

# Statement of Licensing Policy

APPENDIX B

JANUARY 2024

Licensing Act 2003

LICENSING TEAM

Section 5 of the Licensing Act 2003 requires every Licensing Authority to publish a Statement of Licensing Policy, which they propose to apply when exercising their functions. This document is the Statement of Licensing Policy of East Lindsey District Council.

Whilst all applications will be judged and determined on their individual merits the policy will be the basis of the Licensing Authority's decisions. The policy has been developed after consultation and having regard to the Licensing Objectives and the Home Office Guidance. The policy will be reviewed regularly to reflect the needs of the East Lindsey District.

[www.e-lindsey.gov.uk](http://www.e-lindsey.gov.uk)

*2 January 2024*

# Licensing Act 2003 - Statement of Licensing Policy

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# 1.0 Introduction

- 1.1 East Lindsey District Council (the Licensing Authority) is responsible for the licensing of all licensable activities under the Licensing Act 2003. The Licensing Act 2003 regulates the following activities:
- The sale by retail of alcohol.
  - The supply of alcohol by or on behalf of a club, or to the order of a member of the club.
  - The provision of regulated entertainment.
  - The provision of late night refreshment.
- 1.2 The Licensing Authority has a duty under the Act to carry out its functions with a view to promoting the four licensing objectives. Each objective is of equal importance. It is important to note that there are no other licensing objectives. The objectives are:
- the prevention of crime and disorder.
  - public safety.
  - the prevention of public nuisance.
  - the protection of children from harm.
- 1.3 The Licensing Act 2003 and associated regulations can be viewed at [www.legislation.gov.uk](http://www.legislation.gov.uk)
- 1.4 This Policy is intended to provide clarity to applicants, Responsible Authorities and other parties on how this Licensing Authority will determine applications to supply alcohol, provide regulated entertainment and operate late night refreshment premises. The Authority will take this Licensing Policy into account if its discretion is engaged (i.e. at a licensing hearing following representations by a Responsible Authority or other party).
- 1.5 Guidance and best practice will be made available to assist applicants; such guidance will not form part of this Policy.
- 1.6 We consulted on this Policy during July to September 2023 and the Council, on 13 December 2023, approved it.

In preparing this Policy Statement we consulted with the following:

- Lincolnshire Police.
- Lincolnshire Fire and Rescue.
- Representatives of licence holders and club premises.
- Lincolnshire Safeguarding Children Board.
- Development Control, East Lindsey District Council.
- Health and Safety, East Lindsey District Council.
- Environmental Health Team, East Lindsey District Council.
- Lincolnshire County Council Trading Standards.
- NHS Lincolnshire
- Town and Parish Councils.
- Other bodies and persons that the Authority considered could contribute to this policy.

A full list of consultees is available by contacting the Licensing Team.

Appropriate weight has been given to the views of all those consulted prior to this policy statement taking effect on 2 January 2024.

1.7 In developing this Policy, we took into account the legal requirements of the 2003 Act and our duties under:

- a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the District.
- b) The Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
- c) The Provision of Services Regulations 2009 to ensure requirements are:
  - i. Non- discriminatory.
  - ii. Justified by an overriding reason relating to the public interest.
  - iii. Proportionate to that public interest objective.
  - iv. Clear and unambiguous.
  - v. Objective.
  - vi. Made public in advance, and
  - vii. Transparent and accessible.

- 1.8 The Act describes two “bodies” that may make representations to licence applications and may apply for an existing premises licence to be reviewed by the Licensing Authority, Responsible Authorities and “Other Persons”. A list of Responsible Authorities can be found in Appendix 3 of this Policy Document.
- 1.9 “Other Persons” means any individual, body or business who is affected by the operation of a licensed premises regardless of their geographical location. Although they may be in any geographical position, any representation they make must be relevant to one or more of the licensing objectives, and must not be considered to be frivolous or vexatious. Additionally, any application to review a premises licence must not be repetitious.
- 1.10 This Licensing Authority will, however, look at the geographical location of the author of any representation or review application received. Where the author lives or works a significant distance from the premises subject of an application or review, this Authority will examine the content of the representation particularly closely. We would expect the author to explain in detail how, in terms of the licensing objectives, they would be affected by the application. The Licensing Authority will consider rejecting any representations which did not include sufficient detail to outline any harm or disturbance which may be caused.
- 1.11 We take the following approach to the decision making process:
- a) Each case will be decided upon its merits. This Authority will not apply a rigid rule to its decision making;
  - b) Other parties can include residents’/ tenants’ associations, community associations and trade associations. Councillors may represent other parties, providing they do not also sit on the Licensing Sub-Committee determining the application in question.
  - c) We will give clear reasons for our decisions.
- 1.12 Where valid representations are made applications will be considered by a Licensing Sub-Committee (consisting of Councillors); we give both applicants, Responsible Authorities and other parties an equal opportunity to state their case in accordance with our protocol, which is available from our Licensing Team.
- 1.13 It is recognised that the licensing function is only one means of securing the delivery of the licensing objectives and should not therefore be seen as solving all problems within the community. The Licensing Authority will therefore continue to work in partnership with its neighbouring authorities, the Police, local businesses and local people towards the promotion of the objectives as outlined.

1.14 Each licence application will be considered on its own merits in the context of the four licensing objectives, and unless relevant representations are received from Responsible Authorities or other parties, there is no provision for the Licensing Authority to impose conditions on a licence other than those proposed within an application.

1.15 The Licensing Authority will primarily focus on the direct impact of the licensable activities on members of the public living, working or engaged in normal activity, regardless of their geographical proximity to the premises.

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

- Section 17 of the Crime and Disorder Act 1998.
- 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 Anti-Social Behaviour Act 2003.

- Fire Safety Legislation.

- Policing and Crime Act 2009.

- Crime and Security Act 2010.

- Private Security Industry Act 2001.

- Equality Act 2010.

- The Clean Neighbourhoods and Environment Act 2005.

- Violent Crime Reduction Act 2006.

1.17 The Licensing Authority is fully committed to promoting equal opportunities and non-discriminatory practice. The Licensing Authority will comply, in the exercise of all its functions, with race relations legislation which places a legal obligation on public authorities to have due regard for the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups (Equality Act 2020).

1.18 The Licensing Authority 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.

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

- Community Alcohol Partnerships.
- Code of Practice: Age Restricted Products and Services.
- Alcohol Harm Reduction Strategy for England.
- Crime and Disorder Reduction Partnerships.
- Best Bar None Scheme.
- British Beer and Pub Association Partnerships Initiative.
- The Council's own Enforcement Policy.
- Community Safety Strategy.
- Local Drugs and Alcohol Strategy and Action Plan.

- Local Transport Plan.
- Purple Flag Scheme (ATCM).
- Home Office Designated Public Place Order (DPPO) Guidance.

The Licensing Authority also recommends that applicants and licence holders have regard to the following guidance documents, when drafting licence applications and undertaking licensable activities:

- Home Office – Practical Guide for Preventing and Dealing with Alcohol Related Problems.
- Home Office Section 182 Guidance to Licensing Authorities.
- The Event Safety Guide (HSE).
- Managing Crowds Safely (HSE).
- 5 Steps to Risk Assessment (HSE).
- The Guide to Safety at Sports Grounds (Sports Grounds Safety Authority).
- Safety Guidance for Street Arts, Carnivals, Processions and Large-Scale Performances.



1.20 The licensing function should not be seen as a primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. However, whilst there is a range of statutory powers available to deal with such behaviour, these powers may not always be sufficient to control negative impacts beyond the immediate vicinity of all premises. Therefore, the fact that such impact may occur may be a relevant factor in the consideration of certain licence applications. This may lead in some cases to the refusal of the application or the imposition of conditions to meet the concern.



## 2.0 Local Features

2.1 East Lindsey District Council is situated in the County of Lincolnshire, which contains 7 District Councils in total. The East Lindsey District Council area has a population of 140,700. In terms of area it is the largest in the County, covering 700 square miles. Furthermore the Council is the third largest district (in terms of area) in the country. The District covers virtually the entire Lincolnshire coastline, including the seaside resorts of Skegness, Ingoldmells, Chapel St Leonards, Sutton on Sea and Mablethorpe. Skegness is the fifth largest seaside resort in England. The population along the coast increases from 60,000 to 240,000 during the summer tourist season. A large number of the premises licensed for the sale of alcohol are hotels and guesthouses, many of which are seasonal in nature. In fact a substantial number of all premises types, which operate in the coastal resorts, are seasonal in nature. A map of the East Lindsey District is attached to the rear of this Policy (Appendix II).

