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20th October 2004

To: Chairman – Councillor RE Barrett
Vice-Chairman – Councillor EW Bullman
Members of the Licensing Committee – Councillors R Hall, Mrs SA Hatton,
JA Hockney, Mrs HF Kember, Mrs JA Muncey, Mrs CAED Murfitt, Dr JPR Orme,
A Riley, NJ Scarr, J Shepperson, DALG Wherrell and Dr JR Williamson and
Councillor SGM Kindersley (Environmental Health Portfolio Holder)

Dear Councillor

You are invited to attend the next meeting of **LICENSING COMMITTEE**, which will be held in the **GROUND FLOOR MEETING ROOM** at South Cambridgeshire Hall on **THURSDAY, 28 OCTOBER 2004 at 10.00 a.m.**

Yours faithfully
GJ HARLOCK
Finance and Resources Director

AGENDA

PAGES

- | | |
|--|----------------|
| 1. APOLOGIES FOR ABSENCE | |
| 2. MINUTES OF LAST MEETING
To confirm the Minutes of the meeting held on 6 th September 2004 as presented to Council on 23 rd September 2004. | |
| 3. DECLARATIONS OF INTEREST
Members need only declare an interest in circumstances where there is an item on the agenda that may cause a conflict of interests. | |
| 4. APPEAL DECISION BY MR HR
The Licensing Review Panel heard an appeal by Mr HR on 5 th October 2004 and following consideration of evidence provided by the appellant, it was agreed that Mr HR be given a temporary licence for 1 year. For a copy of the full decision, please contact Democratic Services (Members only). | |
| 5. SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL'S STATEMENT OF LICENSING POLICY | 1 - 40 |
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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Licensing Committee 28th October 2004
AUTHOR/S: Chief Environmental Health Officer

**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL'S STATEMENT OF
LICENSING POLICY**

Purpose

1. To seek approval for the adoption of the Licensing Policy statement by Cabinet and Council as South Cambridgeshire's formal Statement of Licensing Policy in line with the requirements of the Licensing Act 2003.

Effect on Corporate Objectives

- 2.

Sustainability	The main objectives of the Act have the objective of sustainability at their heart, see comments on village life and quality, accessible services
Quality, Accessible services	Premises will be permitted more flexibility in how they operate, but this will be balanced by greater accountabilities
Village Life	The objectives of the Act are all aimed at the promotion of Village life ie prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.
Partnerships	Licensing Policy promotes the closer working in partnership with organisations including Police and Fire Authorities.

Background

3. The introduction of a statement of Licensing Policy is a requirement under Section 5 of the Licensing Act 2003 and without a policy the Council may be subject to Judicial review for failing in its responsibility to carry out a statutory duty. In preparing the draft statement of Licensing Policy, Officers have given full regard to both the requirements of the Act itself and the guidelines issued by the Department of Culture Media and Sports and where appropriate relevant Council strategies such as Crime and Disorder.
4. Central Government has stated that the development, consultation re-drafting and adoption of a Licensing Policy must be completed in time for accepting applications under the new regime. They have declared that the first date for accepting applications will be the 7th February 2005.
5. The Policy will be a document that continually develops to reflect the changing nature of the alcohol and entertainments industry, Government initiatives and the needs of local businesses and residents alike.
6. At the previous Licensing Committee on 6th September 2004 the Draft Licensing Policy was approved by the Environmental Health Portfolio Holder for public circulation. The purpose of which was to seek views and make relevant amendments to the draft policy. The Policy was circulated to over 900 potential consultees and

their views were actively sought. A closing date for comments was set as Friday 8th October 2004

7. The Authority had received 9 replies on its Draft Policy by the 8th October 2004. Their letters are attached as **Appendix A**.
8. In general the views were supportive of the Policy and any recommendations made were with a view to the clarification of certain points and strengthening of key sentences rather than outright disagreement of any area. The Authority was complemented in producing a well balanced and fair policy.

