

POLICY TITLE

Licensing Policy Statement (Licensing Act 2003 only)

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REPLACES POLICY

Licensing Policy Statement (Licensing Act 2003)

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POLICY AIM

The aim of this policy is to make sure that all parties involved in the licensing of activities covered by the Licensing Act 2003 understand the policy of the Council in relation to the four licensing objectives stated in the Act, namely:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

INTRODUCTION

South Holland District Council is situated in the county of Lincolnshire, which contains 7 district councils in total. The council area has a population of 84,100 making it the second smallest district in the county in terms of population. South Holland District covers a geographical area of 74,238 hectares and is situated in the south eastern corner of Lincolnshire also boarding the counties of Cambridgeshire and Norfolk. The District is mainly rural but comprises of a total of 47 towns and villages including the main town of Spalding.

South Holland District Council (herein 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 to club members
- provision of 'regulated entertainment' – to the public, to club members and/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
- any playing of recorded music
- a performance of dance
- provision of facilities for making music
- provision of facilities for dancing
- provision of late night refreshment (between 11.00pm and 05.00am)

This policy is intended to provide clarity to applicants, 'interested parties' and 'responsible authorities' on how this Licensing Authority will determine applications under the Act.

Guidance is made available to assist applicants *and can be found on the Council's website www.sholland.gov.uk*; however the Guidance does not form part of this Policy.

The Licensing Authority has a duty under the Act to carry out its functions with a view to promoting the 4 licensing objectives. These are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

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 a universal solution for solving all problems within the community. The Licensing Authority will therefore continue to work in partnership with its neighbouring authorities, the responsible authorities, local businesses and local people towards the promotion of the objectives as outlined.

In preparing this Policy Statement the Licensing Authority has consulted with the following:

- the police
- the fire service
- *the Planning authority*
- *Health and Safety Authorities*
- *Environmental Health and Pollution*
- *Trading Standards*
- *Lincolnshire Child Protection Board*
- *Navigation Authorities*
- representatives of licence *and club premises certificate holders*
- local businesses and their representatives
- local residents and their representatives

- the body responsible for child protection
- other relevant bodies.

Appropriate weight has been given to the views of all those consulted prior to this policy statement taking effect.

The purpose of licensing is to control licensable activities and authorisations within the terms of the Act. Conditions are likely to be attached to licenses and the various other permissions which will focus on matters falling within the control of individual licence holders.

These conditions will relate to the premises and other places being used for licensable activities and the impact of those activities in the vicinity. 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.

Vicinity has not been given a defined perimeter and may vary in distance away from the premises dependant on the nature of the area. Certain considerations may be taken into account in assessing “in the vicinity”. These may include 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; and
- the frequency of the activity

Where the responsible authorities and interested 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 conditions unless the applicant agrees to certain conditions being applied to the licence where there have been relevant representations. Where no agreement is reached then the matter will be heard by the licensing panel. Conditions will then only be applied where there are relevant representations and the panel are satisfied such conditions are necessary to promote the licensing objectives arising out of the consideration of the representations.

In order to minimise problems and the necessity for hearings, it would be sensible for applicants and clubs to consult with responsible authorities when operating schedules are being prepared. This would allow for proper liaison before representations prove necessary.

In undertaking its licensing function, the licensing authority is also bound by other legislation, including, but not exclusively:

- Section 17 of the Crime and Disorder Act 1998 – requiring a local Authority to do all that it reasonably can to prevent crime and disorder in its locality and to consider crime and disorder in its decision making process.
- The European Convention on Human Rights, which is given effect by the Human Rights Act 1998 which places a duty on public authorities to protect the rights of individuals in a variety of circumstances.
- The Health and Safety at Work etc. Act 1974 and subsidiary regulations
- Environmental Protection Act 1990
- The Food Safety Act 1990, subsidiary regulations and EC Food hygiene regulations
- The Anti-social Behaviour Act 2003
- Fire Safety Legislation
- *The Legislative and Regulatory Reform Act 2006*
- *The Regulatory Enforcement and Sanctions Act 2008*
- *The Provision of Services Regulations 2009*

The Council is committed to the implementation and application of this policy in such a manner as to ensure that no applicant or interested party is treated less favourably on the grounds of sex, marital status, race, nationality, ethnic or national origin, colour, disability or age, nor is disadvantaged by the application of a rule, condition or requirement, which has a discriminatory effect which cannot be justified either in licensing terms or as a requirement of law.