2.2 There are parts of the coastal strip of East Lindsey where residential, business and entertainment properties sit 'cheek by jowl'. The Licensing Authority recognises that residents of these areas are more likely to notice the effects of licensed premises (than in other parts of the East Lindsey District) due to the large number of licensed premises and the density of the population (particularly during the summer months).

2.3 At the time of adopting this Policy the Licensing Authority were responsible for the following numbers of licences and certificates:

Premises Licences	900
Club Premises Certificates	25
Personal Licences	3550

There were 34 premises with 24-hour alcohol licences. The total number of 34 was broken down as follows:

Pubs and Clubs	5
Supermarkets	5
Hotels and Guesthouses	21
Others	3

In relation to the supply of alcohol there were 485 premises licensed for consumption both on and off the premises. 177 premises were licensed for off sales only and 118 premises were licensed for on sales only.

During the period 1 April 2022 to 31 March 2023 the Authority dealt with 335 Temporary Event Notices (TENs).

## 3.0 Integrated Strategies and the Avoidance of Duplication

- 3.1 The East Lindsey District Council's Corporate Strategy lays down the Council's Principles and Objectives for the Authority as a whole. A copy of the summary of the Corporate Strategy for 2020 - 2030 is available on the Council's website ([www.e-lindsey.gov.uk](http://www.e-lindsey.gov.uk)).
- 3.2 We recognise that the licensing and compliance role of the Licensing Authority is important in improving the health, safety, security and welfare of the District's residents, visitors and business community. As part of that remit we will have a responsible licensing regime, which balances the needs of licence holders and residents.
- 3.3 Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the District. The efficient regulation of licensed premises plays an essential role in enabling businesses to thrive and maximise contribution to the economy of the area.
- 3.4 By consulting widely prior to this policy statement being published the Licensing Authority has endeavoured to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.
- 3.5 When appropriate arrangements will be made for the Licensing Committee to receive reports on:
- crime and disorder.
  - the needs of the local tourist economy.
  - the cultural strategy for the area.
  - the employment situation in the area and the need for new investment and employment where appropriate.
  - planning considerations.
  - local transport arrangements.
  - community safety issues.
  - any other reports considered appropriate to the licensing function.
- 3.6 The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. There is no legal basis for the Licensing Authority to refuse a licence application because it does not have planning permission.

- 3.7 Applicants are encouraged to make any necessary applications for planning permission before or at the same time as they make application for a licence. Furthermore, applicants are asked to ensure that:
- the activity to be authorised by the premises licence or club premises certificate is a lawful planning use; and
  - the hours sought do not exceed those authorised by any planning permission.
- 3.8 There are several key differences between licensing and planning control. Licensing is concerned with the operation and management of the premises. Planning control relates to need and the use of premises.
- 3.9 Where appropriate the Licensing Committee will provide reports to the Council and Planning Committee on the situation regarding licensed premises in the District, including the impact of alcohol related crime and disorder.
- 3.10 In reaching a decision of whether or not to grant a licence, the Licensing Authority will take account of any non-compliance with other statutory requirements brought to its attention (by way of relevant representations), which undermine the licensing objectives. Non-compliance with statutory requirements may demonstrate that the premises

are unsuitable for the activities proposed or that the management of the premises is not adequate to protect the public from harm or nuisance.

- 3.11 In order to avoid duplication with other existing legislation and regulatory regimes the Licensing Authority will, as far as possible, not attach conditions to a 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 (see Section 9 of this policy for further information regarding licence conditions). It is not intended to duplicate existing legislation and regulatory regimes that already places obligations on employers and operators (e.g. The Health & Safety at Work Act 1974).
- 3.12 Conditions (other than mandatory conditions and those in the applicant's operating schedule) may not be attached to a premises licence or club premises certificate unless the application has been subject of a relevant representation.

## 4.0 The Licensing Process

- 4.1 The functions of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more Officers acting under delegated authority. Delegated powers shall be in accordance with the table at Appendix 1 of this Policy.
- 4.2 Each application for licensing will be considered on its own merits, for example, free from the imposition of quotas on the number of licensed premises or generalised closing times. Nothing will undermine any person from applying for a variety of permissions under the Act and to have each application considered on its own particular merits.
- 4.3 A main part in ensuring compliance with the Act, and in particular showing how the four licensing objectives are to be achieved, is the 'operating schedule' for the licensed premises. The operating schedule forms part of the licence application - the schedule will aid any Responsible Authority or other party to assess whether the steps to be taken to promote the licensing objectives are satisfactory. The schedule will form part of the conditions of licence (if a licence is granted). The Licensing Authority will work with the licensees and licensed premises applicants to minimise the number of disputes that may arise in this area by providing guidance notes on the completion of the schedules. However, the responsibility for drawing up the operating schedule rests with the applicant. The operating schedule should detail the manner in which the business will be run and the steps/controls put in place to meet the licensing objectives. Any individual preparing an operating schedule is free to volunteer any measure as a step he or she intends to take to promote the licensing objectives. The operating schedule must specify all types of entertainment, which will take place at the premises. If there is performance of dancing on the premises the operating schedule should specify the type of dancing and whether this will include lap dancing, strip tease, members of the public, professional performers and in what setting. In particular applicants should note that the provision of adult entertainment must be detailed in the relevant section of the premises licence application form.
- 4.4 If an application for a premises licence, provisional statement or club premises certificate has been made lawfully and there have been no representations from Responsible Authorities or other parties, the Licensing Authority must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions.
- 4.5 Failure to submit an application in the correct form may result in that application being returned. We will endeavour to explain why the application is considered to be deficient

and will invite the applicant to re-submit the application with all the required information. However, we will not return forms if they contain obvious and minor factual errors that can easily be amended. Applications for a premises licence or club premises certificate must be copied to each of the appropriate Responsible Authorities (unless the application is submitted electronically).

- 4.6 Applicants are reminded that original documents should be submitted with an application to the Licensing Authority (particularly with regard to personal licence applications). Faxes and photocopies of criminal record certificates and training course certificates are not normally acceptable. Photocopies of plans with regard to premises licence and club premises certificate applications will be acceptable.
- 4.7 In an effort to avoid unnecessary hearings, applicants are strongly advised to consult with the Responsible Authorities before submitting their applications. Applicants are advised to prepare risk assessments and from these formulate any steps they consider necessary to promote the licensing objectives and then consult with the Responsible Authorities. Failure to do so may lead to representations, which can only be determined by a licensing hearing.

- 4.8 Applications will be determined having regard to:
- this Policy.
  - the Licensing Act 2003 and subordinate legislation.
  - Guidance issued by the Home Office.
  - Any 'relevant representations' received (provided they are not determined by the Licensing Authority to be frivolous, vexatious etc.).
- 4.9 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. Account will also be taken of the benefit to communities from the provision of village halls and community centres, etc. With this in mind the Licensing Authority is keen to maintain the provision of village halls, church halls, community centres and village shops and encourage the provision of additional similar facilities. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community.

- 4.10 The Licensing Authority is conscious that the views of vocal minorities should not be allowed to predominate over the general interest of the community.
- 4.11 If the Licensing Authority receives representations on an application the appropriate Officer of the Council may wherever possible undertake discussions with the applicant and each person making representations with a view to taking steps to ensure the licensing objectives are met without the requirement of a hearing.
- 4.12 Where relevant the Licensing Authority will retain the discretion to deem objections remaining after the discussion stage as irrelevant, frivolous or vexatious.
- 4.13 The guidance issued by the Home Office indicates that representations can be made in opposition to, or in support of, an application. With this in mind the Licensing Authority would remind all parties that all representations (both for or against an application) must relate to the licensing objectives.
- 4.14 This Authority has adopted a Protocol for the Disclosure of Representations - a copy of the Protocol can be found at Appendix 4 of this policy document.
- 4.15 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.
- 4.16 Under the Act there are no standard permitted hours for the sale of alcohol. Applicants are able to suggest in their operating schedules the hours they wish to be open for the sale of alcohol and to apply to vary their existing licences if they wish to sell alcohol beyond their current hours. However, whilst acknowledging the contents of paragraph 4.14 above, there is no general presumption in favour of lengthening licensing hours (in all areas of the District) and the four licensing objectives will be paramount considerations at all times.
- 4.17 As far as the Licensing Authority's overall approach to licensing hours is concerned it is not intended that any form of zoning will be introduced. Experience in other areas shows that this can lead to the significant movement of people across boundaries in search of premises opening later and puts greater pressure on town centres than is necessary and can lead to unnecessary disorder and nuisance. Applicants should note however that the Licensing Authority will give careful consideration to applications for premises situated in predominantly residential areas, where relevant representations have been received and the proposed hours of operation are likely to result in unreasonable noise disturbance between the hours of 11pm and 7am. In the absence of representations the application must be granted.



