



LR.15 15/16

Licensing and Regulatory  
Committee

22 September 2015

**Subject: Review of Licensing Policy under the Licensing Act 2003**

Report by:

Chief Operating Officer

Contact Officer:

Phil Hinch 01427-676610  
Licensing and Support Team Manager  
[phil.hinch@west-lindsey.gov.uk](mailto:phil.hinch@west-lindsey.gov.uk)

Purpose / Summary:

This report is in relation to the statutory process of reviewing the Licensing Policy (which has been amended accordingly) and is put before Members of the Committee for their consideration and approval.

**RECOMMENDATION(S):**

- 1) That the amended draft policy be approved and referred to Council for formal adoption as "The Statement of Licensing Policy" on 16 November 2015.

**IMPLICATIONS**

**Legal:** Section 5(1)(a)(b) of the Act requires each Licensing Authority to determine and publish a Licensing Policy Statement and review on an ongoing basis, within a five year period. Adoption of the Policy Statement is a Council function which cannot be delegated to a Committee or Sub-Committee.

**Financial:** None directly as a result of this report  
FIN Ref 66/16 applies

**Staffing:** None directly as a result of this report

**Equality and Diversity including Human Rights:**  
No adverse impact has been identified as a result of the wide scale consultation process.

**Risks:** Please see section 4

**Climate Related Risks and Opportunities:** None directly as a result of this report

**Title and Location of any Background Papers used in the preparation of this report:**  
Licensing Act 2003 – Licensing Office  
Statutory Guidance made under section 182 of the Licensing Act 2003 – Licensing Office

**Call in and Urgency:**

**Is the decision one which Rule 14 of the Scrutiny Procedure Rules apply?**

Yes

No

**Key Decision:**

Yes

No

## **1. Introduction**

- 1.1 Section 3 of the Licensing Act 2003 defines this Council as a “Licensing Authority”.
- 1.2 Section 4 of the Act requires the Licensing Authority to have regard to its Licensing Policy in carrying out its functions, and must also have regard to any guidance issued by the Secretary of State under Section 182.
- 1.3 Section 5 of the Licensing Act 2003 requires that each Licensing Authority prepares, consults on and determines a Statement of Licensing Policy. That policy must be kept under review on an ongoing basis and in any case every five years. The current policy was adopted by Council in December 2010. The legislation requires that where revisions are made, the licensing authority must publish a statement of the revisions or the revised licensing statement. The revised policy must be in place by 07 January 2016.

## **2. Details of the report**

- 2.1 Before determining the policy the Authority must consult with:
  - The Chief Officer of Police for the licensing authority’s area;
  - The Fire Authority for that area;
  - Representatives of holders of premises licences, club premises certificates and personal licences;
  - Other persons the licensing authority considers to be representative of businesses and residents in its area;
  - The Local Authority’s Director of Public Health England (DPH).
- 2.2 The following consultation process was implemented:
  - E-mailed letter with link to the draft policy to all responsible authorities (Police, Fire, Child Protection, Trading Standards, Environmental Protection, Health Services and Planning etc);
  - E-mailed letter with link to the draft policy to all district Council Members;
  - Letter with attached draft policy deposited with numerous local area libraries;
  - Letter inviting 25 other bodies or representative groups to take part in the consultation process, which also stated a copy of the draft policy could be sent to them on request. “Other” consultees are listed at Appendix 2;
  - Draft policy placed on WLDC website;
  - A total of 75 consultees were invited to take part in the review process.

### **3. Responses to consultation process**

- 3.1 The consultation period ended on 24 August 2015 resulting in a total of four responses to the draft policy. These responses can be seen at Appendix 1a – 1d.
- 3.2 Only one out of the four responses to the consultation requires a change to the draft policy. The required change is a minor alteration of wording at 6.2.3 in relation to the use of door supervisors.
- 3.3 The revised draft policy (including the minor change of wording as a result of the consultation process) is attached at Appendix 3.
- 3.4 The requirement to prepare, consult, determine and publish a revised policy is a statutory duty.

### **4. Risks**

- 4.1 Failure to adopt and publish a Statement of Policy means that the authority would not be complying with the Licensing Act 2003 and would leave any decisions made by the Licensing Authority open to challenge along with the potential to damage to its reputation.
- 4.2 Additionally, it should be recognised that in adopting a revised draft policy, in making this decision, this can also be challenged as with any decision made by the Council. However, in order to minimise the risks of any legal challenge, the comments received have been given due consideration within Appendix 1, which is attached for Members perusal. The consultation process raised numerous responses through this exercise, and has given the authority the opportunity to amend the original draft policy accordingly, which is being put before Members for approval. By giving consideration to the concerns raised through the consultation process and then subsequently amending the draft policy will help mitigate any legal challenge.

### **5. Conclusion**

- 5.1 The latest draft policy is attached at Appendix 3 for Committee's approval, before being recommended to Council for formal adoption on 16 November 2015.
- 5.2 Following formal adoption by Council, the policy will remain in force for a five year period after which it must be reviewed and formally adopted for a further five year period and so on.
- 5.3 During its five year period, the licensing authority can make such revisions to their policy, at such times as considered appropriate, following a further consultation exercise.

**6. Appendices**

Appendix 1	Schedule of responses/appraisal given
Appendices 1a – 1d	Responses received from the consultation
Appendix 2	List of “Other Consultees” representative of businesses and residents in its area
Appendix 3	Revised Draft Policy

# Appendix 1

## Schedule of Responses to review of Licensing Policy 2015

### Part I

Reference	Respondent	Comments	Appraisal	Response
Appendix 1A	Edward Leigh (MP)	Letter from Edward Leigh (MP) thanking the Licensing manager for contacting him with regards the review of the policy and reference regarding the hard work the licensing team does.	N/A other than comments noted.	Officers suggest no change to policy.
Appendix 1B	Public Health England (PHE)	Comments from representative of P.H.E. suggesting that any response relative to the consultation process would be better carried out at a local level rather than a national one.	N/A other than comments noted.	Officers suggest no change to policy.
Appendix 1C	Cllr Welburn	Comments from Cllr Welburn with regards to legal highs, drugs and the inclusion of policies?	Whilst the concern raised regarding this matter is an important one, unfortunately legal highs/drugs does not fall within the control of the Licensing Act 2003. That said should the use of legal highs/drugs become an issue such that the operation of any licensed premise is failing to promote one or more of the licensing objectives, then an application for a review of that licence can be applied for. More	Officers suggest no change to policy.

			generally, the most appropriate piece of legislation to control this matter is the Anti-Social Behaviour Crime and Policing Act 2014 which is legislation that the licensing authority will have regard to.	
Appendix 1D	Security Industry Authority S.I.A.	Clarity sought with regards the wording at 6.2.3 (4 <sup>th</sup> bullet point) in relation to the use of S.I.A. registered door supervisors.	Wording at 6.2.3 (4 <sup>th</sup> bullet point) amended slightly in order to clarify the matter.	Officers suggest minor change to policy.

SIR EDWARD LEIGH MP

Appendix 1a



HOUSE OF COMMONS  
LONDON SW1A 0AA

Philip R Hinch  
Licensing Team Manager  
West Lindsey District Council  
Guildhall  
Marshall's Yard  
Gainsborough  
Lincolnshire DN21 2NA

21<sup>st</sup> July 2015

A handwritten signature in black ink, appearing to read 'Philip R Hinch'.

Thank you for taking the time to contact me concerning Section 5 of the Licencing Act 2003.

I received the draft Statement of Licencing Policy, the content of which is noted.

As ever, I am grateful to your and your Team for all your hard work.

Yours sincerely.

A handwritten signature in black ink, appearing to read 'Edward Leigh'.

**EDWARD LEIGH**



Appendix 1b

**Tracy Gavins**

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**From:** Phil Hinch  
**Sent:** 27 July 2015 15:21  
**To:** Tracy Gavins  
**Subject:** FW: Licensing Act 2003 Section 5 - Statement of Licensing Policy

Fyi and collection

Philip R Hinch  
Licensing Team Manager  
Marshall's Yard  
Gainsborough  
Lincolnshire  
DN21 2NA  
Direct – 01427-676610  
Mobile – 07810658378

**From:** Sue Cheong [REDACTED]  
**Sent:** 27 July 2015 15:18  
**To:** Phil Hinch <phil.hinch@west-lindsey.gov.uk>  
**Cc:** Maria Smolar [REDACTED]; Corinne Harvey <[REDACTED]>  
**Subject:** Re: Licensing Act 2003 Section 5 - Statement of Licensing Policy

Dear Mr Hinch,

Dr Paul Cosford has passed us his letter of invitation from yourself to participate in a consultation as referenced above.

We believe this to be for local engagement rather than national. However if you need advice on any particular points please make contact with Maria Smolar and/or Corinne Harvey within PHE. Many thanks.

Kind regards,

Sue Cheong  
Executive Assistant to Professor Kevin Fenton, National Director of Health and Wellbeing  
Public Health England  
Wellington House, 133-155 Waterloo Road, London SE1 8UG

Email: [REDACTED]  
[www.gov.uk/phe](http://www.gov.uk/phe) Follow us on Twitter @PHE\_uk  
Protecting and improving the nation's health

Olga Petrouchenko  
Diary Secretary to National Director of Health and Wellbeing  
[REDACTED]

Jo Dunne  
Health and Wellbeing Business Manager  
[REDACTED]



Public Health  
England

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**Tracy Gavins**

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**From:** Anne Welburn [REDACTED]  
**Sent:** 30 July 2015 11:03  
**To:** Tracy Gavins  
**Subject:** RE: Draft Statement of Licensing Policy

I cannot see anything that I am qualified to comment on but do wonder about the drug or legal highs situation going on at the moment. I note we have a section noting some policies that we take into regard and the list is not inclusive but wonder if we should just mention legal highs (I believe Lincoln has banned them) as it does show we are aware of the problem.

