's Internal Audit. All such documentation shall be provided to the City Council's Internal Audit within the time-scale for the ascertainment of the final payment set out in the contractual provisions relating to an official order or formal contract in respect of any scheme for construction and engineering related work.

18.132 Corporate Directors and the Director for Public Health shall ensure that a copy of the final payment certificate in respect of any scheme for construction and engineering related work is provided to the City Council's Internal Audit at the time it is issued.

18.133 The City Council's Internal Audit may, at any time, examine any scheme and all associated documentation for works, supplies or services.

18.134 Where applicable, Corporate Directors and the Director for Public Health shall ensure that each supplier invited to provide a quotation or submit a tender for any scheme be notified at quotation or tender preparation stage that such scheme and all documentation associated with it may be examined by the City Council's Internal Audit.

## Contractor Thresholds

Officers should check the intranet for any changes to these thresholds. The threshold is total contract value not annual

Lifetime Contract Value	Quotation / Tenders	Exceptions
<b>Procurement</b> £0 - £25,000  <b>Schools</b> £0 - £5,000	No Formal Quotations and/or Tenders need to be sought	Corporate contracts have been established by the City Council's Head of Procurement
<b>Procurement</b> £25,000 - £100,000  <b>Schools</b> £5,000 - £50,000	Obtain at least 3 quotations in writing	<ul style="list-style-type: none"> <li>• Corporate contracts have been established by the City Council's Head of Procurement or where framework agreements are approved for use by Procurement.</li> <li>• Other arrangements are legally accessible pursuant to paragraph 18.65 of the CPR's.</li> <li>• Corporate Directors and the Director of Public Health, however, may elect to seek tenders in lieu of quotations</li> </ul>
<b>Procurement</b> £100,000 +  <b>Schools</b> £50,000+	Obtain at least 3 tenders in writing	<ul style="list-style-type: none"> <li>• Corporate contracts have been established by the City Council's Head of Procurement or where framework agreements are approved for use by Procurement.</li> <li>• Other arrangements are legally accessible pursuant to paragraph 18.65 of the CPR's.</li> </ul>

## Appendix A – Exemption from Procurement Procedures

### Guidance Notes

- The following form must be completed whenever a request is made to seek an exemption from Nottingham City Council's Contract Procedure Rules
- Before seeking an exemption from the requirements to obtain tenders and quotations the Head of Procurement or their nominated representative must be consulted.

### Instructions on Completing the Form

- The officer requesting the exemption should complete the attached form with all relevant information in order for a decision to be properly reached.

The form **must** be signed by the originator and the appropriate Head of Service (or above) before forwarding to the Procurement.

- The Procurement Team will record the exemption for reporting and monitoring purposes. Provide procurement rationale agreed with the relevant Category Manager prior to forwarding to the Head of Procurement.
- The Head of Procurement and the Section 151 Officer will consider the request and, where justified, will authorise it.
- Notification of rejection/approval of any request will be sent to the originator via the Head of Procurement.
- A copy of the completed and authorised form/s must be kept by the originator on the relevant project file.
- Retrospective Exemption Requests will be rejected without further consideration.
- Exemptions that contravene the UK Public Contract Regulations, 2015, Concession Regulations 2016 or the Utilities Regulations 2016 will be rejected unless evidence is provided showing the request is covered by an exception within the Regulations.

<b>Exemption from Procurement Procedures</b> <b>Request for an exemption from complying with Procurement Procedures</b>
--

Section 1: Request Originator	
Name:	
Signature:	
Department:	
Date:	

Section 2: Exemption Type	
Please enter 'X' against whichever box applies and provide relevant supporting information under Section 5	
<b>Exemptions; Please select the relevant exemption being relied on in this request</b>	
The supplies, works or services are specific to the supplier and for technical reasons cannot be provided by any other supplier.	
The supplies, works or services are urgently needed for the <b>immediate</b> protection of life or property, or to maintain the <b>immediate</b> functioning of a public service for which the Council is responsible. In such cases the contract must only last as long as is reasonably necessary to deal with the specific <b>emergency</b> .	
The Corporate Director, in consultation with the Head of Procurement, decides that special circumstances make it appropriate and beneficial to negotiate with a single firm or that a single tender be invited and that best value for the Council can be achieved by not tendering.	

Section 3: Subject	
Title for the Contract project name or types of product	
Description of Supplies, Works or Services: (please provide a full description including any written proposals that have been received)	

Section 4: Data Protection	
Do the Supplies, Works or Services involve processing of personal data on behalf of the Council (i.e. processing is anything that may be done with personal data – service user, employee data etc)	Yes <input type="checkbox"/> No <input type="checkbox"/>
IF YES, have you liaised with the Information Compliance Team or submitted a Data Protection Impact Assessment(DPIA) for the provision of these, Supplies, Works,	Yes <input type="checkbox"/> No <input type="checkbox"/>

Services or does a DPIA already exist (e.g. if this is recommission of an existing service)?	
IF YES please provide details	
If NO, please seek the advice of the Information Compliance Team	

**Section 5: Proposed Provider & Contract Details**

<b>Proposed Provider:</b>	
<b>Contract Value:</b>	
<b>Proposed Contract Start Date:</b>	
<b>Proposed Contract End Date / Duration:</b>	
<b>How or why has the proposed provider been selected?</b>	
<b>How does this proposal demonstrate Best Value?</b>	
<b>Do you have sufficient funds to cover this expenditure?</b>	

**Section 6: Background & Justification**

<b>Provide an overview and explain why an exemption request is necessary?</b>
<b>State when the need for this requirement arose?</b>
<b>Explain why it is not appropriate to seek alternative quotes/tenders?</b>
<b>What other options have been explored?</b>
<b>What would the impact be if this request wasn't approved?</b>

**Section 7: Forward Planning**

<b>Will there be an ongoing requirement beyond the expiry date of this request, if it is approved?</b>
--

**Section 8: Head of Service Agreement**

<b>Head of Service (or above):</b>	
<b>Name:</b>	
<b>Signature:</b>	
<b>Date:</b>	

**Section 9: Procurement Comments**

<b>Head of Procurement</b>	
<b>Name:</b>	
<b>Signature:</b>	



<b>Date:</b>	
<b>Is the value above the applicable PCR2015 threshold, requiring authorisation to award via Regulation 32?*</b>	Yes/No
<b>Comments:</b>	
<b>Recommendation:</b>	

<b>Section 10: Section 151 Officer &amp; Approval / Rejection</b>	
<b>Section 151 Officer</b>	
<b>Name:</b>	
<b>Signature:</b>	
<b>Decision</b>	Approved/Rejected
<b>Reasons for decision:</b>	
<b>Subject to the following conditions.</b>	
<b>Date:</b>	

If approval is given, please complete the following form to enable Procurement to complete its obligation of issuing a Contract Award Notice.

\*or equivalent within the Concession Contracts Regulations 2016 or Utilities Contracts Regulations 2016.

## Exemption from Direct Award Information Request

Under regulations 106, 108, 110 and 112 of the Public Contract Regulations 2015 Nottingham City Council is required to publish spend with a value of £25,000 and above on the government website [Contracts Finder](#). Following your recently approved Delegated Decision to dispense from the Councils Financial Regulations and directly award a contract, please confirm the information requested in the table below to enable the Procurement Team to fulfil the Councils legal duties. Some of this information will be captured in the Procurement Information Management System (PIMS) for internal reporting purposes only.

<b>DDM Reference</b> (Internal)	
<b>Procurement Reference</b>	CPU
<b>Subject</b>	
<b>Contract Type</b>	Service, Supply or Works
<b>Procedure Type</b>	Single tender action or 'Direct Award'
<b>Description</b>	
<b>Contract Award Date</b>	
<b>Contract Start Date</b>	
<b>Initial Contract End Date</b> (Internal)	
<b>Contract Extensions</b> (Internal)	
<b>Maximum End Date</b>	
<b>Total Value</b>	£
<b>Supplier Name</b>	
<b>Supplier Postcode</b>	
<b>Is the supplier an SME<sup>1</sup>?</b>	
<b>Is the supplier a VCSE<sup>2</sup>?</b>	
<b>Cashable Savings</b> (Internal)	£
<b>Income Generated</b> (Internal)	£
<b>Social Value</b> <sup>3</sup> (Internal)	

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<sup>1</sup> Small to Medium Enterprise

<sup>2</sup> Voluntary, Community and Social Enterprise

<sup>3</sup> Social, economic or environmental benefits achieved by this contract

# City Council - 10 July 2023

## Report of the Chair of the Licensing Committee

### Corporate Director/ Director:

Ita O'Donovan, Interim Corporate Director for Communities, Environment and Resident Services

### Report Author and Contact Details:

Nick Burns, Licensing and Policy Manager  
[nick.burns@nottinghamcity.gov.uk](mailto:nick.burns@nottinghamcity.gov.uk)

### Title: Review of Statement of Licensing Policy

#### Does the report form part of the Budget or Policy Framework?

Yes     No

#### Does this report contain any information that is exempt from publication?

No

#### Relevant Council Plan Key Outcome:

Green, Clean and Connected Communities	<input checked="" type="checkbox"/>
Keeping Nottingham Working	<input checked="" type="checkbox"/>
Carbon Neutral by 2028	<input type="checkbox"/>
Safer Nottingham	<input checked="" type="checkbox"/>
Child-Friendly Nottingham	<input checked="" type="checkbox"/>
Living Well in our Communities	<input checked="" type="checkbox"/>
Keeping Nottingham Moving	<input type="checkbox"/>
Improve the City Centre	<input checked="" type="checkbox"/>
Better Housing	<input type="checkbox"/>
Serving People Well	<input checked="" type="checkbox"/>

## 1. Summary

- 1.1 As a Licensing Authority for the purposes of the Licensing Act 2003 (the Act), the Council is required to produce and publish a Statement of Licensing Policy (the Statement). A new Statement is required to come into force from 7 January 2024 and, prior to its adoption, is required to go through a consultation process. The proposed draft Statement is attached to this report for approval prior to its release for public consultation (Appendix 1). Details regarding the method of consultation are set out in the report.
- 1.2 The purpose of the Statement is to inform those making and considering applications for licences and other notifications under the Act of the Authority's standards and values in promoting the licensing objectives within the framework of the Act and Statutory guidance issued by the Home Office.
- 1.3 The Statement was presented to the Licensing Committee on 20 June 2023 which approved its content prior to submission to Council.
- 1.4 Unfortunately the Statement that was presented to Licensing Committee was not the most up to date version of the draft Statement of Licensing Policy. Further additions to cover rights to work in the UK had been made which can be found on pages 28/29,   
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points 7.61 to 7.67 of Appendix 1 to this report. In all other respects however the draft considered by Licensing Committee is the same as the one being considered in this report.

