

South Kesteven District Council



Statement of Licensing Policy

6 January 2016

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SOUTH KESTEVEN DISTRICT COUNCIL STATEMENT OF LICENSING POLICY

Executive summary

The Licensing Act 2003 (the Act) came into effect in 2005. Section 5 of the Act requires the Licensing Authority (South Kesteven District Council) to determine, and publish, a Statement of Licensing Policy that they propose to apply in exercising their functions under the Act. This process is to be repeated every five years. The Licensing Authority must also keep the policy under review during each five year period and make any such revisions it considers appropriate.

This policy was last reviewed in 2011 and follows the Home Office guidance issued under section 182 of the Licensing Act 2003. This guidance includes several important changes to the Act to introduce measures to reduce red-tape, provide more flexibility and increase the potential to expand and augment local economies and promote cultural issues.

The Police Reform and Social Responsibility Act 2011 introduced the Late Night Levy and Early Morning Alcohol Restriction Orders, as well as providing for the Licensing Authority and Local Health Board to become Responsible Authorities. The Live Music Act 2012 changed the way in which regulated entertainment is licensed and the Deregulation Act 2015 made further changes to the licensing of alcohol sales and the provision of entertainment, such as music, singing and dancing.

Any decision taken by the Licensing Authority in regard to determination of licences, certificates and authorisations will aim to promote the licensing objectives which are:

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

Each application will be determined on its own merits.

This policy covers the licensable activities as specified in the Act which are:

- Sale by retail or supply of alcohol
- Regulated entertainment
- Late night refreshment

Decisions can be taken by the Alcohol and Entertainment Licensing Committee, a three person sub-committee comprising members of the Committee; or Officers using delegated powers.

The Licensing Authority has the ability to grant licences for premises and certificates for qualifying club premises. It also grants personal licences and accepts temporary event notices. Applicants for premises licences should be aware of the expectations

of the Licensing Authority and the Responsible Authorities regarding the steps that are appropriate for the promotion of the licensing objectives.

Applicants should also be aware of the requirement to make enquiries about the specific area in which the licensed premises is, or is to be, situated and to be able to demonstrate that knowledge when describing the steps they propose to take to promote the licensing objectives.

Where relevant the Licensing Authority consults with the responsible authorities as described in the Act. Local people and Members of the council are able to have their say and their opinion heard through public consultation on this policy and by making representations about applications for premises licences or requesting reviews of licences for problem premises.

Enforcement of the legislation is a requirement of the Act and is undertaken by the Licensing Authority. This policy describes the Licensing Authority's enforcement principles and the principles underpinning the right of review.

1 Introduction

1.1 South Kesteven District Council is one of seven districts in Lincolnshire with a population of around 136,000. Two thirds of people live in the four main towns of Grantham, Stamford, Bourne and the Deepings with the remaining third living in one of over 80 villages and hamlets. With an area of 365 square miles, it is one of the largest districts in the country.

1.2 This Authority has over 500 premises licensed under the Licensing Act 2003.

1.3 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). When undertaking the review of this policy the Licensing Authority had regard to the Best Practice Framework for the Review of Licensing Policy Statements issued October 2012.

1.4 This document sets out the policies and principles that the Licensing Authority will apply to all places selling or providing:

- Retail sale of alcohol
- Supply of alcohol to club members
- Provision of 'regulated entertainment' - to the public, to club members or with a view to profit.
- Late Night Refreshment

1.5 Regulated entertainment is defined in the Act as:

- A performance of 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
 - Entertainment of a similar description to live music, recorded music or dance.
- 1.6 Late Night Refreshment as defined in the Act as:
- The supply of hot food and/or hot drink from any premises including mobile food stalls between 11pm and 5 am.
- 1.7 Places or premises include:
- Pubs and night-clubs
 - Off-licences
 - Restaurants serving alcohol
 - Restaurants and takeaways 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
- 1.8 This policy and associated guidance is intended to provide clarity to applicants, other persons and responsible authorities on how this Licensing Authority will determine applications.
- 1.9 The Licensing Authority has a duty under the Act to carry out its functions with a view to promoting 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
- 1.10 In promoting the licensing objectives the Licensing Authority will pay due regard to the revised guidance issued in March 2015, under Section 182 of the Licensing Act 2003, and any subsequent legislation or Guidance issued by the Secretary of State.
- 1.11 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.
- 1.12 In preparing this policy statement the Licensing Authority has consulted with those listed below, with appropriate weight being given to the views of those who have responded.