The Licensing Authority will also seek to discharge its responsibilities identified by other Government and local strategies, so far as they impact on the objectives of the Licensing Act. Some examples of these strategies and policies are:

- Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance
- Safer clubbing
- LACORS/TSI Code of Best Practice on Test Purchasing

- Alcohol Harm Reduction Strategy for England
- Government/ Local Crime and Disorder Reduction Partnership Initiatives
- Children and Young People Plan
- Policies from Lincolnshire DAAT
- *Enforcement Concordat/ Regulators Compliance Code*

It should however be made clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in the district. The Licensing Authority will also consider the role of other statutory legislation.

INTEGRATED STRATEGIES AND THE AVOIDANCE OF DUPLICATION

It is the Council's mission 'to develop and promote South Holland as a thriving, living and working rural community'.

By consulting widely prior to this policy statement being published the Council has endeavored to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.

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:

- planning considerations which might affect licensed premises
- crime and disorder
- any other reports considered appropriate to the licensing function.

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. However this will not rule out valid representations made by the local planning authority as a responsible authority.

Applicants are strongly encouraged to consider making any necessary applications and enquiries for planning permission before or at the same time as they make an application for a premises licence or club premises certificate.

All applications relating to premises licences or club premises certificates will normally only be considered where the statutory qualifying conditions are met

In reaching a decision of whether or not to grant a licence, certificate or provisional statement, the Licensing Authority may take account of relevant representations from responsible authorities or interested parties and of any non-compliance with other statutory requirements brought to its attention in a relevant representation, which may demonstrate that the premises are unsuitable for the activities proposed or that the management of the premises is not adequate to prevent risks to the licensing objectives.

In order to avoid duplication with existing legislation and other statutory regimes, the Licensing Authority will, as far as possible, not attach conditions of licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

THE LICENSING PROCESS

The powers of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee (Licensing Panel) or, by one or more officers acting under delegated authority in accordance with the provisions of the Act. Delegated powers shall be in accordance with the table at Appendix 1.

Each licence application 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. Applicants are strongly encouraged to liaise with all Responsible Authorities, with respect to their Operating Schedule prior to submitting their application.

Applicants will be required to submit with their application for a premises licence or club premises certificate, or a variation to an existing premises licence or club premises 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 his or her personal licence number

- where the licensable activities include the supply 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, and
- all relevant documentation necessary to satisfy the four licensing objectives.

Applications will be determined having regard to:

- this Policy
- the Licensing Act 2003 (the Act) and subordinate legislation
- guidance issued by the Department for Culture, Media and Sport (DCMS) (the Guidance)
- any relevant representations received (providing they are not determined to be frivolous or vexatious as defined in the Act and associated guidance).

Whilst representations regarding previous history may be valid appropriate weight will be given to the length of time elapsed between the events referred to and the application date.

If an application for a new or a variation to a premises licence, or club premises certificate or an application for a provisional statement has been made lawfully and there have been no representations from responsible authorities of interested parties, the licensing authority will grant the application subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions.

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

In an effort to avoid unnecessary hearings, applicants are strongly advised to prepare risk assessments and from these formulate any steps they consider necessary 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. In respect of minor variations applicants are strongly advised to contact the appropriate responsible authorities before formally submitting their application in order to avoid unnecessary expense.

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

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 prior agreement of the Licensing Authority.