Considerations

9. Careful consideration has been given to all of the views submitted by consultees and a finalised copy of the Licensing Policy is attached as **Appendix B** suggested amended wording is shown in red italics.
10. Within the views submitted by consultees there are certain areas that it was thought either to be not relevant to the Policy or could be better addressed in alternative ways these were as follows:-
11. **Indication of permitted licensing hours.** The cornerstone of the Act is to allow for the relaxation of Licensing Hours and each application is to be considered on its individual merits. Officers are of the opinion that to attempt to prescribe what would be permitted in this area would contravene the intention of the Act.
12. **Proof of age cards.** Officers feel that this can be included as a condition on the grounds of Protection of Children from harm provided the use of such cards has been referred to in any operating schedule
13. **Areas of concern in respect of premises and children.** The view is that where premises are used for the sale or supply of alcohol and permit children to have access, it will give rise to concerns under the objective of protection of children from harm. Officers feel that this is covered adequately within the draft policy.
14. **Door supervisors.** It is accepted that such a requirement is mandatory but to avoid confusion at a later stage it should remain within the Policy. The draft Policy did not state that the condition was optional but explained what benefits could be achieved from door supervisors. Any condition would only reflect the operating statement submitted by an applicant.
15. **Licensing of open spaces.**
The Authority's approach to this was addressed at the meeting held on the 5th September 2004.
16. In order to proceed with the Policy within the timeframe required the Policy will be forwarded in the following manner
 - a. Cabinet will meet and consider the minutes of this meeting on the 11th November 2004.
 - b. Policy will be put before full Council on the 25th November 2004 for final approval and adoption. The policy will then form the basis of any decision taken in respect of applications or enforcement under the Licensing Act 2003 by Officers or any Committee or sub-committee involved in licensing decisions.

- c. December/ January 2005, publication of Licensing Policy
- d. 7th February 2005, first appointed day

17. The statement of Licensing Policy will be reviewed in full at 3 yearly intervals as required under Section.5 of the Act, but will be open to review at any time during that period should it prove necessary to do so. It is anticipated that an initial review will be carried out within the first year.

Financial Implications

18. As reported to Cabinet on 14th October 2004.

Legal Implications

19. As stated in the report.

Staffing Implications

20. As reported to Cabinet on the 14th October 2004

Consultations

21. As contained in the body of the report. Should the Policy be adopted by full Council then no further consultation will be required before the implementation date of the 7th February 2005. After this date the Policy will effectively remain under review and should it require alteration, consultation will take place with relevant persons before any amendments are implemented. Should no review be required then a full review and consultation will take place during the summer of 2007

Recommendations

22. That the Licensing Committee recommends to Cabinet and full Council that the Licensing Policy document, attached as **Appendix B** be adopted.

Background Papers: Guidance issued under S182 of the Licensing Act 2003
Licensing Act 2003

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**SOUTH CAMBRIDGESHIRE
DISTRICT COUNCIL**

LICENSING ACT 2003

DRAFT

LICENSING POLICY STATEMENT

PREAMBLE

The Licensing Act 2003 introduces major changes to the law relating to alcohol sales and supply, Public Entertainment and Late Night Refreshments. A new unified system of regulation through District Councils will be fully operational by February 7th 2005. An estimated 200,000 premises in England and Wales will be affected. There will be two new types of licence: the premises Licence and the personal licence. As a result South Cambridgeshire District Council instead of the Magistrates Court will assume responsibility for licensing all outlets within the District that sell or supply alcohol or carry out any of the licensable activities as described within this policy.

Premises will be permitted more flexibility in how they operate which will include the possibility of extensions to opening hours but this will be balanced by greater accountabilities, new offences and strong enforcement powers.

The new system is underpinned by four key objectives :

- 1) The prevention of crime and disorder.
- 2) Public Safety.
- 3) The prevention of public nuisance.
- 4) The protection of children from harm.

