

# **FENLAND DISTRICT COUNCIL**

## **STATEMENT OF LICENSING POLICY**

**2016-2021**

## PREFACE

This Statement of Licensing Policy has been prepared by Fenland District Council acting as the licensing authority under the Licensing Act 2003. It represents the authority's policy with respect to the exercise of its licensing functions for the licensing of the sale and supply of alcohol, certain forms of entertainment and the provision of late night refreshment

The statement comes into effect from 12 May 2016.

The Act has introduced greater flexibility for the entertainment industry, which can have a positive impact upon local communities in Fenland. This is balanced by tougher controls for the police and the licensing authority and an opportunity for other businesses and residents to raise concerns in the event of those greater freedoms having an adverse effect on our communities.

The licensing authority consulted widely in the preparation of the Statement and took into account the views submitted in its adoption.

Fenland District Council covers an area of 54,645 hectares and is situated in the north-east of Cambridgeshire between the larger and contrasting centres of Cambridge, Peterborough, King's Lynn and Huntingdon.

The area is predominantly rural in character with four market towns at Chatteris, March, Whittlesey and Wisbech plus a number of villages and hamlets. It has a population of approximately 95,262.

Fenland district offers a wide and developing variety of culture, history, businesses, recreation and dwellings with transport infrastructure provided by the mainline railway to London, Peterborough, Cambridge and Stansted Airport, and local bus services.

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## 1.0 INTRODUCTION

### Foreword

- 1.1 Fenland District Council is the “Licensing Authority” under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, personal licences and authorising temporary event notices in the district in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.
- 1.2 The Licensing Act gained Royal Assent on 10 July 2003 and replaced regimes previously administered by either the Licensing Justices or the local authority with a unified system of licensing under the control of the local authority. The new regime came into effect on 24 November 2005. The council set up a Licensing Committee as part of these changes.
- 1.3 The Licensing Authority is required to discharge its licensing function through a committee of 12 members known as the Licensing Committee. The Council has appointed a committee of members, which operates on the basis of convening panels of 3 members drawn from the.12.
- 1.4 When assessing applications, the Licensing Authority must be satisfied that the measures proposed in the applicant’s operating schedule aim to achieve the four licensing objectives
- 1.5 However, it should be recognised that this policy covers a wide variety of premises and activities undertaken therein, including theatres, cinemas, restaurants, pubs, nightclubs, private members’ clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 23:00 hours. For this reason, it is not practical to detail all the possible factors that could influence the achievement of the licensing objectives in any given scenario.

### Licensing Objectives

- 1.6 The 2003 Act requires the Licensing Authority to undertake its various licensing functions in a manner that promotes the four licensing objectives. These are
- the prevention of crime and disorder

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

These objectives are the only matters to be taken into account in determining the application and any conditions to be attached must be necessary to achieve the licensing objectives.

- 1.7 In respect of each of the four licensing objectives, applicants will need to provide evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract, larger audiences.

### **Statement of Licensing Policy**

- 1.8 The Licensing Authority for Fenland ('the Council') makes this Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003 ('The Act').

- 1.9 The policy sets out how Fenland will exercise its licensing functions. Licensing functions are the duties and powers of the Council in its capacity as 'the Licensing Authority'. No licensing functions may be discharged by the Council's executive. The vast majority of licensing functions cannot be undertaken by the Council itself, but are the responsibility of a special Licensing Committee which has been established by the Council. The responsibilities and powers are detailed in the Act. Fenland's statutory Licensing Committee comprises twelve councillors appointed by the whole Licensing Authority, that is, the Full Council.

- 1.10 The licensing authority under the Licensing Act 2003 and is responsible for the licensing of licensable activities as defined under the Act. These are:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- The provision of regulated entertainment;
- The provision of late night refreshment (i.e. the supply of hot food or hot drink between 11pm & 5am).

- 1.11 Regulated entertainment is where the entertainment takes place in the presence of an audience and is provided for the purpose of entertaining that audience. The descriptions of entertainment are:

- A performance of a play,
- An exhibition of a film,
- An indoor sporting event,
- A boxing or wrestling entertainment,

- A performance of live music,
- Any playing of recorded music,
- A performance of dance,
- Entertainment of a similar description to a performance of live music, recorded music or performance of dance.

1.12 This policy shall apply to all applications and notices given under the Act in respect of the following:

- Premises licences;
- Club Premises Certificates;
- Personal Licences;
- Temporary Event Notices;

1.13 This policy statement will not seek to regulate matters which are provided for in other legislation e.g. planning, health & safety, fire safety etc.

1.14 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the Home Office Guidance issued under Section 182 of the Act.