- 4.18 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, unless there are very good reasons for restricting those hours and relevant representations have been made. In the case of individual shops that are known to be a focus of disorder and disturbance then, subject to receiving valid, relevant representations, a limitation on licensing hours may be appropriate.
- 4.19 Where off sales are permitted, operators should recognise their responsibility to ensure that litter discarded by street drinkers in the vicinity of their premises is cleared away regularly.
- 4.20 The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. Applicants are reminded that large parts of the East Lindsey District are very sensitive to the impact of licensable activities because they are either residential in character or lie within rural communities. However, some commercial areas in the District, such as parts of town centres and entertainment areas on the coastal strip, may be more suitable for licensed activities, especially for those which have late opening hours or attract significant numbers of people. When issuing a licence, 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 areas and have been subject of relevant representations.

- 4.21 The Licensing Authority recommend that applicants applying for extended hours to cater for non-specified dates, such as international sporting events (e.g. FIFA World Cup or the Rugby World Cup), make provision in their operating schedules to address the licensing objectives for the specified events / times applied for.
- 4.22 The Licensing Authority also recommends that where appropriate, applicants make provision in their application to cover any special times for New Years Eve and New Years Day and also, if appropriate, the occasion when the clocks move to British Summer Time (BST). For further information see paragraphs 10.75 and 10.76 of this Policy.

## 5.0 Licensing Objectives

- 5.1 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, these elements should be specifically considered and addressed within an applicant's operating schedule.
- 5.2 As set out in paragraph 4.7 of this Policy 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 these objectives.
- 5.3 In accordance with the Home Office Guidance to Licensing Authorities, this Authority expects applicants to demonstrate knowledge of the area within which the licensed premises is situated. This would include, for example, proximity to residential properties, areas where children congregate and any risk posed to the local area by the applicants proposed licensable activities.

### 5.4 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 licensees take measures to regulate 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 encourages applicants to include in their operating schedules the steps they propose to take to reduce/deter crime and disorder. These steps will vary from premises to premises and according to the type of licensable activities that are to be carried on.

5.5 CCTV remains one of the most effective measures for reducing crime and disorder. The Licensing Authority expects both town centre and large scale premises that retail alcohol for consumption on or off the premises will have an effective CCTV system installed that operates in compliance with the reasonable requirements of Lincolnshire Police. The Licensing Authority would expect CCTV to be provided outside the premises, as well as inside the premises.

5.6 The times during which door supervisors are employed and the number considered necessary is a matter for the premises licence holder and Designated Premises Supervisor to address when promoting the four licensing objectives. However, licence holders, or Designated Premises Supervisors of town centre or large scale premises should consider employing door supervisors in the following circumstances:

- where alcohol is sold after 11pm.
- where dancing is provided as part of the licensed activities.
- at premises where the maximum occupancy figure is anticipated, and
- at premises providing entertainment carrying a special risk.

Special risk events could include adult entertainment, pugilistic (boxing or other similar) events or a demonstration of hypnotism.

5.7 Examples of measures the Licensing Authority would encourage applicants to consider and address in their operating schedule include:

- Physical security features (e.g. use of toughened or plastic drinking glasses\*).
- Membership of a Pubwatch scheme or similar organisation.
- Procedure for the risk assessment of alcohol promotions such as 'happy hours'.
- The use and numbers of licensed SIA door supervisors.
- Amount of seating to be provided to reduce high volume vertical drinking.
- Training given to staff in crime prevention measures.
- Measures agreed with the Police to reduce crime and disorder.
- Measures to prevent customers taking glasses and bottles away from licensed premises.

- Measures to prevent the use or supply of illegal drugs.
- Search procedures.
- Provision of suitable CCTV in and around premises (including recording facilities).
- Participation in the use of a radio network scheme.
- Formulation of a dispersal policy.
- A premises specific drugs policy.

\*The Licensing Authority believes that a risk-based, rather than blanket, approach to requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass-related injuries.

- 5.8 The British Beer and Pub Association (BBPA) has consolidated good practice on combating violence in licensed premises into a guide to risk assessment. This is available on the BBPA's website: [www.beerandpub.com](http://www.beerandpub.com).
- 5.9 Pub Watch - The Licensing Authority recognises the important role of licensees working together to create a safe and secure environment for customers, thereby reducing crime and disorder in the area. The Licensing Authority will therefore do all that it can to support the creation and effective working of Pub Watch schemes and other trade associations in the area.

## 5.10 Public Safety

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

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

- 5.11 Where applicable, the Licensing Authority would encourage applicants to address the following matters in their operating schedules:

- Use of equipment and effects.
- Levels of door supervision.
- Measures to prevent the supply and use of illegal drugs.
- Free availability of drinking water.
- Physical safety features e.g. use of toughened glass and plastic\* containers.

\*See note in paragraph 5.7 regarding the use of toughened glass and plastic containers.

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

- 5.12 Where appropriate the occupancy capacity for premises or events should be addressed. When music and dancing are a key feature in a venue, then capacity limits may be appropriate.
- 5.13 The design and layout of premises are important in determining capacity, as is the availability and size of exits. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include:
- 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 stage, or furniture.
  - The number of staff available to supervise customers both ordinarily and in the event of an emergency.
  - The age of the customers.
  - The attendance by customers with disabilities, or whose first language is not English.

- Availability of suitable and sufficient sanitary accommodation.
- Nature and provision of facilities for ventilation.

- 5.14 Whilst the Licensing Authority cannot require documentation regarding risk assessments to be attached to the operating schedule, it considers such risk assessments to be good practice. Risk assessments are a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder, in the event of needing to make an application for variation of a premises licence or in response to changing circumstances/conditions at the premises.
- 5.15 The Licensing Authority will expect applicants applying for permissions to stage events, which draw in large numbers of people and/or have an impact on the road network to have consulted with the East Lindsey Event Safety Advisory Group (ELESAG) and Lincolnshire County Council (as the Highways Authority). Contact details for the ELESAG are available from the Licensing Team.
- 5.16 The 2003 Act contains a wide range of licensing exemptions for regulated entertainment (particularly live music). Further information can be found in the Authority's guidance leaflet.

## 5.17 Prevention of Public Nuisance

Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. This will particularly apply in areas where residential accommodation is in close proximity to licensed premises. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

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

5.19 Applicants are encouraged to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

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

- The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.

- The hours of opening, particularly between 11pm and 7am.
- The nature of the activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside the premises.
- The design and layout of the premises and in particular the presence of noise limiting features.
- The occupancy capacity of the premises (where appropriate).
- The availability of public transport.
- ‘Wind down period’ between the end of the licensable activities and the closure of the premises.
- Last admission time.
- The formulation of a dispersal policy.
- Provision of suitable CCTV (and recording facilities).

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

- Effective and responsible management of premises.

- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance (e.g. to ensure customers leave quietly).
- Control of operating hours for all or parts (e.g. outside / garden areas) of the premises, including such matters as deliveries.
- Adoption of best practice guidance (e.g. Good practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics).
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
- Management of people, including staff and traffic (and resulting queues) arriving and leaving premises.
- Liaison with public transport providers.
- Siting of external lighting, including security lighting.
- Management arrangements for collection and disposal of litter.
- Effective ventilation systems to prevent nuisance from odour.
- Undertaking noise impact assessments.
- Installation of a noise limiting device.

## 5.22 Noise Impact Assessment

Licence applicants should be aware that a proposal for a new premises or variation of existing licensed premises may have an adverse impact on existing occupants of nearby buildings. This may particularly be the case if the proposal is close to existing sources of noise or near to a site with a particular use that is sensitive to noise.

Noise can be generated by a number of different sources which include:

- traffic and customers arriving and leaving the premises.
- customers queueing in order to enter the premises.
- regulated entertainment (particularly live and recorded music).
- deliveries to and collections from premises.
- other noise associated with the night-time economy such as people accessing hot food takeaways and people in the street in the late evening or early hours of the morning.

With this in mind, where appropriate, applicants should consider the commission of a noise impact assessment

prior to the submission of the premises licence application. The assessment should be prepared by a suitably qualified acoustician – the Council’s Environmental Health Department may be able to offer advice in order to work towards an agreed method statement for the assessment.

This Authority strongly encourages applicants for licences for large scale outdoor music events to undertake a suitable noise impact assessment.

Where appropriate a Licensing Sub-Committee may impose a condition requiring the completion of a noise impact assessment and that the recommendations of the assessment be acted upon.

### **5.23 The Protection of Children from Harm**

The Licensing Authority will seek to ensure that licensees take measures to protect children from harm. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.

The general relaxation brought about by the Licensing Act, giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.