## **2. Recommendations**

- 2.1 That Council approve release of the draft Statement of Licensing Policy for public consultation.

## **3. Reasons for recommendations**

- 3.1 It is a statutory requirement that a new Statement of Licensing Policy be adopted with effect from 7 January 2024. In order for Council to adopt the Statement of Licensing Policy it must first go through a period of public consultation.
- 3.2 It is proposed that the outcome of the consultation (including any proposed amendments to the Statement) is reported to Council at its meeting in November 2023 when Council will be required to consider and approve the Statement of Licensing Policy in order to meet its statutory duties.

## **4. Other options considered in making recommendations**

- 4.1 None. It is a statutory requirement that a new Statement of Licensing Policy be adopted with effect from 7 January 2024. In order for Council to adopt the Statement of Licensing Policy it must first go through a period of public consultation.

## **5. Consideration of Risk**

- 5.1 It is a statutory requirement of the Authority to publish a Statement of Licensing Policy. The ultimate adoption of the policy could be challenged however the policy is felt to comply with the legislation and guidance mitigating any potential risk.

## **6. Best Value Considerations**

- 6.1 None, as it is a statutory requirement to produce a Statement of Licensing Policy, however the policy sets out clear expectations to lead to a more effective and efficient licensing process.

## **7. Background (including outcomes of consultation)**

- 7.1 As a Licensing Authority for the purposes of the Licensing Act 2003 (the Act), the Council is required to produce and publish a Statement of Licensing Policy (the Statement). The purpose of the Statement is to inform those making and considering applications for licences and other notifications under the Act of the Authority's standards and values in promoting the licensing objectives within the framework of the Act and Statutory Guidance issued by the Home Office. Such Statements remain in force for a period of 5 years but must be kept under review and revised at such times as the Licensing Authority considers appropriate.
- 7.2 The Statement was last reviewed in 2018 with the new Statement being adopted by Full Council on 12 November 2018 and taking effect from 7 January 2019 for a five year period.
- 7.3 Before determining any amendment to its Statement of Policy, the Authority must

consult with:

- The Chief Officer of Police for the Authority's area
- The Fire and Rescue Authority for that area
- Each Local Health Board for an area any part of which is in the Licensing Authority's area,
- Each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the Licensing Authority's area
- Such persons as the Authority considers to be representative of holders of premises licences issued by the Authority
- Such persons as the Authority considers to be representative of holders of club premises certificates issued by the Authority
- Such persons as the Authority considers to be representative of holders of personal licences issued by the Authority
- Such other persons as the Licensing Authority considers to be representative of businesses and residents in its area

7.4 As with previous Statements, there has been liaison with neighbouring Licensing Authorities whilst preparing the draft Statement. The purpose of this is to try and ensure a consistency of approach where possible and appropriate whilst appreciating that each Authority will have its own specific issues and areas which need to be tackled individually. Whilst there is some similarity to the existing Statement the draft Statement has been updated to take into account changes that the Cumulative Impact Assessments have now lapsed and further changes in legislation and guidance, new guidance was released in December 2022 and considerations have been made to those changes within this Statement of Licensing Policy.

7.5 It is proposed that consultation will last for an 8 week period.

## **8. Finance colleague comments (including implications and value for money)**

8.1 The statutory fees levied for the regime are intended to cover the cost of the review of this policy. Currently at consultation stage, as this progressing, costing implications will be made apparent, and will require further review from Finance.

Advice provided by Sohaib Chaudhry (Senior Commercial Business Partner)  
23.06.23

## **9. Legal colleague comments**

9.1 It is a statutory requirement that the draft Statement be the subject of consultation with prescribed bodies and individuals and that thereafter a Statement of Policy be approved to come into effect on 7 January 2024. The main proposed changes to the Statement reflect changes in legislation and Guidance and a review of the Cumulative Impact section following the lapse of the Authority's previous Cumulative Impact Assessments.

9.2 Approval of the Statement is a Council function however Licensing Committee's terms of reference enable it to provide a consultative role in the preparation of the Statement and consultation has already taken place with the Committee.

9.3 Once adopted the Statement will become open to challenge by way of Judicial Review however, as the current recommendation is to release the draft Statement for consultation the risk of such challenge is low at this stage.

Ann Barrett, Team Leader, Legal Services 20 June 2023

10. **Other relevant comments**

None

11. **Crime and Disorder Implications (if applicable)**

Any considerations will be outlined in the report to Council in November seeking approval of the Statement of Licensing Policy.

12. **Social value considerations (if applicable)**

Any considerations will be outlined in the report to Council in November seeking approval of the Statement of Licensing Policy.

13. **Regard to the NHS Constitution (if applicable)**

Not applicable

14. **Equality Impact Assessment (EIA)**

10.1 Has the equality impact of the proposals in this report been assessed?

Consideration of equality impacts is underway and an EIA will be included in the report to Council in November seeking approval of the Statement of Licensing Policy.

15. **Data Protection Impact Assessment (DPIA)**

15.1 A DPIA is not required because the policy does not contain sensitive information within the policy.

16. **Carbon Impact Assessment (CIA)**

16.1 A CIA is not required because the policy does not have a carbon impact.

17. **List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)**

17.1 None

18. **Published documents referred to in this report**

14.1 Equality Act 2010  
Licensing Act 2003  
Guidance issued under s182 of the Licensing Act 2003, December 2022  
Criminal Justice and Police Act 2001

**Councillor Audrey Dinnall**  
**Chair of Licensing Committee**

Nottingham City Council

# Statement of Licensing Policy

Effective from 7 January 2024



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## **Our Vision**

To promote Nottingham as a safe and healthy environment in which responsible operators provide lawful and responsible facilities for the enjoyment of the City's residents and visitors

### **The statement of licensing policy is underpinned by four core objectives**

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

## 1 INTRODUCTION

- 1.1 Nottingham City Council is a Licensing Authority for the purpose of the Licensing Act 2003. Section 5 of the Act requires all licensing authorities prepare and publish a Statement of Licensing Policy that they propose to apply in exercising their functions under the Act during the period to which the Policy Statement applies. The Statement of Licensing Policy can be reviewed and revised by the authority at any time.
- 1.2 As a major provider itself, the City Council welcomes the diversity of leisure and entertainment opportunities available in Nottingham and recognises that the licensed leisure and entertainment industry has a major role to play in helping to keep Nottingham the success that it is. Businesses licensed by the Authority provide social and community spaces, facilities for residents and corporate groups and are a vital support infrastructure for related sectors such as retail, tourism and opportunity to improve people's mental health, wellbeing and reduce loneliness within the city. As well as promoting restaurants, the Council is keen to encourage a diverse range of premises catering for a wide range of age groups and uses. However, the Authority also recognises the problems that can be caused if licensed activities are not properly managed and premises well run.
- 1.3 Nottingham City Council licenses over 1,300 licensed premises of all types including over 1000 premises licensed to serve alcohol and some 750 venues providing entertainment. This includes 380 off licenses and 43 member's clubs. Additionally there are around 135 premises licensed to supply late night refreshment. The COVID-19 Pandemic affected the licensed business and hospitality industry quite significantly and we have a desire to rebuild and encourage growth within the economy in the city of Nottingham, as long as businesses comply with the requirements of the Licensing Act 2003 and meet the listed objectives within it. The entertainment industry brings cultural and financial benefits to the City and additional businesses operating in both the daytime and night time economies support that industry. The City Council believes that good management of its vibrant entertainment, alcohol and late night refreshment industries, and of the street environment within which they operate, is essential to the continued success of Nottingham and to attracting the wide range of people who want to come here to work, to study, to visit and to live. However, the predominantly urban nature of the City, the high density of licensed premises in some areas, and the significantly large proportion of young residents means that issues such as:

- striking an appropriate balance between the needs of residents and the needs of businesses, (particularly during night-time hours when residents may expect that their sleep should not be unduly disturbed)
- the control of underage drinking, and
- the management of young and potentially immature drinkers, are matters which are particularly relevant to the exercise of the Authority's licensing functions and ones which applicants and existing licensees also need to consider.

1.4 This Policy Statement seeks to establish sensible controls and appropriate guidance to encourage and further the efforts that are being made by the Council and its partners together with the licensed trade to help the Authority deal with issues such as anti-social behaviour, crime and disorder, irresponsible promotions, noise and other nuisance, the potential negative impact alcohol can have on physical and mental health, underage sales and poor licensing practices that arise from licensable activities.

This will be achieved by:

- Establishing and building upon best practice within the industry;
- Recognising and facilitating the role of partners and stakeholders;
- Encouraging self-regulation by licensees and managers;
- Providing a clear basis for the determination of licence applications;
- Supporting related policies and strategies of the Council: and
- An inspection and enforcement regime targeted at premises that present a high risk e.g. premises that have a track record of non-compliance.