The Act requires the Licensing Authority to publish and keep under review a statement of its Licensing Policy. Partnership working is essential to the new system and statutory bodies, Licensees and resident representatives are key stakeholders who will be consulted before the policy is finally adopted.

South Cambridgeshire District Council welcomes these new powers and will work to integrate its new responsibilities with existing policies, strategies and legislation and in particular those that have a direct relevance to any of the four key objectives. The Council recognises that the introduction of this Act does not exempt the Council from fulfilling its obligations under s17 of the Crime and Disorder Act 1998.

We recognise that Licensing can have a positive and welcome impact on our communities. This is your opportunity to comment on the Draft Licensing Policy Statement to ensure that it reflects a balance between the commercial interests of the licensed trades and the communities they serve.

Comments are invited on this draft licensing policy statement by Friday 8th October 2004 and should be sent to:-

**The Chief Environmental Health officer
South Cambridgeshire District Council
South Cambs Hall
Cambourne business park
Cambourne
CB3 6EA**

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1. Introduction

South Cambridgeshire is a rural area comprising over 100 villages that surrounds the City of Cambridge. There is a wide mix of premises that will be covered by the new Licensing regime ranging from schools to Village halls and Public Houses. It is recognised that these premises contribute much to the economic and social life of the District.

The Licensing Act repeals most of the existing legislation relating to liquor, entertainments and late night refreshment house licensing and has replaced it with a totally new regime.

Licensing is about the regulation of licensable activities in licensed premises, qualifying clubs and temporary events within the terms of the Licensing Act 2003. Any conditions attached to licences or certificates will be focused on matters which are within the control of the individual licensee and others in possession of relevant authorisations.

The transfer of responsibility for liquor licensing to this Council means that the Council will be able to grant or reject applications for the sale of alcohol, the provision of entertainment or late night refreshment. However, the ability of the Council to take decisions is limited by the provisions of the Licensing Act and regulations made under the Act and to a lesser degree by the guidance issued by the Secretary of State for the Department of Culture Media and Sports (DCMS).

This policy document should not be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden.

This policy is produced in line with the requirement of the Act and is in line with guidance issued under section 182 of the Act. It applies to activities that the Council is responsible for under the Licensing Act 2003 (The Act). These responsibilities are laid out within the Act as:-

- The retail sale of alcohol (including via the internet and including the sale of wholesale quantities to the public)
- Supply of alcohol to club members (Clubs are defined in annex D)
- Supply of hot food or drink from premises between the hours of 23:00 and 05:00 (this includes takeaways).
- The provision of regulated entertainment to the public or to club members or with a view to profit.

Regulated entertainment is defined within the Act as:-

- Film exhibitions
- Performances of a play
- Indoor sporting events
- A boxing or wrestling event
- Live music performances
- Playing of recorded music
- Dance performances

- Provision of facilities for making music
- Provision of dance facilities-

This Licensing Policy Statement has 3 main objectives, which are:-

1. To inform applicants of the basis and process under which the Council will make Licence decisions, and therefore how a licensed premises is likely to be able to operate within the area. However, each case must be examined on its individual merits
2. To inform residents and businesses of the basis and process under which the Council will make decisions on License applications and therefore how their needs will be addressed.
3. To inform elected members on the Licensing Committee of powers of the Council and the limits of those powers, and to provide elected members with the parameters under which to make their decisions.

2. Objectives

The Council has a duty under the Act to carry out its functions in relation to Licensing with a view to promoting the four Licensing objectives which are:-

1. The prevention of Crime and Disorder
2. Public Safety
3. The prevention of public nuisance
4. The protection of children from harm.

Each objective is of equal importance.

To achieve these objectives the Council will use its full range of powers and will engage all relevant responsibilities including planning controls, transport controls, Crime reduction controls and relevant policies or strategies that will promote the Licensing objectives. The Council will work closely with the Police, Fire Service, Businesses, Community representatives and local people in meeting these objectives.