If relevant representations have been made, applications will be determined having regard to:

- *This Policy*
- *The Licensing Act 2003 and subordinate legislation*
- *Guidance issued by the Department of Culture, Media and Sport (DCMS) and the Home Office*
- *The content of any 'relevant representations' received*

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. In its capacity as Licensing Authority, it will encourage the licensing of public open spaces for the greater cultural good of the community, including the purposes of circus entertainment and street performers.

The Licensing Authority acknowledges the advice received from the Department for Culture, Media and Sport that the views of vocal minorities should not be allowed to predominate over the general interest of the community.

Temporary Events Notices (TENS)

The Licensing Authority encourages any applicant applying for a Temporary Event Notice to obtain the permission of the person (s) in control of premises to ensure they do not unknowingly exceed limits imposed by the Act on the numbers of temporary events that can be notified.

Organisers of Temporary Events are required to give Notice to the Licensing Authority no later than 10 clear working days before the day on which the event period begins. The 10 day period does not include the day the Temporary Event Notice was received by the Licensing Authority, the day of the event itself, Saturdays and Sundays or Bank Holidays. Organisers are encouraged to submit their notifications to the Licensing Authority and Police as soon as is reasonably practical in order for the Police to consider whether or not there are any concerns and where there are concerns, to enable all parties to take the necessary steps to resolve them. Where less than 10 clear working days notice is given, the

notice WILL NOT be authorized and the event will be illegal. Provision of licensable activities except in accordance with the Licensing Act is an offence.

The Licensing Authority recommends that for normal temporary events that at least 20 working days and no more than 40 working days notice be given. For events that may attract larger numbers of people or may have an impact on traffic or road management, earlier contact with responsible authorities, the Highway Authority (and possibly the Lincolnshire Event Safety Advisory Group) is advisable.

It is strongly recommended that advice on fire safety be sought from Lincolnshire Fire and Rescue.

Event organizers are reminded of Police powers to close down events without notice, on the grounds of disorder, the likelihood of disorder, or public nuisance. The Licensing Authority therefore expects organizers to be ware of their responsibilities under the licensing laws.

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, about which the Licensing Authority will offer advice and assistance. If necessary, the Licensing Authority will act as a co-ordinating body for preliminary input from the responsible authorities prior to formal notification about the event. *The Licensing Authority would advise applicants to consult with those Authorities concerned with public safety and in appropriate cases be required to formulate a safety plan with Lincolnshire Event Safety Advisory Group (LESAG). LESAG is not a responsible authority but is made up from representatives from bodies concerned with public safety; some of which are responsible authorities. Applicants are advised that the planning and consultation with LESAG should commence at an early stage on particularly large events promoters/organisers should commence consultation at least a year in advance of the event.*

It is also advisable for applicants to read the guidance for large scale events called HSG195, The Event Safety Guide (for health, safety and welfare at music and similar events) known as the purple guide.

Personal Licences

Applicants for a Personal Licence are expected to make their application in accordance with the Act and any regulations made thereunder. Failure to meet this requirement may result in the application being returned.

Where an application for a personal licence reveals a disclosable conviction for a relevant offence under the Act, the Licensing Authority recommends that the Police carry out full and proper enquiries (including interviewing applicants as necessary) so as to provide evidence as to the reasons the crime prevention objective will be undermined by the grant of the licence before exercising its discretion to make an objection.

LICENSING HOURS

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.

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, which puts greater pressure on town centres than is necessary and can lead to increased disorder.

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 or are in an area which is known to be a focus of disorder and disturbance then, subject to receiving valid, relevant representations, a limitation on licensing hours may be appropriate. However each application will be considered on its own merits.

The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. When issuing a licence or certificate, 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 when representations have been received.

The Licensing Authority recommends applicants applying for extended hours to cater for non-specified dates, such as international sporting events, to make provision on their operating schedules to address the licensing objectives for these specific times applied for. For example a different set of operating conditions may apply during these extended hours.