1.5 The Authority is committed to working with its licensing partners and stakeholders in delivering the licensing function. This Policy Statement therefore seeks to provide information on the general approach that the Authority will take in carrying out its licensing functions.

1.6 In preparing and publishing this Policy Statement due regard has been given to the guidance issued by the Secretary of State under section 182 of the Act, and to good practice advice issued by approved government advisory bodies. In particular the Authority has consulted those persons and bodies as required by the guidance and given proper weight to their views. Partnership working between licensing authorities in Nottinghamshire has enhanced the production of this Policy Statement and will help ensure consistency in terms of both policy and enforcement where licensing boundaries meet.

- 1.7 This Policy Statement works alongside existing Council strategies and priorities in relation to crime prevention, regeneration, planning, transport, tourism, health, race equality and culture.
- 1.8 In so far as there is no conflict with the Licensing Objectives this Policy Statement will also support the City Council Plan which creates a vision for the City and in particular makes reference to the following priorities:
- A safer city for people to live, work, study and visit.
  - A diverse, creative, vibrant and multicultural city.
  - A city where there is lots to do for people of all ages.
  - A healthy city, where people look after themselves and make healthy choices
  - A city that takes care of its residents.
  - A city where there are opportunities for everyone, businesses are supported to thrive and we're all encouraged to prosper and be ambitious.
  - A city where people from all walks of life get on well and respect each other.
  - A cleaner city that we all take pride in.

Underpinning these priorities are commitments to:-

- Develop a rolling programme to introduce “alcohol – free zones” to tackle street drinking in communities that want it (subject to meeting the relevant statutory tests) by way of a Public Spaces Protection Order
- To support an annual programme of popular events including Splendour, Goose Fair, Nottingham Beach, The Winter Wonderland and the Riverside Festival to ensure a safe and well regulated environment

In addition:

To support residents expectations that their sleep will not be unduly disturbed between the hours of 23:00 and 07:00

- 1.9 This Policy Statement also supports the work carried on by the Nottingham Business Improvement District to raise the standards for customers and businesses.
- 1.10 Nothing in this Policy Statement should be regarded or interpreted as an indication that any requirement of law may be overridden; each application will be considered

and treated on its own merits. No restrictive controls will be introduced or imposed unless they are felt to be necessary and appropriate.

- 1.11 There are certain matters which the Authority is prevented from taking into account or from dealing with in a specified way. For example the Authority is not entitled to take the issue of the “need” for further licensed premises into account when determining licence applications.
- 1.12 On the other hand the effect of a proliferation of licensed premises on the promotion of the Licensing Objectives where properly evidenced is a matter that can be properly considered by the Authority.
- 1.13 Nothing in this Statement of Policy prevents any one person or body applying for a variety of current permissions under the Act. Nor does it override the right of any Responsible Authority, other person or business to make representations or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

## **2 THE LICENSING OBJECTIVES & LICENSABLE ACTIVITIES**

- 2.1 In exercising their functions under the Licensing Act 2003, Licensing Authorities must have regard to the Licensing Objectives as set out in section 4 of the Act.

The licensing objectives are:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

- 2.2 Guidance on the licensing objectives is available on the Government’s website at: <http://www.culture.gov.uk>
- 2.3 Licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. Licensing is about the management of licensed premises and activities within the terms of the Act.

2.4 The Act only covers certain 'licensable activities' namely:

- (a) the sale by retail of alcohol;
- (b) the supply of alcohol by or on behalf of a club to a member;
- (c) the provision of 'regulated entertainment' and
- (d) the provision of late night refreshment.

The definition of what constitutes 'regulated entertainment' is complex and has been (and remains) the subject of Government deregulation. Whilst 'regulated entertainment' potentially covers live or recorded music, dancing, plays, films and certain types of sporting activities, the Act itself provides various exemptions and restrictions on the types of activities subject to licensing. Other legislation such as the Live Music Act 2012 has removed the ability of the Licensing Authority to regulate live music at certain times and in certain circumstances and there has been, deregulation of certain other forms of regulated entertainment primarily between the hours of 8.00am and 11.00pm and where that entertainment takes place before an audience of a prescribed size. It cannot be assumed therefore that a licence is required for all forms of entertainment or, even if a licence is required, that the Licensing Authority will necessarily have the power to impose restrictions or conditions on such entertainment.

2.5 Where an activity is licensable, the promotion of the licensing objectives is the paramount consideration for the Authority. In the absence of valid representations from Responsible Authorities or other persons all applications must be granted subject only to any prescribed mandatory conditions and such other conditions which are consistent with the Operating Schedule provided by the applicant. Where valid representations are received and maintained the application will normally be determined at a hearing before the Licensing Committee or one of its Panels. The Committee or Panel will then assess whether the application would result in the Licensing Objectives being undermined to such an extent that the application should be refused or, whether it would be possible to grant the licence subject to such conditions as are felt appropriate by the Authority. Conditions will be tailored to the size, style, characteristics and activities taking place at the premises concerned and will be focused on matters that are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not incidents can be regarded as being "in the vicinity" of licensed premises or places, is ultimately a matter of fact to be decided by the courts in cases of dispute. In addressing such matters

consideration will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The imposition of standardised conditions is prohibited as being disproportionate and burdensome. It should be noted, however, that the Authority is permitted to establish pools of conditions from which appropriate and proportionate conditions may be drawn. Further details regarding such conditions can be obtained from the Licensing Team.

## 2.6 **PREVENTION OF CRIME AND DISORDER**

2.7 In all applications relating to premises licences and club premises certificates the Licensing Authority encourages applicants to specify methods by which they will promote the four licensing objectives in their operating schedules.

2.8 The Council is committed to reducing crime and disorder across the city and ensuring that Nottingham is a safe place to live and that it is a vibrant part of the country that people wish to visit. The Council's vision is to reduce crime and the fear of crime across the city by working together with partners and the communities we serve. The Licensing Authority encourages relevant businesses to participate in local Pub Watch schemes or similar forums where they are set up, and where this helps secure and / or promotes the licensing objectives.

2.9 National and local crime statistics and research indicate that the consumption of alcohol can be a significant contributory factor to levels of crime and disorder. The Licensing Authority recognises that licensed premises has differing impacts according to their style and characteristics. Large venues, high volume vertical drinking establishments, and premises that promote irresponsible drinking can disproportionately contribute to crime and disorder.

2.10 The Licensing Authority endorses sensible drinking which may more often be achieved at premises which offer a range of licensable activities such as theatres, live music venues and venues that provide food and drink in a seated environment. Good management, best practice and procedures in licensed premises can make an important difference to the level of alcohol-related crime in the vicinity of the premises. However, the licensing process can only seek to control those measures within the control of the licensee and in the vicinity of a premises. Some potential risks and possible solutions under this objective are addressed in Appendix A.

## 2.11 **PUBLIC SAFETY**

2.12 The carrying on of licensable activities may involve potential risks to the safety of the public and to persons working at the premises. Additionally, crime and disorder both inside and outside the premises may also compromise public safety. The Licensing Authority is committed to ensuring the safety of persons visiting and working in licensed premises. Accordingly, where other legislation fails to make suitable provision to ensure public safety and the Licensing Authority's discretion is engaged, the Licensing Authority will exercise its licensing functions to secure the safety of members of the public and staff.

2.13 The steps required to ensure public safety vary according to the individual style and characteristics of the premises, the nature of the proposed licensable activities/regulated entertainment to be provided at the premises and the anticipated number of persons attending the premises. Some potential risks and possible solutions under this objective are addressed in Appendix A.

## 2.14 **PUBLIC NUISANCE**

2.15 The Licensing Authority is committed to ensuring that the operation of licensed premises does not unreasonably interfere with the personal comfort or amenity of immediate neighbours or the nearby community. The Guidance to the Act indicates that public nuisance is not narrowly defined within the Act and whilst it retains its broad common law meaning it may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises as well as major disturbance affecting the whole community.

2.16 In recent years the impact of increasing night-time activity has seriously concerned some residential and business communities in the City. Licensing law can address problems arising from the carrying on of licensable activities at licensed premises. However, the licensing process can only seek to control those measures within the control of the licensee and in the immediate vicinity of the premises. Some potential risks and possible solutions under this objective are addressed in Appendix A.

## 2.17 **PROTECTION OF CHILDREN FROM HARM**

2.18 Activities associated with premises that sell alcohol or provide regulated entertainment may, in certain circumstances, give rise to concerns for the health



and welfare of children (a child for the purpose of this Policy is any person under the age of 18).

- 2.19 The Council is committed to the safeguarding of children and vulnerable persons. The Licensing Act 2003 places legal responsibilities on holders of Premises Licences and Club Premises Certificates, and those who work in licensed premises to ensure that children are protected from harm at all times when on licensed premises.
- 2.20 The Licensing Authority in partnership with the Police and partners work closely with licensed premises in order build an awareness across the industry as to how those who work in such establishments may better recognise the “indicators” of children and vulnerable persons who may be subject to or at risk of abuse, exploitation, and trafficking; and to whom to report any concerns that those licence holders and their staff may have should they identify someone who is / may be at risk.
- 2.21 As part of this process the Licensing Authority carries out regular enforcement/compliance checks across all of the premises licensed in our area, in order to build good working relationships with licence holders and designated premises supervisors, and providing them with advice as to how they and their staff can help safeguard children and vulnerable persons across the region.
- 2.22 When considering applications for new licences and variations to existing licences, the Licensing Authority will seek to be assured that applicants have considered the safeguarding of children and vulnerable persons within the Operating Schedule of the application.’
- 2.23 The Licensing Authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm. In all other cases it will be left to the discretion of the licensee. The Licensing Authority is committed to protecting children from harm and applicants will therefore need to demonstrate how they will promote this licensing objective. Where appropriate, conditions preventing or restricting the admission of children will be imposed. The Licensing Authority will not however impose any condition that requires the admission of children to licensed premises. Some potential risks and possible solutions under this objective are addressed in Appendix A.

