



APPENDIX 2

Statement of Licensing policy

Reviewed September 2007



"Listening Learning Delivering"



South Kesteven District Council

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SOUTH KESTEVEN DISTRICT COUNCIL

STATEMENT OF LICENSING POLICY

REVISED SEPTEMBER 2007

1. Introduction

- 1.1 South Kesteven District Council (hereinafter referred to as the Licensing Authority) is responsible for the licensing of all licensable activities under the Licensing Act 2003 (the Act). This document sets out the policies and principles that the Licensing Authority will apply to **all places selling or providing**

- Alcohol
- Regulated Entertainment
- Late Night Refreshment

Including:

- Pubs and night-clubs
- Off-licences
- Restaurants serving alcohol
- Restaurants and take-aways open between 11.00pm and 5.00am
- Hotels
- Guest houses
- Private members clubs and social clubs
- Theatre and amateur dramatic groups
- Cinema operators
- Organisers of Temporary Events
- Community events
- Retail sale of alcohol
- Supply of alcohol by or on behalf of a club, or to the order of a member of a club
- Provision of regulated entertainment
- A performance of a play
- An exhibition of a film
- An indoor sporting event
- Boxing or wrestling entertainment
- A performance of live music
- Any playing of recorded music
- A performance of dance
- Provision of facilities for making music
- Provision of facilities for dancing
- Other similar entertainment
- Provision of late night refreshment

This policy is intended to provide clarity to applicants, interested parties and responsible authorities on how this Licensing Authority will determine applications. Guidance will be made available to assist applicants.

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

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

In promoting the licensing objectives the Licensing Authority will pay due regard to the revised Guidance, issued in June 2007, under Section 182 of the Licensing Act 2003 and any subsequent legislation or Guidance issued by the Secretary of State.

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

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

- The police
- The fire service
- Representatives of licence holders and club certificate holders
- Local businesses and their representatives
- Local residents and their representatives
- Safe Guarding Children's Board for Lincolnshire
- Other bodies

Appropriate weight has been given to the views of all those consulted, the consultation complies with central Government Code of Practice on Consultation. The consultation period was from 20 April to 14 July 2007.

1.5 The purpose of licensing is to control licensed premises and other events within the terms of the Act. In accordance with the terms of the Act and subject to any relevant representations, conditions may be attached to licences and the various other permissions, which will focus on matters falling within the control of individual licensees.

1.6 These conditions will relate to the premises and other places being used for licensable activities and the impact of those activities in the vicinity. In this regard the Licensing Authority will primarily focus on the direct impact of any activities taking place on those living, working or otherwise engaged in the area concerned.

"Vicinity" has not been given a defined perimeter and may vary in distance away from the premises dependant on the nature of the area. Certain considerations may be taken into account in accessing "in the vicinity". Each application will be treated on its merits and these may include, but are not limited to:

- The nature of the licensable activity;
- The nature and locality of the premises;
- The time of day of the proposed licensable activity; and
- The frequency of the activity.

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

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

- Section 17 of the Crime and Disorder Act 1998 – which imposes a duty on every local authority to do all that it reasonably can to prevent crime and disorder in its locality and to consider crime and disorder in its decision making process
- The European Convention on Human Rights, which is given effect by the Human Rights Act 1998 which places a duty on public authorities to protect the rights of individuals in a variety of circumstances.
- The Health and Safety at Work etc. Act 1974 and subsidiary regulations
- Environmental Protection Act 1990
- The Anti-social Behaviour Act 2003
- Regulatory Reform (Fire Safety) Order 2007
- The Violent crime Reduction Act 2006 (yet to be fully implemented)
- The Health Act 2006
- The Clean Neighbourhoods and Environment Act 2005
- The Race Relations Act 1976 (amended 2000)
- Disability and Age discriminatory legislation. The Council is committed to the implementation and application of this policy in such a manner as to ensure that no applicant, or interested party is treated less favourably on grounds of sex, marital status, race, nationality, ethnic, or national origin, colour, disability, or age, nor is disadvantaged by the application of a rule, condition or requirement which has a discriminatory effect which cannot be justified either in licensing terms or as a requirement of law.
- The scope of this Policy covers all applications made under the Licensing Act 2003.
- Nothing in this Policy will prevent any person from applying for a variety of permissions under the Act

