

If you would like any further information or have any special requirements in respect of this Meeting, please contact Lynda Eastwood, Democratic Services Officer on (01507) 613421

Tel: (01507) 601111 Ext. 613421

Email: Lynda.eastwood@e-lindsey.gov.uk

Website: www.e-lindsey.gov.uk

Date: Friday, 8 September 2023

Dear Councillor,

Licensing Act 2003 Committee

You are invited to attend a Meeting of the **Licensing Act 2003 Committee** to be held at **the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH**, on **Monday, 18th September, 2023** at the rising of the **General Licensing Committee**, for the transaction of the business set out in the attached Agenda.

Yours sincerely



Robert Barlow
Chief Executive

Conservative

Councillors Neil Jones (Vice-Chairman), Richard Avison, Stephen Evans, Carl Macey and Terry Taylor

District Independent/Liberal Democrat

Councillor Sandra Campbell-Wardman (Chairman)

Labour

Councillor Graham Cullen

Skegness Urban District Society (SUDS)

Councillor Billy Brookes

East Lindsey Independent Group

Councillors George Horton, Darren Hobson and Andrew Leonard

LICENSING ACT 2003 COMMITTEE AGENDA
Monday, 18 September 2023

Item	Subject	Page No.
1.	APOLOGIES FOR ABSENCE:	
2.	DISCLOSURE OF INTERESTS (IF ANY):	
3.	REVIEW OF LICENSING ACT 2003 POLICY: Report of the Group Manager Public Protection.	1 - 22



REPORT TO:	LICENSING ACT 2003 COMMITTEE
DATE:	18 SEPTEMBER 2023
SUBJECT:	REVIEW OF LICENSING ACT 2003 POLICY
PURPOSE:	To consider proposed amendments to the Authority's Licensing Policy (alcohol, regulated entertainment and late-night refreshment) prior to the submission of the amendments to the Council for adoption.
KEY DECISION:	YES.
REPORT OF:	Group Manager Public Protection.
REPORT AUTHOR:	Mr Adrian Twiddy (Principal Licensing Officer).
WARD(S) AFFECTED:	All Wards.
EXEMPT REPORT?	NO

SUMMARY

To consider proposed amendments to the Authority's Licensing Policy (alcohol, regulated entertainment and late-night refreshment) in light of the recent consultation exercise and to recommend the revised policy to Council for adoption. The proposed amendments to the current policy can be found at **Appendix A** of this Report.

RECOMMENDATIONS

That the Committee recommend the proposed amendments to the Licensing Policy (for alcohol, regulated entertainment and late-night refreshment), as shown at **Appendix A** of this Report, to the Council for adoption.

REASONS FOR RECOMMENDATIONS

The Council is under a legal duty to keep its Licensing Policy under review.

OTHER OPTIONS CONSIDERED

Not to recommend any change to the current policy document.

1. BACKGROUND

1.1. The Council is required to determine and publish a Statement of the Principles that it proposes to apply under the terms of the Licensing Act 2003 in relation to the licensing of alcohol premises, regulated entertainment and late-night refreshment. The current policy is now due for review.

1.2. The licensing objectives are central to the 2003 Act. The licensing objectives are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

It is important to note that there are no other licensing objectives.

1.3. Under the terms of the Licensing Act 2003 the Licensing Policy must be adopted by the Council rather than the Licensing Committee.

2. REPORT

2.1. The proposed amendments to the current policy can be found at **Appendix A** of this Report.

2.2. The document, at **Appendix A**, details the reason for each of the proposed changes and gives the detailed wording for each of these proposed amendments to the policy. In particular, the proposed amendments relate to:

- Night-time Safety
- Drink Spiking
- Safeguarding
- Modern Slavery
- Review of Personal Licences
- Protocol – Disclosure of Representations

2.3. A copy of the current policy document can be found on the Council's website under Related Documents on the following webpage:

<https://www.e-lindsey.gov.uk/article/5539/Alcohol-and-Entertainment>

2.4. The proposed changes to the policy document were subject to a public consultation during the period 17 July to 08 September 2023. The Committee had discussed such policy changes during 2022/23.

2.5. The consultation document was issued to a wide range of interested parties, including Lincolnshire Police, Lincolnshire Trading Standards, Lincolnshire Fire and Rescue, Town Councils, etc. A list of all the organisations to which a copy of the document was sent can

be found at **Appendix C** of this Report. In addition, a copy of the consultation document was placed on the Council's website between 17 July to 08 September 2023.

- 2.6. At the time of the drafting of this Report one response had been received to the consultation document. The response was from Skegness Town Council and endorsed the proposed changes to the policy. The response can be found at **Appendix B** of this Report.