Thanks  
Anne

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**From:** Tracy Gavins [mailto:tracy.gavins@west-lindsey.gov.uk]  
**Sent:** 06 July 2015 11:09  
**To:** WL - All Councillors <WLLAllCouncillors@west-lindsey.gov.uk>  
**Subject:** Draft Statement of Licensing Policy

Dear Councillor

**Licensing Act 2003 Section 5  
Statement of Licensing Policy**

The Licensing Act 2003 (the Act) requires a Licensing Authority to prepare and publish a statement of its Licensing Policy every five years. This policy details how the Authority will exercise its functions under the Act.

Before determining its policy the authority must consult with specific responsible authorities defined by the Act and other persons that the authority considers represent the holders of premises licences, club premises certificates, and personal licences and persons that represent residents and businesses in its area.

As an Elected Member for West Lindsey District Council you are invited to take part in this consultation.

A copy of the revised Draft Licensing Policy can be found on the Council's website at <http://www.west-lindsey.gov.uk/businesses/licensing/licensing-and-gambling-policies/> (click on the draft licensing policy link). A hard copy can be supplied on request.

If you wish to comment on the draft Policy, I would be obliged if you could reply to this invitation with your comments before 24 August 2015, by email to: [licensing.2003@west-lindsey.gov.uk](mailto:licensing.2003@west-lindsey.gov.uk).

Tracy Gavins  
Licensing Enforcement Officer

01427 676598

Tracy Gavins

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**From:** Matthew Murchington [REDACTED]  
**Sent:** 17 August 2015 09:34  
**To:** Phil Hinch; WL - Licensing2003  
**Subject:** Draft Licensing Policy - SIA Input

Hi Phil,

I have received a hard copy of your Draft Licensing Policy for comment.

Having previously worked on other such policies which have been quite extensive concerning door supervision and mandated activities surrounding them, this document makes scant mention of the SIA and door supervisors.

Of concern in the Draft Licensing Policy I note:

6.2.3 Examples of measures the Licensing Authority encourage applicants to consider and address include

- The use of Security Industry Authority (SIA) registered door supervisors.

To avoid ambiguity the word *encourage* indicates it is an optional requirement to have SIA registered door supervisors when required.

If you wish to meet up and discuss this further, I will be back from holiday post 1<sup>st</sup> September?

Regards,

Matt Murchington

Matthew Murchington MBE  
Investigations Officer – East Team  
Security Industry Authority

Tel: [REDACTED]

Mob: [REDACTED]

E-Mail: [REDACTED]

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## Appendix 2

- The Board of Alcoholics Anonymous Ltd
- The Association of Licensed Multiple Retailers
- Lincolnshire Social Services
- Environment Agency
- Edward Leigh MP
- Public Health England
- BII (British Institute of Innkeeping)
- Equity Guild
- Citizens Advice Bureau
- Ford & Warren Solicitors
- The Musicians Union
- Health & Safety Executive
- HM Customs & Revenue
- G Bateman & Son Ltd
- CAMRA
- Security Industry Authority
- Gainsborough Area Chamber of Commerce
- British Beer and Pub Association
- Kurnia Ltd
- ACIS Group Ltd
- Enterprise Inns Plc
- Gosschalks Solicitors
- Lincolnshire Ambulance Service
- The Association of Licensed Multiple Retailers
- Caistor Library
- Gainsborough Library
- Welton Library
- Nettleham Library
- Market Rasen Library
- Cherry Willingham Library
- Lincolnshire Police, Licensing
- Lincolnshire Fire and Rescue
- Planning Services
- Environmental Protection
- Trading Standards
- Lincolnshire Safeguarding Children's Board

# Draft Statement of Licensing Policy

## APPENDIX 3

**Licensing and Regulatory Committee - 22 September 2015**

**Council - 16 November 2015**

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## **EXECUTIVE SUMMARY**

The Licensing Act 2003 (the Act) came into effect in 2005. Section 5 of the Act requires the Licensing Authority (West Lindsey District Council) to determine, and publish, a statement of licensing policy that they propose to apply in exercising their functions under the Act. This process is to be repeated every five years. The Licensing Authority must also keep the policy under review during each five year period and make any such revisions it considers appropriate.

The policy was last published in 2011 since when there have been several important changes to the Act introducing measures intended to reduce red-tape and bureaucracy, to provide more flexibility and increase the potential to expand and augment local economies and promote cultural issues, particularly the provision of local live music, dance and theatre - especially at schools and community premises. Measures have also been introduced to reduce the harm caused by alcohol.

The Police Reform and Social Responsibility Act 2011, introduced the Late Night Levy and Early Morning Restriction Orders, as well as providing for the Licensing Authority to become a Responsible Authority. The Live Music Act 2012 changed the way in which regulated entertainment is licensed and the Deregulation Act 2015 made further changes to the licensing of alcohol sales and the provision of entertainment such as music, singing and dancing.

Any decision taken by the Licensing Authority in regard to determination of licences, certificates and authorisations should aim to promote the licensing objectives which are:

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

The policy covers the licensable activities as specified in the Act which are:

- Sale by retail or supply of alcohol
- Regulated entertainment
- Late night refreshment

Decisions can be taken by the Licensing Sub-Committee, a 3 person committee comprising members of the Licensing and Regulatory Committee; or Officers using delegated powers.

The policy also has regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.

The Licensing Authority has the ability to grant licences for premises and certificates for qualifying club premises. It also grants personal licences and accepts temporary event notices. Applicants for premises licences should be aware of the expectations of the Licensing Authority and the Responsible Authorities regarding the steps that are appropriate for the promotion of the licensing objectives. Applicants should also be aware of the new requirement to make enquiries about the specific area in which the licensed premises is, or is to be, situated and to be able to demonstrate that



knowledge when describing the steps they propose to take to promote the licensing objectives.

Where relevant the Licensing Authority consults with the responsible authorities as described in the Act. Local people and Members of the council are able to have their say and their opinion heard through public consultation on this policy and by making representations about applications for premises licences or requesting reviews of licences for problem premises.

Enforcement of the legislation is a requirement of the Act that is undertaken by the Licensing Authority. This policy describes the Licensing Authority's enforcement principles and the principles underpinning the right of review.

# 1. Introduction

## The Council's Vision

West Lindsey is seen as a place where people want to live, work, invest and visit.

West Lindsey is a thriving Lincolnshire district and is one of the largest and most rural of the seven district councils, covering 447 square miles. The district has the three market towns of Gainsborough, Caistor and Market Rasen, remote hamlets and some large villages close to Lincoln, so the challenge is meeting the needs of all 129 communities in the area, whose needs and assets differ greatly.

West Lindsey's five main priorities for 2014–2018 have already seen many successes:

### A Prosperous and Enterprising District

- Asset acquisition, disposal and management – land and property assets have been reviewed and 73 long term empty properties been brought back into use.
- Job creation, NEETs (not in education, employment or training) and apprenticeships – holding an apprenticeship day resulted in nearly 100 attendees and a successful bid meant West Lindsey piloted the Universal Credit scheme.
- Open for business – expansions and relocations of businesses to West Lindsey resulted in employment for more than 700 staff across 40 sites.

### An Accessible and Connected District

- Broadband – in 12 months alone, 37 village halls were provided with broadband connectivity and West Lindsey has seen a 30% reduction in the cost of this.
- Accessibility – accessing services and reporting information online is encouraged and with nearly 10,000 customers making payments electronically this has contributed to the website obtaining more than 1 million web page views.
- Mobile accessibility – areas within West Lindsey, such as remote settlements, have no mobile phone coverage so an understanding of issues around inputting masts and the mobile technology market will enable the council to increase the number of masts in the district.

### A Green District Where People Want to Work, Live and Visit

- Green premier energy solutions – solar panels installed on council buildings provide additional income and planning permission has been granted for three anaerobic digesters within the district.
- Drive down waste and support rival initiatives – West Lindsey has the highest recycling rate in Lincolnshire and has been awarded “best overall performer in England Refuse Collection”. The council will also ensure sustainable development of new homes and deliver 18 new eco-homes.

### Active and Healthy Citizens and Communities

- Increasing community action and volunteering – lots of volunteering already goes on across the district and West Lindsey wants to increase the number of volunteers and volunteering opportunities by 20%. The council has worked with

the community of Newtoft (an ex-MOD site) to secure funding for a new Community Centre.

- Promote well-being and healthy communities – there are health inequalities across the district where rates of obesity, cancer and life expectancy are significantly worse in some wards than others but the number of referrals to Healthy Lifestyle Programmes have increased and a partnership action plan will be developed to provide support for residents to increase their physical activity levels and improve health.
- Address the wider determinants of health – a Vulnerable Adult Panel has been established and developed in West Lindsey as well as a Homelessness Strategy which helped maintain a zero rough sleeper figure.

## **Organisational Transformation**

- Value for money through the efficient, economic and effective delivery of services – with less funding available and grants from government, business reviews for service improvement and efficiencies have been carried out and a balanced budget set without the need for redundancies or service reductions.

## **2. The Licensing Act 2003**

2.1 West Lindsey District Council as Licensing Authority (hereinafter referred to as the Licensing Authority) is responsible for the licensing of all licensable activities under the Licensing Act 2003 (the Act). This document sets out the policies and principles that the Licensing Authority will apply when making decisions on applications for:

- Retail sale of alcohol
- Supply of alcohol by or on behalf of a club, or to the order of a member of a club
- Provision of ‘regulated entertainment’ – to the public, to club members or with a view to profit
- A performance of a play
- An exhibition of a film
- An indoor sporting event
- Boxing or wrestling entertainment
- A performance of live music
- The playing of recorded music
- A performance of dance
- Provision of late night refreshment
- Other similar entertainment

2.2 The term licensee/licence holder is deemed to include licence holders, designated premises supervisors and club premises certificate holders.  
This policy is intended to provide clarity to applicants, ‘other persons’ and ‘responsible authorities’ on how this Licensing Authority will determine applications to supply alcohol, provide regulated entertainment and operate late night refreshment premises. Guidance is widely available at <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003> to assist applicants; however the Guidance does not form part of this Policy. The Licensing Authority will take this

Policy into account if its discretion is engaged (i.e. at a hearing following relevant representations or a review hearing)

2.3 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as solving all problems within the community. The Licensing Authority will therefore continue to work in partnership with other departments of the district council, its neighbouring authorities, the police, other responsible authorities, local businesses and local people towards the promotion of the objectives.