LICENSING OBJECTIVES

Each of the four licensing objectives is of equal importance. The Licensing Authority considers the effective and responsible management of the premises and the 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 it is recommended these elements be specifically considered and addressed within an applicant's operating schedule. The Community Safety Partnership Codes of Practice for the South Lincolnshire Night time Economy may be of some assistance in ensuring that premises are well managed and run.

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.

Although not a requirement under the legislation, applicants are advised to copy any risk assessments undertaken to the responsible authorities in order that they can assess the suitability of the operating schedule. This may assist in reducing the number of representations and subsequent hearings.

Prevention of Crime and Disorder

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 licence holders take measures to control the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises.

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.

The Licensing Authority will expect applicants to include in their operating schedules, the steps they propose to take to detect, reduce, and 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. Door supervision will be one of the control measures that can be considered by applicants, who will need to consider the location and type of their premises when considering this option. For example, there may be a greater need to provide door supervision in town centre public houses than at village premises. Applicants should seek advice from the Police on control measures under this licensing objective. It is recommended that applicants discuss the measures they intend to take with the Police prior to making the application to try and reduce representations.

Examples of measures the Licensing Authority may expect applicants to consider and address in their operating schedule include:

- Participation in a scheme to reduce crime and disorder eg membership of Pubwatch
- Physical security features e.g. use of polycarbonate, toughened or plastic drinking glasses
- *Procedure for risk assessment of alcohol promotions to ensure that they do not promote irresponsible drinking or potentially breach the mandatory condition on irresponsible drinks promotions*
- The use and numbers of SIA licensed door supervisors
- Amount of seating to be provided to reduce the risk of high volume vertical drinking
- Training given to staff in crime prevention and drug awareness measures
- Training given to staff to prevent the sale of alcohol to those who are under age or appearing to be drunk
- *Adoption of the challenge 21 or challenge 25 policy*
- Measures agreed with the Police to reduce crime and disorder
- Measures to prevent the use or supply of illegal drugs, including the installation and use of drug safes
- Search Procedures
- Provision of CCTV in and around the premises
- Formulation of a dispersal policy
- Measures to prevent glasses and bottles being taken away from the licensed premises.

Public Safety

The Licensing Authority will carry out its licensing functions with a view to promoting public safety and will seek to ensure that licence holders take measures to protect the safety of both performers and persons attending licensable activities. The risk to public safety will vary according to the type of premises and the activities carried out.

The Licensing Authority will expect applicants to include in their operating schedules the steps they propose to take to promote public safety.

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. Depending on the individual style and characteristics of the premises and/or events the following issues might be of relevance:

- *suggested occupancy figures (including staff and performers)*
- *the use of equipment and effects*
- *levels of door supervision*
- *measures to prevent the supply and use of illegal drugs*
- *physical security features e.g. the use of toughened drinking glasses or plastic containers*
- *fire safety training and evacuation procedures*
- *controls on the removal of glasses, bottles and other drinking containers from licensed premises where alcohol is consumed*
- *control measures in place, such as the provision of seating and tables, to reduce high volume vertical drinking*
- *provision of CCTV*

The occupancy capacity for premises, and events as appropriate, is a fundamental factor in the achievement of the four licensing objectives (except in respect of premises licensed for the consumption of food and /or alcohol off the premises). The Licensing Authority recommends the issue of occupancy capacity (including staff and performers) to be considered and addressed within the premises' fire assessment.

The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include but are not limited to:

- *The nature of the premises or event,*
- *The nature of the licensable activities being provided,*
- *The provision or removal of such items as temporary structures, such as a stage, or furniture,*
- *The number of staff available to supervise customers both ordinarily and in the event of an emergency,*
- *The customer profile,*
- *Availability of suitable and sufficient sanitary accommodation,*
- *Nature and provision of facilities for ventilation.*

The agreement to a capacity for premises or events should not be interpreted as a requirement in all cases to also provide permanent monitoring arrangements such as door staff, attendance clickers or maintenance of attendance records. The Licensing Authority recognises that the person in charge at the premises can

often readily assess the capacity of the premises without resort to such measures. However, where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant is advised to detail the additional arrangements that will be put in place to ensure the capacity of the premises is not exceeded.