3. CONCLUSION

- 3.1. The Council is under a legal duty to keep its Licensing Policy under review.
- 3.2. In drafting the Licensing Policy consideration must be given to the four licensing objectives, as well as providing the necessary protection to residents, whilst also promoting choice and flexibility to local businesses and their customers.
- 3.3. Based on the consultation results Officers are recommending that no amendments should be made to the content of the proposed policy document. The recommendation to the Committee is that the proposed policy amendment should be recommended to the Council for adoption in the same format that it was issued for consultation. The consultation results do not suggest any need for amendment.

EXPECTED BENEFITS TO THE PARTNERSHIP

Not Applicable.

IMPLICATIONS

SOUTH AND EAST LINCOLNSHIRE COUNCIL'S PARTNERSHIP

None.

CORPORATE PRIORITIES

The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the District's residents, visitors and business community.

Effective implementation of an appropriate licensing regime should help to promote the local economy.

The objectives of the Licensing Act 2003, seek to ensure adequate measures are in place in licensed premises to protect public safety, protect children from harm, prevent public nuisance and prevent crime and disorder.

Each of the four licensing objectives can contribute towards making a positive difference to the lives of our residents, businesses and visitors.

STAFFING

The policy review is being undertaken as part of the normal duties carried out by the Licensing Team with no additional staffing costs or resources involved.

CONSTITUTIONAL AND LEGAL IMPLICATIONS

The Licensing Policy must comply with the requirements of the Licensing Act 2003 and also the Home Office Section 182 Guidance to Licensing Authorities.

The policy must be subject to regular review.

DATA PROTECTION

Not Applicable.

FINANCIAL

There are currently approximately 900 premises licensed under the Licensing Act 2003 in the East Lindsey District – around 800 of which are required to pay an annual licence fee to the Council. Community premises, licensed solely for the provision of regulated entertainment, do not have to pay an annual premises licence fee to the Authority.

RISK MANAGEMENT

Statutory guidance is issued to Licensing Authorities by the Home Office in relation to the format of Licensing Policies.

There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters. There is also the risk of judicial review if the Policy is found not to comply with the requirements of the Licensing Act 2003 and associated legislation, regulations and guidance.

STAKEHOLDER / CONSULTATION / TIMESCALES

The proposed changes to the policy document were subject to consultation during the period 17 July to 08 September 2023.

REPUTATION

Having a robust licensing scheme protects public safety and commands the confidence of the public.

CONTRACTS

Not Applicable.

CRIME AND DISORDER

Core to the Licensing Act 2003 are the licensing objectives, which are detailed in Paragraph 1.2 of this Report. The licensing objectives have been considered throughout the drafting of the revised policy and in relation to the Authority's Section 17 requirements.

EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

Equality Implications: The proposed policy changes do not have the potential to cause negative impact or discriminate against different groups in the community based on age, disability, gender, race/ethnicity, religion or religious belief (faith), or sexual orientation.

Human Rights: The Licensing Authority must ensure that its decisions can withstand scrutiny by reference to the principle of proportionality, i.e. is the decision / action proportionate to what it wishes to achieve, or, colloquially does the end justify the means.

Safeguarding: Councils must consider the need to protect children and vulnerable adults from harm when undertaking licensing functions.

HEALTH AND WELL BEING

Not Applicable.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

Not Applicable.

ACRONYMS

Not Applicable.

APPENDICES	
Appendices are listed below and attached to the back of the report:	
APPENDIX A	Proposed Amendments to this Authority's Statement of Licensing Policy.
APPENDIX B	Response to the Policy Consultation Received from Skegness Town Council.
APPENDIX C	List of all the Organisations to which a Copy of the Consultation Document was sent.

BACKGROUND PAPERS
No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.

CHRONOLOGICAL HISTORY OF THIS REPORT
A detailed Report on this item was previously considered by the General Licensing Committee on 14 March 2022.

REPORT APPROVAL	
Report author:	Adrian Twiddy (Principal Licensing Officer) Tel. No. 01507 601111 Email: adrian.twiddy@e-lindsey.gov.uk
Signed off by:	Donna Hall (Group Manager Public Protection) Tel. No. No. 01775 761161 Email: donna.hall@sholland.gov.uk

This page is left intentionally blank

Proposed Amendments to Current Licensing Policy

The Council is required to determine and publish a Statement of the Principles (Licensing Policy) that it proposes to apply under the terms of the Licensing Act 2003 in relation to the licensing of alcohol premises, regulated entertainment and late-night refreshment.

The Council is under a legal duty to keep its Licensing Policy under review.