The protection of children from harm includes the protection of children from moral, psychological and physical harm.

The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Except as prohibited by law, the Authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm. In all other cases it will be left to the discretion of the licensee.

When receiving relevant representations and deciding whether to limit access to children or not the Licensing Authority will judge each application on its own individual merits. Examples, which may give rise to concern in respect of children, would include premises:

- Where entertainment or services of an adult or sexual nature are commonly provided;
- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
- With a known association with drug taking or dealing;
- Where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines);



- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises, and
- Where there has been a conviction of a current member of staff at the premise for an offence which pose a risk / threat to children.

Examples of entertainment or services of an adult or sexual nature would include:

- topless bar staff.
- striptease incidents.
- feigned or actual acts of fetishism.
- entertainment involving strong and offensive language.

- 5.24 **Adult Entertainment** – Applicants are advised that a ‘no adult entertainment’ condition will be attached to licences when a licence application indicates that there will be no such entertainment on the premises.
- 5.25 **Films** - In the case of premises which are used for film exhibitions, the mandatory licence condition will be imposed restricting access only to those persons 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. Applicants will be expected to explain in their operating schedule the steps they intend to take to ensure children and young persons do not gain access to films with a restricted access classification.

- 5.26 Where a film is to be shown locally within the Authority’s area and has not been classified by the British Board of Film Classification, an application can be made to the Authority for the film to be classified. Applications should be made at least 28 days before the event. The film will be classified in accordance with the guidelines set out by the British Board of Film Classification. These guidelines can be found at: [www.bbfc.co.uk](http://www.bbfc.co.uk).
- 5.27 **Theatres** - In certain cases it may be necessary to impose a condition to restrict the admission of children to theatres, which are incorporating adult entertainment in their productions.
- 5.28 **Adult Supervisors** - Where a large number of children are likely to be present on any licensed premises, for example, a children’s show or pantomime, then the Licensing Authority will expect the presence of an appropriate number of adult staff to ensure public safety and their protection from harm.

- 5.29 The Licensing Authority considers it expedient for adult supervisors (being persons over the age of 18) to be subject to an Enhanced Criminal Records Bureau check. The onus should be on the premises licence holder to ensure, where required, these checks have been undertaken and the persons are suitable to carry out the supervision of children.
- 5.30 Applicants should demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.
- 5.31 The options available for limiting access by children would include:
- Limitations of the hours when children may be present.
  - Limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place.
  - Limitations on the parts of premises to which children might be given access.
  - Age limitations (below 18).
  - Requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult).
  - Full exclusion of those people under 18 years of age from the premises when any licensable activities are taking place.
- 5.32 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.
- 5.33 Responsible Authority – Body Representing Children from Harm**
- The Licensing Authority has designated in writing the body it considers competent to advise the Licensing Authority on the protection of children from harm. This body is:
- Lincolnshire Safe Guarding Children’s Board
- The reasons the Licensing Authority has chosen the above as a Responsible Authority competent to advise it on the protection of children from harm are:
- That this body is answerable to democratically elected persons and is not answerable to a particular vested interest group;
  - That this body is responsible for the area covered by the Licensing Authority and this Policy;
  - That this body is experienced in dealing with the protection of children.
- 5.34 Primary Care Trusts (PCTs) (and first-tier Local Authority Directors of Public Health (DPH) from April 2013) became Responsible Authorities in 2012 - with all of the powers and responsibilities this brings. The details of the local contact can be found at Appendix 3 of this document.

5.35 It is expected that the PCT/DPH will be particularly useful in providing evidence of alcohol-related health harms when the Licensing Authority revises this policy document. Such evidence would be useful in relation to any discussions regarding possible Early Morning Restriction Orders. PCTs/DPHs may also be useful in providing evidence such as alcohol-related A & E admissions or ambulance service data that might be directly relevant to a specific licence application or review.

The contact details of all the Responsible Authorities are available at Appendix 3 of this document.

5.36 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.

### 5.37 Alcohol – Children and Young Persons

The sale of alcohol and other age-restricted products 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. The Licensing Authority will, therefore, expect licensed premises to have adequate controls in place to prevent under age sales of alcohol and other age restricted products to children and young persons.

5.38 **Challenge 21** – The mandatory licence conditions (introduced in October 2010) require relevant premises to hold an age verification policy in relation to the sale or supply of alcohol. The Licensing Authority supports the adoption of the Challenge 21 Scheme (or similar scheme) for licensed premises. For further information see paragraphs 10.52 to 10.57 of this Policy.

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

- 5.40 **Trading Standards Service** - 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.
- 5.41 The Trading Standards Service offers guidance and assistance in relation to policies and procedures to control the sale of age restricted products. Applicants and licence holders, in relation to the sale of alcohol, are strongly advised to contact the Trading Standards Service for advice in this matter.
- 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

A poster with a black background and white and red text. At the top, the word "Challenge" is written in a white, bubbly font with a red outline, followed by a large red circle containing the number "21" in white. Below this, the text reads: "If you are lucky enough to look under 21 you will be asked to prove that you are over 18 when you buy alcohol". The number "18" is in a large, white, bubbly font with a red outline. At the bottom, it says: "If you are under 18 you are committing an offence if you attempt to buy alcohol". The bottom of the poster features logos for Lincolnshire County Council, East Lindsey Community Safety Partnership, and East Lindsey District Council.

**Challenge 21**

If you are lucky enough to **look under 21** you will be asked to prove that you are **over 18** when you buy alcohol

If you are under 18 you are committing an offence if you attempt to buy alcohol

Lincolnshire COUNTY COUNCIL

EAST LINDSEY COMMUNITY SAFETY PARTNERSHIP

East Lindsey DISTRICT COUNCIL

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 customer 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.

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.

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.

## 6.0 Cumulative Impact

- 6.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter, which the Licensing Authority can take into account. Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. For example, the potential impact on crime and disorder or public nuisance on a town centre of a large concentration of licensed premises. This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises (e.g. a pub, restaurant or hotel). The issue of 'need' is therefore a matter for planning consideration or for the market to decide and does not form part of this Licensing Policy Statement.
- 6.2 In addressing the potential issue of cumulative impact, the Licensing Authority has the power to include a 'special policy' of refusing new licences. Any special policy would apply only to a particular area with specified boundaries. The adoption of a special policy would in effect create a refutable presumption that applications for new premises licences or club premises certificates or material variations would normally be refused if relevant representations were

received, unless it could be demonstrated that the operation of the premises involved would not add to the cumulative impact already being experienced. If no representation were received it would remain the case that the application would be granted.

- 6.3 The Licensing Authority may receive representations from either a Responsible Authority or an interested party, 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. However, the Licensing Authority stresses that the onus would be on the Responsible Authority or interested party making the representation to lay the evidentiary base before the Licensing Authority to substantiate the assertion that the addition of premises licences would impact to the detriment of the licensing objectives.

6.4 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 member 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.

6.5 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 the customers of licensed premises; and if so identifying the area from which problems are arising and the boundaries of that area, or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
- Consultation with those specified in section 5(3) of the 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 Section 182 Guidance issued by the Home Office in this statement of Licensing Policy;

- Publication of the special policy as part of this Policy.

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

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

- planning controls.
- positive measures to create a safer and cleaner environment in partnership with local businesses, transport operators and other Departments of the Council.
- powers to designate parts of the District as places where alcohol may not be consumed publicly.
- confiscation of alcohol from adults and children in designated areas.
- police enforcement of the law with regard to disorder and anti-social behaviour.

- police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise.
- the power of police, local businesses or residents to request a review of the licence in question.
- enforcement action against those selling alcohol to people who are already drunk.
- the provision of CCTV surveillance, ample taxi ranks, street cleaning and litter patrols.

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

6.8 At the time of the adoption of this Policy there were no designated cumulative impact areas in the East Lindsey District.