Prevention of Public Nuisance

Licensed premises have a significant potential to impact adversely upon communities through public nuisance arising as a result of their activities. The Licensing Authority's aim is to maintain and protect the amenity of residents and other businesses from the potential impact of licensed premises by promoting the need to prevent public nuisance, whilst at the same time recognising the valuable cultural, social and economic importance of such premises.

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 the area affected.

The Licensing Authority will expect applicants to include in their operating schedules, the steps they propose to take to prevent public nuisance. These steps will vary from premises to premises and according to the type of licensable activities that are to be carried on.

When addressing public nuisance the applicant should initially identify any particular issues (having regard to their particular 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 applicants operating schedule.

These issues may include:

- The location of the premises and the proximity to residential and other noise sensitive premises such as hospitals, hospices, schools and places of worship
- The hours of opening, particularly where this will include times between 23.00 hours and 07.00 hours
- 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 carried on inside or outside the premises; whilst consumption of alcohol is not a licensable activity, the Licensing Authority will expect consumption areas to be shown on the application and a description of the measures to be taken to prevent public nuisance
- The design and layout of the premises and in particular the presence of noise limiting and/or monitoring features
- The occupancy capacity of the premises

- Any 'wind-down period' between the end of licensable activities and the closure of the premises
- Last admission times
- *The availability of public transport*
- *The availability of parking and access to such parking*

The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, depending upon the particular type of premises and the activities to be carried on:

- Effective and responsible management of the premises
- Appropriate instruction, training and supervision of those employed or engaged, to prevent incidents of public nuisance e.g. to ensure that customers leave quietly
- Control of operating hours for all or part of the premises (e.g. garden areas), including restrictions on the time of deliveries where necessary to control public nuisance
- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics)
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limiting devices
- Management of people, including staff and customers entering and leaving the premises
- The effective management of vehicular traffic entering and leaving the site, including vehicle horns, loud music from vehicle radio's etc
- Liaison with public transport providers
- Care in the siting of external lighting including security lighting
- Management arrangements for the collection and proper disposal of litter resulting from premises, including that generated by customers
- Effective ventilation systems to prevent nuisance from odour emissions
- Undertaking noise impact assessments
- Regular monitoring of the perimeter by staff to ensure that noise emanating from the premises is not likely to cause public nuisance
- Provision of CCTV
- The need for temporary traffic regulation orders

- Signage requiring customers to leave the premises in a quiet and orderly manner.

The Protection of Children from Harm

The Licensing Authority recognises the great variety of premises for which licences may be sought. These include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls or centres and schools. Except where prohibited by law, access by children to all types of premises will not be limited in any way unless it is considered necessary to do so to protect them from harm.

When deciding whether to limit access to children or not, the Licensing Authority will judge each application on its own individual merits.

After receiving relevant representations on limiting access to children, the Licensing Authority, when deciding whether to limit access to children or not, will judge each application on its own individual merits. Examples, which may give rise to concern in respect of children and would likely lead to a refusal of permitting access to children under 18, would include premises-

- where entertainment or services of an adult or sexual nature are provided
- where there has been a conviction of a members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
- with a known association (having been provided with evidence) 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.

The Act makes it an offence for children under 16, who are not accompanied by an adult, to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on those premises under the terms of a premises licence, club premises certificate, or where that activity is carried on in accordance with a temporary event notice. In addition it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on premises holding a premises licence, club premises certificate or temporary event notice. The Licensing Authority will not knowingly support applications which would permit these offences to occur and may impose conditions in specific cases to ensure the protection of children from harm.

As well as being a criminal offence, the sale of alcohol to children and young persons can lead to harm to them and can lead to public nuisance and crime and disorder. The Licensing Authority will therefore expect there to be adequate controls in place at licensed premises to prevent the sale of alcohol to children and young persons, except where such sales are permitted in law.