1.15 The 2003 Act further requires the Licensing Authority to monitor, review, and, where appropriate, amend its Statement of Licensing Policy

1.16 Before determining its policy for any five year period, the Licensing Authority will consult the community and in particular:

- a) The chief officer of police for the area (Cambridgeshire Constabulary);
- b) The fire authority for the area (Cambridgeshire Fire and Rescue Service);
- c) Persons/bodies representative of local holders of premises licences;
- d) Persons/bodies representative of local holders of club premises;
- e) Persons/bodies representative of local holders of personal licences; and
- f) Persons/bodies representative of businesses and residents in its area.

1.17 The views of all these persons/bodies listed will be given appropriate weight when the policy is determined. It is recognised that it may be difficult to identify persons or bodies' representative for all parts of industry affected by the provisions of the 2003 Act, but the Licensing Authority will make reasonable efforts to identify persons or bodies concerned.

1.18 In determining its policy, the Licensing Authority will have regard to the guidance issued under Section 182 of the Licensing Act 2003 and give appropriate weight to the views of those it has consulted.

- 1.19 This Statement of Licensing Policy was reviewed in 2016, circulated for consultation between 10 February 2016 and 9 March 2016 prior to being ratified by Council on 12 May 2016.

### **Disclaimer**

- 1.20 Advice and guidance contained in the Statement of Licensing Policy is intended only to assist readers and should not be regarded as legal advice. Readers are strongly advised to seek their own individual legal advice if they are unsure of the requirements of the Licensing Act 2003 or of the Guidance or Regulations issued under the Act.

### **Consultation**

- 1.21 There are a number of groups which have a stake in the leisure industry, including providers, customers, residents and enforcers, all of which have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.
- 1.22 In developing this policy statement, the Licensing Authority consulted widely. Along with the statutory consultees (the Responsible Authorities), the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

### **Links to other Strategies**

- 1.23 In preparing this Statement of Licensing Policy, the Licensing Authority has had regard to and consulted with those involved in Fenland District Council's local strategies on crime prevention, planning, transport, culture, tourism, community, eGovernment and economic development, to ensure the proper co-ordination and integration of the aims and actions of these policies. Review and amendment of these strategies will be considered for their impact upon this Statement of Licensing Policy.

[This Statement of Licensing Policy will have key links to Cambridgeshire's Health & Wellbeing Board \(Health & Wellbeing Strategy 2012-2017\) and local work undertaken by the Fenland Health and Wellbeing Partnership. Public Health has been working closely with representations from Fenland District Council and Fenland Community Safety Partnership to work collaboratively to address alcohol misuse and we welcome an inclusion of the role of this partnership and associated strategies in this section.](#)

- 1.24 The Secretary of State has provided guidance on the relationship between planning and licensing stating that they are separate regimes. Where the Licensing Authority receives relevant representations that a licensing proposal is contrary to a planning consent and that to grant a licence for such activity would be likely to affect the licensing objectives then a refusal, or the

attaching of conditions to prevent such a use until the position has been regularised may be appropriate. It would be expected that a responsible and prudent applicant would ensure that an appropriate planning consent was in place before submitting a licence application.

- 1.25 The Licensing Authority recognise that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

### **Regulated Entertainment**

- 1.26 Having regard to Fenland District Council's equality and diversity policies and the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified in 1976, a diverse provision of cultural activities is welcomed for the benefit of communities.
- 1.27 The Licensing Authority will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances, circuses, etc. to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events.
- 1.28 The Licensing Authority will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children & young people. -

### **Applications**

- 1.29 When considering applications, the Licensing Authority will have regard to
- the Licensing Act 2003 and the licensing objectives
  - Home Office Guidance issued under Section 182 of the Licensing Act 2003
  - any supporting regulations
  - this Statement of Licensing Policy.
- 1.30 This does not, however, undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- 1.31 The Licensing Authority recognises that, in some circumstances, longer licensing hours for the sale of alcohol may help to avoid concentrations of customers leaving premises simultaneously and to reduce the potential for disorder. It also recognises that overly restrictive hours may inhibit the



development of night time economies that are important for investment, employment and tourism.

- 1.32 When determining applications by the Licensing Committee, the Licensing Authority will seek to balance those factors against its duty to promote the four licensing objectives and the rights of residents to peace and quiet.
- 1.33 When the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation.
- 1.34 When one part of Fenland District Council seeks a premises licence from the Licensing Authority, the Licensing Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered fairly and impartially by the committee. Those making representations genuinely aggrieved by a positive decision in favour of a local authority application by the Licensing Authority are entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision made.
- 1.35 In all cases, applicants and those making representation in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority.
- 1.36 It should be noted that incomplete applications will not be accepted and processed, but will be returned with an explanation of why it is incomplete.
- 1.37 The licensing authority welcomes applications made via Fenland District Council's electronic application facility.