## 7.0 Nudity and Striptease

- 7.1 The Licensing Authority does not make a moral stand in adopting this policy. The Authority recognises that Parliament has made it lawful to operate establishments providing adult entertainment, such as striptease, and that such businesses are a legitimate part of the retail and leisure industries. It is our role as a Licensing Authority to administer the licensing regime in accordance with the law.
- 7.2 This Authority has adopted the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009) so that it can licence sexual entertainment venues in the District. The Authority's policy and standard conditions in relation to the licensing of sexual entertainment venues is available by contacting the Licensing Team.
- 7.3 The Licensing Authority recognises that some premises providing sexual entertainment may not be providing the entertainment at a frequency, which requires the premises to be licensed as a sexual entertainment venue. Where such premises are providing (or intending to provide) striptease or any other kind of nudity (for example, pole or lap dancing or topless waitresses) the Licensing Authority, subject to receiving a relevant representation, will take into consideration the increased risk to the promotion of the licensing objectives. In particular, the Licensing Authority encourages applicants to have given additional thought in their operating schedule to the promotion of the licensing objectives.
- 7.4 Where premises licence applications include striptease or any other kind of nudity, the Licensing Authority will (on the receipt of relevant representations) have particular regard to the location of the premises in relation to places of religious worship or instruction, schools, youth clubs, nurseries, children's centres or other premises where significant numbers of children are likely to attend. With regard to location the Licensing Authority will give close scrutiny to those applications, which are in close proximity to the aforementioned premises or outside a major town centre.
- 7.5 In order to promote the licensing objectives, where the Licensing Authority grants premises licences that include striptease or any other kind of nudity it will generally (following the receipt of relevant representations) impose conditions relating to the following issues:
- The location within the premises where the activity takes place.
  - The absence of advertising the activities outside the premises.
  - The measures taken to ensure no person under 18 years of age enters the premises whilst adult entertainment is taking place.

- The measures taken to ensure that the activities inside the premises cannot be seen from outside the premises.
- The position of the performers' dressing rooms in relation to the area in which they perform.
- Absence of physical contact between performers and customers.
- Absence of private booths or private performance areas (see paragraph below).
- Means by which potential customers will be made aware of the nature of the performance.
- Stewarding arrangements.

7.6 Following the receipt of relevant representations the Licensing Authority will normally attach licence conditions precluding the use of private booths or private performance areas unless the applicant demonstrates that all appropriate safety measures are in place.

7.7 Applicants are reminded that a 'no adult entertainment' condition will be attached to licences when a licence application indicates that there will be no such entertainment on the premises.

## 8.0 Club Premises Certificates

8.1 The Licensing Act 2003 recognises that private premises:

- acting as private members' clubs;
- restricting access to members of the public; and
- where alcohol is supplied rather than sold for profit;

should be treated differently from commercial enterprises selling to the public.

8.2 The Act sets out the five qualifying conditions which such a club is required to meet. Where a qualifying club meets the conditions, they will have certain benefits. These include:

- a) The authority to supply alcohol to members and sell it to guests without the need for a member or employee to hold a personal licence.
- b) No requirement to specify a Designated Premises Supervisor.
- c) More limited right of entry for Police and authorised persons.
- d) Not being subject to Police powers of instant closure on grounds of disorder or nuisance.
- e) Not being subject to potential orders of the Magistrates' Court for closure of all licensed premises in an area when disorder is happening or is expected.

8.3 Any club run commercially by a person for business or profit does not qualify under the aforementioned conditions, therefore would require a premises licence.

8.4 The Licensing Authority will only attach conditions to a Club Premises Certificate where strictly necessary, and then only in order to promote the licensing objectives.

8.5 A private members club holding a Club Premises Certificate (CPC) must be 'conducted in good faith' and it is open to the Licensing Authority to consider the status of any CPC where there is a suspicion or allegation that the good faith requirement has not been maintained.

8.6 Section 90 of the Licensing Act 2003 provides that the Licensing Authority may, where a club no longer satisfies the conditions for being a qualifying club, issue a notice withdrawing the Club Premises Certificate. Such qualifying conditions include whether or not the club is established and conducted in good faith. Where there is a question as to whether a club is still a qualifying club then the matter will be determined by a Licensing Sub-Committee hearing and not by Council Officers acting under delegated powers.



- 8.7 Where the Licensing Authority has concerns or requires clarification about a club's 'acting in good faith' status, then the Authority will look to put those concerns in writing to the Club as a series of questions or requests for information. The Club to be then tasked to respond to those questions or concerns at the Licensing Sub-Committee hearing.
- 8.8 Where, in relation to the club's good faith, there are concerns relating to the accuracy of the club's finances or books of account, then the Licensing Sub-Committee may recommend or require that an independent review of the club's books of account be undertaken within a timescale indicated by the Sub-Committee.

## 9.0 Conditions of Licence

- 9.1 Where Responsible Authorities and other parties do not raise any representations about the 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.
- 9.2 The Licensing Authority may not therefore impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the need to impose conditions due to the representations raised. It may then only impose such conditions as are appropriate to promote the licensing objectives arising out of the consideration of the representations.
- 9.3 However, in order to minimise problems and the necessity for hearings, it would be sensible for applicants and clubs to consult with Responsible Authorities when schedules are being prepared. This would allow for proper liaison before representations prove necessary.
- 9.4 Model Pool of Licence Conditions**
- Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. Conditions should be tailored to the particular circumstances of an individual licensed premise and determined on a case-by-case basis. Standardised conditions which ignore these individual aspects should be avoided.
- 9.5 The Licensing Authority does not propose to implement standard licence conditions across the board. However, it will develop its own pool of model conditions, and attach such conditions as appropriate given the circumstances of each individual case.
- 9.6 All parties are reminded that conditions which are appropriate to promote the licensing objectives should emerge initially from the prospective licence holders risk assessment and then be translated to form part of the operating schedule for the premises. This Authority's pool of model conditions has been produced to assist prospective licence holders where they consider that conditions from the pool would promote the licensing objectives in the circumstances of their application.
- 9.7 Once an application has been made, the Police, other Responsible Authorities, and other relevant persons are encouraged to engage with the applicant if they are considering making a representation to the application. With this in mind, the pool of model conditions has been produced to assist all parties and promote a consistent approach when proposing conditions on a premises licence (or club premises certificate).

9.8 The pool of model conditions is not an exclusive or exhaustive list of conditions which may be included on a premises licence or club premises certificate. It does not restrict any applicant, Responsible Authority, or other person from proposing any alternative conditions, nor would it restrict a Licensing Sub-Committee from imposing any reasonable condition on a premises licence (or club premises certificate) it considers appropriate for the promotion of the licensing objectives.

9.9 The imposition of conditions, by a Licensing Sub-Committee, will be determined upon the individual merits of the application.

9.10 A list of this Authority's current model conditions is available by contacting the Council's Licensing Team.

Please email any comment on the current model conditions to: [licensing@e-lindsey.gov.uk](mailto:licensing@e-lindsey.gov.uk)

#### 9.11 **Live Music, Dancing and Theatre**

The Licensing Authority is aware of the need to avoid measures, which deter live music, dancing and theatre by imposing indirect costs of a substantial nature. The Licensing Authority will take account of this when imposing conditions. The impact of licensing on live music, dancing and theatre

will be monitored and in so doing the Authority will ensure that only necessary, proportionate and reasonable licensing conditions are applied.

9.12 Proper account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally.

#### 9.13 **Conditions in Relation to Drugs**

The Licensing Authority recognises that drug use by young people in a public house or club environment is not something that is relevant to all licensed premises. However, it recognises that, subject to the receipt of relevant representations, licence conditions may have to be imposed for certain venues to reduce the sale and consumption of drugs, and to create a safer environment for the patrons.

9.14 The Licensing Authority encourages licensees of venues to take all reasonable steps to prevent the entry of drugs into their premises, to take appropriate steps to prevent drugs changing hands within the premises and to otherwise adopt precautionary measures to address the consequences of drug misuse.

9.15 Where appropriate premises are encouraged to formulate a premises specific drugs policy. The key elements of a drugs policy should be firstly a strict zero tolerance approach to illegal drugs being misused or supplied in or on any part of the premises. The objectives of the policy should be:

- Preventing illegal drugs entering the premises
- Detecting those supplying and misusing illegal drugs
- Ensuring the safety of all staff and customers

There are a number of accredited training providers which provide drug awareness training – this includes the BIIAB who provide a Drugs Awareness qualification.



# 10.0 General Matters

## 10.1 Large and/or Complex Premises

Applicants for premises licences sought on large and/or complex premises with a complex arrangement of licensable activities should consider compartmentalising the premise, its licensable activities and management by way of a business risk assessment completed for the unlikely event of a police closure.

## 10.2 Outdoor Furniture and Street Café Licences

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

## 10.3 Smokefree Legislation

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

#### 10.4 Late Night Refreshment Premises

With regard to premises providing late night refreshment for consumption off the premises, the Licensing Authority will (on the receipt of relevant representations) carefully consider the level of nuisance likely to be caused by way of noise and litter/food refuse being deposited in the vicinity of the premises. Applicants should consider proposing practical steps in their operating schedule to reduce the likelihood of such problems. The Licensing Authority will also give careful consideration to the level of nuisance (e.g. noise and litter) likely to be caused by clientele vacating premises licensed for the sale of alcohol.