Nothing in this Licensing Policy Statement will:-

- Undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such applications considered on their individual merits.
- Override the right of any person to make representations on an application or to seek a review of a Licence or certificate where provision has been made for them to do so in the Act.

Every application will be dealt with impartially and on its individual merits. Where the Council has received a representation from a responsible authority (such as the Police or an Environmental Health officer), or an interested party (such as a local resident or local business which is a relevant representation), it may refuse to grant or vary an application or it may impose conditions provided such conditions promote one or more of the licensing objectives. The Council is aware of the new powers under the Anti Social Behaviour Act (s 40,41 - noise causing a public nuisance) and is also aware that the use of conditions and the application of Licensing law should not be used as a tool in the control of anti-social behaviour either by groups or

individuals once those groups or individuals are beyond the direct control of a person or organisation responsible for licensed premises.

The Council stresses that there are many additional powers available to other bodies to control such behaviour.

The Council will expect the holder of a licence, certificate or permission to be responsible for minimising the impact of the licensed activities or any anti-social behaviour of their patrons within the immediate vicinity of the licensed premises in order to promote the Licensing objectives.

3. Consultation

South Cambridgeshire District Council recognises the views of those it consults. The Policy will take effect from the 7th February 2005 and will remain in force for three years. The Act requires a review and further consultation to be carried out in 2007. However, the Council will keep the policy under review and may amend the Policy at any time. Should such action be required it will only be done following appropriate consultation.

The Act stipulates a number of stakeholders who have an interest in licensing and must be consulted on any Licensing Policy, these are:-

- The Chief of Police
- The Fire Authority
- Persons or bodies representing local holders of premises licences including club premises
- Persons or bodies representing local holders of Personal Licences
- Persons or bodies representing businesses and residents in the area

This Authority will consult with all of the above and any other relevant persons or bodies that wish to put forward relevant views.

In addition we will consult with Parish Councils, Local members and other additional bodies as appropriate to individual applications.

4 Cumulative Impact

When determining each License application the Council will take into account the cumulative impact of the application on the four Licensing Objectives in the area.

This should not however be mistaken with “need” which relates more specifically to the commercial demand for a particular type of premises i.e a Pub or Hotel. The issue of need is a matter to be dealt with by development control or by the consumer market and therefore need does not form part of the licensing policy statement.

The Council may receive representations on the cumulative impact of an application from either a responsible authority or an interested party (as defined within the act) to the effect that an area is becoming saturated by premises of a certain type and is therefore acting against one of the four licensing objectives. In such cases the cumulative impact can be taken into account when determining any individual case.

In determining any saturation policy for any particular area the Council will have regard to:-

1. Evidence or identification of serious and chronic concern from a responsible authority or local residents about nuisance and disorder.
2. The identification of the area from which problems arise and the boundaries of that area
3. An assessment of the evidence
4. Adopting a strategy to deal with future applications relating to new and existing premises in the defined area..

The Council will not adopt a quota which in effect determines any application before it is submitted. Nor will it seek to impose general limitations on opening hours of licensed premises in particular areas (commonly known as zoning).

Regard will be given to the particular characteristics of the premises within the given area. It is recognised that Pubs, Restaurants, Clubs etc all have different needs and offer different facilities to the public. Proper regard to these differences will be given and the differing impact they may have on the local community will be considered.

5. Licensing Hours

The Council recognises that fixed closing times may lead to public nuisance at certain times and particularly where there are a large number of premises closing at the same time. Longer licensing hours may be considered as a tool in reducing the overall risk of such behaviour in areas where anti-social behaviour has been shown to occur.

Shops, stores and supermarkets which hold appropriate licences should generally be permitted to sell alcohol for consumption off the premises at all times at which they are open for the sale of other items. However in the case of individual premises known to be a focal point of disorder or in an area with a proven history of drink related public nuisance or crime and disorder then subject to Police representations a limitation of licensing hours will be considered.