2.4 In preparing this policy statement the Licensing Authority has consulted with the following:

- Lincolnshire Police
- Lincolnshire Fire and Rescue
- The Director of Public Health
- The body responsible for child protection
- The Planning Authority
- The Health and Safety authorities
- Environmental Health
- Trading Standards
- Representatives of licence holders and club certificate holders
- Local businesses and their representatives
- Local residents and their representatives
- Other bodies and persons that the Authority consider could contribute to this policy

2.5 From April 2013 the Local Authority Director of Public Health (DPH) has been made a Responsible Authority. The Licensing Authority expects that the DPH will be particularly useful in providing evidence of alcohol-related health harms when the licensing authority considers matters of policy, (perhaps in relation to cumulative impact policies or early morning restriction orders). DPHs may also be useful in providing evidence such as alcohol-related A&E admissions or ambulance service data that might be directly relevant to an application under the act. Appropriate weight has been given to the views of all those consulted prior to this policy statement taking effect on 7 January 2016.

2.6 In undertaking its licensing function, the Licensing Authority will have regard to other legislation, including, but not exclusively:-

- Section 17 of the Crime and Disorder Act 1998: requires the Council to take all reasonable steps to reduce crime and disorder within the District.
- The Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
- The Provision of Services Regulations 2009 to ensure requirements are:
  - i. Non- discriminatory.
  - ii. Justified by an overriding reason relating to the public interest.

- iii. Proportionate to that public interest objective.
- iv. Clear and unambiguous.
- v. Objective.
- vi. Made public in advance, and
- vii. Transparent and accessible.

- Human Rights Act 1998
- Violent Crime Reduction Act 2006
- Police and Crime Act 2009
- Police Reform and Social Responsibility Act 2011
- Live Music Act 2012
- Anti-Social Behaviour Crime and Policing Act 2014
- The Legislative Reform (Entertainment Licensing) Order 2014
- Deregulation Act 2015

- 2.7 The purpose of licensing is to regulate licensed premises and other events within the terms of the Act. Where the responsible authorities and other parties do not raise any representations about the application made to the licensing authority, it is the duty of the authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed in the 2003 Act itself. The licensing authority may not therefore impose any further conditions unless its discretion has been engaged following the making of relevant representation(s). It may then only impose such conditions as are appropriate to promote the licensing objectives arising out of the consideration of the representation(s).
- 2.8 When as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes and these hours are different to the licensing hours, the applicant must always observe the earlier closing time.
- 2.9 These conditions will relate to the premises and other places being used for licensable activities and the impact of those activities. In this regard the Licensing Authority will primarily focus on the direct impact of any activities taking place on those living, working or otherwise engaged in the area concerned.
- 2.10 Other considerations maybe taken into account including but are not limited to:
- The nature of the licensable activity
  - The nature and locality of the premises
  - The time of day of the proposed licensable activity/activities
  - The frequency of the activity/activities
- 2.11 In order to minimise problems and the necessity for hearings, it would be sensible for applicants and clubs to consult with responsible authorities when schedules are being prepared. This would allow for proper liaison before representations prove appropriate.
- 2.12 The Licensing Authority will also seek to discharge its responsibilities identified by other Government strategies, and policies, so far as they impact on the objectives of the Licensing Act. Some examples of these Strategies are:
- Government Action Plans for Tackling Alcohol Related Crime, Disorder and Nuisance;

- “Safer clubbing”
- Age Restricted Products and Services: a Code of Practice for Regulatory Delivery (BRDO 2014)
- The Lincolnshire Alcohol and Drug Strategy 2014 – 2019
- The Community Safety Strategy
- The Children and Young People’s plan for Lincolnshire

2.13 The Licensing Authority takes the following approach to the decision making process:

- Each case will be decided upon its merits. This Authority will not apply a rigid rule to its decision making
- Other persons can include residents’/tenants’ associations, community associations, trade associations and elected members. Councillors may represent other persons, providing they do not also sit on the Licensing Sub-Committee determining the application in question
- We will give clear reasons for our decisions

2.14 Where valid representations are made applications will be considered by a Licensing Sub-Committee (consisting of Councillors); we give applicants, responsible authorities and other persons an equal opportunity to state their case in accordance with our hearing procedure, which is available from the Licensing Section.

2.15 It should however be made clear that the licensing function is not to be seen as the primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. Whilst there are a range of statutory powers available to deal with such behaviour, these powers will not always be sufficient to control negative impacts on the licensing objective in the vicinity. Therefore, the fact that such impact may occur is a relevant factor in the consideration of licensing applications. This may lead to a refusal of the application or the application of conditions to meet the concern(s) contained in a relevant representation.

2.16 At the time of reviewing this Policy the Licensing Authority was responsible for the following number of licences and permits:

<b>Premises Licence With alcohol</b>	<b>267</b>
<b>Premises Licence No Alcohol</b>	<b>63</b>
<b>Club Premises Certificate With alcohol</b>	<b>20</b>
<b>Personal Licence Holders</b>	<b>851</b>
<b>TOTAL</b>	<b>1201</b>

### **3. Integrated Strategies and the Avoidance of Duplication**

- 3.1 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Council's Licensing Committee may therefore receive, and may act upon, relevant reports concerning:
- crime and disorder and community safety issues
  - needs of the local tourist economy
  - cultural strategy for the area
  - employment situation in the area and the need for new investment and employment where appropriate
  - planning considerations which might affect licensed premise
  - local transport arrangements
  - Impact of licensing on the provision of regulated entertainment and particularly live music and dancing
  - any other reports considered appropriate to the licensing function
- 3.2 The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. There are several key differences between licensing and planning control. Licensing is concerned with the fitness of the operator and detailed issues concerning the operation and management of the premises that are not addressed by the planning control process. Planning control relates to need and the use of the premises. The grant of planning permission should not be a presumption that a premises licence will automatically follow and vice versa.
- 3.3 Applicants are strongly encouraged to make any appropriate applications for planning permissions/building regulations approval before or at the same time as they make the application for the premises licence/club premises certificate.
- 3.4 In reaching a decision of whether or not to grant a licence/certificate, the Licensing Authority will take account of any non-compliance with other statutory requirements brought to its attention, particularly where these undermine the licensing objectives. Non-compliance with statutory requirements may demonstrate that the premises are unsuitable for the activities proposed or that the management of the premises is not adequate to protect the public from harm or nuisance.
- 3.5 In order to avoid duplication with existing legislation and regulatory regimes the Licensing Authority will, not attach conditions to the licence/certificate unless they are considered appropriate for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

## 4. The Licensing Process

The functions of the Council under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority in accordance with the provisions of the of the Act. Delegated powers are in accordance with the table at Appendix 1. These delegated powers do not form part of this Policy and may be amended without consultation or review of the Policy.

Each application for licensing will be considered on its own merits, for example, free from the imposition of quotas on the number of licensed premises or generalised closing times. Nothing in this policy will undermine any person from applying for a variety of permissions under the Act.

Other than electronic applications applicants are reminded that documents submitted as part of an application which bear a signature, criminal record certificates, criminal conviction certificates, subject access documents and licensing qualifications must be original documents. Faxes and photocopies are not acceptable unless with the prior agreement of the Licensing Authority.

Failure to submit an application in the correct form will result in that application being returned. The Licensing Authority will endeavor to explain why the application is considered to be deficient and will invite the applicant to re-submit the application with all the required information. However, we will not return forms if they contain obvious and minor factual errors that can easily be amended. Applications for a premises licence or club premises certificate must be copied to each of the appropriate Responsible Authorities. It is the responsibility of the applicant to send the copies to the Responsible Authorities, unless the application has been properly made by means of an electronic application facility in which case it is the responsibility of the Licensing Authority to circulate the copies.

Applicants for any authority or permission are expected to make their application in accordance with the Act and any regulations made there under. Failure to meet this requirement may result in the application being returned.

Applications for minor variations may be subject to consultation with the appropriate responsible authorities and will be refused if any responsible authority indicates that they would make a representation on the proposed minor variation.

In an effort to avoid unnecessary hearings, applicants are strongly advised to prepare risk assessments and from these formulate any steps they consider appropriate to promote the licensing objectives and then to consult with the responsible authorities as defined within the Act before submitting their applications. Failure to do so may lead to representations which can only be determined by the Licensing Sub-Committee.

Account will be taken of the need to encourage and promote all types of entertainment including live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance arising out of these activities in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community.

The Licensing Authority acknowledges that the views of vocal minorities should not be allowed to predominate over the general interest of the community.



## 4.1 Premises Licence

Applicants will be required to submit their application in the form detailed in regulations made under the Act. Applicants will be required to submit with their application for a premises licence, club premises certificate, provisional statement or a variation to their existing premises licence or club registration certificate, an Operating Schedule detailing:

- The licensable activities to be conducted on the premises
- The times during which it is proposed that the relevant licensable activities are to take place
- any other times when the premises are to be open to the public or to members of a club
- Where the licence is required only for a limited period, that period
- where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor and a copy of his or her personal licence
- where the licensable activities include the sale of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both
- The steps which the applicant proposes to take to promote the licensing objectives
- All supporting documentation to satisfy the four licensing objectives

Applications will be determined in accordance with the Licensing Act 2003 and subordinate legislation having regard to:

- This Policy
- Guidance issued by the Home Office including the guidance made under section 182 of the Act
- Any 'relevant representations' received (provided they are not determined by officers in consultation with the Chair or Vice Chair of Licensing Committee) to be frivolous or vexatious)

The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold, however the Licensing Authority would expect that details of where the DPS can be contacted would be available at the premises. The Premises Licence will specify the name of the DPS and it is the responsibility of the licensee to notify the Licensing Authority immediately of any change of the DPS.