#### 10.5 Personal Licences

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

10.6 Where a personal licence application reveals an unspent conviction and the Police object to the licence application the Licensing Authority will normally refuse such an application unless there are exceptional and compelling circumstances to justify the granting of a licence. Any application for a personal licence, which is subject of a Police objection, will be considered by a licensing hearing at which the applicant may attend and be heard.

10.7 At any personal licence hearing the Licensing Authority will consider carefully whether the granting of a licence will be in keeping with the promotion of the crime and disorder objective. Considerations will include the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The Licensing Authority will only grant the application if it is satisfied that doing so will promote this objective.

10.8 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.

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.

### 10.9 Designated Premises Supervisor (DPS)

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

- 10.10 The main purpose of the Designated Premises Supervisor is to ensure that there is always one specified individual, among the personal licence holders at a premises, who can be readily identified for the premises where the sale of alcohol is permitted. The premises licence holder will normally have given that person day-to-day responsibility for running the premises. In view of this the Licensing Authority would expect an applicant for a premises licence to confirm in his

operating schedule, that the Designated Premises Supervisor will regularly attend the premises and be in day-to-day charge of them.

- 10.11 This Licensing Authority recommends that the DPS undergo relevant training, such as the Designated Premises Supervisor course provided by the BIIAB, in order that they are made aware of the responsibilities this position brings with it.

### 10.12 Minor Variations of Premises Licences

Officers acting under delegated powers will determine applications for the minor variation of a premises licence. Prospective applicants are advised to contact the Licensing Team before submitting a minor variation in order to ascertain whether the proposed change does in fact qualify as a minor variation. In addition, Officers will give advice as to whether it is advisable to discuss the particular variation with a Responsible Authority prior to submission of the application. Officers will reject any application that does not qualify as a minor variation. Applicants are advised that this Authority will not consider the addition of live music between 2300 and 0900 Hours as a minor variation. Such applications would require a full variation application.

### 10.13 Temporary Events Notices (TENs)

Certain temporary events are not required to be licensed, although they must be notified to the Licensing Authority, Lincolnshire Police and the East Lindsey District Council Environment Team using the TENs procedure (contact should be made with the Licensing Section for details). The Licensing Authority strongly encourages organisers of temporary events to submit TENs notifications as soon as reasonably practicable to enable the Police, the Environment Team and Licensing Authority to work with them to identify and reduce the risk of any issues in relation to the licensing objectives.

The Licensing Authority recommends for normal events that at least 30 working days notification be given (the normal legal requirement is 10 working days). Although only the Police and the Environment Team can object to TENs, organisers of events where there may be significant numbers of people or may have an impact on the road network or public safety are encouraged to consult with relevant authorities at an earlier stage.

10.14 It should be noted that the Police and the Council's Environment (Noise) Team are the only bodies who may make representations to a TEN. However, these two bodies may object to a TEN on grounds that any of the licensing objectives would not be promoted should the event go ahead. Where objections are received the matter will be put before the Licensing Sub-Committee hearing. The Sub-Committee may:

1. Allow the TEN to go ahead

2. Reject the TEN

3. If the premises where the TEN is proposed to take place already has a premises licence the Committee may allow the TEN but impose some, or all, of the conditions on the premises licence onto the TEN if appropriate.

In relation to bullet point (3) above – the Licensing Authority has delegated powers to Officers to issue a TEN with conditions attached (without the need for a licensing hearing) – provided all parties agree to the attachment of the conditions.

10.15 Licensing legislation allows event organisers to submit up to 10 'late notices' per year if they hold a personal licence and 2 'late notices' if they do not hold a personal licence. These 'late notices' can be submitted to the Licensing Authority, Police and Environment Team between 5 and 9 days before the event. However, it should be noted that if either the Police or the Environment Team lodges an objection to a late TEN the event cannot go ahead.

### 10.16. Review of Premises Licences and Club Premises Certificates

The Licensing Authority will consider the full range of powers available to it when a review of a premise licence or a club premises certificate becomes necessary. It will however be mindful of the need to prevent the review process being used as an opportunity by Responsible Authorities and other parties to re-run earlier representations without due cause.



The power to review premises licences represents a crucial protection for the community, especially with regards to the promotion of the four licensing objectives. Reviews of licences may be triggered at any stage by Responsible Authorities or interested parties because of a matter arising at the licensed premises and relating to one of the four licensing objectives. Reviews will become necessary following the service of a closure order by the Police. It is the Licensing Authority's belief that the promotion of the licensing objectives is best achieved in an atmosphere of mutual co-operation between all stakeholders. Reviews should therefore be mainly reserved for circumstances where early warnings of concerns and the need for improvement have gone unheeded by the management of the licensed premises.

- 10.17 This Authority emphasises the importance of all parties working in partnership to achieve the promotion of licensing objectives; the Authority expects that Responsible Authorities will aim to give licensees early warning of any concerns identified at a premises.
- 10.18 Responsible Authorities and other parties can apply for the review of a licence; the Licensing Authority itself can also initiate the review process.
- 10.19 When acting as a Responsible Authority the Licensing Authority will operate in accordance with the Home Office

Guidance to Licensing Authorities – that is, there will be clear and identifiable separation of responsibilities.

#### **10.20 Premises Licence or Club Premises Certificate Review - Use of Toughened or Plastic Drinking Glasses**

Glasses and bottles containing drinks may be used as weapons during incidents of disorder and in non-toughened form can cause very serious injuries.

- 10.21 Where appropriate consideration should be given by licence applicants to conditions requiring either the use of polypropylene containers or toughened glass, which inflicts less severe injuries.
- 10.22 Applicants are advised that the Licensing Authority supports a risk based, rather than a blanket, approach to requiring licensed premises to use safer alternatives and is of the opinion that this is the best way to tackle the problem of glass-related injuries. However, the Licensing Authority encourages the adoption of shatter-proof or crumpleable drink containers at venues at times when there are risks of disorder or threats to public safety. With this in mind the location and style of the venue and the activities carried on there will be particularly important in assessing whether such a licence condition is necessary.

10.23 The use of such polypropylene containers or toughened glass during the televising of live sporting events, such as international and premier football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

10.24 It should be noted that the use of polypropylene or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety.

10.25 A premises licence condition can prevent sales of drinks in glass bottles for consumption on the premises. It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption at particular premises should be expressed in clear terms and include the following elements:

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.

In appropriate circumstances, the condition could include exceptions, for example, as follows:

- but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

10.26 The Licensing Authority will seek to establish the cause or causes of the concern and remedial action will be targeted at such causes. Any action will be proportionate to the problems involved.

10.27 The following is a list of steps the Authority is empowered to take if it considers them necessary to promote the licensing objectives:

- To modify the conditions of the licence.
- To exclude a licensable activity from the scope of the licence.
- To remove the Designated Premises Supervisor (DPS).
- To suspend the licence for a period not exceeding three months.
- To revoke the licence.

The Sub-Committee may also consider issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. If none of the above steps is considered necessary the premises licence will remain in the form it was granted.

10.28 This Authority has adopted the “Red Card, Yellow Card” approach to reviews recommended by the Secretary of State in September 2008 and will use such an approach when it is appropriate to do so. Further information on this approach is available by contacting the Licensing Team.

10.29 Whilst bearing the Red Card, Yellow Card approach in mind this Policy stresses that in cases when the crime prevention objective is being undermined it can be expected that revocation of the licence – even in the first instance – will be seriously considered.

### 10.30 Councillors as Other Parties

When acting as an other party Members will be aware of the role of the elected members in relation to licensing committee hearings and the Model Code of Conduct.

### 10.31 Drinking Up Time / Chill Out Period

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

10.32 During the drinking up period / chill out period the bar should be open for the sale of reasonably priced soft drinks,

tea, coffee and perhaps for food. This allows the slow and controlled dispersal of patrons.

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

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

### 10.35 Use of Toughened or Plastic Drinking Glasses

Glasses and bottles containing drinks may be used as weapons during incidents of disorder and in non-toughened form can cause very serious injuries.

Where appropriate consideration should be given by licence applicants to conditions requiring either the use of polypropylene containers or toughened glass, which inflicts less severe injuries.

- 10.36 Applicants are advised that the Licensing Authority supports a risk based, rather than a blanket, approach to requiring licensed premises to use safer alternatives and is of the opinion that this is the best way to tackle the problem of glass-related injuries. However, the Licensing Authority encourages the adoption of shatter-proof or crumpleable drink containers at venues at times when there are risks of disorder or threats to public safety.
- 10.37 With this in mind the location and style of the venue and the activities carried on there will be particularly important in assessing whether such a licence condition is necessary. The use of such polypropylene containers or toughened glass during the televising of live sporting events, such as international and premier football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.
- 10.38 It should be noted that the use of polypropylene or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety.
- 10.39 A premises licence condition can prevent sales of drinks in glass bottles for consumption on the premises. It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption at particular premises should be expressed in clear terms and include the following elements:
- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;

- no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.