### **3 STRATEGIC LINKS AND OTHER REGULATORY REGIMES**

- 3.1 There is a range of strategic influences and statutory controls which affect the licensing regime in terms of policy formulation, administration and enforcement activities. Examples of these strategies can be found in the S182 Guidance. The Authority will seek to have an active involvement in the development and review of these and all other related Council strategies by ensuring an appropriate exchange of dialogue between the Licensing Authority and other relevant regimes. Such involvement may result in the imposition of conditions and formulation of policies supporting the relevant strategies where appropriate.
- 3.2 This Policy also supports the Council's City Land and Policies Plan. This Plan sets out a long term vision for the future of the City Centre. Food, drink and entertainment uses form an important part of the City Centre leisure offer and provide a key element of the City Centre economy. As well as being an attraction in their own right, restaurants, bars and entertainment venues make a significant contribution towards extending the dwell time of those persons visiting the City Centre for other purposes such as shopping, business or work reasons, and reinforcing the social dimension of the City Centre. Regeneration forms part of the LAPP identifying quarters with distinctive characteristics and uses during the day and evening. The Canal Quarter has been highlighted as an area where it is important to host food and drink and entertainment uses close to the canal, building on the success of existing leisure and entertainment uses. The Castle Quarter is focused on enhancing existing restaurant and leisure offers. The Royal Quarter is focused on entertainment uses and further enhancement of high quality venues to serve a wide range of users inclusive of families, will be encouraged.
- 3.3 The granting of a licence, certificate or provisional statement will not override any requirement of the planning system or vice-versa. The licensing system will provide for the detailed control of operational matters, which are unlikely to be addressed through planning processes. However there will be overlapping issues of interest e.g. disturbance, which will remain material considerations for planning purposes as well as being relevant in terms of the Licensing Objectives. Applicants should also ensure that they have due regard to any planning restrictions on the use of premises when applying for licence/certification to avoid any possible enforcement action.
- 3.4 Whilst Public Health is not a Licensing Objective, Public Health are a Responsible Authority and advise that alcohol outlet density is associated with increased alcohol-related hospital admissions and alcohol-related disease and mortality.

Alcohol contributes to more than 200 diseases and health conditions and represents 10% of the burden of disease and death in the UK, placing it in the top three lifestyle risk factors after smoking and obesity.

- 3.5 In 2021, Nottingham City had an alcohol-related mortality rate of 44.5 per 100,000, which is higher than the East Midlands average (40.3 per 100,000) and the England average (38.5 per 100,000). Nottingham City also sees among the highest number of alcohol related hospital admissions in England (838 in 2021/22, compared to the England average of 626).
- 3.6 Whilst maintaining an impartial role, the Authority will secure the integration of its' licensing function with other strategies by supporting partnership working with other agencies and Council services, and by establishing working protocols as required.

## **4 DELIVERING LICENSING SERVICES**

- 4.1 Delivery of the licensing regime will be in accordance with the Equality & Community Relations requirements of the Council together with the Equality and Diversity Action Plan. The use of an Impact Needs Assessment process will inform service delivery and will be subject to on-going monitoring and customer / stakeholder consultation during the life of this Policy with the framework of the regime. Relevant matters that come to light as a result of monitoring and consultation may result in changes to service delivery and where necessary may result in changes to City Council licensing policy.
- 4.2 Advice and guidance will be made available in English which is the most common language of customers and stakeholders. Guidance documents issued by the Licensing Service will include advice about translation and access to information about services, however, it is recognised that local communities will normally have access to alternative translation and advice services. The City Council will also signpost customers to other providers of guidance and information relevant to the regime but are not responsible for the accuracy of such information.
- 4.3 The Authority will make guidance available and such further resources as required by law to enable engagement with the licensing process. Such guidance and resources may be accessed through Nottingham City Council's website ([www.nottinghamcity.gov.uk](http://www.nottinghamcity.gov.uk)) or by contacting the Licensing Authority direct
- 4.4 The Licensing Authority will maintain an impartial role in service delivery and cannot

act in favour of one party over another. The Licensing Authority may, in certain circumstances, act as a Responsible Authority. However, this will only be done in exceptional circumstances and the Licensing Authority will not normally take over the role of other Responsible Authorities or parties.

#### 4.5 **MEETING THE NEEDS OF LOCAL COMMUNITIES**

4.6 Licensed premises are an important part of our communities. They provide a place for people to get together, relax and enjoy themselves. However, there can be problems if licensees do not take sufficient action to minimise any problems that may occur. It is important that licensees, local residents and other businesses, as well as bodies such as Police, Fire Service, Licensing, Environmental Health, Trading Standards, Planning and Safeguarding Children Board work together.

4.7 If local residents and businesses do experience problems, it is important that they contact / write to the licensee, outlining the problems experienced and giving them the opportunity to address these concerns. They could also inform the Licensing Authority or Responsible Authorities. Reporting the problem is the first step towards resolving the problem.

4.8 Where the Licensing Authority receive applications for new premises or significant changes to existing premises (variation), local residents and businesses have 28 days to have their say. Details of these applications are available to view at the Licensing Office or on the Licensing website [www.nottinghamcity.gov.uk](http://www.nottinghamcity.gov.uk)

### 5 **HOW THIS STATEMENT OF POLICY WORKS**

5.1 The purpose of the Statement of Licensing Policy is to:

- provide a clear basis for determining licence applications
- provide a clear framework for licensing strategies
- support wider strategies of the City

5.2 The text of this Statement of Policy **in bold type** indicates the **Policies** with the reason for each policy shown immediately after ***in bold italics***.

5.3 This Statement of Policy sets out the Authority's expectations in relation to certain matters. Whilst applicants are not obliged to meet these expectations in their operating schedules, they may find that responsible authorities and other persons

and businesses are more likely to raise representations if they do not. This can lead to a delay with the application having to be considered by a Committee/Panel which may then either refuse the application or impose conditions if the application is not found to sufficiently promote the licensing objectives and meet this Policy. On appeal the Court is also obliged to have regard to the terms and requirements of this Policy and can only depart from it if it has good reason.

- 5.4 In this Statement of Policy any reference made to the imposition of conditions refers to conditions imposed in accordance with the requirements of the Act outlined in paragraph 2.5 above (see also paragraph 6.27 and 6.28 below).

## **6 GENERAL PRINCIPLES**

- 6.1 In determining a licensing application, the overriding principle will be that each application will be determined on its own merit, having regard to the need to promote the four licensing objectives and taking into account this licensing policy and the guidance issued under Section 182 of the Act. Where it is necessary to depart from the guidance or this policy the council will give clear and cogent reasons for doing so.

### **6.2 EQUALITY ACT 2010**

- 6.3 The council is committed to eliminating unlawful discrimination, harassment and victimisation, advancing equality of opportunity and fostering good relations within and between our communities.

- 6.4 It is recommended that licensees make themselves familiar with the requirements of this Act for the access and provision of services for persons within the protected groups identified by the legislation. The Act makes it unlawful to discriminate against anyone because of

- Age
- being or becoming a transsexual person
  - being married or in a civil partnership
- being pregnant or on maternity leave
- disability
- race including colour, nationality, ethnic or national origin
- religion, belief or lack of religion/belief
- sex
- sexual orientation

- 6.5 In order to promote equality, and to fulfil its statutory duties under the Equality Act 2010, the council asks that applicants aim to achieve inclusive access to their venues and events. For example, discrimination will be experienced if access to

the venue is denied due to lack of a ramp or if the venue does not provide means for someone to book a ticket who cannot speak. Further guidance is available at <https://www.gov.uk/guidance/equality-act-2010-guidance>

## **7 APPLICATIONS, NOTIFICATIONS AND THEIR CONSIDERATION**

7.1 The procedure and documentation required for the various applications and notices is prescribed by the Act and Regulations and further advice on these processes is available on the Council's website or on request from the Licensing Service. Failure to comply with the statutory requirements may result in your application or notice being invalid. This section of the Policy Statement gives basic guidance on how those applications and notifications will be considered.

### **7.2 REPRESENTATIONS - THE POWER TO 'HAVE YOUR SAY'**

7.3 Having your say in licensing terms is called 'making a representation' but not everyone has the right to have their say in respect of all applications/notifications. There is a prescribed period from the time the Licensing Authority receive the application for representations to be received. This is usually 28 days but varies depending on the type of application under consideration. Representations can include positive / supportive representations as well as "objections".

7.4 "Responsible Authorities" (certain statutory bodies defined by the Act,) and other persons, can have their say whenever the Licensing Authority receive an application for a new licensed premise, for a full variation to an existing authorisation or an application for a review. In addition, certain Responsible Authorities (but not other persons) can also make representations on other types of applications and notifications such as applications for personal licences or notifications for temporary events. If no representations are received then the application must be granted as applied for (including where appropriate any conditions volunteered by the applicant,) and events and/or activities become authorised.

7.5 Guidance on making a representation is available from the Licensing Service website or by contacting the Licensing Service. A preferred form is available from the Licensing Service for individuals or groups to make their representations.

Alternatively, representations may be made electronically by way of e-mail or in writing to the Licensing Service. Representations received outside the statutory period for making such representations will be invalid and will not be taken into consideration when the application is determined.