- 1.8 The Licensing Authority will also seek to discharge its responsibilities identified by other Government and local strategies **and the work** of other agencies, so far as they impact on the objectives of the Licensing Act. Some examples of these Strategies are;
- Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance
 - Safer Clubbing
 - LACORS/TSI Code of Best Practice on Test Purchasing
 - The Governments National Alcohol Strategy - "Safe Sensible Social Drinking)
 - Protection of children and young people employment legislation
 - Lincolnshire Drug and Alcohol Action Team – the Licensing Authority acknowledges and commends the work and strategies of the Drug and Alcohol Action Team and their associated policies and guidance
 - Advice and guidance from the Lincolnshire Event Safety Advisory Group – in respect of the running of large events involving more than 5000 people
 - The "Challenge 21 " proof Of age scheme, currently promoted by Lincolnshire Trading Standards
 - Local "Pubwatch" schemes operating in the district

2. Integrated Strategies and the Avoidance of Duplication

- 2.1 The Council's vision is:

"Shaping the future together with our partners and residents to develop a place where people really matter - and being recognised as a council that provides brilliant services"

- 2.2 By consulting widely prior to this policy statement being published the Licensing Authority has endeavoured to secure proper integration with local community safety, planning, transport, tourism and cultural strategies.
- 2.3 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Licensing Authority's Licensing Committee may therefore receive and may act upon relevant reports on the -
- Level of crime and disorder and community safety issues, including anti-social behaviour
 - Needs of the local tourist economy
 - Cultural strategy for the area
 - Employment situation in the area and the need for new investment and employment where appropriate
 - Planning considerations which might affect licensed premises
 - Local transport arrangements
 - LeAny other reports considered appropriate to the licensing function
- 2.4 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. To assist in this process the Licensing Committee may provide reports to the Planning Committee

on the situation regarding Licensed premises in the district, including the overarching priority to reduce the impact of alcohol related crime and disorder.

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

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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, particularly where these undermine the licensing objectives. Non-compliance with statutory requirements may demonstrate that the premises are unsuitable for the activities proposed or that the management of the premises is not adequate to protect the public from harm or nuisance.

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

3. The Licensing Process

- 3.1 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.

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.

Applicants are strongly advised to liaise with the responsible authorities with respect to the content of their operating schedule before making any application. The council's licensing team is always available to provide advice and guidance to any applicant, or interested party involved in the process.

- 3.3 Applicants will be required to submit with their application for a premises licence, or club premises certificate, or a variation to their existing premises licence or club certificate an Operating Schedule detailing: -
- The licensable activities to be conducted on the premises;
 - The times during which it is proposed that the relevant licensable activities are to take place;
 - Any other times when the premises are to be open to the public or to members of a club;

- Where the licence is required only for a limited period, that period;
- Where the licensable activities include the sale of alcohol, the name and address of the individual to be specified as the designated premises supervisor and a copy of his or her personal licence;
- Where the licensable activities include the sale of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both; and
- The steps which the applicant proposes to take to promote the licensing objectives.
- All relevant documentation to satisfy the four licensing objectives.

3.4 Applications will be determined having regard to:

- This Policy
- The Licensing Act 2003 and subordinate legislation
- Guidance issued by the Department for Culture, Media and Sport (DCMS). This policy recognises Section 8 of the revised guidance and the role of residents associations, parish and town councils and local councillors.
- Any 'relevant representations' received (provided they are not determined by the Licensing Authority to be frivolous, vexatious or repetitive).

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

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

4. Licensing Hours

4.1 The Licensing Authority recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people leave licensed premises at the same time. Longer licensing hours permitting the supply 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.

There is no presumption in the Act for longer hours to be granted over objections from local people and organisations. Where there are objections and the Licensing Committee believes that changing the in hours would undermine the licensing objectives they can reject the application or grant it with appropriate conditions our hours.

The Governments National Alcohol Strategy published in June 2007 recognises the impact of the new licensing laws and that there has not been an increase in extended hours. There are in fact no "On" (public houses etc.) licensed premises in the district

holding a licence to operate 24 hours a day. The strategy also recognises that the spreading of closing hours has been a benefit.