The proposed changes to the current policy are outlined in this document. The proposed amendments / additions to the policy document relate to:

- Night-time Safety
- Drink Spiking
- Safeguarding
- Modern Slavery
- Review of Personal Licences
- Protocol for the Disclosure of Representations

Night-time Safety & Drink Spiking

The Home Affairs Select Committee recommended that Government review guidance issued under Section 182 of the Licensing Act 2003, with a view to requiring Licensing Authorities to consider the prevalence, prevention and reporting of sexual harassment and misconduct and gender-based violence in their Statements of Licensing Policy.

Whilst the Government has not undertaken such a view of the Section 182 guidance - this Council is intending to reference night-time safety and drink spiking in its Licensing Policy. The proposed additions to the policy are set out below. The intention of the new paragraphs 5.42 to 5.49 in the policy is to provide licensed premises with clear advice and guidance on this Authority's expectations regarding such matters.

The proposed new paragraphs 5.42 to 5.49 are set out below.

5.42 Night-time Safety - Resident and visitor safety, especially the safety of those using the night-time economy, is an important factor that the Licensing Authority, licence applicants and licence holders have to take into consideration, especially as national reports of violence against women and girls (the Home Office published the national strategy on tackling this matter on 21 July 2021), the spiking of drinks and spiking by injection are on the increase

5.43 Applicants and licence holders are encouraged to engage in national and local schemes that promote customer safety, such as joining Pubwatch and promoting 'Ask for Angela' in their venues. In addition, the following partnership schemes are recommended by this Authority:

- Best Bar None - a national award scheme, supported by the Home Office, that aims to improve standards in local night-time economies by sharing and promoting best practice.
- Purple Flag – an accreditation programme that recognises excellence in the management of town and city centres in the early evening and night-time economy. It also recognises the vibrancy of the local night-time economy.
- Community Alcohol Partnerships - retailer-led partnership to tackle issues of underage drinking and promote greater awareness and understanding of alcohol among young people.
- Street Pastors - volunteers from the local church community who give up their time to patrol the streets on weekend evenings to help keep people safe on nights out.

5.44 Licence applicants and licence holders are also encouraged to:

a) make sure staff are trained to identify and report issues, this training should include awareness and safety of:

1. lone customers leaving the venue, especially if the customers appears vulnerable (drunk or under the influence of drugs);
2. unwanted contact (touching) between customers;

b) make sure the correct staff are in place, for example if you are a town centre or coastal resort venue door supervisors may be required, if you are a late night venue a member of staff to deal with customer welfare may also be required.

c) make sure staff are aware of the closest taxi rank and licensed vehicles that offer an evening/late night services, and have contact details available for taxi and private hire firms - booking a vehicle for customers if needed;

d) have a safe place to take customers if required;

e) have a zero tolerance towards drugs, having systems in place to prevent drugs from entering the premises, and dealing with issues of drug use, this should be included within staff training;

f) have signage in place at entrances and within the venue with regards to customer welfare and safety.

5.45 Ask for Angela - This initiative advises customers through posters in venue toilets that, if they 'Ask for Angela' at the bar, staff will be alerted to the fact that the person feels unsafe or threatened. Staff will know that the individual needs support to leave their situation, and can call them a taxi, escort them to their car or call the Police, for example.

5.46 The Welfare and Vulnerability Engagement (WAVE) Initiative – This Authority recommends the WAVE initiative as a useful training tool for licensed premises. -The Initiative was developed by the Metropolitan Police, WAVE is a free tool that aims to increase the skills and knowledge of those working in licensed premises to identify vulnerability and make appropriate interventions to keep people safe.

5.47 Drink Spiking - Drink spiking is when someone puts drugs or alcohol into a person's drink without their consent. It can include putting alcohol into a non-alcoholic drink, adding extra alcohol to an alcoholic drink or slipping prescription or illegal drugs into an alcoholic or non-alcoholic drink. It can be difficult to tell whether a drink has been spiked, as substances used for spiking usually have no taste, odour or colour. Needle spiking is when someone injects a victim with a substance using a hypodermic needle (or other form of administration such as a combi-pen).

5.48 Spiking is an awful crime that can affect victims' physical and mental health, their emotional wellbeing, and can have lasting repercussions on their lives. The Home Affairs Select Committee called for urgent improvements in reporting, investigating and prosecuting spiking incidents to improve support for victims and to act as a deterrent. This Authority is supportive of this recommendation.

5.49 This Authority recognises that many licensed premises work hard to ensure that their customers can enjoy a night out safely and deter perpetrators. To support licensed premises, several industry associations have produced a factsheet which includes recommendations and some resources for the hospitality sector on how to respond to and prevent spiking. This Authority recommends that licensed premises:

- Ensure all reports of spiking are acted upon and that all incidents of alleged spiking are recorded and reported to the Police. It is also helpful to the Police if staff at licensed premises:
 - obtain full details of the affected person reporting the incident, including a description of what they are wearing as Officers will want to track them on CCTV.