The Licensing Authority recognises that Lincolnshire County Council Trading Standards Service, as part of its responsibilities and duties under legislation controlling the sale of age restricted products including alcohol, provides advice and guidance to the licensed trade 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 in response to complaints and information received to check compliance with the law.

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.

Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, then subject to receiving relevant representation, conditions may be imposed requiring the presence of an appropriate number of adult staff to ensure public safety and their protection from harm.

The onus will be on the premises licence holder to ensure that staff members are suitable to carry out the supervision of children, which may include a criminal record disclosure from the Criminal Records Bureau.

It is recommended that licence holders ensure that systems are in place to ensure proof of age where necessary to prevent children and young persons being served alcohol, or as applicable licensed premises under certain circumstances as required by law, or through their own policy. It is suggested that the following means should be considered for assessing proof of age:

- passport
- photo-card driving licence issued by an EU country
- an accredited proof of age scheme identity card bearing the PASS (Proof of Age Standards Scheme) Logo
- an official ID card issued by HM Forces or other EU Country Forces, bearing the photograph and date of birth of the bearer

The options available for limiting access by children would include:

- limitations on the hours when children may be present
- limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place and to ensure such activities cannot be viewed by children
- 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 from the premises when any licensable activities are taking place

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 licensee or club.

Where licence holders wish to employ children they should ensure that the legislation regarding this matter is complied with and any necessary permits to work have been obtained. Further information on the requirements of this legislation are available from the Lincolnshire Safeguarding Children Board.

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 and compliance with the Retail Alert Bulletin.

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. Applicants should 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 in response to complaints and information received to check compliance with the law.

Mandatory conditions require the adoption of a proof of age scheme. The Licensing Authority commends a scheme such as the British Retail Consortium's Proof of Age Standards Scheme (PASS), the "Challenge 21" scheme, "Challenge 25" scheme or any locally or nationally approved scheme. All staff engaged in the sale or supply of alcohol should be fully trained in the application of the policy adopted.

The body responsible for the interests of children is:

The Lincolnshire Safeguarding Children's Board which can be contacted through Lincolnshire County Council.

If an applicant intends to provide any entertainment of an adult nature then the Licensing Authority will expect a detailed description of those activities and the measures the applicant intends to take to protect children from harm. Please see section headed 'Nudity and Striptease'.

For the avoidance of doubt, the lists of examples given of measures applicants may take to promote the licensing objectives are not mandatory and will not be applied in all cases. These examples are given to assist applicants in deciding the measures they may take.

CUMULATIVE IMPACT

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, for example 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.

The Licensing Authority may receive representations from either a responsible authority or an interested party, (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.

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.

The decision to include a special policy relating to cumulative impact, within this policy, will be evidentially based. The steps that will be followed in considering whether to include such 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 customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point where 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 by the DCMS under section 182 of the Act within this policy
- publication of the special policy as part of this policy.

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

- planning controls
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority
- the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
- Police enforcement of the general law concerning disorder and anti-social behavior, including the issuing of fixed penalty notices
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- 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 the Police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

- *Powers for the Council to designate parts of the local authority area as places where alcohol may not be consumed publicly*
- *Directions to leave under section 27 of the violent crime reduction act 2006*
- *The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk*

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

LIVE MUSIC EVENTS IN “SMALL PREMISES”

NUDITY AND STRIPTease

The Act outlines at Section 177 certain exemptions relating to certain “small premises”, that is where the capacity limit of the premises is less than 200 persons.

In the context of Section 177 exemptions, where an applicant wishes to take advantage of the special provisions set out in this section, the premises’ fire risk assessment should take account of the occupancy calculations conducted by the applicant. This calculation must be submitted to the Fire Authority for confirmation of the “permitted capacity”.