- The Chief Officer of Police
- The Fire and Rescue Authority
- The Director of Public Health
- The Planning Department
- Environmental Health (Health & Safety)
- Environmental Health (Environmental Protection)
- Trading Standards
- Lincolnshire Safeguarding Children Board
- Other relevant bodies
- Representatives of licence holders and club certificate holders
- Local businesses and their representatives

1.13 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 licenses and the various other permissions, which will focus on matters falling within the control of individual licensees.

1.14 These conditions will relate to the premises and other places being used for licensable activities and the impact of those activities on any individual, body or business affected by the operation of a licensed premise, regardless of their geographical location.

1.15 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.

1.16 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 are a range of statutory powers available to deal with such behaviour, these powers will not always be sufficient to control negative impacts on the local area. 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.

1.17 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 decision making process. The duty now extends to anti-social behaviour, substance misuse and behaviour adversely affecting the environment
- 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 Provision of Services Regulations 2009 to ensure requirements are:
 - i. Non- discriminatory.
 - ii. Justified by an overriding reason relating to the public interest.
 - iii. Proportionate to that public interest objective.
 - iv. Clear and unambiguous.
 - v. Objective.
 - vi. Made public in advance, and
 - vii. Transparent and accessible.
- Anti-social Behaviour Crime and Policing Act 2014
- Police and Justice Act 2006
- Violent Crime Reduction Act 2006
- The Police Reform and Social Responsibility Act 2011
- Clean Neighbourhoods and Environment Act 2005
- Disability and age discrimination legislation. South Kesteven District Council is committed to the implementation and application of this policy - in such a manner as to ensure that no applicant or other person is treated less favourably on grounds of sex, marital status, race, nationality, ethnicity, national origin, colour, disability or age; nor is disadvantaged by the application of a rule, condition or requirement which has a discriminatory effect, which cannot be justified either in licensing terms or as a requirement of law.

1.18 The scope of this policy covers all applications and notices made under the Licensing Act 2003.

1.19 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 are:

- Home Office Guidance for local partnerships on alcohol-related crime and disorder data
- LACORS/TSI code of practice on test purchasing of age restricted goods
- HM Government Alcohol Strategy
- The Lincolnshire Alcohol and Drug Strategy 2014 – 2019
- Lincolnshire Community Safety Agreement

- Relevant employment legislation with regards to the protection of children and young people
- A Guide For Event Organisers in Lincolnshire
- 'Challenge 21' campaign, currently promoted by Lincolnshire Trading Standards
- 'Pubwatch' schemes operating within the district

2. Integrated Strategies and the Avoidance of Duplication

2.1 South Kesteven District Council's vision is to:

- Keep SK clean, green and healthy
- Promote leisure, arts and culture
- Support good housing for all
- Grow the economy

2.2 By consulting widely, prior to this policy statement being published, and working with our partners at all levels it is hoped this will generate an alignment between this Policy and any that may be developed by partner agencies.

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 regarding:

- 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
- any 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 Development Control Committee on the situation regarding licensed premises in the district, including the overarching priority to reduce the impact of alcohol-related crime and disorder.