In general the Council will deal with the issue of licensing hours on the individual merits of each application taking into account the objectives of the Licensing Act. This may include the extension of opening hours and may also include stricter conditions in other areas such as noise and public nuisance measures.

It is important to note that "opening hours" - the times when premises are open to the public - are not necessarily identical to the hours during which licensable activities may take place. For example, a Public House may open early mornings to provide breakfasts but not to sell or supply alcohol at that time.

6. Children and premises.

The protection of children from harm is one of the four licensing objectives. The Council has taken account of the view of the Government that access to licensed premises by children should be encouraged subject to the limitations of the Act. The Council also recognises there is a wide range of premises that will be required to be licensed under the new legislation and such premises include Pubs, nightclubs, cafes, theatres, cinemas, community halls and schools amongst others. Access to all types of premises will not be limited unless it is considered necessary to do so to protect children from harm.

When deciding whether to limit access to children or not the Council will treat every application on its individual merits. The following are examples of premises that may give rise to concerns over the suitability of access by children:-

- a) Where entertainment or services of an adult or sexual nature are commonly provided (for example, topless bar staff, striptease, lap/table or pole dancing, performances involving feigned violence or horrific incident, feigned or actual sexual acts or fetishism, or entertainment involving strong or offensive language.)
- b) Where there is a strong element of gambling on the premises (but not for example, the simple presence of a small number of cash prize gaming machines).
- c) With a known association with drug taking or dealing as notified to the Council by the Police
- d) Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or premises with a reputation for underage drinking
- e) Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises (for example, pubs).

It is expected that complete bans will be rare. Options for limiting access by children for their protection from harm may include:-

- f) A limit on the hours when children may be present at the premises
- g) A limitation or exclusion of children under certain ages when particular specified events are taking place.
- h) Limitations on the parts of premises to which children might be given access
- i) Age limitations (below 18)
- j) The requirement to be accompanied by a responsible adult (over 18yrs of age)

The Council cannot impose conditions requiring the admission of children to any premises. This is up to the discretion of the individual premises. However, conditions may be imposed on premises to clearly inform the public before they enter the premises whether children are permitted access or not.

Venue operators seeking premises and club premises certificates may wish to volunteer 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 to the council, these volunteered prohibitions and restrictions will become conditions attaching to the licence and will be enforceable as such.

7. Children and Cinemas

In the case of premises licensed for the exhibition of films conditions will be imposed in line with any limitations imposed by the British Board of Film Classification (BBFC). In such cases where an exhibition of a film does not hold a BBFC certificate, the venue operator will be expected to self regulate the film in line with the BBFC classification system. In specific and exceptional cases a certificate may be issued by the Council to promote one or more of the Licensing objectives.

8. Enforcement

Once licensed premises must be maintained and operated so as to ensure the continued promotion of the Licensing objectives and compliance with specific requirements of the Act. The Council will establish and maintain enforcement protocols with the Police and other enforcement agencies to ensure that the most effective use is made of enforcement resources. These protocols will provide targeting for known problem premises and high risk premises as well as potentially problematic individual licensed events.

The Council's Environmental Health Enforcement Policy (Annex B) demonstrates the principles of good enforcement. In general, enforcement action will be conducted within these policy guidelines or the guidelines of relevant legislation to ensure consistency and transparency wherever possible.

9. Conditions of Licensing

This Policy does not provide for any "standard conditions" to be imposed, this is to avoid the imposition of disproportionate and burdensome requirements. Conditions attached to licences will be tailored to reflect the individual style, characteristics and requirements of the activities concerned. It should be noted that "pools of conditions" from which appropriate and proportionate conditions may be drawn in particular circumstances are provided in this policy statement (Annex A). It should also be made clear that any conditions attached to a premises licence can only be attached if they are compatible with the operating schedule or are the result of a relevant representation having been made.

Conditions will not be imposed which are beyond the responsibility or the control of the licence holder. Where conditions are imposed on premises licences and club certificates they will so far as possible reflect the Local Crime prevention strategy but they must also be reflective of one or more of the four licensing objectives. Conditions cannot be imposed on licenses and certificates for other purposes.