In appropriate circumstances, the condition could include exceptions, for example, as follows:

- but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

#### 10.40 Staff Training

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

#### **10.41 Town and Parish Councils**

The Licensing Authority recognises Town and Parish Councils as being bodies that are democratically elected to represent the views of their area. Whilst not being Responsible Authorities (under the terms of the 2003 Act) Town and Parish Councils are able to act as 'other parties' in their own right and also represent the views of other parties when requested to do so.

#### **10.42 Petrol Stations**

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

#### **10.43 Karaoke**

Applicants wishing to provide karaoke should ensure that the live music section of the premises application form is completed with an explanation that karaoke is to be provided.

#### **10.44 Large Scale Music and Other Similar Events**

The Licensing Authority strongly recommend that event organisers contact the Responsible Authorities in advance of drafting/submitting a licence application for a large scale event. The Responsible Authorities (including the Police, Fire Service and Environment Team) are normally in a position to offer expert and specific advice on promotion of the four licensing objectives, and practical experience of dealing with events. This approach can both minimise the potential for Responsible Authority representations (objections) against event proposals and help ensure that an event runs smoothly and safely. Event organisers may also wish to actively advise and consult local residents and the Parish/Town Council directly on their proposed event.

10.45 The Licensing Authority will expect organisers of large scale events to work in partnership with the East Lindsey Event Safety Advisory Group (ELESAG). The ELESAG is an advisory group dealing with public events that are planned to take place in the East Lindsey area. The members of the ELESAG comprise Officers from all the emergency services (Police, Fire and Rescue Service, Maritime Coastguard Agency, and the Ambulance NHS Trust). Lincolnshire Emergency Planning, Lincolnshire Highways as well as representatives from the

Council's Health and Safety and Regulatory Services will also attend the meetings. The ELESAG's main objectives are:

To promote high levels of safety and welfare at events by giving advice;

- To promote good practice in safety and welfare planning for events; and
- To ensure events cause minimal adverse impact.

10.46 The role of ELESAG is purely advisory and it has no enforcement powers. Should incidents occur during an event, a number of agencies (with representatives on ELESAG) have enforcement powers, which would come into effect.

10.47 The Licensing Authority has drafted model licence conditions and guidance in relation to large-scale music events. The model conditions are available by contacting the Licensing Team.

10.48 Prospective applicants for large-scale music events (and other similar events) will be expected to contact the Responsible Authorities and the ELESAG at least one year in advance of the proposed event.

10.49 Where a licence applicant has not indicated on the licence application form that more than 4,999 persons will be present at an event at any one time, then any licence issued will include a condition limiting the number of persons to no more than 4,999 persons – unless of course a smaller occupancy figure is identified as part of the licensing process.

10.50 The Licensing Authority will expect management of environmental noise at large scale music events to be proactive and implemented to a good standard. Whilst the Licensing Authority takes the view that music festival sites will always be a host to an amount of acoustic energy and inevitably there will be some community impact - all parties (including the Licensing Authority) should aim to reduce the impact of noise on the local community.

10.51 When dealing with applications for large scale music events this Licensing Authority will not, generally, grant licences with terminal hours for music beyond 2300 Hours when its discretion has been triggered by the receipt of relevant representations. In the limited circumstances that the Authority may decide to grant hours beyond 2300 Hours it will need to be satisfied that the impact on the local community is likely to be negligible.

#### 10.52 **Challenge 21 Scheme (or Challenge 25 Scheme)**

The Licensing Authority strongly supports campaigns to reduce the illegal sale of items to underage persons and encourages the use of a Challenge 21 policy (or similar policy) within the licensed trade. Under the scheme, premises selling alcohol should seek proof of age from anybody who appears to be under the age of 21.

N.B. The mandatory licence conditions (introduced in October 2010) require relevant premises to hold an age verification policy in relation to the sale or supply of alcohol.

- 10.53 The policy should create a culture of expectation that in pubs, clubs, off licences etc., that proof of age should either be offered or produced on demand and that this should be the norm as far as the sale of alcohol to young persons is concerned. Asking for identification at an age limit that is higher than the legal age for sale of the product means that licence holders are much more likely to avoid an illegal sale to someone who looks older than their true age.
- 10.54 The Licensing Authority strongly recommends that all retailers of alcohol use the Challenge 21 scheme. Using 'No ID No Sale' with the age of 21 set as the level should eliminate most illegal sales.
- 10.55 It can be very difficult to assess the age of a young person and to identify accurately whether someone is 17, 18, 19 or 20 but it is usually easier to determine whether someone is 21. If a retailer suspects a young person is under 21 years old, then identification should be requested. If the person does not have the relevant identification (e.g. passport, photo-driving card, identity cards issued that bear the official PASS (Proof of Age Standards Scheme) hologram logo) they should not be served alcohol.
- 10.56 Challenge 21 will protect young people by ensuring that only those over 18 can buy alcohol. It can also be used to educate businesses and help create a level playing field for all businesses that sell alcohol.

10.57 Whilst supporting the Challenge 21 Scheme the Licensing Authority recognises that some premises (such as supermarkets and off licences) may wish to go a step further by introducing a Challenge 25 Scheme.

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

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

10.59 Licence holders are reminded that the mandatory licence conditions require the responsible person at the licensed premises to take all reasonable steps to ensure that staff do not carry out irresponsible promotions. Irresponsible promotion means carrying on an activity (defined in the mandatory condition), which carries a significant risk to the licensing objectives. When deciding whether a drinks promotion constitutes an irresponsible promotion the

Authority will make specific reference to the guidance issued by the DCMS. The Authority is aware that the Home Office has also issued guidance in relation to drinks promotions and the Authority will give appropriate weight to the Home Office document in its decision making process.

- 10.60 Irresponsible drinks promotions are likely to encourage excessive consumption or binge drinking and result in alcohol fuelled incidents of crime and disorder and implications for public safety, public nuisance and may expose children to risk of harm.
- 10.61 Any premises found to be promoting irresponsible drinks promotions (likely to have a negative effect on the licensing objectives) will be liable for prosecution. In addition the premises will be considered as high risk premises for multi-agency compliance and enforcement visits.
- 10.62 The Responsible Authorities have stated that where evidence shows that a premises' alcohol drinks promotions are undermining one or more of the licensing objectives, then they may instigate a review of the licence.
- 10.63 Where relevant representations are made or reviews are requested on any individual case, the licensee will be expected to demonstrate to the Licensing Authority that appropriate measures are in place to ensure that promotions do not carry a significant risk to the licensing objectives.
- 10.64 On receipt of relevant representations from a Responsible Authority or other party, which demonstrate a clear link between sales promotions and levels of crime and disorder

or public nuisance on or in the vicinity of the premises, the Licensing Authority will seriously consider the status of the premises licence.

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

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

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

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

- 10.66 Such applications shall only be granted to 'community premises'. A Community Premises is defined as premises that are or form part of;
- a) a church hall, chapel hall or other similar building, or
  - b) a village hall, parish hall, community hall or similar building.



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

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

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

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

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

Community premises should note that the Licensing Authority supports the Challenge 21 Scheme in order to combat the underage sales of alcohol and endorses the ACRE model in relation to community premises hiring agreements.

- 10.71 The Licensing Authority would normally expect any hiring agreement to contain the following:
- The conditions of the premises licence;
  - The policy on underage sales;
  - A signed declaration that the hirer has read and understands his responsibilities in leasing the premises.
- 10.72 The management board or committee, as premises licence holder, will collectively be responsible for ensuring compliance with the law.
- 10.73 If a representation is received from the Police requesting the imposition of the same mandatory conditions applicable to non-community premises, then the Licensing Authority will also consider whether those conditions are necessary to promote the crime prevention objective before granting or varying the licence.
- 10.74 Where a review application is made in respect of a premises licence that includes the 'alternative condition', the Licensing Authority may determine that normal mandatory conditions should apply, and a Designated Premises Supervisor is required.

#### **10.75 New Years Eve and New Years Day and British Summertime**

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

- 10.76 The Licensing Authority recognises that the change in time to British Summertime will only affect those premises operating to the early hours on the night the clocks actually change. However, for those premises it can be confusing as to the closing hour on the night in question as well as being confusing for applicants completing a new licence application. For this reason the Licensing Authority will assume (unless advised to the contrary) that applicants applying for licensing hours to the early hours wish an additional hour to the standard time on the night when British Summertime commences.