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

- 2.6 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.
- 2.7 In order to avoid duplication with 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](#).
- 3.2 Each application for licensing will be considered on its own merits - for example, free from the imposition of quotas on the number of licensed premises or generalised closing times.
- 3.3 Applicants are strongly advised to liaise with the responsible authorities with respect to the content of their operating schedule before making any application. South Kesteven District Council's Licensing team are always available to provide advice and guidance to any applicant or other person involved in the process.
- 3.4 Applicants will be required to submit, with their application for a premises licence/club premises certificate or variation to their existing premises licence/club premises certificate, an Operating Schedule. The operating schedule plays a major part in ensuring compliance with the Act, in particular showing how the four licensing objectives are to be achieved. The schedule will aid any Responsible Authority or other person to assess whether the proposed steps to be taken to promote the licensing objectives are satisfactory. The schedule will form part of the conditions of the licence (if granted) and therefore they must be unambiguous and clear in what they intend to achieve. Examples on what steps can be taken to promote the four licence objectives can be found below.
- 3.5 Applications will be determined having regard to:
- this policy
 - the Licensing Act 2003 and supporting legislation
 - guidance issued by the Department for Culture, Media and Sport (DCMS) or the Home Office

- Any 'relevant representations' received (provided that they are not determined by the Licensing Authority to be frivolous, vexatious or repetitive).
 - Although they may be in any geographical position, any representation made must be relevant to one or more of the licensing objectives.
- 3.6 This authority will, however, look at the geographical location of the author of any representation or review application received. Where the author lives or works a significant distance from the premises subject of an application or review, this Authority will examine the content of the representation particularly closely. We would expect the author to explain in detail how, in terms of the licensing objectives, they would be affected by the application. The Licensing Authority will consider rejecting any representations which did not include sufficient detail to outline any harm or disturbance which may be caused.
- 3.7 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.
- 3.8 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 interests of the community.
- 3.9 The Licensing Authority expects all applicants to complete the 'Adult Entertainment' Box of the application form which requires details of any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.
- 3.10 If there are to be no such entertainments, services, activities or other matters then the form should state that clearly. The Licensing Authority may return, for amendment, any application which is incomplete in this material area.
- 3.11 Failure to submit an application in the correct form will result in that application being returned. The Licensing Authority will endeavour to explain why the application is considered to be deficient and will invite the applicant to re-submit the application with all the required information.

4 Licensing Objectives

General

Each of the four licensing objectives is of equal importance. The Licensing Authority considers the effective and responsible management of the premises and the instruction, training and supervision of staff and the adoption

of best practice to be amongst the most essential control measures for the achievement of the licensing objectives. For this reason, these elements should be specifically considered and addressed within an applicant's operating schedule.

Examples of steps the licensing authority would expect applicants to consider and address include:

4.1 The Prevention of Crime and Disorder

- i. Membership and promotion of a South Kesteven Pubwatch Scheme or similar organisation. Membership and regular attendance of meetings of a crime reduction group such as Pubwatch can help stop known troublemakers entering your premises. Pubwatch and the Police can share information between each other, incidents such as resale of stolen goods, recent outbreaks of trouble and information of crimes against businesses. Pubwatch bans do have serious repercussions on the social lives of the people affected. They may have to travel much greater distances to frequent licensed premises and as such they cannot socialise with their friends in the same way. As such, up to date Pubwatch signage can act as a deterrent. Pubwatch membership would be considered best practice for many premises located in the town centres where the supply of alcohol is an authorised activity.
- ii. Physical security features should be considered e.g. use of toughened or plastic drinking glasses. Where appropriate, the operating schedule may specify details of when the use of plastic or toughened glass will be applied as defined by a risk assessment. Plastic may be very preferable for use in outside areas where broken glass could be difficult to clear up or where there may be an increased level of rowdiness such as when and where national sporting events are televised.
- iii. The use and numbers of SIA licensed door supervisors. It is illegal to use door staff who are not licensed by the SIA. For more information on the SIA please visit their website at <http://www.sia.homeoffice.gov.uk> or call their helpline 08702 430 100. The decision when to employ door supervisors and in what number depends on a risk assessment. Managers should be sensitive to local and national events such as major football events, even if your premises are not involved directly. When using Door Staff the licensing authority recommends the use of an "incident book" which should be maintained recording details of duty door staff and any incidents dealt with. This should be kept available for inspection at any reasonable time by Police and Council officers.
- iv. The amount of seating to be provided to reduce high volume vertical drinking.
- v. Training given to staff in crime prevention and drug awareness measures.
- vi. Measures agreed with the Police to reduce crime and disorder. The development of good relations with local police officers is beneficial