- 7.6 The matters which can be taken into account once the Licensing Authority's discretion has been engaged vary dependant on the type of application/notification concerned. These matters are discussed in more detail below in relation to the following types of authorisation:-
- A. Premises Licences and Club Premises Certificates – Paragraphs 7.7 – 7.15 below
  - B. Personal Licences – Paragraphs 7.53 – 7.54 below
  - C. Temporary Event Notices – Paragraphs 7.59 – 7.65 below

Applications where only the Police have a right to make representations on limited grounds (eg transfer of licences, transfer of DPS etc) are not covered by this Policy Statement but will be determined on their own individual facts

**7.7 A. CONSIDERATION OF MATTERS RELATING TO PREMISES LICENCES AND CLUB PREMISES CERTIFICATES**

7.8 The process of applying for new premises licences and “full variations” of current premises licences are dealt with in same way and involve serving the application on all responsible authorities and advertising the application in the prescribed way. If representations are received (and are not subsequently withdrawn following negotiation) the matter will be heard by a Licensing Panel. The fee for such applications depends on the size of the premises. All applicants are encouraged to use the gov.uk site to submit online applications.

7.9 The process for a “minor variation” to a current premises licence is different. Minor variations are those which should not have a material effect on the way in which the premises are operated. For example, minor variations can be applied for to vary times of activities (but not to increase the hours when alcohol can be sold), to make minor structural alterations to the premises (which are to be reflected by an amendment to the Licence Plan,) and to add or remove conditions from the licence. There is one prescribed fee for such applications. The granting of a minor variation is determined at officer level after consultation with those responsible authorities affected. If the application is refused the applicant can still apply to make the same changes under the full variation process.

7.10 In order for a representation to be accepted and considered by the Licensing Authority, it must also be “relevant”, that is it should be positively tied or linked by a causal connection to the application premises and should relate to one or more of

- 7.11 Representations which are not relevant will not be accepted by the Licensing Authority. The Authority also has the power to refuse to accept a representation if it determines that it is frivolous or vexatious. The Authority will determine this on the basis of what might ordinarily be considered to be frivolous or vexatious. Whilst Regulations allow for further information to be put forward at any subsequent hearing, that material must relate to the initial representation and cannot include additional areas of representation. It is therefore vitally important that as much detail and evidence as possible is included at the time the representation is made. Representations made without supporting detail and evidence may be viewed as frivolous or vexatious and disregarded, however, there are mechanisms in place to handle anonymous representations in certain circumstances and further information about this is available from the Licensing Officer.
- 7.12 Where appropriate the Authority will seek to facilitate mediation between licensees, relevant agencies, other persons and businesses where significant issues have arisen relating to an existing authorisation. This will not override the right of any, person or business from making an application for the review of a licence. However, where possible and appropriate, the Council expects Responsible Authorities, other persons and businesses to give early notice to licence holders of any concerns about problems identified at a premise and of the need for improvement. It is expected that requests for a review of any authorisation will be sought only if such notice has failed to resolve the matter or problem.
- 7.13 Where representations are received the characteristics of an area and the impact that the premises may have upon that area in terms of the promotion of the licensing objectives will be a fundamental consideration in determining whether a licence should be granted and, if so, what conditions should be attached to it. Conditions will be focused on matters that are within the control of individual licensees and others in possession of relevant authorisations. Consideration will primarily be given to the direct impact of the licensed activity on those who live, work or are engaged in business or other activities in the area concerned.
- 7.14 The Act creates a presumption that applications will be granted unless a valid representation is raised. An application will then be determined by the Licensing Committee/Panel unless the issue that lead to the representation can be negotiated to an agreed conclusion between the parties.
- 7.15 The Authority considers the effective and responsible management of the premises,



the instruction, training and supervision of staff, and the adoption of best practice (which may include participation in such schemes as Best Bar None, Purple Flag or Business Improvement Districts (BIDs)) to be amongst the most important control measures for the achievement of all of the Licensing Objectives. These matters are dealt with in more detail in the Authority's 'Guidance to Applicants'.

**7.16 Policy: 1**

**The Authority expects to see evidence of the effective and responsible management of the licensed premises, the effective instruction, training and supervision of staff and the adoption of best practice used in the leisure industry, being specifically addressed within the Operating Schedule**

***REASON: To ensure the promotion of the Licensing Objectives.***

7.17 Licensing law is not the primary mechanism for the general control of the anti-social behaviour of patrons once they have left the vicinity of the licensed premises rather it is part of a holistic approach to the management of the City.

7.18 Where appropriate, the Authority will seek to identify mechanisms that are available for addressing the potential impact of anti-social behaviour arising both in respect of the management and operation of licensed premises themselves and that arising once patrons leave the licensed premises. Regard will be had to the S182 Guidance in this respect and the following may be employed, to address such behaviour and the potential for Cumulative Impact, (see below):-

- 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, 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.
- The confiscation of alcohol from adults and children in designated areas.
- Enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of Fixed Penalty Notices
- Prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale)
- Police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance
- The power of the police, other Responsible Authorities or other persons to seek a review of a licence or a certificate.

- Early Morning Alcohol Restrictions Orders (EMROs)
- Cumulative Impact Assessments
- Any other local initiatives that similarly address these problems.

#### 7.19 **Policy: 2**

**When preparing or considering applications, Applicants, Responsible Authorities, other persons businesses and the Licensing Authority should, where appropriate, take into account the following matters in assessing both the potential for the Licensing Objectives to be undermined and the appropriateness of, any conditions which may be offered or imposed on any resulting licence, certificate or permission:**

- (i) The nature of the area within which the premises are situated.**
- (ii) Potential for Cumulative impact to arise**
- (iii) Any measures proposed by the applicant as outlined in the Operating Schedule**
- (iv) The nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises.**
- (v) Means of access to and exit from the premises.**
- (vi) Noise arising from patrons leaving the premises**
- (viii) The precise nature, type and frequency of the proposed activities.**
- (ix) Other means and resources available to mitigate any impact.**
- (x) Such other matters as may be relevant to the application.**

***REASON: To ensure that all relevant matters are taken into consideration during the application process.***

7.20 Levels of noise from licensed premises, which may be acceptable at certain times of day, may not be acceptable later in the evening or at night when ambient noise levels are much lower. The impact of customers arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible. The impact of noise arising from patrons that are temporarily outside the premises (e.g. smoking) must be recognised and mitigated against

7.21 Applicants should carefully consider the hours that they will wish to operate for each licensable activity and when to close their premises for the entry of customers and to require them to leave. They should consider each licensable activity separately and carefully, and reflect this in their operating schedule. Shops, stores and supermarkets will normally be permitted to sell alcohol and/or late night refreshment at any time when they are open for shopping unless there are good reasons related to the promotion of the licensing objectives for restricting these hours. Applicants

applying for new "off-licences" in residential areas should carefully consider the hours that they are applying for and, the Licensing Authority encourages and expects applicants to limit their terminal hour 2300 hrs in such circumstances so as to reduce the impact of noise and anti-social behaviour on the community.

- 7.22 Applicants should consider the benefits of stopping serving alcohol before other licensable activities stop and a suitable time before the premises close and customers must leave. In noise sensitive areas operators should consider ceasing the playing of dance music and switching to quieter, slower tempo music with a less pronounced beat for a period prior to the closure of the premises.
- 7.23 Applicants should also consider making arrangements with local transport operators to provide information to customers to ensure they can access public transport and leave the vicinity of the premises quickly by the most appropriate route.
- 7.24 The Authority is mindful of the responsibilities that licence holders have for preventing antisocial behaviour on their premises and within the vicinity. The Authority must, however, also bear in mind its statutory duty under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder in the District. Where appropriate conditions will be imposed which reflect local Crime Prevention Strategies.
- 7.25 Applicants are expected to have carried out the relevant risk assessments under other legislation (e.g. fire precautions, health and safety at work, etc) prior to submitting their applications. These risk assessments should be used to identify particular issues which may need to be addressed in the Operating Schedule in order to ensure that the Objectives will not be undermined. Suggested methods of addressing Policy 2 may be outlined in more detail in any guidance issued by the Authority or the Responsible Authorities.
- 7.26 In some cases, it may be helpful for applicants and / or their advisors to discuss the draft Operating Schedule with council officers and representatives of Responsible Authorities, before it is formally submitted. This will help ensure it properly addresses all relevant issues that might give rise to concern.
- 7.27 Any condition attached to a licence or certificate should be:
- Clear
  - Enforceable
  - Evidenced
  - Proportionate

- Relevant
- Expressed in plain language capable of being understood by those expected to comply
- Appropriate in all the circumstances of the case

Applicants and those making representations should bear these principles in mind when suggesting conditions to be attached to a licence. Further advice is available from the Licensing Office upon request.

7.28 As a general rule the Authority will seek to avoid attaching conditions that duplicate existing legal requirements and obligations imposed by other regimes unless such obligations and requirements fail to adequately address the specific circumstances of the case.

7.29 **CUMULATIVE IMPACT**

7.30 In some areas the number, type or density of licensed premises is high or exceptional and the impact on surrounding areas of the behaviour of the customers of all premises taken together is or will be greater than the impact of the customers of the individual premises.

7.31 Cumulative Impact is the potential impact on the promotion of the Licensing Objectives of a number of licensed premises concentrated in one area. This should not be confused with the issue of “need” which relates to the commercial demand for licensed premises and cannot be taken into account when determining licensing applications. Subject to their being sufficient evidence and compliance with certain statutory procedures, Licensing Authorities have the power to publish Cumulative Impact Assessments (CIAs) for areas which they believe to be suffering from Cumulative Impact. These set down a strong statement of intent about how an application may be viewed. Whilst no CIAs are currently in force within the district the absence of a Cumulative Impact Assessment does not prevent any responsible authority or other person making representations on an application for the grant or variation 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, However, in each case it would be incumbent on the person making the representation to provide relevant evidence of cumulative impact which should include evidence to show boundaries of the area which is alleged to be suffering from cumulative impact and that it is the customers of licensed premises that are causing the problems alleged.