- can provide as detailed a description of the suspected perpetrator as possible, if known, including clothing.
 - can provide an approximate time of the incident and the location within the premises where they believe it occurred.
 - can secure the drinking vessel(s) that is suspected as containing the 'drug' so this can be tested at a later time.
 - can seize any drinking vessel that the suspect may have been using.
- Ensure the health and safety of the customer, which could be by calling emergency services, ensuring they are with trusted friends who will look after them, offering assistance if needed, and providing a safe space for the customer.
 - Ensure appropriate training is provided to relevant members of staff.
 - Review searching procedures and amend as necessary, as well as reviewing how often toilets are inspected, as victims of spiking have been found in there. Premises should also review the functionality of any CCTV and ensure it is not obscured.
 - Consider providing information (such as posters) regarding drink spiking in the premises.
 - Consider if it would be useful to provide anti-spiking bottle stoppers and protective drink covers.

Safeguarding

Licensing Authorities must consider the need to protect children and vulnerable persons from sexual exploitation when undertaking licensing functions. However, our current policy document makes little reference to safeguarding issues.

With this in mind, it is proposed to add the new paragraphs 5.50 to 5.58 (set out below) to the policy.

5.50 Safeguarding - Licensing Authorities must consider the need to protect children and vulnerable persons from sexual exploitation when undertaking licensing functions. Everyone working in an environment where there may be children present should safeguard and promote the wellbeing of children. Where there is a risk to children, steps should be taken to ensure their safety and well-being.

5.51 This Authority has adopted an "Early Help, Safeguarding and Domestic Abuse" Policy. The Policy indicates that safeguarding is everyone's responsibility. The Policy indicates that this Authority will work closely with other agencies to promote people's welfare and protect them from harm. With this in mind everyone working for this Authority has a role to play in identifying safeguarding concerns, sharing information and taking prompt action when issues are identified. Further information, regarding the policy, can be found on this Authority's website at:

<http://www.e-lindsey.gov.uk/safeguarding>

Adults who are working within licensed premises in proximity to children could pose a risk if they exploit their position to develop a relationship with a child for inappropriate reasons. All children are at risk from those adults who are viewed as a danger to them. With this in mind care will be taken by the Licensing Authority to ensure that such individuals are not placed in an environment where they can exploit their position.

5.52 Where safeguarding concerns have been expressed, regarding an existing licensed premise, then this Authority will expect the business to show that due diligence and all reasonable steps have been taken to manage the risk and keep children safe. Where there are real safeguarding concerns that have not been or cannot be addressed then this Authority, when considering a premises licence review, will seriously consider revocation of the premises licence. Where appropriate, the Licensing Authority will not wait for a criminal prosecution before deciding on an appropriate course of action in relation to the licensing objectives.

5.53 All premises licence holders and their staff will be expected to have a basic awareness of child protection issues. This includes:

- Being alert to the possibility of child abuse and neglect;

- Having enough knowledge to recognise an abusive or potentially abusive event or set of circumstances;
- Being competent in taking the appropriate immediate or emergency action when issues are identified.

The business may wish to ensure that an up to date Safeguarding Children Procedures Poster is displayed for all staff at all times.

5.54 What are the risks of child sexual exploitation (CSE) at licensed premises? The risks vary depending on the style and character of the business but premises can be involved in the following ways:

- There is a risk of CSE at premises where goods or services can be offered in exchange for sexual favours (such as free food, transport, drinks, cigarettes, or free access to a venue). This can happen if a perpetrator is employed there and has regular or private contact with children.
- Children may witness dangerous or threatening behaviour.

5.55 If a business has a delivery service (for example a hot food takeaway) then this Authority would encourage the business to adopt a Code of Conduct to promote good safeguarding when deliveries are made to unaccompanied children.

5.56 All premises should ensure that the environment to which they allow children access is safe and suitable. Action should be taken if adults demonstrate irresponsible behaviour, such as showing signs of intoxication, using strong or offensive language, threatening behaviour, or violence towards others.

5.57 Adults accompanying children should be encouraged to supervise them, to minimise the risk of children being exposed to inappropriate or dangerous behaviour or gaining access to any prohibited areas of the premises.

5.58 This Authority recommends that all businesses should undertake a premises specific risk assessment regarding the safeguarding of children and vulnerable adults at their premises.

Modern Slavery

This Authority believes that detailed reference to the dangers of modern slavery should be referenced in the policy document. With this in mind, it is proposed to add the new paragraphs 5.59 to 5.67 (set out below) to the policy.