- in preventing incidents occurring on your premises. If customers become accustomed to police officers making frequent checks, problem behaviour can be discouraged. Additionally, records kept of any crime or disorder incidents and where sales of alcohol have been refused will help the police and local authority monitoring.
- vii. Measures to prevent the use or supply of illegal drugs. Ensuring adequate staffing at busy times so that staff members are regularly checking all areas of the licensed premises including toilets and other areas that are not easily visible from the bar. Such measures would include a premises drug policy and statement of such a policy.
 - viii. Search procedures. Effective searching not only prevents certain crimes by removing prohibited articles, but also serves as a deterrent.
 - ix. Provision of CCTV in and around the premises. Details of any CCTV system and suitable signs associated with it. If installing a new CCTV system advice from the Crime Reduction Officer of the Lincolnshire Police should be sought.
 - x. Formulation of a dispersal policy. You should ensure that when customers leave the premises, they do so in an orderly manner. A music and lighting policy which encourages a calming effect on customers before they leave can help. It may be that a transportation policy is required to get customers home after leaving the premises when there is no viable alternative.
 - xi. Measures to prevent glasses and bottles being taken away from the licensed premises. Open containers should not be taken from the premises. Signs to reinforce that only drinks purchased on the premises may be consumed on the premises could be advisable.

4.2 Public Safety

- i. Suggested occupancy figures (including staff and performers). This can be based on a recent assessment completed by a fire officer/building control officer. It is the responsibility of the licence holder to do a risk assessment of the business and expert advice may be required.
- ii. Not only does the size and number of emergency exits affect the occupancy figure, so does the floor area, ease of exit and the density and type of furniture and fittings. Please note that sanitary accommodation can affect occupancy figures. Please specify if your premises has a capacity of less than 200 people, as there is an exemption available under section 177 of the Licensing Act 2003.
- iii. Use of equipment and effects. You should be able to demonstrate that equipment, whether fixed or temporary is safe and in working order such as the electrical, fire alarm and emergency lighting systems and fire fighting equipment. There are however, types of equipment and effects which require specific risk assessment and advice from experts such as the Environmental Health or Health and Safety officers.
- iv. Levels of door supervision. Please see above in Crime and Disorder. When assessing the numbers of door staff, you should be consider their safety and employ them in sufficient numbers to ensure that

they are able to deal with all emergencies and evacuations, not just in their crime and disorder role.

- v. Measures to prevent the supply and use of illegal drugs. Please see the General and Crime and Disorder headings.
- vi. Free availability of clean drinking water. It is recognised that some persons either in possession of or under the influence of drugs will gain entry to premises despite stringent search methods. Some drugs combined with dancing can cause overheating of the body and a craving for water.
- vii. Free availability of clean drinking water and its controlled consumption can help to alleviate the effects of the drug. Water available in sanitary accommodation should not be used for this purpose.
- viii. Physical safety features e.g. use of toughened glass and plastic containers. Please see above in Crime and Disorder;
- ix. Fire safety, training and evacuation procedures;
- x. Provision of CCTV.

4.3 The Prevention of Public Nuisance

- i. The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship and the proximity of other sensitive areas such as schools, war memorials etc;
- ii. The hours of opening, particularly between 23.00 and 07.00;
- iii. The nature of the activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside the premises;
- iv. The design and layout of the premises and in particular the presence of noise limiting features;
- v. The occupancy capacity of the premises;
- vi. The availability of public transport;
- vii. The availability of parking in residential areas;
- viii. 'Wind down period' between the end of the licensable activities and the closure of the premises;
- ix. The formulation of a dispersal policy;
- x. Last admission time;
- xi. The upkeep of the area immediately surrounding the premises such as litter collection.
- xii. Installation of noise limiting equipment.