### 10.77 Casino

This Authority holds the right to grant a small casino premises licence under the Gambling Act 2005. This licence will enable the casino to operate until 0600 Hours for the provision of gaming. Casinos are strictly regulated by the Gambling Commission and experience has shown that they generally operate in a highly responsible manner, causing the minimum of disturbance and annoyance to residents and other businesses in the area. When considering an application by the casino for an alcohol / entertainment licence this Authority will take care not to attach any conditions to the licence that replicate those already on the gambling premises licence granted under the Gambling Act 2005. Similarly, the Licensing Authority will take care not to attach conditions that would have the effect of preventing the holder of the gambling premises licence from complying with the requirements of the 2005 Act and its supporting regulations.

10.78 The Licensing Authority is of the view that casinos selling alcohol should generally be permitted to continue selling alcohol during the hours they are normally open for gambling, unless there are exceptional reasons relating to disorder or disturbance.

### 10.79 Early Morning Restriction Orders (EMROs)

EMROs can be introduced by the Licensing Authority for any part of the District where it is considered that restricting the sale of alcohol between Midnight and 0600 Hours is appropriate to promote the four licensing objectives in the Licensing Act 2003. It can apply either every day or for certain days, and for an unlimited or time-limited period.

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

10.81 Any consultation in relation to a possible EMRO or decision to implement an EMRO will be undertaken separate to this policy document.

## 10.82 Late Night Levy (LNL)

Late night levies allow Licensing Authorities to raise a contribution from late opening alcohol retailers towards the policing costs generated by the late night economy. The levy will apply to all premises (on and off trade), throughout the Licensing Authority's area, which are authorised to sell or supply alcohol in the time period set by the Licensing Authority. This can be any time between Midnight and 0600 Hours. A consultation process is required before introducing a LNL. The consultation process will include the Police, licence holders and others. Unlike EMROs a LNL will not apply to TENS.

10.83 Any consultation in relation to a possible LNL or decision to implement a LNL will be undertaken separate to this policy document.

# 11.0 Enforcement and Compliance

- 11.1 This Authority will keep itself informed of developments as regards the work of the Better Regulation Executive and other Central Government bodies in its consideration of the regulatory functions of Local Authorities.
- 11.2 The Licensing Authority will establish protocols with the police and other enforcing authorities. These protocols will provide for the targeting of agreed problem and high-risk premises while applying a lighter touch to low risk premises.
- 11.3 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.
- 11.4 The Council has produced an Enforcement Policy document for its regulatory functions that can be viewed on the Authority's website: [www.e-lindsey.gov.uk](http://www.e-lindsey.gov.uk).

## 12.0 Exchange of Information

- 12.1 The Authority may from time to time exercise its' powers under Section 115 of the Crime and Disorder Act 1998 to exchange data and information with the Police and other partners to fulfil its' statutory objective of reducing crime in the area.
- 12.2 Details of applications and representations, which are referred to a Licensing Sub-Committee for determination, will be published in Reports that are made publicly available.

## 13.0 Review of this Policy

- 13.1 The Policy Statement will remain in existence for a period of 5 years and will be subject to review and further consultation before January 2028. However, following consultation, the Council may make revisions to it as deemed necessary.



## 14.0 Administration, Exercise and Delegation of Functions

- 14.1 The Licensing Authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established Sub-Committees to deal with them.
- 14.2 Further, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications including, for example, those licences and certificates where no representations have been made, has been delegated to Officers.
- 14.4 The table shown at Appendix I of this Policy sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committee and Officers. This form of delegation is without prejudice to Officers referring an application to a Sub-Committee, or to the Full Committee, if considered appropriate in the circumstances of any particular case. The table at Appendix I shows the scheme of delegation at the time of adopting this Policy document. Such scheme of delegation may be subject to addition or amendment at a later date without the need to amend this written document.



## 15.0 Advice and Guidance

- 15.1 For further advice, information or guidance on the licensing process please contact the Licensing Team at East Lindsey District Council.

The Licensing Team  
East Lindsey District Council  
The Hub,  
Mareham Road,  
Horncastle,  
Lincolnshire LN9 6PH

Telephone: 01507 601111

E-Mail: [licensing@e-lindsey.gov.uk](mailto:licensing@e-lindsey.gov.uk)

- 15.2 The contact details of all the Responsible Authorities are available at Appendix 3 of this document.

# APPENDIX I

## Delegation of Functions

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

Matter to be dealt with	Full Committee	Sub- Committee	Officers
Application for personal licence		If a police objection made	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor		If a police objection made	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of premises licence		If a police objection made	All other cases
Applications for interim authorities		If police objection made	All other cases
Application to review premises licence/club premises certificate		All cases	

Matter to be dealt with	Full Committee	Sub- Committee	Officers
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when Local Authority is a consultee and not the lead authority		All cases	
Determination of a Police or Environmental Health objection to a Temporary Event Notice (TEN)		All other cases	Where all parties agree that conditions can be attached to a TEN and a hearing is not required.
Determination as to whether or not a premises is used primarily as a garage (Section 173 of the 2003 Act)		All other cases	Where Officers are of the opinion that the premises meet the requirements of Section 173.
Determination of an application for the minor variation of a premises licence			All cases
Application by a Community Premises for the disapplication from the requirement for a DPS		All other cases	Where Officers are of the opinion that the premises meet the required standard and there have been no objections by Lincolnshire Police.
Determination of whether a club is acting in good faith		All cases	
Surrender of licence / certificate			All cases

The Sub-Committee shall be comprised of three Members of the full Licensing Act 2003 Committee.

The table shows the scheme of delegation at the time of adopting this Policy document. Such scheme of delegation may be subject to addition or amendment at a later date without the need to amend this written document.

# APPENDIX 2

Map of the East Lindsey District



## APPENDIX 3 - Responsible Authorities

### **Police**

#### **Licensing (Alcohol):**

Lincolnshire Police  
Police Headquarters  
PO Box 999  
LINCOLN, LN5 7PH  
01522 558437  
countylicensinggroup@lincs.pnn.police.uk

### **Fire:**

CFP  
Lincolnshire Fire & Rescue  
Harlaxton Road  
GRANTHAM, NG31 7SG  
01476 565441  
fire.safety@lincoln.fire-uk.org

### **Planning:**

The Development Control Manager  
East Lindsey District Council  
The Hub, Mareham Road, Horncastle,  
Lincolnshire LN9 6PH  
01507 601111  
dev.control@e-lindsey.gov.uk

### **Environmental Health:**

The Environment Team  
East Lindsey District Council  
The Hub, Mareham Road, Horncastle,  
Lincolnshire LN9 6PH  
01507 601111  
commercial.team@e-lindsey.gov.uk

### **Health & Safety:**

The Health & Safety Team  
East Lindsey District Council  
The Hub, Mareham Road, Horncastle,  
Lincolnshire LN9 6PH  
01507 601111  
commercial.team@e-lindsey.gov.uk  
(Or contact the Health & Safety Executive (HSE) if the HSE are the relevant Responsible Authority in respect of the particular premise.)

### **Trading Standards:**

Trading Standards Service  
Lincolnshire County Council  
Myle Cross Centre  
Macaulay Drive  
St Giles  
LINCOLN, LN2 4EL  
01522 782341  
tradingstandards@lincolnshire.gov.uk

### **For vessels:**

Please contact the Licensing Team for further information.

**Protection of Children:**

Lincolnshire Safeguarding Children Board  
Lincolnshire County Council  
Room 131 - County Offices  
Newland  
LINCOLN, LN1 1YL  
01522 782111  
LSCB@lincolnshire.gov.uk

**Health Authority:**

Mr Simon Gladwin  
Programme Officer (Substance Abuse)  
Public Health Directorate  
Lincolnshire County Council  
15/17 The Avenue  
LINCOLN, LN1 1PD  
01522 554502  
simon.gladwin@lincolnshire.gov.uk

**Home Office:**

Licence applications, regarding the sale of alcohol and/or the provision of late night refreshment, must also be copied to the Home Office (Immigration Enforcement Section) at:

Alcohol Licensing Team  
Home Office (Immigration Enforcement Section)  
Lunar House  
40 Wellesley Road  
CROYDON, CR9 2BY  
alcohol@homeoffice.gsi.gov.uk

# APPENDIX 4 - 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 are 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 are 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 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 and 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 raised 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.

# APPENDIX 5 - List of Consultees

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

In addition, a copy of the consultation document was placed on the Council's website between 17 July to 08 September 2023.

If you would like this information  
in a different format, please  
contact us on 01507 601111.



**Licensing Act 2003**

**Statement of Licensing Policy**

Licensing Team, East Lindsey District Council, The Hub,  
Mareham Road, Horncastle, Lincolnshire LN9 6PH

T: 01507 601111

[www.e-lindsey.gov.uk](http://www.e-lindsey.gov.uk)