“Authorisation” does not imply direct supervision by a personal licence holder of each sale of alcohol. Ultimately, whether an authorisation has been given is a question of fact that would have to be decided by the courts on the evidence before it in the course of a criminal prosecution.

The Secretary of State considers that the following factors should be relevant in considering whether or not an authorisation has been given:

The person(s) authorised to sell alcohol at any particular premises should be clearly identified;

- The authorisation should have specified the acts which may be carried out by the person being authorised;

- There should be an overt act of authorisation, for example, a specific written statement given to the individual being authorised to supply alcohol; and
- There should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.

The Secretary of State strongly recommends that personal licence holders give specific written authorisations to individuals that they are authorising to retail alcohol. A single written authorisation would be sufficient to cover multiple sale over unlimited period. This would assist personal licence holders in demonstrating due diligence should issues arise with enforcement authorities; and would protect employees if they themselves are challenged in respect of their authority to sell alcohol.

The form of any written authorization is a matter for the personal licence holder, but the Licensing Authority would recommend that it should satisfy the criteria listed in the paragraph above. Written authorisation is not a requirement of the Act and its absence alone could not give rise to enforcement action.

The Licensing Authority strongly recommends that any DPS ought to be a member of any local Pubwatch scheme.

The Licensing Authority reminds Designated Premises Supervisors that the mandatory licence conditions require relevant premises to hold an age verification policy in relation to the sale or supply of alcohol and further they now also provide that the Designated Premises Supervisor is legally responsible for ensuring that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

#### **4.2 Adult Entertainment – Operating Schedule**

The Licensing Authority expects all applicants to complete the 'Adult Entertainment' Box of the application form which requires details of any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children. If there are to be no such entertainments, services, activities or other matters then the form should state that clearly. The Licensing Authority may return, for amendment, any application which is incomplete in this material area.

Applicants should note that the Licensing Authority will attach a 'no adult entertainment' condition to licences when the application indicates that there will be no such entertainment provided.

In accordance with the Home Office Guidance to Licensing Authorities, this Authority expects all applicants to make enquiries about the specific area in which the licensed premises is, or is to be, situated. This includes, for example, the proximity to residential properties, areas where children congregate and any risk posed to the local area by the proposed licensable activities. Applicants will be expected to demonstrate this knowledge in their application and accompanying operating schedule.

#### **4.3 Large Scale Events of More than 500 People**

Organisers of major festivals and carnivals should approach the Licensing Authority at the earliest opportunity to discuss arrangements for the licensing of those activities falling under the 2003 Act. In respect of some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations within the premises. Anyone wishing to hold such an event should notify the Licensing Authority no less than 6 months before the event is due to happen. This will allow time for the preparation of a substantial operating schedule, by the applicant, about which the Licensing Authority will offer advice and assistance. If appropriate, the Licensing Authority will act as a co-ordinating body for preliminary input from the responsible authorities prior to formal notification about the event in appropriate cases by the formulation of a Safety Plan by the Lincolnshire Safety Advisory Group, a group made up of representatives from the Police, Fire, Health and Safety, Highways, District Councils and Ambulance service.

#### **4.4 Personal Licences and Designated Premises Supervisors**

Personal Licences authorise individuals to sell or supply alcohol, or authorise the sale or supply of alcohol for consumption on or off the premises for which a Premises Licence is in force for the carrying-on of that activity. The Licensing Authority strongly encourages Premises Licence holders where alcohol is being sold to ensure that there are sufficient Personal Licence holders for the premises to ensure adequate supervision of the sale of alcohol.

Personal licences remain valid unless surrendered, suspended, revoked or declared forfeit by the courts. The requirement to renew a personal licence was removed from the Licensing Act 2003 by the Deregulation Act 2015. While personal licences issued before the 2015 Act have expiry dates, these licences will remain valid and such dates no longer have an effect. Once granted, the licensing authority which issued the licence remains the “relevant licensing authority” for it and its holder, even though the individual may move out of the area or take employment elsewhere. The personal licence itself will give details of the issuing licensing authority.

Every premises licence that authorises the sale of alcohol will require that every supply of alcohol under that licence must be made or authorised by a person who holds a personal licence. This in most instances will be the designated premises supervisor who must hold a valid personal licence.

The Licensing Authority will require one of the Personal Licence holders to be a Designated Premises Supervisor (DPS) at premises where alcohol is sold (premises with Club Premises Certificates are exempt from this requirement and Community Premises e.g. Village Halls can apply to remove the requirement). The main purpose being to ensure that there is always one specified individual who can be readily identified as responsible for the day-to-day management of the business at the premises.

The Licensing Authority will expect the DPS to have been given day-to-day responsibility for running the premises by the holder of the Premises Licence.

## 4.5 Temporary Event Notices

Certain temporary events are not required to be licensed, although they must be notified to the Licensing Authority, Lincolnshire Police and the WLDC Environmental Protection Team. The Licensing Authority strongly encourages event organisers to submit TENs notifications as soon as reasonably practicable to enable the Police, Environmental Health and the Licensing Authority to work with them to identify and reduce the risk of any issues in relation to the licensing objectives.

The Licensing Authority recommends, but cannot insist, that for normal events at least 20 working days notification be given (the legal requirement is 10 working days). Although only the Police and Environment Health Officers can object to TENs, organisers of events where there may be significant numbers of people or may have an impact on the road network or public safety are encouraged to consult with relevant authorities at an earlier stage. In calculating working days we do not count the day of receipt of the Notice, the day of the event, bank holidays or weekends.

There are two types of Temporary Event Notice, Standard and Late.

TENs are subject to the following conditions and limitations: -

- The duration for each event is limited to a period of up to 168 hours.
- The event involves the presence of not more than 499 people at any one time.
- The same premises can be used for up to 12\* occasions in one calendar year but the aggregate number of days must not exceed 15.
- A personal licence holder is limited to 50 TENs (of which 10 may be 'Late') per calendar year.
- A person not holding a personal licence is limited to five TENs (of which 2 may be 'Late') per calendar year.
- Notification of standard TENs must be at least 10 working days before the event. A 'Standard' TEN submitted with less than 10 working days, but more than 4 working days will be treated as a 'Late' TEN.

\*The Government has legislated so that the limit on the number of temporary events that can be held at single premises will increase from 12 to 15 per year from **1 January 2016**.

Late TENs can be given up to five working days but no earlier than nine working days before the event is scheduled and, unless given electronically to the Licensing Authority, must also be sent by the premises user to the Police and the Environmental Health Officer. A TEN given less than five days before the event to which it relates will be returned, the activities to which it relates will not be authorised. In calculating working days we do not count the day of receipt of the Notice or the day of the event.

The Licensing Authority considers, although it cannot insist, that Late TENs ought not to be used for routine applications but for unplanned changes outside the control of the premises user, for example to change the venue at short notice. This is because of the restrictions of the statutory limits and the consequences should an objection be lodged.

The Police and the Council's Environmental Health Officers are the only bodies who may make representations to a TEN. They can object on grounds that allowing the

event to proceed would undermine any one of the licensing objectives. Where objections are received to a Standard TEN the matter will be put before the Licensing Sub-Committee at a hearing. The Sub-Committee may decide to:

- Allow the TEN to go ahead.
- Reject the TEN.
- If the premises already has a premises licence which authorises the sale of alcohol the Sub Committee may allow the TEN but impose some, or all, of the conditions on the premises licence onto the TEN if appropriate.

In relation to the last point above – the Licensing Authority has delegated powers to Officers to issue a TEN with conditions attached (without the need for a licensing hearing) – provided all parties agree to the attachment of the conditions. *(NB the Licensing Authority has not yet formally delegated this power, if the delegation is not made it will be removed from the final policy).*

The Police and Environmental Health Officer have a period of three working days from when they are given the notice to object to a TEN. If there is an objection from either the Police or local authority exercising environmental health functions to a Late TEN, the event will not go ahead. In these circumstances there is no scope for a hearing or the application of existing conditions, nor is there a right of appeal.

## **5. Licensing Hours**

- 5.1 The Licensing Authority recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people leave licensed premises at the same time. Longer licensing hours regarding the sale of alcohol may therefore be considered as an important factor in reducing friction at late night food outlets, taxi ranks and other sources of transport.
- 5.2 As far as the Licensing Authority's overall approach to licensing hours is concerned it is not intended that any form of zoning will be introduced. Experience in other areas shows that this can lead to the significant movement of people across boundaries in search of premises opening later and puts greater pressure on town centres than is appropriate, and can lead to increased disorder and nuisance.
- 5.3 Shops, stores and supermarkets should generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual shops that are known to be a focus of disorder and disturbance then, subject to receiving valid, relevant representations, a limitation on licensing hours may be appropriate.
- 5.4 In general, the Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. When issuing a licence, certificate or provisional statement stricter conditions with regard to noise control and/or limitations to opening hours may be imposed in the case of premises which are situated in largely residential or sensitive areas.

## 6. Licensing Objectives

6.1 Each of the four licensing objectives is of equal importance and no one objective will take precedence over the others whilst considering applications. The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff in the adoption of best practice to be amongst the most essential control measures for the achievement of the licensing objectives. For this reason, these elements should be specifically considered and addressed within an applicant's operating schedule. The West Lindsey Community Safety Partnership Codes of Practice for the Gainsborough Evening Economy may be of some assistance in ensuring that premises are well managed and operated. The Licensing Authority recommends that applicants carry out their own risk assessments in relation to the four licensing objectives in order to assist them in deciding whether any steps are required to be taken in order to meet those objectives.