- 4.2 As far as the Licensing Authority's overall approach to licensing hours is concerned it is not intended that any form of zoning will be introduced. Experience in other areas shows that this can lead to the significant movement of people across boundaries in search of premises opening later and puts greater pressure on town centres than is necessary and can lead to increased disorder and nuisance.
- 4.3 Shops, stores and supermarkets should generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual shops that are known to be a focus of disorder and disturbance then, subject to receiving valid, relevant representations, a limitation on licensing hours may be appropriate.
- 4.4 In largely residential areas. The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. 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
- 4.5 The council's licensing team will always seek to provide informal advice and mediate between all parties involved in the application process and strive to reach a mutually acceptable agreement. Within that the team is subject to legislative restrictions, and it may be that the matter that will be put before the Licensing Committee.

5. Children and Licensed Premises

- 5.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Except as prohibited by law, access by children to all types of premises will not be limited in any way, unless, it is considered necessary to do so to protect them from harm.
- 5.2 When 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 dealings;
 - 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); and
 - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 5.3 In the case of premises which are used for film exhibitions, conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Licensing Authority itself.

- 5.4 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, then conditions will be imposed requiring the presence of an acceptable number of appropriate adult staff to ensure public safety and their protection from harm. The onus will be on the premise licence holder to ensure that members of staff are suitable to carry out the supervision of children, which may include a criminal record check from the Criminal Records Bureau.
- 5.5 The options available for limiting access by children would include –
- Limitations on the hours when children may be present;
 - Limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place;
 - 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; and
 - Full exclusion of those people under 18 from the premises when any licensable activities are taking place.
- 5.6 The Licensing Authority will not impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licensee or club.
- 5.7 The body responsible for the interests of children is the Lincolnshire Safeguarding Children Board – who are contactable through the Lincolnshire County Council.
- 5.8 The sale of alcohol to children and young people under the relevant age is a criminal offence, often resulting in harm to the child or young person concerned and disturbance and nuisance to local residents and businesses. Applicants are required to detail adequate control measures in their operating schedules to prevent under age sales to children and young persons.

The Licensing authority recognises that Lincolnshire County Council Trading standards Services, as part of its responsibilities and duties under legislation controlling the sale of age restricted products including alcohol, provides advice and guidance on the controls and systems that may be adopted to help prevent such sales. The Licensing authority also recognises that in liaison with the police the trading standards service conducts covert test purchasing exercises to check compliance with the legislation.

The Licensing Authority particularly commends the nationally recognised "Challenge 21" proof of age scheme that has been adopted by many operators in the district.

6. 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, **but must be evidence based**. 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, off licence, restaurant or hotel. The issue of 'need' is therefore a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.

The South Kesteven District Council recognises the benefits of vibrant town centre developments and a flourishing nighttime economy. In considering these benefits the council commends the recent work of the Civic Trust and its recent publication "Night Vision Town Centres for All"

- 6.2 The Licensing Authority may receive representations from either a responsible authority or an interested party, (both defined by the Act), that the cumulative impact of new licences is leading to an area becoming saturated with premises of a certain type, making it a focal point for large groups of people to gather, and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases the issue of cumulative impact can be taken into account when considering the individual merits of any application.
- 6.3 The Licensing Authority will not operate a quota of any kind, which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be had to those differences and the impact they are likely to have on the local community.
- 6.4 The decision to include a special policy relating to cumulative impact, with this policy will be evidentially based. The steps to 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 by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole statement of licensing policy;
 - Subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of the section 182 guidance issued by the DCMS in the statement of licensing policy.
 - Publication of the special policy as part of this statement of licensing policy required by the 2003 Act.
- 6.5 Any special policy is not absolute and the circumstances of each application will be considered properly.
- 6.6 Rather than adopt a special policy there are a number of other mechanisms for addressing issues of unruly behaviour which occur away from licensed premises, these include –

- Planning controls;
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- The confiscation of alcohol from adults and children in designated areas;
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance; and
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

These may be supplemented by other local initiatives that similarly address these problems.