**7.32 ADULT ENTERTAINMENT**

- 7.33 The potential for the provision of adult entertainment to impact on the licensing objectives is recognised in the prescribed application form and all applicants are required by the prescribed form to indicate in their operating schedules whether they intend to provide any such entertainment which may give rise to concerns in respect of children.
- 7.34 The Policing and Crime Act 2009 potentially provides an additional licensing requirement for operators who provide “sexual entertainment venues” to licence them as sex establishments under the Local Government (Miscellaneous Provisions) Act 1982. These are essentially premises which provide live entertainment or performances to a live audience which either involves nudity (such as lap or pole dancing establishments,) or which are for the purpose of sexually stimulating any member of the audience. Whilst these licensing provisions are adoptive and do not necessarily apply in every Licensing Authority’s district, Nottingham City Council adopted these provisions with effect from 1<sup>st</sup> September 2010 and subsequently revisited the document in January 2010 and June 2018 where it was considered that no changes needed to be made to the document.
- 7.35 Where a business wishes to operate as a sexual entertainment venue it may still need to be licensed under the Licensing Act for the sale of alcohol and the provision of regulated entertainment. The provision of sexual entertainment will however be regulated under the terms of any sex establishment licence which may be granted under the 1982 Act. The Licensing Act licence will then continue to regulate any other licensable activities.
- 7.36 Certain forms of adult entertainment are excluded from requiring sex establishment licences and these will still be regulated under the terms of the Licensing Act 2003.
- 7.37 The provision of adult entertainment on premises may necessarily mean that access by children will not be permitted during periods when such entertainment is taking place. Where such entertainment is to be provided under the terms of a Premises Licence or Club Premises Certificate the Authority expects applicants in to include arrangements for restricting children from viewing any adult entertainment in their Operating Schedule. The Authority expects licensees to ensure that any age restrictions for shows or entertainment of an adult or sexual nature are properly complied with. In addition it may be appropriate to impose age restrictions for persons working in the premises, and applicants are advised to also consider the wider crime and disorder issues which can be associated with such

forms of entertainment such as issues relating to drugs and prostitution.

7.38 Responsible authorities are likely to continue to consider all applications involving adult entertainment very carefully with regard to the promotion of the licensing objectives within the vicinity in which the premises are located.

### 7.39 **CHILDREN**

7.40 Where there are concerns over the potential for harm to children the Authority recognises the following body as competent to advise on matters relating to the protection of children from harm:

- The Nottingham City Safeguarding Children Board (Nottingham City Council)

Applications should therefore be copied to this body in its capacity as a 'Responsible Authority'.

7.41 Examples of matters which may give rise to concerns in respect of children include those:

- Where there have been convictions for serving alcohol to minors
- Where there is a reputation for underage drinking
- Where there is a known association for drug taking or dealing
- Where there is a strong element of gambling on the premises
- Where entertainment of an adult or sexual nature is provided

However, other issues such as the potential for sexual exploitation, grooming and alcohol related violence may also raise safeguarding concerns which may be taken into account when the Board considers applications and operating schedules.

7.42 Nottingham City Council is committed to both the safeguarding of children and other vulnerable persons. The Licensing Act 2003 places legal responsibilities on holders of Premises Licences and Club Premises Certificates, and those who work in licensed premises to ensure that children are protected from harm at all times when on licensed premises.

7.43 The Licensing Authority in partnership with the Police, the Nottingham City Safeguarding Board, and local Community Safety Partnerships works closely with licensed premises in order build an awareness across the industry as to how those who work in such establishments may better recognise the "indicators" of children and vulnerable persons who may be subject to or at risk of abuse, exploitation,

and trafficking; and to whom to report any concerns that those licence holders and their staff may have should they identify someone who is / may be at risk. As part of this process the Authority carries out regular enforcement/compliance checks across all of the premises licensed in our area, in order to build good working relationships with licence holders and designated premises supervisors, and providing them with advice as to how they and their staff can help safeguard children and vulnerable persons across the wider Nottinghamshire region.

7.44 When considering applications for new licences and variations to existing licences, the Authority will seek to be assured that applicants have considered the safeguarding of children (and ideally other vulnerable persons) within the Operating Schedule of the application. Where premises are used for film exhibitions, the Authority will impose the mandatory condition restricting access only to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or the Authority itself.

7.45 The Authority expects applicants to include any arrangements for restricting under-age children from viewing age-restricted films in their Operating Schedule. The Authority expects that licensees will ensure that any age restrictions for cinema exhibitions are properly complied with.

7.46 **Policy: 3**

**Where representations have raised concerns in respect of individual premises and it is felt that access of children should be restricted, the Authority will consider imposing conditions which may include the following:**

- (i) Limitations on the hours when children may be present.**
- (ii) Age limitations for persons under 18.**
- (iii) Limitations or exclusion when certain activities are taking place.**
- (iv) Full exclusion of persons under 18 when certain licensable activities are taking place.**
- (v) Limitations of access to certain parts of the premises for persons under 18.**
- (vi) A requirement for an accompanying adult to be present.**

***REASON: to protect children from harm***

7.47 **REVIEWS AND SUSPENSION**

7.48 At any stage following the grant of a premises licence or club premises certificate a

Responsible Authority, other person or business may ask for a review. Evidence will however be required to show that a specific concern exists relating to one or more of the Licensing Objectives.

7.49 Where a review hearing is held the Licensing Authority has a variety of options that it may take ranging from taking no action at all, to varying conditions or suspending or revoking the licence. The Guidance reminds the Authority that the powers of review are to be used in the interests of the wider community and not that of the individual licence/certificate holder. Whilst the financial circumstances of the licence/certificate holder will be a consideration for the Licensing Authority the promotion of the Licensing Objectives will be the Authority's primary concern. In some circumstances e.g. the use of premises for the purchase and consumption of alcohol by minors, the use of the premises for illegal activities or for employing persons who are disqualified from work by reason of their immigration status revocation may be considered an appropriate course of action even in the first instance.

#### 7.50 **LICENCE SUSPENSION**

7.51 In addition to being a power available on the review of a licence the Licensing Act 2003 requires Licensing Authorities to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due unless an administrative error or dispute has been notified to the Licensing Authority. In such cases there will be a grace period of 21 days to allow the matter to be resolved. If the matter is not resolved within grace period the licence must be suspended.

7.52 Where such a suspension takes place the Licensing Authority must give a minimum of two days notice and may inform the police and other responsible authorities of the suspension. All licensable activities must cease when the suspension takes effect. The suspension will only cease on payment of the outstanding fee irrespective of any transfer or hearing which may take place.

#### 7.53 **CLOSURE NOTICE**

7.54 Section 19 of the Criminal Justice and Police Act 2001 (the Act) gives licensing authorities, police and local authorities the power to serve a closure notice where any premises are being used (or have been used within the last 24 hours), for the sale of alcohol for consumption on or in the vicinity of the premises; and the activity was not authorised (premises licence, club premises certificate or temporary event notice) or not in accordance with the conditions of authorisation.

7.55 The notice informs the person with control of, or responsibility for, the activities



carried on at the premises (normally the licence holder or the designated premises supervisor) that if unauthorised alcohol sales continue, an application may be made to a court under section 20 for an order to close the premises under section 21 of the Act. Such an application cannot be made less than seven days or more than six months after the service of the closure notice under section 19.

**7.56 B. CONSIDERATION OF MATTERS RELATING TO PERSONAL LICENCES**

7.57 In most cases the Authority is under a duty to grant a Personal Licence so long as the applicant meets the criteria prescribed in section 120 of the Act. Where an applicant for a Personal Licence has certain types of conviction (for relevant or foreign offences as defined by the Act,) or, has been required to pay an immigration penalty the Authority is obliged to notify the police, and in the case of immigration offences and penalties, the Secretary of State. In these cases, a licence will still be granted unless an objection is received within the prescribed period. Where an applicant is convicted of a relevant offence, foreign offence, or is required to pay an immigration penalty during the application period and this only comes to light after the licence has been granted then the Authority must notify the Chief Officer of Police/ Secretary of State (as appropriate). Where objection notices are received they will be considered at a hearing of the Licensing Panel.

**7.58 Policy: 4**

**When considering an objection notice or immigration objection notice the Authority will take the following matters into consideration:**

- (i) The circumstances in which the offences were committed or the immigration penalty imposed;**
- (ii) The period that has elapsed since the offence(s) were committed or the immigration penalty imposed;**
- (iii) Whether the offences/ immigration penalty reveal a pattern of offending or were a one off occurrence; and**
- (iv) Any mitigating circumstances.**

**In relation to the consideration of an objection notice the Authority will reject the application/revoke the licence where it feels it appropriate to do so in order to promote the Crime Prevention Objective.**

**In relation to the consideration of an immigration objection notice the Authority will reject the application/revoke the licence where it feels it appropriate to do so for the prevention of illegal working in licensed**

**premises.**

***REASON: Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the crime prevention objective. Similarly granting a licence to a person convicted of an immigration offence or who has paid an immigration penalty will in many cases undermine the prevention of illegal working in licensed premises which itself is a crime.***

7.59 Where the holder of a Personal Licence is subsequently charged with a relevant offence they are under a duty to notify the Court. If convicted the Court may order that the licence be forfeit or suspended. In most cases Personal Licence holders are under a duty, to notify the Authority if they are convicted of a relevant offence, foreign offence or required to pay an immigration penalty and a failure to do so is also a criminal offence.

7.60 Where the Authority is aware that a Personal Licence holder has been convicted of a relevant offence, foreign offence or required to pay an immigration penalty it may suspend the licence for a period not exceeding 6 months or revoke the licence. Before doing so the Authority will serve a notice on the personal licence holder inviting them to make representations within 28 days regarding:-

- The offence/penalty
- Any decision a court made regarding the licence at the time of the conviction
- Any other relevant information (including the holders personal circumstances)

After the 28 day period has elapsed the authority will make a decision as to what action it will take based on the information provided to it. In circumstances where the Authority does not propose to revoke the licence notice must be given to the Chief Officer of Police inviting representations as to whether the licence should be suspended or revoked. **The Act does not require a hearing to be held at any stage during this process.** Licence holders (and the Police) will be notified of the Authority's decision in writing along with their right of appeal.