### **Planning and Building Control**

- 1.38 The licensing authority will ensure that planning, building control and licensing regimes will be separated to avoid duplication and inefficiency.
- 1.39 The licensing authority would normally expect that applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, the licensing authority acknowledges that applications for premises licences or club premises certificates may be made prior to any relevant planning permission having been sought or granted by the planning authority. Applicants would be expected to ensure that all relevant permissions are obtained.
- 1.40 The licensing authority recognises that licensing applications should not be a re-run of planning applications nor should they cut across decisions taken by the planning committee or following appeals against decisions taken by the Council's planning committee. The licensing authority's licensing committee

will not be bound by decisions made by the Council's planning committee and vice versa.

- 1.41 Where the granting of any variation to a premises licence or club premises certificate involves a material alteration to a premise, the licensing authority would expect the applicant to apply for relevant planning permission or building control consent where appropriate.
- 1.42 The licensing authority recognises that when, as a condition of planning permission a terminal hour has been set for the use of the premises for commercial purposes, and where these hours are different from the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

#### **New and Varied Premises Licences/Club Premises Certificates**

- 1.43 Where no premises licence or club premises certificate exists in respect of a premises, an application for a new premises licence or club premises certificate must be made to enable the carrying out of licensable activities.
- 1.44 An application to vary an existing premises licence or club premises certificate should be made where the proposed variation is in respect of changes to the types of licensable activities that are to be undertaken and/or the hours that those activities are to take place, or where structural changes are to be made to the premises.
- 1.45 Where the proposed variation to a premises licence or club premises certificate is in respect of structural alterations, the application must always be accompanied by a plan of the proposed alterations in addition to the existing premises licence or club premises certificate and the plan to which it relates.
- 1.46 If the actual date when the alterations have been completed differs from that requested, applicants must inform the licensing authority so that the premises licence or club premises certificate can be issued correctly. Failure to do so may result in an offence being committed under Section 136 of the Licensing Act 2003 of carrying on a licensable activity otherwise than under and in accordance with an authorisation.

#### **Responsible Authorities and Other Persons**

- 1.47 Responsible authorities are public bodies that are statutory consultees that must be notified of licensing applications. A list of the responsible authorities in respect of applications and notices made to the District Council can be found at [Appendix C](#) or alternatively at [www.fenland.gov.uk/licensing](http://www.fenland.gov.uk/licensing)

Cambridgeshire County Council Director of Public Health (DPH) are now responsible authorities with all of the powers and responsibilities this brings. This Licensing Authority acknowledges that DPH will be useful in providing

evidence of alcohol-related health harms when there is a revision of policy particularly in relation to cumulative impact policies or early morning restriction orders. This Licensing Authority envisages that DPH's will also be useful in providing evidence such as alcohol-related A & E admissions or ambulance service data that might be directly relevant to an application under the Act.

- 1.48 When dealing with licensing applications for premises licences and club premises certificates the District Council is obliged to consider representations from two categories of persons, referred to as responsible authorities and other persons. This allows for a broad range of comment to be received both for and against the licensing applications.
- 1.49 The District Council has carefully considered its role as the Licensing Authority as a Responsible Authority under the Act. It achieves separation of responsibilities through procedures and approved delegations within the authority to ensure procedural fairness and eliminate conflicts of interest. The District Council does not expect to act as a Responsible Authority on behalf of third parties but accepts that there may be exceptional circumstances where this approach may be required.

In cases where this Licensing Authority is also acting as responsible authority there will be a separation of powers between those officers who exercise that role and those who administer the licensing application to ensure procedural fairness and eliminate conflicts of interest.

## **Representations**

- 1.50 Any Responsible Authority or Other Person may make relevant representations on applications for the grant of a premises licence or club premises certificate and request reviews of licences or certificates that have been granted.
- 1.51 A representation will only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation in relation to Other Persons must not be frivolous or vexatious.
- 1.52 Only the Chief Officer of Police may make representations in respect of the grant of a personal licence relating only to the crime prevention objective of the Act.
- 1.53 As the Licensing Authority must be satisfied that the representation is made by an Other Person, which can generally only be determined by reference to the name and address of the person making it, this authority will not consider any representation that fails to provide those details.

- 1.54 Where relevant representations are made, the Licensing Authority must provide copies of those representations to the applicant or his/her representative. The Licensing Authority accepts that in exceptional circumstances an Other Person may not wish for his/her personal details to be disclosed to the applicant.
- 1.55 Where the Licensing Authority considers that a relevant representation has been made and that exceptional circumstances exist, details of the name and address may be deleted from the copy of the representation that is provided to the applicant or his/her representative.
- 1.56 In all cases, applicants and those making representations that are genuinely aggrieved by a decision of the Licensing Committee are entitled to appeal to the Magistrates' Court against the decision of the committee.
- 1.57 Where the Responsible Authorities or Other Persons do not raise any relevant representations about the application made to the Licensing Authority, the Licensing Authority will grant the premises licence or club premises certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed by the Licensing Act 2003.