The Policing and Crime Act 2009 has amended the Licensing Act 2003 and the Local Government (Miscellaneous Provisions) Act 1982 and introduced a new licence, the sexual entertainment venue licence which permits entertainment such as lap dancing, striptease and similar entertainment termed relevant entertainment.

If an operator wishes to provide entertainment covered by the amended 1982 Act then a licence under that Act will have to be obtained. If the venue is exempted from requiring such a licence under the amended 1982 Act (due to the infrequent nature of providing the entertainment) an authority to provide such entertainment shall be required under the 2003 Act.

Additionally, any regulated entertainment not covered by the definition of relevant entertainment under the 1992 Act will need an authorization under the 2003 Act. As most venues providing relevant entertainment under the 1982 Act would also provide for the sale or supply of alcohol; both an authorization under the 2003 Act and a licence under the 1982 Act will be required.

At the time of this policy, the Council has not adopted the new provisions under the 1982 Act.

CONDITIONS OF LICENCE

The Licensing Authority does not propose to implement standard conditions on the licenses across the board. It may instead draw upon the model pool of conditions issued by the DCMS in Annex D of the Guidance issued under Section 182 of the Act (viewable through the DCMS website www.culture.gov.uk) and attach conditions as appropriate given the circumstances of each individual case.

Where the responsible authorities and interested parties do not raise any representations about an application made to the Licensing Authority, it is the duty of the Licensing 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.

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

Where an applicant considers that the representations may be likely or probable, it is recommended that the applicant discuss the proposal with the Licensing Authority and those from whom they think representations are likely to be made prior to submitting their application.

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 and will take account of this when imposing conditions.

ADVICE AND GUIDANCE

For further guidance and advice on the application process, please contact the Licensing section at South Holland District Council, Priory Road , Spalding, Lincs. PE11 2XE.

ENFORCEMENT

The Licensing Authority intends to establish protocols with the Police and other enforcing authorities. These protocols will provide for the targeting of agreed problem and high-risk premises, whilst providing a lighter touch in respect of low risk premises which are well run.

An Enforcement Protocol has been established by the Licensing Authority in order to facilitate co-operation and co-ordination between enforcement agencies in pursuance of the Licensing Act 2003. The protocol will underpin the mutual operational support required to tackle licensing issues and seek to detail the role of each agency in promoting the licensing objectives.

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.

REVIEW

The Policy Statement will remain in existence for a maximum period of 3 years and will be subject to review and further consultation before any new policy comes into force; however the Policy will be subject to continuous review, although the Council will only make revisions following appropriate consultation.

CONSULTATION

Consultation has been carried out with the following, in line with the Consultation Strategy published by the Council in August 2004, in respect of this policy:

- the police
- the fire service
- representatives of licence holders
- local businesses and their representatives
- local residents and their representatives

as required by the Licensing Act 2003, as well as:

- Other bodies including other South Holland District Council Departments and Elected Members, Lincolnshire County Council, Licensing Justices, relevant trade associations, Parish Councils, licensing solicitors

When this policy is reviewed after three years as required by the Act, or at any other time, consultation will be carried out in a similar manner.

MONITORING

Head of Community and Neighbourhood Services, Neighbourhood Services Manager, Team Leader (Food Safety and Licensing)

POLICY APPROVAL

Committee of the Licensing Authority

RELATED POLICIES AND STRATEGIES

- Crime and Disorder Policy
- Taxi Licensing Policy (Draft at time of writing)
- Lincolnshire County Council Transport Policy

APPENDIX I

Delegation of Functions

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

Matter to be dealt with	Licensing Committee	Sub Committee / Licensing Panel	Officers
Application for personal licence		If a police objection	If no objection is made
Application for personal licence with unspent convictions		All Cases	
Application for premises licence / club premises certificate		If a relevant representation is made	If no relevant representation is made
Application for provisional statement		If a relevant representation is made	If no relevant representation is made
Application 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
Application for interim authorities		If a police objection	All other cases
Application to review premises licence / club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	