7.61 All individual applicants applying for a "Premises Licence", or a "Personal Licence" with this Licensing Authority must submit further documentation to demonstrate their entitlement to live and work in the United Kingdom (UK).

7.62 A licence may not be issued to an individual or an individual in a partnership which is not a limited liability partnership who is resident in the UK who:

- does not have the right to live and work in the UK

- is subject to a condition preventing them from doing work relating to the carrying on of a licensable activity

7.63 Any licence issued in respect of an application made on or after 6th April 2017, will become invalid if the holder ceases to be entitled to work in the UK.

7.64 Applicants must demonstrate that they have the right to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

7.65 They do this in one of two ways:

1. By providing, with this application, copies or scanned copies of the documents\* which an applicant has provided, to demonstrate their entitlement to work in the UK (which do not need to be certified) as per information published on gov.uk and in guidance
2. By providing their nine (9) digit 'share code' to enable the Licensing Authority to carry out a check using the Home Office online right to work checking service (see below)

7.66 Applicants are required to submit one (1) of the documents listed at Annex A of the Home Office's Employer right to work checks supporting guidance published on: [Right to work checks: an employer's guide \(GOV.UK\)](#) to show they have permission to be in the UK and are permitted to undertake work in a licensable activity.

7.67 To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in their application a nine (9) digit share code (provided to them upon accessing the service at [Prove your right to work to an employer: get a share code \(GOV.UK\)](#)) which, along with the applicant's date of birth, will allow the Licensing Authority to carry out the check

#### 7.68 **C. CONSIDERATION OF TEMPORARY EVENT NOTICES**

7.69 There are two types of types of Temporary Event Notice (TEN),

- A Standard TEN, and
- A Late TEN

A standard TEN must be served no later than ten working days before the event to which it relates and this does not include the day it is given or the day of the event, and a late TEN is served no more than nine and not less than five working days before the event to which it relates.

7.70 Temporary event notices are subject to various limitations. These are concerned with:

- the number of times a premises user may give a TEN – 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people);
- the number of times a TEN may be given for any particular premises (20 times in a calendar year);
- the maximum duration of an event authorised by a TEN is 168 hours (seven days);
- the maximum total duration of the events authorised by TENs in relation to individual premises (26 days in a calendar year);
- the maximum number of people attending at any one time (fewer than 500); and
- the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises' user (24 hours).

Whilst it is correct at the point of publication of this Statement of Licensing Policy applicants are advised to check that they fall within the legislative requirements or seek advice in advance of their TEN submission as the conditions are subject to change or reviewed at any given point in time.

7.71 Whilst the Council recognises that a Temporary Event Notice may be served at least ten clear working days prior to the commencement of a Permitted Temporary Activity (the event), the current Guidance issued under the Act encourages a locally established preferred period of notice. There is a case for not serving such Notices too early as this could make it difficult for a sensible assessment to be made of the implications of such an event on the Crime and Disorder and Prevention of Public Nuisance objective's. The Council considers that a reasonable period of notice for the service of a Temporary Event Notice is 28 days.

7.72 Persons serving Temporary Event Notices must also serve a copy notice on the police and the responsible authority for Environmental Health functions (i.e. the Councils Environmental Health section), except where served electronically.

7.73 Only the Police and Environmental Health Officer have the right to make representations in respect of TENs and in the event of representations being received the Licensing Authority's powers in respect of such matters are limited to

either allowing the event to proceed as notified, serving a counter notice to render the event unauthorised, or, in cases where the notification relates to premises which are already licensed, to applying any relevant conditions on the licence to the event. Further information regarding Temporary Event Notices is contained on the Councils web pages.

- 7.74 There is no scope for hearings or appeals in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, a counter notice will be issued to the applicant to advise that the event is not permitted to take place. A copy of the notice is issued to all parties. Further information regarding Temporary Event Notices is contained on the Councils web pages.

## **8 GENERAL ENFORCEMENT STATEMENT**

- 8.1 The Licensing Authority has delegated several of its functions to its Licensing Committee, Sub-committees and Officers. Further information on these delegations can be obtained from the Licensing Officer. All decisions, determinations, inspections and enforcement action taken by the Authority will have regard to the relevant provisions of the Licensing Act 2003, national guidance and the enforcement policy of the City Council.
- 8.2 The Authority has established and maintains enforcement protocols with the Police and other relevant enforcement agencies. If you have a complaint regarding licensed premises and are unsure who is the relevant enforcement agency, please contact the Licensing Officer for further guidance.

## **9 MONITORING AND REVIEW OF THIS STATEMENT OF LICENSING POLICY**

- 9.1 This Statement of Licensing Policy will be reviewed within legislative timescales and as and when appropriate. In preparing the succeeding Statement of Licensing policy regard will be had to data and information collated over the operating period of the current policy together with trends and the outcome of related initiatives from both local sources and nationally issued data and guidance.

### **CONTACT DETAILS & FURTHER INFORMATION AVAILABLE FROM:**

**WEBSITE:** [www.nottinghamcity.gov.uk](http://www.nottinghamcity.gov.uk)

**E:MAIL:** [general.licensing@nottinghamcity.gov.uk](mailto:general.licensing@nottinghamcity.gov.uk)

## **PROMOTING THE LICENSING OBJECTIVES**

The Licensing Authority recognises that licensed premises come in different shapes and sizes and provide different activities. A venue's operation may be geared to alcohol, entertainment, late night refreshment or a combination of two or more of these activities. Venues may be large or small, with high occupancy or low occupancy, in urban or suburban areas, with a predominantly young clientele or a mix of all ages.

How operators of different licensed premises promote the licensing objectives varies from premises to premises. For example:-

- Premises that supply alcohol will have different demands on them than those that do not.
- High occupancy premises will have different issues to consider particularly in the areas of public nuisance, public safety and crime and disorder than low occupancy premises.
- Premises with a predominantly young clientele will have different issues to consider than those frequented by a mixed age group.

There is no definitive list of control measures that could (or should) be introduced by all premises. Licensed premises are assessed according to the activities they provide and the manner of their provision. Steps should be in place to proportionately address the individual risks of each premises' activity.

Preventing crime, disorder, public nuisance, ensuring public safety and protecting children (those aged under 18) from harm are ongoing responsibilities for all licence holders. Premises operators should address the risks relating to the activities their premises provides. Failure to do so may result in the licence being reviewed and subsequently suspended or revoked.

The Licensing Authority does not want premises to lose their licences, it wants to see well managed premises that benefit from being able to provide the hours and the activities their customers and communities want. This means licensees should regularly consult with their local communities to inform them of the hours and activities they provide, gauging their concerns and addressing these.

Licensees are encouraged to be both imaginative and proactive, seeking advice from Responsible Authorities and other local organisations that have professional advice

to offer.

The Licensing Authority recommends that operators:

1. Read this Licensing Policy carefully – reading it indicates that you are taking the promotion of the licensing objectives seriously.
2. Think about the activities you provide, the risks from those activities and the appropriate steps to tackle them.
3. Consult local residents and local businesses and the Responsible Authorities. How do they feel about your operation? Are they currently experiencing problems?
4. Undertake appropriate risk assessments and take appropriate steps to address any risks.
5. Take action to put steps in place that will address risks and meet the concerns of your community.
6. Consider whether you need to apply to vary your licence to ensure that you have all necessary measures in place to meet the four licensing objectives. This can reassure local residents and businesses and the Responsible Authorities that you take your responsibilities seriously and are a valuable asset to the community.

Licensed premises will be continually monitored on how they impact on their local communities. Where operators fail to adequately address the concerns of local residents / businesses with respect to the licensing objectives, their premises may have its licence reviewed at any time.

## **Potential risks to the Promotion of the Licensing Objectives and Possible Solutions**

### **The Prevention of Crime and Disorder**

1. What measures will you put in place to prevent disorderly and potentially violent behaviour both on and in the vicinity of your premises?
  - We will use CCTV
  - We will use text and radio pager systems to report incidents to the police and keep in contact with other venues (especially important in town and city centres with a high concentration of licensed premises).
  - We will determine sensible occupancy limits according to the nature of the premises and activities being carried out.
  - We will train staff to handle potential troublemakers and defuse difficult situations.
  - We will seek further advice from local Police, PubWatch and Responsible Authorities.
2. What measures will you put in place to prevent drunkenness on your premises?

- We will train staff to recognise those who are drunk and be vigilant in not serving those who are drunk or passing on alcohol to those who are drunk.
- We will ensure sufficient staffing and managerial support to make the identification and non-service of those passing on drinks practicable.
- We will refuse entry to those who have had too much to drink.
- We will ensure that staff training is carried out regularly and includes knowledge testing and that all training is documented.
- We will promote the availability of free tap water to customers where it is reasonably available.
- We will provide and promote low-alcohol and alcohol-free alternatives.

3. How will you prevent drug dealing on and around your premises?

How will you prevent offensive weapons being brought on to your premises?

How will you prevent the sale of contraband or stolen goods?

- We will install strategically located closed-circuit TV cameras inside and outside premises to deter/monitor illegal activity (footage can be used as evidence).
- We will provide accredited staff training on these issues and ensure staff are on the look out for suspicious behaviour.
- We will ban known offenders and share information with the police and licensed premises in the area.
- We will consult our local police crime reduction adviser.

4. How will you reduce the risk of glasses and bottles being used as weapons and causing accidents?

- We will ensure glasses and bottles are collected on an on-going and frequent basis, make regular inspections for broken glass and clear up glass and any spillages immediately.
- We will, at those times where there is a risk of incident, use safety glass.
- We will ensure drinks containers are not taken from the premises.
- We will have a no glass policy.