Conditions relating to late night refreshment outlets must relate to the night time operation of the premises and will not be used to control daytime activities.

When attaching appropriate conditions individually to relevant applications or where it is necessary to depart from the guidance - either in this policy or at any other time - the Council will give clear and cogent reasons for doing so.

10. Amusements with prizes

The responsibility for grant of these permits will pass over to the Licensing Authority along with the new Licensing Act. The granting of such permits is not a licensing function under the 2003 Act and the authority for the grant or refusal of such permits will continue to be derived from schedule 9 to the 1968 Act.

11. Integration with Council strategies

When considering and reviewing this policy the District Council will consider local and regional strategies and policies including the Local Community Strategy, Crime Prevention, Transport, Tourism and cultural strategies. However it recognises the need to avoid, so far as possible, duplication of existing legislation and other regulatory regimes that place obligations on employers and operators such as The Health and Safety at Work Act 1974, The Environmental Protection Act 1990, Children Act 1989, Disability Discrimination legislation and Fire Safety regulatory reform.

Arrangements will be made for the licensing committee to receive reports when appropriate on the following matters to ensure these are reflected in their decisions:-

- a) The needs of the local tourist economy and cultural strategy, including the arts for the District
- b) The employment situation in the District and the need for investment and employment where appropriate.

The Council is aware of its obligations under the Race Relations Act 1976 as amended with the Council's Race Equality Scheme will have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups.

The Council recognises the need to encourage and promote a broad range of entertainment particularly live music, dancing and theatre (including the performance of a wide range of traditional and historic plays), for the wider cultural benefit of communities. **The Authority subscribes to the view expressed in the Guidance to the Act that the absence of cultural provision in any area can lead itself to a loss of community awareness and can expose young people to anti-social activities that damage local communities.**

A natural concern to prevent disturbance in neighbourhoods will always be carefully balanced with the wider cultural benefits, particularly the cultural benefits to children. In determining what conditions should be attached to licenses or certificates as a matter of necessity for the promotion of the Licensing objectives, the Council will bear in mind the need to avoid measures which might deter live music, dancing and theatre by the imposition indirect costs of a disproportionate nature on the premises or applicant.

Although in certain circumstances planning and licensing applications may be made in tandem it should be recognised that there is no pre-requisite for planning permission to be in place as part of the Licensing application. However in most cases, applications for permanent commercial premises licences should normally be presented with a copy of the planning consent for the property concerned. License applications are not an opportunity to revisit the planning or building control application process and will not cut across planning decisions. Similarly, the granting by the Licensing Committee of any variation of a licence which involves a material

alteration to a building will not relieve the applicant of the need to apply for planning permission or building control where appropriate.

12. The Licensing process

One of the major principles underlying the Act is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.

The powers of the Council 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.

Many of the functions will be largely administrative in nature with no areas of contention. In the interests of efficiency and cost effectiveness these will, for the most part, be carried out by officers

A Committee of the Council will consider all applications where there are relevant representations. A Committee of the Council will also consider any application for review of a licence unless considered repetitious, vexatious or frivolous by the Chief Environmental Health Officer or his appointed representative. A table of delegation of licensing functions is attached as annex "C".

The Council will expect individual applicants to address the licensing objectives in their Operational Plan having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.

Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate, when formulating their Operating Plan.

When determining applications the Council will operate in accordance with its procedures for hearings as laid out in Annex "E". At the hearing the Committee will have regard to any Guidance issued by the Department of Culture Media and Sports (DCMS). In particular, account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Council's consideration will be balanced against the wider benefits to the community.

13 Personal Licences

Any individual may apply for a personal licence whether they are currently employed or not within the alcohol industry. The application process is subject to clear guidelines within the Act and it is recognised that in general the Local Authority has no powers to refuse an application (unless the police raise an objection) provided that the correct application procedure has been followed and the applicant meets the criteria laid down in the Act. In cases where the Police have served an objection notice to any individual application a Committee or Sub-Committee of the Council will consider all applications where there are relevant representations.