#### **Conditions**

- 1.58 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act.
- 1.59 The Licensing Authority may not 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 necessity to impose conditions due to the representations raised. It may then only impose such conditions as are necessary to promote the licensing objectives arising out of consideration of the representations.
- 1.60 The Licensing Authority actively promotes the benefits of partnership working between the Council and local businesses to enhance business operations and thereby achieve the community benefits of minimisation of waste, enhancement of the street scene, promotion of community safety, reduction of the fear of crime and the encouragement of tourism and inward investment.
- 1.61 To maximise the efficiency of administering licences and reduce the necessity for hearings, the Licensing Authority will actively encourage applicants and clubs to consult with Responsible Authorities and seek professional guidance from Council services, when operating schedules are being prepared to allow for proper liaison to take place in such areas as noise reduction, CCTV, refuse and litter, etc., to avoid representations being necessary. The Licensing Authority accepts that while some applicants may find it useful to contact the Responsible Authorities and Council services for advice and professional assistance, others will not need to do so, and that applications cannot be refused on the basis that such consultation has not taken place.

- 1.62 Where relevant representations are made, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to various authorisations and others in possession of relevant authorisations, to secure achievement of the licensing objectives.
- 1.63 Any conditions arising from the operating schedule or as a result of representations will focus primarily upon the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters that are within the control of individual licensees.
- 1.64 The Licensing Authority acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 1.65 If an applicant volunteers a prohibition or restriction in his/her operating schedule because his/her own risk assessment has determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to the licence or certificate and will be enforceable as such.
- 1.66 The Licensing Authority will consider all applications on an individual basis and any condition attached to such a licence will be tailored to each individual premise, depending upon the facts of each particular application, to avoid the imposition of disproportionate, unnecessary and other burdensome conditions on those premises. Standard conditions, other than mandatory conditions, will, therefore, be avoided and no condition will be imposed that cannot be shown to be necessary for promotion of the licensing objectives.

### **Delegation of Functions**

- 1.67 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. The Council has an approved scheme of delegation of functions under the Licensing Act 2003.

### **Need for Licensed Premises**

- 1.68 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a

matter for a Licensing Authority in discharging its licensing functions or for its Statement of Licensing Policy.

### **Cumulative Impact of a Concentration of Licensed Premises**

- 1.69 “Cumulative impact” means the potential impact upon the promotion of the licensing objectives where there are a number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a Licensing Authority to consider in developing its Statement of Licensing Policy.
- 1.70 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases, the amenity of local residents can be placed under severe pressure but may not be attributable to any individual premises.
- 1.71 The Licensing Authority has adopted a special policy on cumulative impact based on evidence that a significant number of licensed premises concentrated in one area are resulting, in unacceptable levels of crime and disorder or public nuisance.
- 1.72 Please see Appendix B detailing the Special Policy for the Cumulative Impact Zone in Wisbech.

### **Other Special Policies**

#### **1.73 Early Morning Restrict Orders (EMRO)**

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The power for this licensing authority to introduce an EMRO is specified in sections 172A to 172E of the 2003 Act which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. These provisions and the regulations prescribing the requirements in relation to the process were brought in force on 31<sup>st</sup> October 2012. Government Guidance has also been produced.

The legislation provides this licensing authority with the discretion to restrict sales of alcohol by introducing an EMRO to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of this licensing authority's area and if relevant on specific days and at specific times. This licensing authority must be satisfied that such an order would be appropriate to promote licensing objectives.

The only exemptions relating to EMRO's are New Years Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service. The decision to implement an EMRO will be evidence based. The function of making, varying or revoking

an EMRO is specifically excluded from the delegation of functions and may not be delegated to the Licensing Committee.

#### 1.74 Late Night Levy

The legislative provisions relating to the late night levy are not part of the Licensing Act 2003 but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions came into force on 31<sup>st</sup> October 2012.

Regulations have been brought into force setting out the way in which the levy must be applied and administered, and arrangements for expenses, exemptions and reductions. Government Guidance has been produced.

These new powers enable licensing authorities to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night time economy. The function of making, varying of ceasing the requirement for a levy may not be delegated to the licensing committee.

#### 1.75 Public Spaces Protection Order

The Designated Public Place Order (DPPO) was replaced by the Public Spaces Protection Order (PSPO) in the Anti-Social Behaviour Crime and Policing Act 2014. DPPO's continue to be valid for a period of three years following commencement of the PSPO. Once the three year period expires, they are treated as a PSPO and enforceable as such.