4.3.1 Closure of outside areas after a certain time is encouraged to be included in your operating schedule. It is advisable that no regulated entertainment is carried out in outside areas in the evenings without prior consultation with the licensing authority. Noise can also be contained by keeping windows and doors shut, by installing double-glazing or air conditioning and ventilation where appropriate, which should be maintained in good order. Using performers of regulated entertainment to remind customers to respect the premises' neighbours and leave quietly has proved successful.

4.3.2 A guide for the management of noise and other public nuisances is available on the council's website under environmental health/environmental protection. It is recommended that you contact an officer from Environmental Protection Service for further advice before submitting your application

4.4 Protection of Children from Harm

4.4.1 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting them from the harms associated directly with alcohol consumption, but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment).

4.4.2 The Licensing Authority is aware that alcohol misuse and abuse is one of the recurring key 'parental factors' in child protection, often contributing to parental neglect of children, domestic abuse and violence within families.

4.4.3. Alcohol is often a factor in child sexual exploitation, where young people may be encouraged or coerced to drink alcohol. Being under the influence of alcohol impacts on the safety and health of young people. They become vulnerable and are at risk of becoming involved in activities they otherwise would not. Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises, or premises being used for the purposes of grooming and enticement. The Licensing Authority is especially mindful that it must always consider the need to protect children from sexual exploitation.

4.4.4 The Licensing Authority encourages licence holders and operators of licensed premises:

- To ensure that they are fully aware of the signs of child sexual exploitation and to understand the sexual exploitation of a child is sexual abuse and is a crime; and
- To raise the awareness of their staff about child sexual exploitation and provide intelligence to the appropriate authorities about concerns and about perpetrators who may be operating in their areas.

4.4.5 The Licensing Authority recognises the Lincolnshire Safeguarding Children's Board as being the competent authority to advise on matters relating to the protection of children from harm. Their details can be found in the Guidance to Applicants available on <http://www.southkesteven.gov.uk> or on request.

4.4.6 A statement should be made in the operating schedule regarding the child admission policy of the premises detailing any restrictions. Good management and staff training are essential in dealing with this objective.

4.4.7 Signage can be very important in the protection of children from harm. It is important that signage makes clear the restrictions on access to the premises or part of the premises by children. It is also important to have children supervised at all times in these types of premises.

4.4.8 It is expected to show in your operating schedule that if children are permitted on the premises that any areas where children are not allowed are demarcated, these may be bar areas, in areas with amusements with prizes or a strong element of gambling, suitable refreshments should also be available at all times when children are permitted. Make sure that children needing to use the toilets can get there without crossing areas within which they are not permitted.

4.4.9 When considering access by children, you may wish to consider the following:

- Limitations of the hours when children may be present;
- Limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place;
- Limitations on the parts of premises to which children might be given access;
- Age limitations (below 18);
- Requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of those people under 18 years of age from the premises when any licensable activities are taking place.
- Presence of acceptable number of appropriate adult staff to ensure public safety and protection of children from harm.

4.4.10 It should be noted that it is an offence;

- a. to permit children under the age of 16 unaccompanied by an adult (that is a person aged 18 or over) to be present on premises open for the supply of alcohol for consumption there and being used exclusively or primarily for the supply of alcohol for consumption on those premises under the authorization of a premises licence, club premises certificate or temporary event notice;
- b. to permit the presence of children under 16 who are not accompanied by an adult (that is a person aged 18 or over) between midnight and 5am to be on premises supplying alcohol for consumption on the premises under the authorization of any premises licence, club premises certificate or temporary event notice.

4.4.11 The offences may be committed by a premises licence holder, designated premises supervisor or any person who works at licensed premises, whether paid or unpaid, in a capacity which authorizes him or her to request an unaccompanied child under 16 to leave the premises.