5. How will you prevent toilets from being a magnet for sexual assault, accidents and conflict within your premise?

- We will ensure that sufficient toilets are available, with an appropriate number of male/female toilets as per British Standards.
- We will ensure sufficient lighting levels.
- We will keep toilets clean, well stocked; clearing spillages promptly to avoid accident.
- We will install toilet attendants if problems occur.
- We will promote the 'Ask for Angela' scheme and provide training for all staff members including security staff, where possible.



Further examples of risks that could undermine this licensing objective are:

6. Late night refreshment – Applicants in respect of late-night takeaways should demonstrate that they have assessed the risk of persons congregating in large numbers in the vicinity of their premises. Where appropriate, applicants should demonstrate suitable measures to address this problem.
7. Toughened / Safety Glass Policy

Licensed venues that provide the sale of alcohol for consumption on the premises should consider the introduction of toughened / safety glass. This toughened / safety glass policy expectation applies to those premises that would be considered as carrying a higher risk for potential crime and disorder. In particular it is expected in premises considered to be high volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues (but not premises in those areas that are viewed as low risk in this context. For example in facilities for hotel residents and their guests it is not expected that a toughened / safety glass policy need operate and nor would it be necessary in premises which operate primarily as a restaurant where the bar is primarily provided for restaurant customers). The toughened / safety glass policy also applies where outside areas are provided for consumption of alcohol, particularly where the area is constructed of hard material and also where the outside area is in or adjacent to a public place.

- 8 Glass Bottle Policy

The Licensing Authority considers it necessary for the promotion of the licensing objectives to prevent the passing of a glass bottle over the bar of premises licensed to supply alcohol for consumption on the premises where there is a poor history of crime and disorder. This expectation may be considered as a result of relevant representations having been received on an application. Like other conditions set out in this Licensing Policy it may also be considered at a hearing following an application for review of an authorisation.

**Public Safety**

1. How will you avoid overcrowding?
  - We will determine sensible occupancy limits according to the nature of the premises and activities being carried out.

- We will use clickers to monitor and manage occupancy levels.
2. How will you prevent drug taking on your premises and protect customers from harm?
    - We will make customers aware of the risk of drink-spiking.
    - We will train staff in drug awareness issues and ensure sufficient staffing and managerial support to make identification and handling of incidents practicable.
  3. What measures will you put in place to clear away broken glass promptly and effectively?
    - We will remove glasses promptly when empty.
  4. What measures will you put in place to reduce harm to people who are drinking alcohol on your premise?
    - Providing and promoting alcohol-free and low alcohol alternatives
    - Encouraged to display posters/leaflets of services who support people who are drinking at high or increasing levels of risk
    - Displaying Drinkaware resources throughout your premise.
    - Encouraged to display posters/leaflets about the risk of drinking alcohol when pregnant.

Further examples of risks that could undermine this licensing objective are:

5. Emergencies – issues in relation to fires, emergency management, evacuation and overcrowding.
6. Environment – issues concerning cooling and heating and access to drinking water.

In considering what steps may be necessary, applicants will be expected to have particular regard to:

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

Applicants must set out the steps they propose to promote public safety. The following are

examples of the adequate steps regarding this that the Licensing Authority expects in premises where particular risks may arise.

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

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

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

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

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

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

- Premises that are of high capacity or whose regulated entertainment may give rise to an increased risk of injuries occurring are expected to advance steps regarding first aid provision.
- Premises that plan to use special effects (such as fireworks / foam / lasers / etc.) will be expected to propose measures that will ensure this will not create any safety risks. Where proposed licensable activity includes the consumption of alcohol or provision of late night refreshments on the premises, it is expected that applicants should advance steps regarding the provision of adequate and well managed toilet and hand washing facilities.

## **The Prevention of Public Nuisance**

### 1. How will you prevent the noise nuisance from outside drinking?

- We will limit the number of people using outside areas.
- We will ensure that drinkers remain seated and that they do not drift from the seated area (e.g. using barriers at those times where this is identified as a problem).
- We will advise noisy customers to keep the noise down and ask them to leave if they disregard our advice.
- We will determine a closing time on the use of outdoor areas in consultation with local residents.

### 2. How will you prevent flyers becoming a source of litter?

- Where we distribute flyers, we will ensure we have the necessary consent and take responsibility for picking up dropped flyers in the vicinity.

### 3. How will you prevent disturbance to local residents from customers arriving and leaving your premises late at night?

- We will consult local residents on their preferred closing time and come to an agreement.
- We will display telephone numbers for taxi firms in a prominent location and provide a facility for customers to order cabs or operate a taxi call back service.
- We will implement a 'winding down period' during the last hour of service.
- We will ensure signs are in place asking customers to leave quietly.
- We will ensure signage and staff remind customers to keep noise down as they leave.
- We will hand out lollipops to customers as they leave.
- Ensure that people do not congregate / queue outside premises.
- We will have a detailed dispersal policy in place and train all relevant staff in its operation.

### 4. What steps can you take to reduce the impact that sales of alcohol from your premises may have on the community around you?

- We will implement a bottle marking scheme
- We will take part in the Voluntary Code for Off-Licences or similar initiatives
- We will ensure that sales are not made to people who already appear drunk
- We will ensure sales are not made to known street drinkers
- We will not sell beer, lager and/or cider with an ABV of 5.6 or above

5. What measures will you put in place to ensure that local residents and local businesses are not upset by loud or persistent noise?

- We will consult local residents on what noises disturb them and take steps to remedy these issues.
- We will avoid emptying bins into skips, especially if they contain glass after 9pm and before 9am (10am on weekends).
- We will instruct suppliers not to make deliveries after 9pm and before 9am (10am on weekends).
- We will avoid refuse collections after 9pm and before 9am (10am on weekends).
- We will ensure that noise from regulated entertainment is kept to a level that does not cause disturbance to local residents.

Further examples of risks (particular with the increased use of smoking shelters) that could undermine this licensing objective are:

6. Lighting – Excessive artificial lighting in the vicinity of licensed premises.
7. Litter / waste – Litter and waste generated by the carrying out of licensable activities. For example, food wrappers, fly posting and cigarette butts.

Measures to prevent litter may include

- Providing litter bins
- Sweeping up rubbish and clearing the vicinity

8. Smoking - The Council acknowledges that smoking is not a licensing matter. However as an enforcement authority under the Health Act 2006, it recognises the significant changes to all licensed premises brought about by the implementation of the Smoke Free legislation on 1<sup>st</sup> July 2007.

The Council also recognises the effect that the smoking ban has had on issues around public nuisance including noise and litter across the city. The Council expects that licensees will be able to manage those issues effectively.

It must be noted that there is no legal requirement for licensed premises to provide an outdoor smoking area.

9. Environmental issues - noise, litter and disturbance from customers

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

Consideration has to be given to the potential for public nuisance arising from outside areas following the implementation of smoke free laws in July 2007. Noise and disturbance from people outside can cause public nuisance even when those people are not behaving badly. This will be of more significance in areas with residential accommodation and will usually, but not exclusively, be of greater importance between 10pm and 7am. However, it must be noted that noise and disturbance from customers out of doors can cause public nuisance outside of these times.

Measures to prevent nuisance may include the:

- Use of time restrictions on certain areas;
- The end of the use of certain areas;
- Supervision of outdoor areas;
- Suitable signage;
- Restriction on the times that food or drinks can be consumed or sold to be consumed outside the premises;
- In some cases the hours at which premises are open to the public will also be considered.

10. Noise from plant and equipment

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

Measures to prevent nuisance may include the:

- Installation of acoustic enclosures;
- Sound proofing, timing device;

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

11. Fly posting, flyers and graffiti

Steps taken to prevent fly posting and the distribution of flyers advertising the premises or events at the premises.

Steps taken by the applicant to remove graffiti and fly posting from their surfaces as soon as it appears.

**The Protection of Children from Harm**

1. What measures will you put in place to prevent underage drinking on and around your premises?

- We will adopt a well-publicised Challenge 25 policy; asking those who appear to be under 25 to produce appropriate ID proving they are over 18 before considering serving them;
- We will refuse service to those we believe to be passing on alcohol to under 18s (except where over 18s are buying beer, wine or cider for 16 or 17 year olds for consumption with a table meal);
- We will display of prominent warning notices about the supply of alcohol to minors
- We will give all relevant staff appropriate accredited training on the law relating to alcohol and those aged under 18 (e.g. a 'Responsible Retailing' course);
- We will ensure sufficient staffing and managerial support to monitor outside areas and make the identification and non service of those passing on drinks to under 18s practicable;
- We will report those who pass on drinks to under 18s to the police;
- We will use a 'refusal book' to record details of instances where staff have refused a customer thought to be under age;
- We will use CCTV.
- We will identify a child safeguarding lead.

2. It is an offence to allow unaccompanied under 16s into primarily drinking venues. However, family friendly premises typically experience fewer problems of crime, disorder and public nuisance. What measures will you put in place to create a safe,

child-friendly environment?

- We will ensure vigilance re. the sale of alcohol to under 18s, to those who are drunk and to those passing on drinks to under 18s / those who are drunk;
- We will ensure those who are drunk do not gain entry to the premises and those who become drunk on the premises are asked to leave (N.B. it is an offence to serve those who are drunk);
- We will specify areas, activities and times that are suitable for children instead of merely placing restrictions on access to those areas, activities and during those times that are appropriate.
- Provide training to staff to enable them to identify hidden harm around parental alcohol use.

Further examples of risks that could undermine this licensing objective are:

3. Adult only entertainment – Where entertainment or services of an adult or sexual nature are commonly provided, ensuring that underage persons cannot enter the premises. There shall be no display of photographs or visual images advertising such entertainment outside the premises.





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