When determining applications the Council will operate in accordance with its procedures for hearings as laid out in Annex "E". At the hearing the Committee or

Sub-Committee will have regard to any Guidance issued by the Department of Culture Media and Sports (DCMS).

14 Provisional Statements

Where an application is made in respect of premises being constructed for the purpose of being used for licensable activities, or extended or otherwise altered. It will be possible for an application to be submitted and a provisional statement to be issued by the Licensing Authority. However it should be made clear that the process to be followed in respect of attaining a provisional statement follows closely that of the normal application procedure. Once a provisional statement has been issued the scope for further representations upon completion of works will be limited provided the original schedule of works were followed.

15. Open Spaces.

South Cambridgeshire District Council will consider where appropriate the licensing of public open spaces for events that are not covered by Temporary Event Notices.

16. Temporary Event Notices

Whilst the Act requires 10 working days notice (exclusive of the day on which the event is to start) to be given of temporary events. The Council would wish applicants to make contact with the Licensing section at an early stage before a formal application is made. This is particularly important for large events and will enable the Council to consider the proposals. Early consideration will allow many issues to be addressed and may avoid objections by the Police.

Applicants are reminded that the serving on the Council of a Temporary Event Notice (TEN) does not remove their obligations under any other legislation including that of statutory noise nuisance. Where necessary permissions should be sought from the appropriate body. The Council strongly recommends that applicants familiarise themselves with these responsibilities which amongst others may include:

- Planning permission
- Health and Safety
- Noise pollution
- The erection of temporary structures
- Road closures
- The use of pyrotechnics
- Anti-social behaviour

Applicants intending to sell alcohol are also reminded that it is an offence to supply alcohol to minors or persons who are drunk and that the police have powers to close down premises without prior notice on the grounds of disorder or the likelihood of disorder or because of public nuisance caused by noise. These powers are in addition to any powers the Authority may have under the Anti-Social Behaviour Act 2003.

Applicants are also reminded that a limit of fewer than 500 persons at any one time applies to a temporary event and failure to comply with this limit may lead to prosecution. Accordingly organisers are strongly recommended to employ means of recording the number of persons entering and leaving the premises.

17. Contact and applications

Further information on the application and guidance notes to accompany the application can be obtained from:

- Licensing Section
South Cambridgeshire District Council
Cambourne
Cambridgeshire
CB3 6EA
- By E-mail : licensing@scambs.gov.uk
- Telephone : 01954 713132/ 713024
- Downloading the information from the Councils website at:
www.scambs.gov.uk

All applications should be sent to:

- The Licensing Officer
South Cambridgeshire District Council
Cambourne
Cambridgeshire
CB3 6EA

As required by the Act, one copy of each application must be sent to each of the following responsible authorities:

The Chief of Police (licensing)
Cambridgeshire Constabulary
Parkside Police station
Parkside
Cambridge
CB1 1JG

Cambridge Fire and Rescue service (Licensing)
Cambridge fire and rescue
Parkside fire station
Cambridge
CB1 1JF

ANNEX "A"

1. Pool of conditions

Guidance issued under section 182 of the Act outlines a number of conditions that may be used to promote the four objectives. Whilst this list is not exhaustive it is an indication to applicants of the conditions that may be considered appropriate in individual cases.

It should be noted that in addition to any relevant conditions placed on a premise that it is unlawful under the 2003 Act:

- 1) to knowingly sell or supply or attempt to sell or supply alcohol to a person who is drunk
- 2) to knowingly allow disorderly conduct on licensed premises
- 3) for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
- 4) To allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licenced for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.

Conditions enforcing these arrangements will therefore be unnecessary.