5.59 Modern Slavery - Modern slavery is a crime. Modern slavery is a violation of fundamental human rights and can take various forms such as slavery, servitude, forced and compulsory labour and human trafficking.

5.60 The UK Modern Slavery Act 2015 includes the following under the offence of modern slavery:

- Slavery, where ownership is exercised over a person,
- Servitude, where a person is obliged to provide services imposed by coercion,
- Forced or compulsory labour, which involves work extracted under the menace of penalty and for which the person has not offered himself voluntarily, and
- Human trafficking, which involves the movement of people by means such as force, fraud, coercion or deception with the aim of exploiting them.

5.61 Licensed premises might be unwitting hosts to modern slavery in two ways:

- Victims and their traffickers visiting the licensed establishment. Sexual exploitation and forced criminality would be the most common forms identified in this way.
- Staff being recruited through unscrupulous means, leaving them trapped and/or indebted to a trafficker.

This may be in hotels, bars and restaurants, sexual entertainment venues, late night takeaways, off licences or other licensed premises.

5.62 Identification and Reporting - Staff at licensed premises can have the power to identify and report any exploitation they encounter. A licence holder may ensure awareness of modern slavery by:

- Identifying any risks at the premises and working with relevant business partners and suppliers (i.e. recruitment agencies) to mitigate such risk.
- Actively informing those working on the premises of their rights and how they can confidentially seek help or advice on modern slavery if required.
- Provide regular training to all staff on the indicators of modern slavery and how to report concerns.
- Establishing strong relationships with local Police and victims service providers, such as the National Modern Slavery Helpline, in advance of any incident.

5.63 Reporting Protocols - Having clear and straightforward protocols for when an incident is discovered is crucial to ensure that victims get appropriate support. Where employees identify a potential victim, they can follow a specific internal procedure in order to protect the safety of that individual.

The procedure:

- Should not be overly complex,
- should involve senior level staff, and,
- should account for when reporting should go immediately to the Police (i.e. if certain indicators are met, if the potential victim is in immediate danger, if the potential victim is a child).

5.64 The Modern Slavery Helpline (0800 0121 700) can provide support to anyone who has a suspicion and would like some guidance on next steps, 24 hours a day.

5.65 Licence holders and staff who work in licensed premises should ask themselves the following questions when coming into contact with children, young people or adults with care and support needs:

- Is the person in possession of a passport, identification or travel documents? Are these documents in possession of someone else?
- Does the person act as if they were instructed or coached by someone else? Do they allow others to speak for them when spoken to directly?
- Was the person recruited for one purpose and forced to engage in some other job? Was their transport paid for by facilitators, whom they must pay back through providing services?
- Does the victim receive little or no payment for their work? Is someone else in control of their earnings?
- Was the person forced to perform sexual acts?
- Does the person have freedom of movement?
- Has the person or family been threatened with harm if the victim attempts to escape?
- Is the person under the impression they are bonded by debt, or in a situation of dependence?
- Has the person been harmed or deprived of food, water, sleep, medical care or other life necessities?
- Can the person freely contact friends or family? Do they have limited social interaction or contact with people outside their immediate environment?

5.66 Licence holders and staff who work in licensed premises should report something suspicious they spot to the Police or other Authorities - it could be at licensed premises where they work, where workers seem reticent to engage, not appropriately dressed for their work or increasingly ill fed and unkempt. Or a young person repeatedly being brought to a hotel by another person for short periods of time.

5.67 If there is an immediate danger to the suspected victim or if you think that the suspected victim is under 18, inform the Police and call 999 as a matter of urgency.

Review of Personal Licences

A personal licence allows a person to authorise the sale of alcohol. Every premises where alcohol is supplied under the authority of a premises licence requires a Designated Premises Supervisor (DPS) and such individuals must have a personal licence. In 2017 the Licensing Act 2003 was amended by the Policing and Crime Act 2017. The amendment gave the Licensing Authority powers to suspend or revoke a personal licence where the holder has been convicted of a relevant offence – previously only the Magistrates Court held such powers.

The current Paragraph 10.8. of this Authority's policy document states, the following in relation to applicants for a personal licence who hold a current relevant conviction:

Prevention of crime and disorder is both an objective of the Licensing Act 2003 and an important responsibility of the Council under the Crime and Disorder Act 1998. The holder of a personal licence should be a person who is not only properly qualified but a person who will assist the fight against crime. Granting a licence to a person with a current serious criminal conviction or convictions will, in many cases, undermine rather than promote the crime and disorder objective.

