

My ref: LR/ap  
Your ref:  
Date: 4<sup>th</sup> April 2016  
Contact: Dr Liz Robin  
Direct 01223 703259  
E Mail: [Liz.robin@cambridgeshire.gov.uk](mailto:Liz.robin@cambridgeshire.gov.uk)



K Winterton  
Fenland District Council  
Melbourne Avenue  
March  
PE15 0EN  
[kwinterton@fenland.gov.uk](mailto:kwinterton@fenland.gov.uk)  
[licensing@fenland.gov.uk](mailto:licensing@fenland.gov.uk)

Public Health Directorate  
Box SH1108  
1<sup>st</sup> Floor, Shire Hall  
Castle Hill  
Cambridge  
CB3 0AP

Dear Kim,

### **Fenland Licensing Act 2003 - Draft Statement Of Licensing Policy 2016-2021 – Consultation Response**

Thank you for your recent communication regarding the consultation on the statement of licensing Policy for Fenland District Council. As you will be aware, since April 2013 Directors of Public Health (DPH) have been included as Responsible Authorities under the Licensing Act 2003. The role of the DPH is to help promote the health and wellbeing of the local populations they serve. Promotion of the licencing objectives, which collectively seek to protect the quality of life for those who live and work in the vicinity of licensed premises and those who socialise in licensed premises is an important contribution to this.

Please find below our comments on the draft policy for your consideration. These comments have been formulated, in part, from Public Health England guidance and examples of good practice from elsewhere.

#### ***Links to other strategies (Page 6)***

1.23 – Please consider adding 'health and wellbeing strategy' within the list of strategies that the policy seeks to integrate. FDC statement of licensing policy will have key links to Cambridgeshire's Health & Wellbeing Board (Health & Wellbeing Strategy 2012-17) and local work undertaken by the Fenland Health and Wellbeing Partnership. Public Health has been working closely with representatives 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.

## **Responsible Authorities & Other Persons (Page 10)**

1.47 – We recognise that the policy indicates that a list of responsible authorities is available on the website but we would encourage FDC to include this list within the licensing statement. Since the last licensing statement was produced changes to legislation now include health as a responsible authority. Other licensing authorities have included the following text to accompany this new responsibility.

*“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.”*

1.49 – The draft statement recognises further changes to the legislation in regards to the Licensing Authority now having a dual role as a responsible authority. Public Health has worked closely with partners in FDC to provide local intelligence and supported policy developments around community safety. We would recommend additional clarity is provided in this section to enable FDC officers outside of licensing team to address the role of a responsible authority. For your convenience we have suggested the following wording.

*“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.”*

## **Cumulative Impact of a Concentration of Licensed Premises (Page 13)**

1.69-1.72

Public Health has welcomed the introduction of Fenland District Councils Cumulative Impact Policy (CIP). The issue of outlet density has been shown in the research literature to being a key issue in alcohol related harm. The data and evidence available to Public Health fits well within the CIP approach, providing an opportunity to apply contextual rather than premise specific data and evidence, and also providing a role where public health can support other licensing partners by ensuring a representation is made for any application in a CIP as appropriate.

The Public Health directorate in 2015 introduced a systematic approach to reviewing licensing applications. Since this process has been in place, 4 licence applications were received and responsible authorities including public health, trading standards and Cambridgeshire Constabulary have made successful representations to the licensing committee. This has prevented licenses being given to a further 4 establishments out the current 22 premises within this small geographical area in Wisbech.

The use of the Cumulative Impact Policy is a key mechanism to address alcohol related harm for residents of Fenland. Public Health would like to take this opportunity to work more closely with the licensing team and partners e.g. to further developing the CIP and review evidence to see if the existing boundaries need to be expanded.

## **Other Special Policies**

Once away from licensed premises, a minority of consumers will behave badly and unlawfully. The licensing policy is part of a much wider strategy for addressing these problems.

Other mechanisms both within and outside the licensing regime are available for addressing such issues. Local initiatives that seek to address these problems, for example through the Fenland Community Safety Partnership in line with the strategic objectives for crime and disorder reduction within the district e.g. confiscation of alcohol from adults and children in designated areas, CCTC surveillance, police enforcement including prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale)

In line with other locally developed licensing statements, Public Health would like FDCs statement to consider the inclusion of sections on:

- **Early Morning Restriction Orders (EMRO)**

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 31st 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 the licensing objectives.

The only exemptions relating to EMROs 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 and EMRO will be evidence based. The function of making, varying or revoking an EMOR is specifically excluded from the delegation of functions and may not be delegated to the licensing committee.

- **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 31st 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 or ceasing the requirement for a levy may not be delegated to the licensing committee.

- **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.

***Protection of Children from Harm (Page 19)***

6.5 – We would recommend the rewording of this section as follows

*The general relaxation in the Licensing Act giving accompanied children greater access to licensed premises was 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.*

Thank you for taking the time to consider these comments, we look forward to receiving the final document and working with FDC in the further development of the current Cumulative Impact Policy.

Yours sincerely,



Dr Liz Robin  
Director of Public Health  
Cambridgeshire County Council

cc. Kate Parker – Cambridgeshire County Council  
cc. Jo Keegan – Cambridgeshire County Council