### Advice and Guidance

1.763 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act 2003 provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority and the Responsible Authorities will offer as much advice and guidance to applicants as resources permit.

1.774 The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that he/she discusses his/her proposal with the Licensing Section and those from who they think representations are likely prior to submitting an application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

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## Reviews of Licences

- 1.7~~85~~ Where possible and appropriate, the Licensing Authority and the Responsible Authorities will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 1.7~~96~~ Any Responsible Authority or Other Person may apply for a review of a premises licence or a club premises certificate by serving a notice containing details of the application on the holder of the licence or certificate and to each of the Responsible Authorities.
- 1.8~~077~~ An application for review will only be 'relevant' if the grounds upon which it is made relate to the promotion of at least one of the four licensing objectives and is not frivolous, vexatious or repetitious. An evidential basis will be required to be presented to the Licensing Authority.
- 1.8~~178~~ Where an Other Person applies for a review, the Licensing Authority must be satisfied that the application is relevant. There is no appeal to the decision of the Licensing Authority other than by the way of Judicial Review.
- 1.8~~279~~ This Authority will not consider any application that fails to provide the name and address applicable to the Other Persons

## Enforcement

- 1.8~~39~~ The District Council recognises that most licence, certificate and notice holders seek to comply with the law. Notwithstanding, any enforcement action will take a graduated approach and in the first instance will include education and guidance. Where holders of authorisations continue to flout the law or act irresponsibly then firm action, including prosecution will be taken.
- 1.8~~41~~ Fenland District Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can trade fairly. The administration and enforcement of the licensing regime is one of these services. The authority has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, Fenland District Council is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.
- 1.8~~52~~ The Enforcement Concordat is based upon the principles that businesses should
- receive clear explanations from enforcers of what they need to do and by when
  - have opportunities to resolve differences before enforcement action is taken, unless immediate action is needed



- receive an explanation of their rights of appeal.

A copy of the Enforcement Concordat is available upon request.

| 1.863 The Licensing Authority recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives that it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or break the law consistently.

| 1.874 The Licensing Authority works in partnership with all of the Responsible Authorities under the Licensing Act 2003 on enforcement issues. This joint working protocol provides for a more efficient deployment of staff and police officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises. In particular, these protocols should also provide for the targeting of agreed problem and high-risk premises, which require greater attention, while providing a lighter touch in respect of low risk premises, which are well run. The 2003 Act does not require inspections to take place save at the discretion of those charged with this role. The principal of risk assessment and targeting will prevail and inspections will not be taken routinely but if and when they are judged necessary. This should ensure that resources are more effectively concentrated on problem premises.

## **2.0 LICENSING OBJECTIVES**

2.1 The following sections set out the Licensing Authority's Policy relating specifically to the four licensing objectives

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

## **3.0 PREVENTION OF CRIME AND DISORDER**

3.1 The District Council acknowledges that the Police are the main source of advice on Crime and Disorder

3.2 Fenland District Council is committed to improving further the quality of life for the people of the district by continuing to reduce crime and the fear of crime.

3.3 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty upon Fenland District Council, Cambridgeshire Police, Cambridgeshire County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.

- 3.4 The promotion of the licensing objective to prevent crime and disorder places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.
- 3.5 When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact upon crime and disorder have been considered. These could include
- under-age drinking
  - drunkenness on premises
  - public drunkenness
  - drugs
  - violent behaviour
  - anti-social behaviour.
- 3.6 Within the operating schedule for premises from which alcohol will be sold, the premises licence holder must specify a personal licence holder as the 'Designated Premises Supervisor' (DPS). The Licensing Authority will normally expect the premises licence holder to give the DPS the day-to-day responsibility for running the premises. Although there is no legal obligation for the DPS to be on the premises at all times, the Licensing Authority acknowledges that the premises licence holder and the DPS, in particular with regard to the sale of alcohol, remain responsible at all times, including in their absence from the premises, for compliance with the terms of the Licensing Act 2003 and conditions attached to the premises licence to promote the licensing objectives. In addition to the DPS holding a personal licence, the Licensing Authority would strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.
- 3.7 Whilst the Licensing Act 2003 requires each sale of alcohol to be made or authorised by a personal licence holder, there is no requirement for every sale to be made by a personal licence holder or for them to be personally present at every transaction. In determining whether real authorisation is given, the Guidance issued by the Secretary of State encourages the practice of an overt act of authorisation, such as a specific written statement being given by personal licence holders to persons not holding a personal licence to make sales of alcohol in their absence.
- 3.8 Certain temporary events are not required to be licensed but can be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending upon the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable, giving at least ten working days minimum statutory notice, to enable the police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder. The Licensing Authority acknowledges that 'ten working days notice' means ten working days exclusive of the day on

which the event is to start and exclusive of the day on which the notice is given.