The Licensing Authority reminds applicants of the requirement for them to demonstrate a detailed knowledge of the local area in which their premises is, or is to be located. This knowledge should be translated into the content of their risk assessments.

### 6.2 Prevention of Crime and Disorder

6.2.1 The Licensing Authority will carry out its licensing functions with a view to promoting the prevention of crime and disorder and will seek to ensure that licensees take measures to regulate the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises.

6.2.2 In addition to the requirement for the Licensing Authority to promote this licensing objective, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and do all it reasonably can to prevent, crime and disorder in the District.

6.2.3 The Licensing Authority recommends applicants to include in their operating schedules the steps they propose to take to reduce/deter crime and disorder. These steps will vary from premises to premises and according to the type of licensable activities that are to be carried on.

Examples of measures the Licensing Authority encourage applicants to consider and address include

- Membership of an appropriate Pubwatch Scheme where one is available
- Physical security features e.g. use of toughened or plastic drinking glasses; or alternatives, as outlined in the National Alcohol Strategy
- Procedure for risk assessment of alcohol promotions to ensure they do not promote irresponsible drinking or potentially breach the mandatory condition on irresponsible drinks promotions
- *The use of door supervisors, (where applicable) – for the avoidance of doubt S.21(1)(a) of the Licensing Act is a mandatory licence condition relative to the use of Security Industry Authority (SIA) registered door supervisors*
- Amount of seating to be provided to reduce high volume vertical drinking

- Training given to staff in crime prevention and drug awareness measures
- Measures agreed with the Police to reduce crime and disorder
- Measures to prevent the use or supply of illegal drugs;
- Search procedures
- Participation in an appropriate Radio Link Scheme
- Formulation of a dispersal policy
- Measures to prevent customers taking bottles and glasses etc. away from licensed premises
- Training given to staff to prevent the sale of alcohol to those who are under age or appear drunk

CCTV remains one of the most effective measures for reducing crime and disorder. The Licensing Authority expects premises that retail alcohol for consumption on or off the premises will have an effective CCTV system installed that operates in compliance with the requirements of Lincolnshire Police.

### 6.3 **Public Safety**

- 6.3.1 The Licensing Authority will carry out their licensing functions with a view to promoting public safety and will seek to ensure that licensees/certificate holders/designated premises supervisors take measures to protect the safety of performers and persons attending licensable activities. The risk to public safety will vary according to the type of premises and the activities carried out.
- 6.3.2 Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure public safety.
- 6.3.3 Depending on the individual style and characteristics of the premises and/or events the following issues may be of relevance:
- Suggested occupancy figures (including staff and performers)
  - Use of equipment
  - Levels of door supervision
  - Measures to prevent the supply and use of illegal drugs
  - Free availability of water
  - Physical safety features e.g. use of toughened glass, polycarbonate and plastic containers
  - Fire evacuation procedures
  - Provision of CCTV
  - For Large Scale Events regard should be had for the work of Lincolnshire Safety Advisory Group (S.A.G.)

N.B. In relation to free drinking water applicants and licence holders are reminded of the mandatory licence condition, in relation to on licensed alcohol premises, which requires the provision of free drinking water to customers.

- 6.3.4 It will be the responsibility of licence/certificate holders/designated premises supervisors to ensure they have complied with all Health and Safety legislation.

6.3.5 Applicants are strongly recommended to have undertaken full risk assessments of the premises, including fire risk assessments, which are a continuous process and as such must be monitored and audited. New and existing control measures should be maintained to make sure they are still working effectively.

#### 6.4 **Prevention of Public Nuisance**

6.4.1 Licensed premises have a significant potential to impact adversely on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

6.4.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

6.4.3 When addressing public nuisance the applicant should initially identify any particular issues (having regard to their type of premises and/or activities) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant’s operating schedule.

6.4.4 When addressing the issue of prevention of public nuisance, applicants are encouraged to demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:

- The location of premises and proximity to residential and other noise sensitive premises , such as hospitals, hospices and places of worship
- The hours of opening, particularly between 23.00 and 07.00
- The nature of the activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside the premises
- The design and layout of the premises and in particular the presence of noise limiting features
- The occupancy capacity of the premises
- ‘wind down period’ between the end of the licensable activities and the closure of the premises; or formulation of a dispersal policy
- Last admission time
- 

6.4.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance e.g. to ensure customers leave quietly
- Provision of CCTV
- Control of operating hours for all or parts (e.g. garden areas) of the premises, including such matters as deliveries
- Adoption of best practice guidance relating to noise prevention (e.g. Managing Noise by the BBPA)



- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Management of people, including staff and traffic (and resulting queues) arriving and leaving premises
- Sighting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour
- Undertaking noise impact assessments
- Signage requiring customers to leave the premises in a quiet and orderly manner

## 6.5 Protection of children from harm

- 6.5.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls or centres and schools. Except as prohibited by law, access by children to all types of premises will not be limited in any way unless it is considered appropriate to do so to protect them from harm.
- 6.5.2 When deciding whether to limit access to children, other than in circumstances where the law demands their access to be limited, applicants/licence/certificate holders should consider the activities carried on at the premises. Examples which may give rise to concern in respect of children would include premises:
- Where entertainment or services of an adult or sexual nature are commonly provided
  - Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
  - With a known association with drug taking or dealing
  - Where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines)
  - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises
- 6.5.3 In the case of premises which are used for film exhibitions, conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Licensing Authority itself.
- 6.5.4 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, then following the receipt of relevant representations conditions may be imposed requiring the presence of an appropriate number of adult staff to ensure public safety and their protection from harm. Where the Licensing Authority considers it appropriate following the receipt of relevant representations it may require the adult supervisors (being persons over the age of 18) to be subject to an enhanced Disclosure & Barring Service check (DBS). The onus will be on the premises licence holder to ensure, where required, these checks have been undertaken and the persons are suitable to carry out the supervision of children, which may include criminal record disclosure from the Disclosure & Barring Service.

- 6.5.5 The options available for limiting access by children would include:
- Limitations of the hours when children may be present
  - Limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place
  - Limitations on the parts of premises to which children might be given access;
  - Age limitations (below 18)
  - Requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult)
  - Full exclusion of those people under 18 years of age from the premises when any licensable activities are taking place
- 6.5.6 The Licensing Authority will not impose any condition that specifically requires access for Children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder/certificate holder or designated premises supervisor.
- 6.5.7 Where licence holders wish to employ children they should ensure that the legislation regarding this matter is complied with and any appropriate permits to work have been obtained. Further information on the requirements of this legislation is available from the Lincolnshire Safeguarding Children Board.
- 6.5.8 In respect of premises licensed for the sale of alcohol, the Licensing Authority commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.
- 6.5.9 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting them from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). The Licensing Authority is especially mindful that it must always consider the need to protect children from sexual exploitation.
- 6.5.10 The general relaxation in the Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. This relaxation places additional responsibilities upon licence holders but the Authority acknowledges that parents and other adults accompanying children also have responsibilities.
- 6.5.11 The sale of alcohol to children and young persons under the relevant age is a criminal offence, often resulting in harm to the children and young persons concerned and disturbance and nuisance to local residents and businesses. In an effort to avoid inappropriate representations & subsequent hearings applicants are encouraged to detail adequate control measures in their operating schedule to prevent under-age sales. The Licensing Authority recognises that Lincolnshire County Council Trading Standards Service, as part of its responsibilities and duties under the legislation controlling the sale of age restricted products, including alcohol, provides advice and guidance on the controls and systems that may be adopted to help prevent such sales. The Licensing Authority also recognises that in liaison with

the Police, the Trading Standards Service conducts covert test purchasing exercises to check compliance with the law. The Licensing Authority commends the adoption of Proof of Age Schemes such as the Challenge 21 scheme or other similar approved schemes.

- 6.5.12 Challenge 21 – The mandatory licence conditions (introduced in October 2010) require relevant premises to hold an age verification policy in relation to the sale or supply of alcohol. The Licensing Authority supports the adoption of the Challenge 21 Scheme (or similar scheme) for licensed premises. Home Office guidance is available to download at [www.beerandpub.com](http://www.beerandpub.com)

A suitable proof of age policy adopted by a licence holder should require the production of a photo-driving licence or passport before sale or entry into the premises. For added security, licence holders are encouraged to consider use of the Proof of Age Standards Scheme (PASS) and accept cards showing the PASS logo.

- 6.5.13 The body responsible for promoting the welfare of children and their protection from harm which is recognised by the Licensing Authority as being competent to advise on such matters is:-

The Lincolnshire Safeguarding Children Board and are contactable through Lincolnshire County Council

## **7. Cumulative Impact**

- 7.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Licensing Authority can take into account. This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises e.g. a pub, restaurant or hotel. The issue of 'need' is therefore a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.
- 7.2 The Licensing Authority may receive representations from either a responsible authority or an other person, (both defined by the Act), that the cumulative impact of new licences is leading to an area becoming saturated with premises of a certain type, making it a focal point for large groups of people to gather, and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases the issue of cumulative impact can be taken into account when considering the individual merits of any application.
- 7.3 The Licensing Authority will not operate a quota of any kind which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be had to those differences and the impact they are likely to have on the local community.
- 7.4 The decision to include a special policy within this policy will be evidentially based. The steps that will be followed in considering whether to adopt a special policy are:

- Identification of concern about crime and disorder or public nuisance
- Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which the problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent
- Consultation with those specified by section 5(3) of the 2003 act as part of the general consultation required in respect of the whole statement of licensing policy
- Subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of the guidance issued under section 182 of the 2003 act in the statement of licensing policy
- Publication of the special policy as part of the statement of licensing policy required by the 2003 act

7.5 Any saturation policy is not absolute, and the circumstances of each application will be considered properly.

7.6 There are a number of other mechanisms for addressing issues of unruly behaviour which occur away from licensed premises. These include:

- planning controls
- positive measures to create a safe and clean environment in partnership with local businesses, transport operators and others
- the provision of CCTV surveillance in urban centres, ample taxi ranks, provision of public conveniences open late at night, and effective street cleaning
- powers to designate parts of the District as places where alcohol may not be consumed publicly
- confiscation of alcohol from adults and children in designated areas
- police enforcement of the general law with regard to disorder and anti-social behaviour, including the issue of fixed-penalty notices
- police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance
- the power of police, other responsible authorities, local businesses or residents to seek a review of the licence or certificate in question
- enforcement action against those selling alcohol to people who are already drunk

7.7 The Licensing Authority may address a number of these issues through the Community Safety Partnership and County Licensing Group in line with the strategic objectives for crime and disorder reduction within the District.