- 6.7 The Licensing Authority may address a number of these issues through the **South Kesteven Community Safety Partnership** and Count Licensing Group in line with the strategic objectives for crime and disorder reduction within the district.

7. Nudity and Striptease

- 7.1 Where the activities specified in an operating schedule include striptease or any other kind of nudity (for example, topless **staff and table servers**) 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 will expect the applicant to have given additional thought to the promotion of the licensing objectives
- 7.2 Where premises licence applications include striptease or any other kind of nudity, the Licensing Authority will have particular regard to the location of the premises in relation to places of religious worship, schools, youth clubs or other premises where significant numbers of children are likely to attend.
- 7.3 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 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
 - 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
- Physical contact between performers and customers

8. Conditions of Licence

- 8.1 The Licensing Authority does not propose to implement standard licensing conditions across the board. It may draw upon the model pool of conditions issued by the DCMS and attach conditions (contained in Annexes D-E of the guidance issued under the Act) as appropriate given the circumstances of each individual case.
- 8.2 The Licensing Authority is aware of the need to avoid measures which deters live music and theatre by imposing direct costs of a substantial nature and the Licensing Authority will take account of this.
- 8.3 Conditions not listed in the pool of model conditions may be specifically tailored by the Licensing Authority and attached to licences as appropriate.

9. Enforcement

- 9.1 The Licensing Authority **has** established protocols with the police and other enforcing authorities. These protocols will provide for the targeting of agreed problem and high-risk premises, whilst applying a lighter touch to low risk premises.

Action will only be taken in accordance with the Licensing Authority'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.

- 9.2 The Licensing Authority will ensure that all types of licensed premises and their operators, receive the appropriate level of attention, but on a risk based assessment basis. For example high risk town centre late night outlets of all types, including takeaway type food outlets, will be inspected more frequently than premises operating on more restricted hours that are likely to unlikely to require the same level of inspection.
- 9.3 The Licensing Authority will always make available information and guidance to any interested party considering a review of a premise licence under the Act. It will often be appropriate for the Authority to give advice to licensees that would prevent the need for undertaking a review.
- 9.4 This policy also takes into account new powers under the Anti Social Behaviour Act 2003, which gives Local Authorities powers to deal with noise nuisance from licensed premises. The Council is also aware of powers recently introduced under the Violent Crime Reduction Act 2006, in respect of sale of alcohol to persons under the age of 18 years. The Council will following, representations from the police to consider any applications to designate the provisions of the Act to implement Alcohol Disorder Zones. That section of the Act awaits implementation and will require the consideration before it can be adopted

- 9.5 Results of enforcement or investigation will be made available to responsible authorities who may wish to include this evidence in a review of a premises license or club premises certificate.
- 9.6 Enforcement action will be considered against a personal licence holder where there has been a failure to comply with the requirements of the Licensing Act 2003.

10. Review

- 10.1 The Policy Statement will remain in existence for a period of 3 years and will be subject to review and further consultation before 5 January 2011. However, following consultation, the Licensing Authority may make revisions to it as deemed necessary.

11. Advice and Guidance

- 11.1 Further information and advice on the licensing process can be obtained by contacting the South Kesteven District Council, Licensing team in person, by telephone 01476 406300, by email at licensing@southkesteven.gov or by going to the council's web site www.southkesteven.gov.uk and going to "Licensing".

APPENDIX I

Delegation of Functions

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

<u>Matter to be dealt with</u>	<u>Licensing Committee</u>	<u>Alcohol Entertainment and Late Night Refreshment Licensing Committee or its Sub-Committee</u>	<u>Officers</u>

Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
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 supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for Interim Authorities		If a police objection	All other cases

<u>Matter to be dealt with</u>	<u>Licensing Committee</u>	<u>Alcohol Entertainment and Late Night Refreshment Licensing Committee or its Sub-Committee</u>	<u>Officers</u>
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is			All cases

irrelevant frivolous vexatious etc.			
Decision to object when the Licensing Authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	

The sub-committee of the Alcohol Entertainment and Late Night Refreshment Licensing Committee shall **normally** comprise of three Members of that Committee.

**Document enhancement for the visually impaired on request,
Tel: 01476 406300 or e-mail frontdesk@southkesteven.gov.uk**