## **4.0 PUBLIC SAFETY**

4.1 Fenland District Council is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.

4.2 Licence holders have a responsibility to ensure the safety of those using their premises as part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning.

4.3 When addressing the issue of public safety, an applicant must demonstrate that those factors that impact upon the standards of public safety have been considered.

4.4 The following non exhaustive examples of good management practice are given to assist applicants who may wish to take account of them when preparing their operating schedule, having regard to their particular type of premises and/or activities:

- suitable and sufficient risk assessments
- effective and responsible management of premises
- provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- adoption of best practice guidance (e.g. licensing trade voluntary codes of practice, including those relating to drinks promotions)
- provision of effective CCTV in and around premises
- The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. The District Council expects applicants to consider these when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they will achieve that.

## **5.0 PREVENTION OF PUBLIC NUISANCE**

- 5.1 Licensed premises have a significant potential to impact adversely upon communities through public nuisances that arise from their operation. Fenland District Council 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.
- 5.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact upon those living, working or otherwise engaged in normal activity in an area.
- 5.3 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours unless there are exceptional reasons relating to disturbance or disorder.
- 5.4 Applicants will be expected 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.
- 5.5 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include
- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
  - the hours of opening, particularly between 23.00 and 07.00
  - the nature of 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 premises
  - the design and layout of premises and, in particular, the presence of noise-limiting features
  - the availability of public transport
  - ‘wind down period’ between the end of the licensable activities and closure of the premises
  - last admission time.
- 5.6 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. garden areas) of premises, including such matters as deliveries

- adoption of best practice guidance (e.g. licensing trade voluntary codes of practice, including those relating to drinks promotions)
- 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.

## 6.0 PROTECTION OF CHILDREN FROM HARM

- 6.1 It is an offence under the 2003 Act to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice.
- 6.2 In addition it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate, or temporary event notice. Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity. Between 5am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and even many pubs where the main business activity is the consumption of both food and drink. This does not mean that children should automatically be admitted to such premises.
- 6.3 It is not intended that the definition 'exclusively or primarily' in relation to the consumption of alcohol should be applied in a particular way by reference to turnover, floor space or any similar measure. The expression should be given its ordinary and natural meaning in the context of the particular circumstances. It will normally be quite clear that the business being operated at the premises is predominantly the sale and consumption of alcohol. Mixed businesses may be harder to pigeonhole and we would advise operators to consult with enforcement agencies where necessary about their respective interpretations of the activities taking place on the premises before any moves are taken which may lead to prosecution
- 6.4 The protection of children from harm is a most important issue. It is hoped that family-friendly premises will thrive but the risk of harm to children remains a paramount consideration when determining applications.
- 6.5 The general relaxation in the Licensing Act giving accompanied children greater access to licensed premises was is a positive step, aimed at bringing about a social change in family-friendly leisure. This change has meant children are now more exposed to alcohol in a range of settings. Clearly, this

relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.

- 6.6 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos. This includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances, children are more vulnerable and their needs will require special consideration.

Conditions requiring the admission of children to any premises cannot be justified and will not be attached to licences or certificates.

- 6.8 The Licensing Authority considers that, on the one hand, there should be no presumption of giving children access or, on the other hand, no presumption of preventing their access to licensed premises. The Licensing Authority has no intention of imposing conditions requiring the admission of children and where no licensing restriction is necessary, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.

- 6.9 Applicants will be expected to 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.

- 6.10 Whilst children may be protected adequately from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact upon harm to children have been considered. Areas that will give particular concern in respect of children include

- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with evidence of under-age drinking
- with a known association with drug taking or dealing
- where there is a strong element of gambling on the premises, and
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

- 6.11 Venue operators seeking premises licences and club premises certificates may also volunteer such prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where no relevant representations are made, these volunteered prohibitions and restrictions will become conditions attaching to the licence or certificate and will be enforceable as such. No other conditions concerning the presence of children on premises will be imposed by the District Council in these circumstances.

6.12 The District Council recognises the Cambridgeshire Safeguarding and Standards Unit as the lead responsible authority in relation to the protection of children from harm.

6.13 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

- effective and responsible management of premises
- provision of a sufficient number of people employed or engaged to secure the protection of children from harm
- appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
- adoption of best practice guidance (e.g. licensing trade voluntary codes of practice, including those relating to drinks promotions)
- limitations on the hours when children may be present, in all or parts of the premises
- limitations or exclusions by age when certain activities are taking place
- imposition of requirements for children to be accompanied by an adult
- acceptance of PASS accredited 'proof of age' cards and/or 'new type' UK driving licences with photographic ID
- measures to ensure that children do not purchase, acquire or consume alcohol
- measures to ensure that children are not exposed to incidences of violence or disorder.