## **8. Nudity and Striptease**

- 8.1 Where the activities specified in an operating schedule include adult entertainment the Licensing Authority, subject to receiving a relevant representation, will take into consideration the increased risk to the promotion of the Licensing Objectives. In particular, the Council will expect the applicant to have given additional thought to the promotion of the Licensing Objectives. (See section 6.5 – Protection of Children).
- 8.2 Whilst it is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature, the Licensing Authority considers that such entertainment would include topless bar staff, striptease, lap, table or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.
- 8.3 This Authority has adopted the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009) so that it can licence sexual entertainment venues in the District.
- 8.4 The Licensing Authority recognises that some premises providing sexual entertainment may not be providing the entertainment at a frequency which requires the premises to be licensed as a sexual entertainment venue. Where such premises are providing (or intending to provide) striptease or any other kind of nudity (for example, pole or lap dancing or topless waitresses) the Licensing Authority, subject to receiving a relevant representation, will take into consideration the increased risk to the promotion of the licensing objectives. In particular, the Licensing Authority encourages applicants to have given additional thought in their operating schedule to the promotion of the licensing objectives.
- 8.5 Where premises licence applications include striptease or any other kind of nudity, the Licensing Authority will (on the receipt of relevant representations) have particular regard to the location of the premises in relation to places of religious worship or instruction, schools, youth clubs, nurseries, children's centres or other premises where significant numbers of children are likely to attend. With regard to location the Licensing Authority will give close scrutiny to those applications, which are in close proximity to the aforementioned premises or outside a major town centre
- 8.6 In order to promote the licensing objectives, where the Licensing Authority grants premises licences that include striptease or any other kind of nudity it will generally (following the receipt of relevant representations) impose conditions relating to the following issues:
- The location within the premises where the activity takes place.
  - The absence of advertising the activities outside the premises.
  - The measures taken to ensure no person under 18 years of age enters the premises whilst adult entertainment is taking place.
  - The measures taken to ensure that the activities inside the premises cannot be seen from outside the premises.
  - The position of the performers' dressing rooms in relation to the area in which they perform.
  - Absence of physical contact between performers and customers.
  - Absence of private booths or private performance areas.

- Means by which potential customers will be made aware of the nature of the performance.
- Stewarding arrangements.

Where a premises has a licence issued under the 2003 Act and a sex entertainment venue licence issued under the Local Government (Miscellaneous Provisions) Act 1982 and there are similar conditions on both licences, the more onerous will apply.

Applicants are reminded that the Licensing Authority will attach a 'no adult entertainment' condition to licences when the application indicates that there will be no such entertainment provided.

## **9. General Matters**

### **9.1 Music and Deregulation**

The Licensing Authority is keen to encourage the performance of music and other entertainment at local venues and welcomes the changes to the 2003 Act which aim to facilitate such local activities. The cumulative effects of the deregulatory changes mean that no licence is required for the following activities:

- Live unamplified music anywhere between 0800-2300hrs
- Live amplified music in licensed premises and workplaces between 0800-2300hrs as long as the audience does not exceed 500.
- Recorded music between 0800-2300hrs in on-licensed premises provided the audience does not exceed 500.
- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.
- Boxing or wrestling entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.

Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:

- any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
- any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
- any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor.

An authorisation for regulated entertainment is always required for entertainment activities that take place before 08.00 or after 23.00, unless exempted under any other provision of the 2003 Act. Applicants should always consult the Licensing Authority if there is any doubt about licensing requirements.

Any Licence conditions imposed for live or recorded music activities will only apply if the activity has:

- more than 500 people present, and/or
- the activities are taking place between 23.00hrs and 08.00hrs.

These conditions will, in effect, be suspended between 08.00hrs and 23.00hrs if a performance of live music or the playing of recorded music takes place before an audience of 500 people or fewer, but will remain on the face of the licence for when these activities may take place under other circumstances.

The Authority also acknowledges that the changes aim to strike a balance between the management of risks and regulatory burdens. The Licensing Authority is also mindful that anyone involved in the organisation or provision of entertainment activities whether or not any such activity is licensable under the 2003 Act – must comply with any applicable duties that may be imposed by other legislation relevant to the event (e.g. in areas such as crime and disorder, fire, health and safety, noise, nuisance and planning). Any such person should take steps to be aware of relevant best practice, and may find responsible authorities a useful source of expert support and advice.

The Licensing Authority can remove the effect of the deregulation following a licence review and make live and recorded music in licensed premises licensable.

The Licensing Authority is aware that the comprehensive changes, whilst designed to reduce red tape, can be a source of confusion. In case of doubt when deciding if an activity is licensable organisers are urged to check with the Authority. Each case will be judged on its own merits. Karaoke is live music.

The deregulation of entertainment licensing as briefly outlined in this section does not remove the requirement for other licences required in the course of the provision of entertainment, for example music and screening licences to protect copyrights and child performance licences.

## 9.2 **Early Morning Restriction Orders (EMROs)**

EMROs can be introduced by the Licensing Authority for any part of the District where it is considered that restricting the sale of alcohol between Midnight and 6am is appropriate to promote the four licensing objectives. It can apply either every day or for certain days, and for an unlimited or time-limited period.

Prior to introducing an EMRO, the Authority must consult directly with the Responsible Authorities, licensed premises and more widely with residents and other parties likely to be affected. Any representations must be made within a 28-day period and be considered by the relevant Licensing Committee; the EMRO itself must be endorsed by the full Council. Once introduced, the EMRO will make it an offence to sell alcohol during the times specified in the order, whether under a premises licence, club premises certificate or TEN (subject to certain specified exceptions).

The Licensing Authority does not, at this time, envisage the need for an EMRO in the District and so any consultation in relation to the possible introduction of an EMRO or decision to implement an EMRO will be undertaken separately.

### **9.3 Late Night Levy (LNL)**

Late night levies allow Licensing Authorities to charge a levy on persons who are licensed to sell alcohol late at night to contribute towards the policing costs generated by the late night economy. Any revenue must be shared between the Licensing Authority and the Police.

A consultation process is required before introducing a LNL. The consultation process will include the Police, licence holders and others. Unlike EMROs a LNL will not apply to TENS.

The legislative provisions for the LNL are not part of the Licensing Act 2003 so this is not, therefore, an issue directly related to this Policy. Like EMRO's there are no current plans to consider introducing a LNL.

### **9.4 Outdoor Furniture and Street Café Licences**

The Licensing Authority will (on the receipt of relevant representations) carefully consider any application for a premises licence where outdoor tables and chairs are to be provided. In particular the Licensing Authority will consider the premises in the context of their location, the hours during which the premises are to be open, the proposed licensable activities and proposals for control of tables and chairs outside the hours of operation. Where appropriate, licence holders should ensure that they have an agreement (street café licence) with Lincolnshire County Council to use the public footway for the provision of tables and chairs.

### **9.5 Smokefree Legislation**

The Licensing Authority is aware that with the introduction of smokefree legislation there are a small number of licensed premises in the District that are unable to provide external smoking areas due to the layout and constraints of the particular licensed establishment. The Licensing Authority is aware that the congregation of patrons on the public highway outside the premise, who have temporarily vacated the premise in order to smoke, may in certain circumstances, lead to public nuisance issues. This is particularly the case where customers remain outside for some considerable period of time and consume alcohol immediately outside the premise as well as smoking. Licence holders should therefore ensure that appropriate measures are in place where appropriate to minimise public nuisance as a result of customers congregating outside the premise. Where applications for review are received the Licensing Authority may consider measures to negate public nuisance in the immediate vicinity of the premise.

### **9.6 Late Night Refreshment Premises**

With regard to premises providing late night refreshment for consumption off the premises, the Licensing Authority will (on the receipt of relevant representations) carefully consider the level of nuisance likely to be caused by way of noise and litter/food refuse being deposited in the vicinity of the premises. Applicants should



consider proposing practical steps in their operating schedule to reduce the likelihood of such problems.

## 9.7 **Designated Premises Supervisor**

The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment. Because of this the Licensing Authority will normally expect that the DPS for a licensed premise will be able to demonstrate that they are in day to day control of the premises and playing an active role in its operation through a regular personal presence.

## 9.8 **Review of Premises Licences and Club Premises Certificates**

A review of premises licences or club premises certificates is a means available to responsible authorities and other persons to examine the operation of the premises when it become problematic and is putting the licensing objectives at risk. The Licensing Authority will consider the full range of powers available to it when an application for review of a licence or certificate is heard. It will however be mindful of the need to prevent the review process being used as an opportunity by Responsible Authorities and Other persons to re-run earlier representations without due cause. The power to review premises licences/certificate represents a crucial protection for the community, especially with regards to the promotion of the four licensing objectives. Reviews of licences/certificates may be triggered at any stage by Responsible Authorities or Other persons due to a matter arising at the licensed premises and relating to one of the four licensing objectives. Reviews will become appropriate following the service of a closure order. It is the Licensing Authority's belief that the promotion of the licensing objectives is best achieved in an atmosphere of mutual co-operation between all stakeholders. Reviews should therefore be mainly reserved for circumstances where early warnings of concerns and the need for improvement have gone unheeded by the management of the licensed premises.