However, there is nothing in the current policy document that makes reference to the powers to suspend or revoke an existing personal licence. With this in mind, it is proposed that the following wording be added to the end of the current Paragraph 10.8:

Similarly allowing a personal licence to continue, when the holder has incurred a serious criminal conviction or convictions, will also in a number of circumstances undermine rather than promote the crime and disorder licensing objective.

Protocol – Disclosure of Representations

Any person, business or local organisation can make representations in respect of certain classes of premises licence or club premises certificate applications. If the Licensing Authority receives relevant representations to a premises licence application (or similar licence application) it must hold a licensing hearing to consider them. Relevant representations must be about the likely effect of the grant or issue on the promotion of the licensing objectives. As part of the licensing hearing process the representations will be made public and the applicant will be told about them.

In order to clarify this process, it is proposed that this Authority adopt the Protocol Regarding the Disclosure of Representations set out below.

EAST LINDSEY DISTRICT COUNCIL

PREMISES LICENCE AND CLUB PREMISES CERTIFICATE APPLICATIONS

PROTOCOL – DISCLOSURE OF REPRESENTATIONS

Purpose

1. The purpose of this protocol is to set out the Licensing Authority's practice on the disclosure of representations which are submitted by the public, businesses and local organisations in relation to premises licence and club premises certificate applications under the Licensing Act 2003 (and associated regulations).

Right to Make Representations

2. Any person, business or organisation can make representations in respect of certain classes of premises licence or club premises certificate application - but there are important rules that need to be followed or else the Licensing Authority may not be allowed to take them into account.

3. If the Licensing Authority receives relevant representations to an application for:

- a premises licence,
- provisional statement,
- variation of a premises licence,
- minor variation of a premises licence,
- review of a premises licence,
- a club premises certificate,
- variation of a club premises certificate,
- minor variation of a club premises certificate,
- review of a club premises certificate.

The Authority must hold a licensing hearing (consisting of Councillors) to consider them. If no relevant representations are received, the Authority must grant the application.

4. Relevant representations must:

- a) Be about the likely effect of the grant or issue on the promotion of the licensing objectives;
- b) They must be made by a Responsible Authority (e.g. the Police, Trading Standards, Health & Safety, etc.) or any other person (e.g. a resident, neighbour, business, local organisation, Councillor, etc.);
- c) They must be made within the prescribed period;
- d) They must not have been withdrawn;
- e) In the cases of representation made by any person who is not a Responsible Authority, they must not be frivolous or vexatious (in the opinion of the Licensing Authority).

Application to Vary a DPS - If the concerns relate to the identity of the proposed Designated Premises Supervisor (DPS) then such concerns / representations can only be made by the Police and must comply with section 18(9)(b) of the Licensing Act 2003

Time Limits

5. The time limits for making representations are strict. Most representations must be made at any time during a period of 28 consecutive days starting on the day after the day on which the application was given to the Licensing Authority by the applicant.

6. In the case of a minor variation application the time limit is shorter. Representations must be made at any time up to and including ten working days starting on the day after the day on which the Licensing Authority received the minor variation application.

What if Representations Are Late?

7. Persons wishing to make representations should assume that late representations will not be considered and ensure that their representations are received in time.

No One Has Made Any Relevant Representations in Time

8. If no relevant representations are made in time by anybody, there will not be a licensing hearing and the Licensing Authority must grant the application. Late representations will not be considered.

Somebody Has Made Relevant Representations in Time and Others Have Made Late Representations

9. If relevant representations are made by somebody in time there will usually be a licensing hearing - unless the representations are withdrawn or unless the Licensing Authority, the applicant and each person who has made relevant representations in time agree that a hearing is unnecessary.

10. Someone who made late representations will not be a party to the licensing hearing and will not have a right to appear and speak at the hearing. However, as a member of the public they may observe the hearing – unless the hearing is held in private / confidential session. The Licensing Authority is not obliged to have regard to their late representations.

11. However, if there is a licensing hearing, the Report to the Licensing Committee, written by Council Officers, will indicate that late representations were received. The Report will indicate the number of late representations that were received and give a broad summary of the type and content of those late representations. In order to be included within this summary the late representations must otherwise to their lateness be relevant to the promotion of the licensing objectives.

12. Good decision making requires that the Licensing Authority considers all material circumstances before a licensing decision is made. With this in mind the Licensing Authority will approach the exercise of its discretion, regarding licensing hearings and representations received after the closing date, in the following manner:

- The written late, but otherwise relevant representations, will be made available to the licence applicant and their legal advisor;
- Persons making late representations will not have the right to appear and participate in the hearing.

When are Representation Made?