These examples can be adopted in any combination.

6.14 In the case of film exhibitions, the Licensing Authority will expect licence and certificate holders and those who have given notice of a temporary event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or Fenland District Council. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to conduct an assessment of the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if necessary.

## 7.0 Cultural Activities

7.1 The Licensing Authority recognises the need to encourage and promote a broad range of entertainment for the wider cultural benefit of the communities. A natural concern to prevent disturbance in neighbourhoods will always be carefully balanced with these wider cultural benefits, particularly the cultural benefits for young people. In determining what conditions should be attached to licence and certificates as a matter of necessity for the promotion of the licensing objectives, the Licensing Authority

is aware of the need to avoid measures which deter regulated entertainment by imposing indirect costs of a disproportionate nature.

## **8.0 Duplication**

- 8.1** The District Council has a firm commitment to avoid duplication with other regulatory regimes so far as possible. For example legislation governing health and safety at work and fire safety will place a range of general duties on the self-employed, employers and operators of venues both in respect of employees and of the general public when on the premises in question. Similarly, many aspects of fire safety will be covered by existing and future legislation. Conditions in respect of public safety will only be attached to premises licences and club premises certificates that are 'necessary' for the promotion of that licensing objective and if already provided for in other legislation, they cannot be considered as necessary in the context of licensing law. Such regulations will not however always cover the unique circumstances that arise in connection with licensable activities particularly regulated entertainment, at specific premises and tailored conditions may be necessary.

## **9.0 Conditions**

- 9.1** The District Council will not impose conditions unless it has received a representation from a responsible authority, such as the police or an environmental health officer, or Other Persons, such as a local resident or local business, which is a relevant representation, or is offered in the applicant's Operating Schedule. Any conditions will be proportional and appropriate to achieve the Licensing Objectives.

## **10.0 Temporary Event Notices**

- 10.1** The Act requires that a minimum of 10 working days' notice must be given for a standard temporary event notice and a minimum of 5 working days' notice for a late temporary event notice. Section 193 of the Act defines a 'working day' as any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales. 'Working days' notice means working days exclusive of the day on which the event is to start, and exclusive of the day on which the notice is given.

There is no discretion to relax either the 10 working days' notice or the five working days' notice so the District Council encourage notice givers to provide the earliest possible notice within 12 months of events likely to take place.

## **11.0 Personal Licences**

- 11.1** An application for a personal licence and 'disclosure of convictions and declaration' form should be dated by the applicant within one calendar month



of the application being received by the District Council. This is to ensure that the information on the application is as current as the basic disclosure.

- 11.2 Basic disclosures with a 'Care of' address will not be accepted by the District Council. The disclosure must have been obtained against an applicant's residential address. For third party applications, confirmation in writing will be acceptable stating the residential address used during the process of obtaining the disclosure.

## **12.0 Premises Licence/Club Premises Certificate Applications**

- 12.1 Applications for the grant or variation of a premises licence or club premises certificate should be accompanied by two sets of plans, one of which will be endorsed and issued with the premises licence/club premises certificate.
- 12.2 Applications for the grant or variation of a premises licence or club premises certificate should be accompanied by a 'certificate of display'. This acknowledges the applicants understanding for the requirement of displaying notices and should avoid any undue delay in the application process.
- 12.3 Applications for the grant or variation of a premises licence or club premises certificate should be accompanied by a 'certificate of service'. This acknowledges the applicants understanding for giving a copy of the application to the responsible authorities and should avoid any undue delay in the application process.
- 12.4 Where applications have to be advertised, licensing officers will routinely check that public notices are displayed at the premises and in a local newspaper as part of the application validation process.
- 12.5 The District Council is required under the Act to suspend premises licenses and club premises certificates where the annual fee has not been paid. The District Council will invoice each licence/certificate holder when the annual fee is due. Where the fee has not been paid or there has been no claim of administrative error, the District Council will serve a notice to suspend the licence until such time as the fee has been paid.

## **13.0 Administration**

- 13.1 The District Council appreciates the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process. The District Council delegates decisions and functions and has appointed officers and established sub-committees to deal with them.
- 13.2 Where under the provisions of the Act, there are no relevant representations on an application for the grant of a premises licence or club premises certificate or police objection to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters will be dealt with by officers to speed matters through the system.
- 13.3 Regulation 24 of the Licensing Act 2003 (Hearings) Regulations requires the District Council to give all parties at licensing hearings an equal maximum

period of time to present their case. For the purpose of this regulation it is the District Council's policy that a maximum of 15 minutes will be allowed.