This Authority emphasises the importance of all parties working in partnership to achieve the promotion of licensing objectives; the Authority expects that Responsible Authorities will aim to give licensees early warning of any concerns identified at a premises.

The Licensing Authority is also a Responsible Authority under the Act. When acting as a Responsible Authority the Licensing Authority will, as far as is practicable, operate in accordance with the Home Office Guidance to Licensing Authorities in that there will be clear and identifiable separation of responsibilities. The Licensing Authority is able to initiate a licence review and to make representations about licence applications. The function of initiating a licence review is delegated to the Team Manager, Community Action Team, a post within the Localism Service of the Council. The Licensing Team, which serves the Licensing Authority, is a separate entity. The Team Manager, Community Action Team will initiate any premises reviews or make any relevant representations in relation to licence applications, whilst the Licensing Team will process applications and reviews and offer advice to the Licensing Authority.

The Licensing Authority does not, as a general rule, intend to act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community groups). Such parties can make relevant representations in their own right, and it is reasonable to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the Licensing Authority considers that there are relevant grounds to make a representation then it may choose to act in its capacity as responsible authority.

The Licensing Authority expects that other responsible authorities should intervene where the basis for the intervention falls within their remit, For example, the Police where the representations are based on concerns about crime and disorder. Likewise, officers exercising environmental health functions should make representations where there are concerns about noise nuisance.

The Licensing Authority may choose to make representations in some circumstances, for example to bring together a number of minor unconnected complaints, that in themselves would not result in a representation from another Responsible Authority but when considered together may amount to a public nuisance. Likewise it could act to deal with breaches of licence conditions only witnessed by licensing officers.

Responsible Authorities and Other persons (e.g. local residents, local organisations and West Lindsey District Council Members) can apply for the review of a licence; the Licensing Authority itself acting as responsible authority can initiate the review process. The Authority's role will also be to administrate the process and determine its outcome at a hearing where an evidential basis for the allegations made will need to be submitted.

The Licensing Authority will seek to establish the cause or causes of the concern and remedial action will be targeted at such causes. Any action will be proportionate to the problems involved. The steps the authority may take at a review hearing are:

- Modify (which includes adding deleting or altering) the conditions
- Excluding licensable activities from the licence/certificate
- Remove the designated premises supervisor
- Suspend the licence for a period not exceeding 3 months
- Revoke the licence/certificate
- Take no action

The Sub-Committee may also consider issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. If none of the above steps is considered appropriate the premises licence will remain in the form it was granted. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence, even in the first instance, should seriously be considered.

## 9.9 **Councillors as Other persons**

The definition of “other person”, in relation to the Licensing Act 2003, can include Councillors/Members. When acting as an other person Members will be aware of the role of the elected members in relation to licensing committee hearings and the Model Code of Conduct.

## 9.10 **Town and Parish Councils**

The Licensing Authority recognises that Town and Parish Councils are bodies that are democratically elected to represent the views of their area. They are not Responsible Authorities under the Act but they are able to act as ‘other persons’ in their own right and also to represent the views of other parties when requested to do so.

## 9.11 **Drinking Up Time/Chill Out Period**

It is recommended the hours during which premises are licensed to sell or supply alcohol and the opening hours of a premise are not the same and therefore applicants for premises licensed for the sale of alcohol for consumption on the premises are advised to consider a drinking up/cooling down period during which music volume (especially base beat) may be reduced, customers may consume their drinks, use the toilet facilities and make arrangements for transport from the premises. The Licensing Authority considers that this approach will assist in the gradual dispersal of customers and consequently reduce impact on the surrounding area.

The Licensing Authority will consider imposing a condition on drinking up time in individual cases where relevant representation(s) are made and it is considered that such a condition is appropriate in order to promote the licensing objectives in any individual case.

Applicants and licence holders are reminded that the provision of late night refreshment between the hours of 2300 and 0500 (with certain exceptions) is a licensable activity. As such the provision of late night refreshment must only take place by way of authorisation under the Licensing Act 2003.

## 9.12 **Staff Training**

The Licensing Authority recommends that all persons employed on licensed premises who are engaged in the sale and supply of alcohol be encouraged to attend training programmes to raise their awareness in this area of responsibility, and also in relation to drugs and violence in licensed premises, and that suitable training be extended to all staff involved in managing or supervising the premises. It is also recommended that persons employed on premises providing entertainment for children attend training programmes in basic child protection and safety. All persons employed on licensed premises should be provided with in-house training on basic public safety and the housekeeping arrangements relative to those premises.

### 9.13 **Petrol Stations**

Section 176 of the Act states that any authorisation for the supply of alcohol in relation to a garage will have no effect if the premise is used primarily as a garage. It is for the Licensing Authority to decide in the light of the facts whether or not any premises are used primarily as a garage. The Licensing Authority will establish primary use based on an examination of the intensity of use by customers of the premises and not based on an examination of gross or net turnover.

### 9.14 **Circuses**

Travelling circuses are now exempt from licensing in respect of any entertainment (excluding film shows, boxing or wrestling) which takes there, provided that:

- It takes place within a moveable structure that accommodates the audience and;
- The circus has not been on the same site for more than 28 consecutive days.

This new exemption does not make any change to the existing legislative requirements regarding the use of performing animals. Such matters are the responsibility of DEFRA.

### 9.15 **Excessive Consumption of Alcohol/Binge Drinking/Irresponsible Drinks Promotions**

The Licensing Authority is acutely aware of the link between the supply of excessively discounted liquor or irresponsible drinks promotions and incidents of alcohol related disorder as well as the impact that excessive or binge drinking can have on public health. The Council as Licensing Authority will use the powers contained within the Licensing Act to ensure operators' promotional activities do not undermine the licensing objectives.

Licence holders are reminded that the mandatory licence conditions require the responsible person at the licensed premises to take all reasonable steps to ensure that staff do not carry out irresponsible promotions. Irresponsible promotion means carrying on an activity (defined in the mandatory condition), which carries a significant risk to the licensing objectives. When deciding whether a drinks promotion constitutes an irresponsible promotion the Authority will make specific reference to the guidance issued by the Home Office in relation to drinks promotions and the Authority will give appropriate weight to the Home Office document in its decision making process.

Irresponsible drinks promotions are likely to encourage excessive consumption or binge drinking and result in alcohol fuelled incidents of crime and disorder and implications for public safety, public nuisance and may expose children to risk of harm.

Any premises found to be promoting irresponsible drinks promotions (likely to have a negative effect on the licensing objectives) will be liable for prosecution. Responsible Authorities have stated that where evidence shows that a premises' alcohol drinks promotions are undermining one or more of the licensing objectives, then they may instigate a review of the licence.

When completing operating schedules and in their management of premises, applicants should consider guidance documents on the responsible promotion of alcohol and on binge drinking, such as the British Beer and Pub Association's document – Point of Sales Promotion Standards for the Management of Responsible Drinks Promotions, including happy hours. The Licensing Authority expects applicants to have regard to these issues when completing risk assessments or operating schedules.

Where relevant representations are made or reviews are requested on any individual case, the licensee will be expected to demonstrate to the Licensing Authority that appropriate measures are in place to ensure that promotions do not carry a significant risk to the licensing objectives.

On receipt of relevant representations, or review applications, from a Responsible Authority or Other person, which demonstrate a clear link between sales promotions and levels of crime and disorder or public nuisance on or in the vicinity of the premises, the Licensing Authority will seriously consider the status of the premises licence.

The Director of Public Health may be useful in providing evidence or making representations in respect of matters such as alcohol-related A&E admissions or ambulance service data that might be directly relevant to an application under the act.

#### **9.16 Community Premises and Applications for the Removal of the Requirement for a Designated Premises Supervisor**

The Licensing Authority recognises that community premises may apply for the removal of the requirement for a Designated Premises Supervisor (DPS).

On receipt of an application requesting the removal of the two mandatory conditions relating to the need for a Designated Premises Supervisor, and sales of alcohol being authorised by a personal licence holder, the Licensing Authority will consider replacing those conditions with the following alternative condition:

- Every supply of alcohol under the premises licence must be made or authorised by the management committee

Such applications shall only be granted to 'community premises'. A Community Premises is defined as premises that are or form part of;

- a) a church hall, chapel hall or other similar building, or
- b) a village hall, parish hall, community hall or similar building

When considering whether a premises is a community premises the Licensing Authority will consider each application on its own merits. The main consideration for the Licensing Authority will be how the premises are predominately used. If they are genuinely made available and accessible by a broad range of persons and sectors of the local community, for purposes beneficial to the community as a whole, then the premises is likely to meet the definition. However if there is an aspect of private gain in relation to the operation of the premises then it is unlikely to be viewed as a community premises.

Before granting the dispensation from the requirement for a DPS the Licensing Authority will need to be satisfied that suitable arrangements are in place at the community premises in order to manage the supply of alcohol. Officers acting under delegated powers will undertake the initial scrutiny of applications. If Officers or the Police are not happy with the arrangements (and the applicant still wishes to proceed with the application) then the application will be considered by a Licensing Sub-Committee hearing.

All applications must be copied to the Police for comment and consultation. The Licensing Authority will allow the Police 28 days to make any representations.