4.4.12 It may also be committed by any member or officer of a club, which holds a club premises certificate, who is present on the premises in a capacity which enables him to make such a request or a premises user in relation to premises being used under the authorization of a temporary event notice.

5 Licensing Hours

5.1 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.

5.2 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.

5.3 There is no presumption in the Licensing Act 2003 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 hours would undermine the licensing objectives, the Committee can reject the application or grant it with appropriate conditions or hours.

5.4 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, puts greater pressure on town centres than is necessary and can lead to increased disorder and nuisance.

5.5 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.

5.6 Where off sales are permitted and late night takeaways exist, operators should recognise their responsibility to ensure that litter discarded in the area of their premises is cleared away regularly.

5.7 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 in the area.

5.8 South Kesteven District 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. However, the team is subject to legislative restrictions and it may be that the matter will be put before the Licensing Committee.

6. Children and Licensed Premises

- 6.1 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.
- 6.2 When deciding whether or not to limit access to children, 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;
 - 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;
 - there is a known association with drug taking or dealings;
 - 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);
 - the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premise.
- 6.3 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.
- 6.4 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.
- 6.5 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 Disclosure and Barring Service.
- 6.6 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 years of age);
 - requirements for accompanying adults

- full exclusion of those people under 18 years of age from the premises when any licensable activities are taking place.
- 6.7 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.
- 6.8 The body responsible for the interests of children is the Lincolnshire Safeguarding Children Board, who are contactable through Lincolnshire County Council.
- 6.9 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, along with 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.
- 6.10 The Licensing Authority recognises that Lincolnshire County Council Trading Standards, as part of their 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, Trading Standards conduct covert test purchasing exercises to check compliance with the legislation.

7 Cumulative Impact

- 7.1 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 the market to decide and does not form part of this Licensing policy statement.
- 7.2 The Licensing Authority may receive representations from either a responsible Authority or other person, (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.
- 7.3 The Licensing Authority will not operate a quota of any kind, which would predetermine 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.

7.4 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, 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.

7.5 If, subject to that consultation South Kesteven District Council decide to adopt a cumulative impact policy, they will adopt a policy and add it to this statement of Licensing policy.

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

7.7 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.

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

7.9 The Licensing Authority may address a number of these issues through the Local Community Safety Partnership and County Licensing Group, in line with the strategic objectives for crime and disorder reduction within the district.

8. Nudity and striptease

8.1 The Authority recognises that Parliament has made it lawful to operate establishments providing adult entertainment, such as striptease and, that such businesses are a legitimate part of the retail and leisure industries. It is our role as a Licensing Authority to administer the licensing regime in accordance with the law.

8.2 This Authority has adopted the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009) so that it can licence sexual entertainment venues in the district. The Authority's policy and procedures in relation to the licensing of sexual entertainment venues can be viewed on the Authority's website.

8.3 The Authority recognises that some premises providing sexual entertainment may not be providing the entertainment at a frequency which requires the premises to be licensed as a sexual entertainment venue under the LGMP Act (no more than 11 occasions in any 12 month period, with none of those occasions lasting longer than 24 hours or taking place within a month of any other such occasion).

8.4 Where such premises are providing (or intending to provide) striptease or any other kind of nudity (for example pole or lap dancing or topless waitresses), the Authority will expect applicants to demonstrate in their operating schedule that considerable thought has been given as to how they intend to promote the licensing objectives.

8.5 In order to promote the licensing objectives, subject to receiving relevant representations, 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

8.6 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.

9. Conditions of Licence

9.1 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 Home Office or other such bodies and attach conditions as appropriate given the circumstances of each individual case.

9.2 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.

9.3 Conditions not listed in the pool of model conditions may be specifically tailored by the Licensing Authority and attached to licences as appropriate.

10 Reducing the Harm caused by Alcohol

10.1 In reviewing this policy, the Authority has had regard to the Government's Alcohol Strategy document published in March 2012 and is aware of the link between the supply of excessively discounted liquor, irresponsible drinks promotions and incidents of alcohol related disorder as well as the impact excessive or binge drinking can have on public health.