13. Representations must be in writing or by email. Representations must be made and received within the prescribed period:

- If representations are made by e-mail, this will be the time when a clear and legible email is delivered to the Licensing Authority which is capable of being accessed, read and printed.
- In the case of a hard document, it must be addressed to the Licensing Authority and left at or sent by post to the Authority's main address / head office.

Persons making postal representations should take into account days when there is no usual postal delivery such as Sundays and Bank Holidays. If persons expect something to be delivered within two days, it would not be appropriate to post it on a Saturday when the following Monday is a Bank Holiday. To avoid problems, persons should make their representations promptly and not wait until the last moment.

What Will Happen to Representations Once They Are Received?

14. The Licensing Authority will consider the representations and decide whether or not they are relevant representations.

15. The Authority will consider whether the representation is about the likely effect of the grant or issue on the promotion of the licensing objectives. Representations by a local business person about commercial damage caused by competition will not be relevant. Representations by a local business person that public nuisance caused by new premises would deter customers, and the steps proposed in the application to prevent the nuisance are inadequate, will be relevant.

16. If this Authority considers that the representations are not relevant to the licensing objectives, we will tell the interested party in writing what are our reasons for that decision as soon as possible before making a decision on the application.

17. The Authority will also consider whether or not the representations are frivolous or vexatious. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, without reasonable cause or justification. Frivolous representations would be essentially categorised by a lack of seriousness. They would also cover minor issues in relation to which no remedial steps would be warranted or proportionate.

18. If the Authority considers that the representations are frivolous or vexatious we will tell the interested party in writing what are our reasons for that decision as soon as possible before making a decision on the application.

19. In borderline cases, this Authority will give interested parties the benefit of the doubt.

20. The fact that that this Authority has not rejected a representation at this stage does not mean that we have decided that the representations are justified. It simply means that there will be a licensing hearing at which the interested party, the licence applicant, Responsible Authorities and other persons who have made relevant representations will be able to amplify and clarify their views, before a final decision is made.

21. If interested parties disagree with our decision, regarding the status of the representation, they may complain through the Council's Corporate Complaints Procedure. Interested parties may also challenge this Authority's decision, on the status of a representation, by Judicial Review.

Will Representations Be Made Public and Will the Applicant Be Told About Them?

22. The following statutory provisions mean that an interested party's representation may be made public:

- The Licensing Act 2003 (Hearings) Regulations 2005;
- Freedom of Information Act 2000;
- Data Protection Act 2018, and
- Environmental Information Regulations 2004.

23. The Licensing Act 2003 (Hearings) Regulations 2005 - Under these regulations, we must send copies of all relevant representations to the licence applicant.

24. The Regulations also say that all licensing hearings shall take place in public (which means that representations will usually become public) - but that we can exclude the public from all or part of a hearing where we consider that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

25. Freedom of Information Act 2000, Data Protection Act 2018 & Environmental Information Regulations 2004 - These Acts and regulations contain further rights to access information held by the Licensing Authority. There are a number of exemptions that may apply. While it is unlikely that anyone would need to rely on this legislation to require access to your representations, you should be aware that this legislation could also apply to your representations and require the Licensing Authority to disclose them.

Licensing Authority's Approach to Disclosure of Representations

26. The legislation referred to creates a presumption in fairness to the licence applicant and in the public interest of transparency and openness that representations will be disclosed to the applicant and the public.

27. We will **NOT** usually **EXCLUDE** or **REDACT** any information that is given to the licence applicant. As a matter of fairness, there is a presumption that an applicant should be fully aware of the details of the persons who has made representations in relation to the licence application.

28. We will attempt however to **EXCLUDE** or **REDACT** certain sensitive information from information that is available to the public - this applies to the interested party's:

- signature;
- telephone number;
- email address;
- address & postcode.

29. We will **NOT** usually **EXCLUDE** or **REDACT** the interested party's name. We consider that it will generally be in the public interest to be transparent and open as to who made representations.

30. We do however think that it will assist and avoid misunderstandings if persons making representations were to use the Interested Party Representation Form drafted by this Authority in order to submit their representations and disclose their personal details.

Can I Request That My Details Are Not Disclosed?

31. We can decide to withhold more of an interested party's personal details (such as his/her name) and instead give only minimal details. However, we can only do so where the circumstances justify such action. We cannot do this in all cases. We cannot set out all the circumstances that may be relevant. However, one example may be that the interested party considers that they or their family might suffer some detriment were the details disclosed.

- The interested party must tell us why they feel that we should do this.
- If we decide that we cannot comply with their request, we will tell them and give them an opportunity to consider their position and/or withdraw their representation before we disclose it.