The Licensing Authority will consider the management arrangements of the premises when considering applications for the removal of the requirement for a DPS. The management should be by a formal Management or Executive Committee, and the premises licence must be in the name of that committee. The Licensing Authority will need to be satisfied that the arrangements for the management of the premises are sufficient to ensure adequate supervision of the supply of alcohol on the premises. Any arrangements should normally include:

- The contact details of a responsible person or nominated contact to take any appropriate action should issues arise
- A written policy on how children and underage sales of alcohol will be managed. The policy should identify the offences under Sections 145 to 153 inclusive of Licensing Act 2003 in respect of children and alcohol
- An effective hiring agreement when the premises are hired for private events
- Provision of a Refusals Register
- Provision of Staff Training

Community premises should note that the Licensing Authority supports the Challenge 21 Scheme in order to combat the underage sales of alcohol and endorses the **Action with Communities in Rural England (ACRE)** model in relation to community premises hiring agreements.

The Licensing Authority would normally expect any hiring agreement to contain the following:

- The conditions of the premises licence
- The policy on underage sales
- A signed declaration that the hirer has read and understands his responsibilities in leasing the premises

The management board or committee, as premises licence holder, will collectively be responsible for ensuring compliance with the law.

If a representation is received from the Police requesting the imposition of the same mandatory conditions applicable to non-community premises, then the Licensing Authority will consider whether those conditions are appropriate to promote the crime prevention objective before granting or varying the licence. Where a review application is made in respect of a premises licence that includes the 'alternative condition', the Licensing Authority may determine that normal mandatory conditions should apply, and a Designated Premises Supervisor is required.

## 9.17 **New Years Eve and New Years Day**

The Licensing Authority recognises that licensed premises are likely to wish to have extended operating hours over the period of New Year's Eve into New Year's Day. With this in mind applicants are encouraged to make provision for this period in their licence applications rather than perhaps relying on a Temporary Event Notice (TEN). If representations are made concerning the potential for noise disturbance during this limited period, the Licensing Authority's consideration will be balanced against the special nature of this particular time of the year.

## 9.18 **Licence Suspensions - non-payment of annual fee**

Most Premises Licences and Club Premises Certificates attract an annual fee, the payment of which is due on the anniversary of the grant of the licence or certificate. The Act requires a licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due, unless the payment was not made because of an administrative error, or a disputed liability for the fee notified before or at the time of the due date. In either of these cases there is a grace period of 21 days to allow the licensing authority and the licence holder the opportunity to resolve the dispute or error.

A dispute is one relating to liability to pay the fee at all or relating to its amount. In either case, the licence or certificate holder must notify the licensing authority of the dispute on or before the date on which the fee to which it relates becomes due.

There is no definition of "administrative error" in the 2003 Act, but it can include an error on the part of the licensing authority, the licence or certificate holder, or any other person. Therefore, "administrative error" will be given its plain, ordinary meaning. An example might be where post has been misdirected.

The Licensing Authority will notify the licence holder at least 4 weeks before the due date. A failure to pay the invoice by the due date will result in a warning letter giving 10 days' notice of the licence suspension. The Responsible Authorities, including the Police, will be informed of any suspensions. Any non-compliance with a suspension notice may result in prosecution and also revocation of the licence.

The licence will only be reinstated when the outstanding fee has been paid. The debt is owed by the licence holder who held the licence at the time it was suspended. However, it is likely that any new holder will make the payment. The suspension process only applies to unpaid annual fees due after 25 April 2012. Where more than one payment year has been missed the outstanding fee in relation to each year will be required to reinstate the licence.

The Licensing Authority urges licence holders to consider surrendering licences in cases where the licence is no longer active. This will avoid the accrual of annual fees.

## **10. Conditions of Licence**

When considering conditions the Licensing Authority will look to the relevant responsible authorities to assist and advise on the appropriate measures to be taken.

The Licensing Authority does not propose to implement standard conditions of licence. It may draw upon the model pool of conditions issued by the Home Office in Annexe D of the Guidance issued under Section 182 of the 2003 Act and attach conditions as appropriate given the circumstances of each individual case.

The Licensing Authority is aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a substantial nature.

The Licensing Authority is mindful that, additionally, any conditions which it attaches should be:

- Appropriate
- Proportionate
- Enforceable
- Precise, unequivocal and unambiguous
- Not duplicated by other statutory provisions
- Expressed in plain language capable of being understood by those expected to comply with them.

## **11. Enforcement**

Where relevant the Licensing Authority will establish protocols with the Police and other enforcing authorities. These protocols will provide for the targeting of agreed problem and high-risk premises while applying a lighter touch approach in respect of low-risk premises.

In general, action will only be taken in accordance with the Council's own enforcement policy, which reflects the agreed principles which are consistent with the Enforcement Concordat. To this end the key principles of targeting consistency, transparency and proportionality will be maintained.

## **12. Review of Policy**

The Policy Statement will remain in existence for a period of 5 years and will be subject to review and further consultation before 7 January 2021. However, following consultation, the Council may make revisions to it at such times as it considers appropriate.



### **13. Exchange of Information**

The Authority may from time to time exercise its powers under Section 115 of the Crime and Disorder Act 1998 to exchange data and information with the Police and other partners to fulfil its statutory objective of reducing crime in the area.

### **14. Advice and Guidance**

Further guidance information and advice on the licensing process can be obtained by contacting the District Councils licensing section at:

The Licensing Section  
West Lindsey District Council  
Guildhall  
Marshalls Yard  
GAINSBOROUGH  
Lincolnshire DN21 2NA

Tel: 01427 676676 Email: [licensing.2003@west-lindsey.gov.uk](mailto:licensing.2003@west-lindsey.gov.uk)

This policy has been prepared having undertaken an equality impact assessment.

### **15. Delegation of functions**

- 15.1 The Licensing Authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established Sub-Committees to deal with them.

Further, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications including, for example, those licences and certificates where no representations have been made, has been delegated to Officers.

The table shown at Appendix I of this Policy sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committee and Officers. This form of delegation is without prejudice to Officers referring an application to a Sub-Committee, or to the Full Committee, if considered appropriate in the circumstances of any particular case.

The function of the Licensing Authority when acting as a Responsible Authority will be undertaken by The Team Manager of the Community Action Team, a post within the Localism Service of the Council.

## **APPENDIX 1**

### **Delegation of Functions**

The delegation of functions in relation to licensing matters are as follows:

<b>Matter to be dealt with</b>	<b>Licensing Committee</b>	<b>Sub Committee</b>	<b>Chief Operating Officer</b>
Application for personal licence		If a police objection	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application for to vary premises licence/club premises certificate		If a relevant representation is made	If no relevant representation is made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc			All cases (in consultation with either Chair or Vice Chair of Licensing Committee)
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	

Determination of a police or environmental protection objection to a temporary event notice		All cases	
Acknowledgement of a Temporary Event Notice			All cases
Determination as to whether or not a premises is used primarily as a garage (Section 176 of the 2003 Act)		All other cases	Where Officers are of the opinion that the premises meet the requirements of Section 176.
Determination of an application for the minor variation of a premises licence.			All Cases
Application by a Community Premises for the disapplication from the requirement for a DPS.		All other cases	Where Officers are of the opinion that the premises meet the required standard and there have been no objections by Lincolnshire Police.
Decision to add existing premises licence conditions to TEN where objections made, provided all parties agree			All cases

(This summary is for information purposes only and does not form part of the Statement of Policy. The delegations may be amended at any time without further consultation).

The Licensing Sub-Committee shall consist of a minimum of three Members.

## **APPENDIX II**

### **Definitions and Glossary**

#### **Premises Licence**

A Premises Licence / Club Premises Certificate is required in respect of any premises that are to be used for one or more of the licensable activities. These include:

- (a) The sale of alcohol by retail;
- (b) The supply of alcohol by or on behalf of a club;
- (c) The provision of Regulated Entertainment;
- (d) The provision of late night refreshment.

#### **Regulated Entertainment**

Regulated Entertainment is entertainment that is provided to members of the public, to members of a qualifying club and is an event held with a view to profit. This includes:

- a) The performance of a play
- b) The exhibition of a film
- c) The holding of an indoor sporting event
- d) Boxing or wrestling entertainment
- e) The performance of live music
- f) The playing of recorded music
- g) The performance of dance
- h) The provision of late night refreshment.
- i) Anything similar to live music, recorded music or dance.

#### **Personal Licence**

Personal Licences authorise individuals to sell or supply alcohol, or authorise the sale or supply of alcohol for consumption on or off the premises for which a Premises Licence is in force for the carrying-on of that activity.

The Deregulation Act 2015 abolished the requirement for Personal Licences to be renewed, accordingly from 1 April 2015 they will be valid indefinitely.

#### **Major Variation (to Premises Licence)**

Such as, for example, in connection with extending the hours or days of trading, or making major structural alterations.

#### **Minor Variation (to Premises Licence)**

This process can be used to make minor variations to existing Premises Licences and Club Premises Certificates issued under the Licensing Act 2003 and can include:

- Minor changes to the structure or layout of a premises.
- Small adjustments to licensing hours.
- Conditions: removal of irrelevant or unenforceable conditions.

- Licensable activities: adding certain licensable activities, including live music

### Community Premises

The legislation defines these as premises that are or form part of:

- a church hall, chapel hall or other similar building.
- a village hall, parish hall community hall or other similar building.

### Cumulative Impact

Means the potential impact on the promotion of the Licensing Objectives of a significant number of premises concentrated in one area. For example, the potential impact on crime and disorder or public nuisance on a town of a large concentration of licensed premises in that part of the West Lindsey District.

### Responsible Authority

The term 'Responsible Authority' includes public bodies that must be fully notified of applications and that are entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a licence. For all premises, these include the Chief Officer of Police; the local Fire Authority; the Licensing Authority, the local enforcement agency for Health and Safety at Work; West Lindsey District Council's Environmental Protection and Planning Units and the Lincolnshire County Council's Child Protection Committee/Social Services Department and the Director of Public Health..

### Officer (of the Council)

The term, when used in this Policy document, refers to an employee of West Lindsey District Council operating under the delegated authority of the Council to undertake it's regulatory functions, including that of licensing.

BRDO – Better Regulation Delivery Office

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