10.2 The Authority will work in partnership with other responsible authorities and use the powers contained within the Licensing Act and any other powers available to them to ensure promotional activities etc do not undermine the licensing objectives or have a damaging effect on the health of its residents.

10.3 Applicants should consider guidance documents on the responsible promotion of alcohol and on binge drinking, such as the British Beer and Pub Association's document – Point of Sales Promotion Standards for the Management of Responsible Drinks Promotions including "Happy Hours" when completing their operating schedules.

10.4 On receipt of relevant representations from a Responsible Authority or other persons, which demonstrates a clear link between sales or promotions and levels of crime and disorder or public nuisance on or in the area of the premises, the Licensing Authority will seriously consider the status of the premises licence.

11 Late Night Levy (LNL)

- 11.1 Late night levies allow Licensing Authorities to raise a contribution from late opening alcohol retailers towards the policing costs generated by the late night economy. The levy will apply to all premises (on and off trade), throughout the Licensing Authority's area, which are authorised to sell or supply alcohol in the time period set by the Licensing Authority. This can be any time between midnight and 0600 hrs. A consultation process is required before introducing a LNL. The consultation process will include the police, licence holders and others.
- 11.2 Consultation was carried out with representatives of the Police for South Kesteven during 2013, it was agreed that there was no evidence that a late night levy would be necessary or beneficial for the district.
- 11.3 The Authority will, however, consider the introduction of a Late Night Levy at any time if circumstances change and evidence supports this course of action.

12 Early Morning Restriction Orders (EMRO'S)

- 12.1 EMRO's can be introduced by the Licensing Authority for any part of the District where it is considered that restricting the sale of alcohol between midnight and 0600 hrs is appropriate to promote the four licensing objectives in the Licensing Act 2003. It can apply either every day or for certain days and for an unlimited or time-limited period.
- 12.2 Prior to introducing an EMRO, the Authority must consult directly with Responsible Authorities and licensed premises and more widely with residents and other parties likely to be affected. Any representations must be made within a 28-day period and be considered by the Licensing Committee; the EMRO itself must be endorsed by Full Council. Once introduced, the EMRO will make it an offence to sell alcohol during the times specified in the order, whether under a premises licence, club premises certificate or TEN (subject to certain specified exemptions)
- 12.3 At the time of reviewing this policy a need to implement an EMRO has not been identified. The Authority will consider the introduction of an EMRO at any time if circumstances change and evidence supports this course of action.

13. Minor Variations to Premise Licences

- 13.1 Officers acting under delegated powers will determine applications for the minor variation of a premise licence. Applicants are advised to contact the Licensing Team BEFORE submitting a minor variation in order to ascertain whether the proposed change does in fact qualify as a minor variation. Officers will reject any application that does not qualify as a minor variation.

- 13.2 It is the Authority's practice that any request to remove redundant conditions will result in the application being sent to specific responsible authorities.

14. Temporary Event Notice

- 14.1 Applicants for a Temporary Event Notice are required to submit their notifications to the Licensing Authority and Police and Environmental Protection, at least 10 working days before the event is due to take place, **not including the day of application or the day of the event.** There is nothing to prevent simultaneous notification of multiple events at a single time so long as the first event is at least ten days away.
- 14.2 Temporary Event organisers are encouraged to submit their notifications to the licensing authority police and environmental protection as soon as is reasonably practical in order for them to consider whether or not there are any concerns and where there are concerns, to enable all parties to take the necessary steps to resolve them.
- 14.3 The licensing authority recommends that at least 20 working days and no more than 40 working days notification be given.