32. If an interested party is reluctant to make representations because of fears of intimidation or violence if their personal details, such as name, are divulged, they should immediately tell us. Where we consider that they have a genuine fear of intimidation and may be deterred from making representation on this basis, we will consider if there is an alternative approach. One solution may be for the interested party to give details to a Responsible Authority as to how they consider that the licensing objectives are being undermined so that the Responsible Authority can make representations if appropriate and justified. These will be exceptional circumstances. It may not be the case that their fears arise from divulging their details to the applicant; rather they may arise from divulging his/her details to the public. It may not be the case that they fear intimidation or violence from the applicant but rather from others; but that disclosure to the licence applicant raises the risk of their details becoming widely known. Again:

- What is important is that they tell us exactly what their fears are.
- If we decide that we cannot comply with their request, we will tell them and give them an opportunity to consider their position and/or withdraw their representation before we disclose it.

33. If either of these circumstances applies to you, you should contact this Authority's Licensing Team promptly and not wait until the time for making representations has almost expired.

34. It may be that the applicant disagrees with our decision. If so we will listen to their views. It may be that we change our mind. If we do change our mind having heard what the applicant has said, we will tell the interested party and give him/her an opportunity to consider their position and/or withdraw their representation before we disclose it. It maybe that we feel that the final decision should be made at the licensing hearing (by Licensing Councillors) rather than by Council Licensing Officers.

Am I Likely to Be Contacted if I Make Representations?

35. After relevant representations are made, and before a licensing hearing, applicants may wish to try and understand and/or address issues raise by the representations with a view to agreeing a way forward. This may result in the applicant amending the licence application or proposing licence

conditions. The applicant (or their legal advisor) will often wish to have discussions with persons who have made relevant representations. The Licensing Authority wishes to encourage such mediation with both Responsible Authorities and other persons. It will be beneficial and enable the licensing hearing to focus on the more important issues where agreement has not been possible.

36. It is acknowledged that residents and other persons, who have made relevant representations, may feel uncomfortable about engaging in discussions with licence applicants or their representatives. Such discussions should be non-confrontational and meditative. If residents begin to feel uncomfortable with the way the process is going, they are entitled to politely and non-confrontationally terminate the discussions. They can also tell the Licensing Authority about their concerns. We will consider whether we can do anything about the concerns.

37. While this Authority does encourage such discussions:

- Persons are under no obligation to participate. They may decline to participate at all. They can also discontinue discussions at any time.
- Persons are entitled to state how they want such discussions to take place – by letter, email, telephone conversation and face-to-face discussion and what is the most convenient time.

This page is left intentionally blank

APPENDIX B

From: Kate Ford

21 August 2023

Licensing Act 2003 – Consultation Regarding Review of East Lindsey DC Licensing Policy

Good Morning

I can confirm that Skegness Town Council voted in support of the amendments to the ELDC Licensing Policy at their meeting on Wednesday 9th August 2023.

Kind Regards

Kate Ford
Deputy Town Clerk
Skegness Town Council

This page is left intentionally blank

APPENDIX C

List of all the Organisations to which a Copy of the Consultation Document was sent.

Licensing Act 2003 Policy – Consultation 17 July to 08 September 2023

A copy of the Consultation Document was sent to all the following:

Skegness Town Council
Horncastle Town Council
Louth Town Council
Mablethorpe Town Council
Coningsby Town Council
Alford Town Council
Spilsby Town Council
Tattershall with Thorpe Parish Council
Ingoldmells Parish Council
Chapel St Leonards Parish Council
Lincolnshire Police
Lincolnshire Trading Standards
Lincolnshire Fire & Rescue
Lincolnshire Safeguarding Childrens Board
Public Health Directorate, Lincolnshire County Council
Health and Safety Executive
East Midlands Ambulance Service NHS Trust (EMAS)
Kurnia Licensing Consultants
Hodgkinsons, Solicitors
Bridge McFarland, Solicitors
Popleston Allen, Solicitors
Sills & Betteridge, Solicitors
Hough & Bolland Licensing Consultants
Lucas Licensing Consultants
Gosschalks, Solicitors
John Gaunt & Partners, Solicitors
British Beer & Pub Association (BBPA)
Arts Council England
The Association of Convenience Stores
UK Hospitality Association
Campaign for Real Ale (CAMRA)
Federation of Licensed Victuallers Association (FLVA)
JD Wetherspoons PLC
The Musicians Union
Punch Taverns PLC
George Bateman & Son Ltd
Coastfields Leisure Ltd
Lincolnshire Co-operative Ltd
The Co-operative Group Food Ltd
Skegness Taxi Owners Association (STOA)
Skegness & District Taxi Drivers Association
Skegness Community Alcohol Partnership
Other Lincolnshire District Councils

This page is left intentionally blank