- 13.4 Copies of applications and letters of representation will be included within the report and distributed prior to hearings before a Licensing Sub Committee. Applicants, Responsible Authorities, and Other Persons wishing to present additional evidence in support of their application/representations should do so at least 3 working days before the hearing starts. Failure to do so may result in the Licensing Sub-Committee disregarding this additional evidence.

#### **14.0 Relevant Legislation**

- 14.1 Adult Entertainment – The District Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and premises offering regular entertainment of a sexual nature must be licensed as a sex establishment under those provisions. The District Council acknowledges that there is an exemption which allows sexual entertainment to be provided at premises licensed under the Licensing Act 2003, as long as it is provided on no more than 11 occasions within 12 months and with at least 1 month between each occasion. Premises using this exemption should ensure that procedures are in place to exclude children when entertainment of this nature is offered.
- 14.2 Gaming Machines – Automatic entitlement in licensed premises. There is provision in the Gambling Act 2005 (GA2005) for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines of category C and/or D.
- 14.3 Gaming Machine Permit – if a premises wishes to have more than 2 machines of categories C and/or D, then it needs to apply for a permit and the District Council will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under section 25 of the Act, and such matters as licensing officers consider relevant.
- 14.4 Exempt Gaming – Premises licensed under the Licensing Act 2003 may offer gaming such as poker and bingo provided the stakes and prizes do not exceed permitted levels. Details of these limits are available from the District Council or the Gambling Commission.

## Appendix A

### Responsible Authorities

#### Cambridgeshire Constabulary

Police Licensing Officer (Fenland)  
March Police Station  
Burrowmoor Road  
March  
Cambridgeshire PE15 9RB  
Telephone: 101 Ext 6440

#### Cambridgeshire Fire and Rescue Service

Chief Fire Officer  
Hinchingbrooke Cottage  
Brampton Road  
Huntingdon PE29 2NA  
Telephone: 01480 444500  
Email: bsgservicedesk@cambsfire.gov.uk

#### The Body Responsible for the Protection of Children from Harm

Safeguarding & Standards Unit  
Licence applications  
PO Box 144  
St Ives  
Cambridgeshire  
PE27 9AU  
Telephone: 01223 706380  
Email:  
ReferralCentre.Children@cambridgeshire.gov.uk  
Web: www.cambridgeshire.gov.uk

#### Local Authority Planning Authority

Fenland District Council  
Development Services  
Fenland Hall  
County Road  
March  
Cambridgeshire PE15 8NQ  
Telephone: 01354 654321  
Email: planning@fenland.gov.uk

**Public Health**

Cambridgeshire County Council  
Public Health Programmes  
Scott House  
Box No SCO 2213  
5 George Street  
Huntingdon  
Cambridgeshire  
PE29 3AD  
Email: [Kate.Parker@cambridgeshire.gov.uk](mailto:Kate.Parker@cambridgeshire.gov.uk)

**Local Authority**  
**Environment and Health**  
**Services**

Fenland District Council  
Environmental & Leisure Support Team  
Fenland Hall  
County Road  
Cambridgeshire PE15 8NQ  
Telephone: 01354 654321  
Email:  
[environmentalservicerequests@fenland.gov.uk](mailto:environmentalservicerequests@fenland.gov.uk)

**The Body Responsible for**  
**Health and Safety**

Fenland District Council  
Environmental & Leisure Support Team  
Fenland Hall  
County Road  
March  
Cambridgeshire PE15 8NQ  
Telephone: 01354 654321  
Email:  
[environmentalservicerequests@fenland.gov.uk](mailto:environmentalservicerequests@fenland.gov.uk)

**Local Authority Compliance**  
**Officer**

Licensing Compliance Officer  
Fenland Hall  
County Road  
March  
Cambridgeshire PE15 8NQ  
Telephone: 01354 654321  
Fax: 01354 606917  
Email: [Licensing@fenland.gov.uk](mailto:Licensing@fenland.gov.uk)  
Web: [www.fenland.gov.uk](http://www.fenland.gov.uk)

**Weights and Measures**  
**(Trading Standards)**

**Supporting Businesses and Communities**

Cambridgeshire County Council  
PO Box 450  
Great Cambourne  
Cambridge  
CB23 6ZR  
Helpline: 0345 0455206  
Email: [ts.administration@cambridgeshire.gov.uk](mailto:ts.administration@cambridgeshire.gov.uk)

**Local Authority**

**Environment and Health**

**Services**

Fenland District Council  
Environmental & Leisure Support Team  
Fenland Hall  
County Road  
Cambridgeshire PE15 8NQ  
Telephone: 01354 654321  
[environmentalservicerequests@fenland.gov.uk](mailto:environmentalservicerequests@fenland.gov.uk)  
Web: [www.fenland.gov.uk](http://www.fenland.gov.uk)

**The Body Responsible for**  
**Health and Safety**

Fenland District Council  
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