15. Large scale music and other similar events

- 15.1 The licensing authority strongly recommends that event organisers contact the Responsible Authorities in advance of drafting/submitting a licence application for a large scale event. The Responsible Authorities are normally in a position to offer expert and specific advice on the promotion of the four licensing objectives and have practical experience of dealing with such events.
- 15.2 The Licensing Authority will expect organisers of large scale events to work in partnership with the Lincolnshire Event Safety Advisory Group (LESAG). The LESAG is an advisory group dealing with public events in the South Kesteven district and members comprise of officers from all emergency services, Lincolnshire Emergency Planning, Lincolnshire Highways as well as representatives for the Council's regulatory services.
- 15.3 The role of LESAG is purely advisory and it has no enforcement powers. Should incidents occur during an event, the individual agencies on LESAG have enforcement powers which would come into effect.

16. Review of Premise Licence

- 16.1 The licensing Authority will consider the full range of powers available to it when a review of a premise licence becomes necessary. The power to review premise licences represents a crucial protection for the community, especially with regards to the promotion of the four licensing objectives. Reviews of licences may be triggered at any stage by Responsible Authorities or interested parties because of a matter arising at the licensed premises relating to one of the four licensing objectives.

- 16.2 It is the Authority's belief that the promotion of the licensing objectives is best achieved in an atmosphere of mutual co-operation between all stakeholders. Reviews should therefore be mainly reserved for circumstances where early warnings of concerns and the need for improvement have gone unheeded by the management of the licensed premises. Additionally, any application to review a premises licence must not be repetitious.
- 16.3 This Authority emphasises the importance of all parties working in partnership to achieve the promotion of the licensing objectives; the Authority expects that Responsible Authorities will aim to give licensees early warning of any concerns identified at the premises.
- 16.4 It is the Authority's role to administer the process and determine its outcome at a hearing where an evidential basis for the allegations made will need to be submitted.

17. Suspension of Premise Licence – Non payment of annual fee

- 17.1 The 2003 Act requires a licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due. However, this does not apply immediately if the payment was not made before or at the time of the due date because of an administrative error, or because the holder disputed liability for the fee before or at the time of the due date. In either of these cases, there is a grace period of 21 days. This period is intended to allow the licensing authority and the licence or certificate holder an opportunity to resolve the dispute or error. If the dispute or error is not resolved during this 21-day period, the licence will be suspended.
- 17.2 It is this Authority's intention that five working days notice will be given before the suspension takes effect.
- 17.3 A premise licence or certificate that has been suspended does not have effect to authorise licensable activities. However, it can be subject to a hearing or, in the case of a premises licence, an application for transfer. The licence will nevertheless only be reinstated when the outstanding fee has been paid. Formally, the debt is owed by the holder who held the licence at the time it was suspended.

18. Enforcement

- 18.1 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.
- 18.2 Action will only be taken in accordance with the Licensing Authority's own enforcement policy, which reflects the agreed principles that are consistent with the Regulator's Compliance Code. To this end, the key principles of accountability, consistency, transparency and proportionality

will be maintained and enforcement action will only be taken if it is in the public interest.

- 18.3 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 unlikely to require the same level of inspection.
- 18.4 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.
- 18.5 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 licence or club premises certificate.
- 18.6 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.

19. Policy Review

- 19.1 The policy statement will remain in existence for a period of five years and will be subject to review and further consultation before 6 January 2021, but may be reviewed at any point during that five year period.

20 Advice and Guidance

- 20.1 Further information and advice on the Licensing process can be obtained by contacting South Kesteven District Council Licensing team in person, by telephoning (01476) 406080, by e-mail at licensing@southkesteven.gov.uk or by going to the Council's website www.southkesteven.gov.uk and going to 'Licensing'.

Appendix 1 Delegation of Functions

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

<u>Matter to be dealt with</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 representations made
Application for provisional statement	If a relevant representation made	If no relevant representations made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representations made
Application to vary designated premises supervisor	If a Police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Disapplication of a designated premises supervisor	If a Police objection	If no relevant representation made and the premises meet the required standard.
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>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 irrelevant, frivolous, vexatious, etc.		All cases
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	
Acknowledgement of a Temporary Event Notice		All Cases
Determination of an application for the minor variation of a premise licence		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 available on request – tel. (01476) 406300 or e-mail frontdesk@southkesteven.gov.uk