2. Conditions relating to Crime and Disorder

a) Door Supervisors (registered with the Security Industries Authority)

The Local Authority recognises that in applications where door supervisors are referred to in the operating schedule conditions relating to door supervisors are mandatory. Where conditions are attached relating to the provision of door supervisors and security they may be valuable in:

1. preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
2. keeping out excluded individuals (subject to court bans or bans imposed by licence holder);
3. Searching and excluding those suspected of carrying illegal drugs or carrying offensive weapons and;
4. maintaining orderly queuing outside venues

Where door supervisors are to be a condition of a licence they are required to be licensed through the Security Industries Authority in line with the Securities Industry Act 2000.

b) Bottle bans

It is recognised that glass vessels (ie bottles and glasses) may be used as weapons inflicting serious harm during incidents of disorder. Conditions may include:

1. No bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar

2. No customer carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.

In appropriate circumstances conditions may exempt bottles containing wine or similar sold for consumption with a table meal by customers who are seated in a separate area from the bar.

c) CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions may include:

1. The need to have CCTV cameras on the premises
2. The precise positioning of each camera
3. The requirement to maintain cameras in good working order
4. The requirement to retain recordings for an appropriate period.

d) Other conditions that may be considered relevant to promote the reduction of crime and disorder may include:

1. Restriction on drinking areas
2. Capacity limits
3. Proof of age cards
4. Crime prevention notices
5. Signage at or immediately outside the premises
6. Use of plastic containers and toughened glass

3. Conditions relating to the protection of children from harm

a) Age Restrictions – specific

1. The hours of day during which age restrictions may or may not apply. For example, the fact that adult entertainment may be present at premises in the evening does not mean that it would be necessary to impose age restrictions for earlier parts of the day.
2. Types of event or activity where consideration for age restrictions may be appropriate include “Happy Hours” or drinks promotion nights or activities of an adult nature.

b) Age Restrictions – Cinemas

1. Should the Authority decide to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the Authority that it intends to exhibit 28 days before it is proposed to show it. This would enable the Authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed.
2. That when films are classified, by either the Film Classification Body as specified in the licence or the Licensing Authority they will be classified in the following way:
 - U – Universal, suitable for audiences four years and over
 - PG – Parental Guidance. Some scenes may be unsuitable for young children.

- 12A – Passed only for viewing by persons aged over 12 years or older or persons younger than 12 years when accompanied by an adult.
 - 15 – Passed only for viewing by persons aged 15 years and over
 - 18 – Passed only for viewing by persons aged 18 years of age and over
3. Conditions may require that immediately before any exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited for at least 5 seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the board or, as regards a trailer advertising a film, of the statement approved by the board indicating the classification of the film.
 4. Conditions that where the Local Authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises to make people aware of the classification attached to any film or trailer.

c) Conditions relating to Children`s access to Theatres and performances especially for children.

- 1) Types of event or activity where consideration for age restrictions may include activities of an adult nature.
- 2) Conditions may require a sufficient number of adult staff on the premises to ensure the well being of children on the premises during any emergency
- 3) Where performances are presented especially for unaccompanied children in theatres and cinemas, conditions requiring an attendant be stationed in any area occupied by the children, in the vicinity of each exit or subject to a minimum of one attendant per 50 children on each level occupied by children.

d) Children in performances

- 1) Venue – The backstage facilities should be large enough to accommodate safely the number of children taking part in any performance
- 2) Fire safety – All chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- 3) Special effects – It may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights which may trigger adverse reactions especially with regard to children.
- 4) Care of Children- Children performing at such premises should be kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises.

e) Proof of Age cards/Portman code of practice

Conditions may be attached to premises where alcohol is sold requiring the production of proof of age cards before any sale of alcohol takes place.

The Portman Group operates a code of practice on the naming, packaging and promotion of Alcoholic Drinks. The code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years or

older. Via its website and in the trade press it issues bulletins notifying retailers of products that breach this code and asks them not to re-stock or display any such product or point of display material until such time as the code is complied with.

In certain circumstances it may be necessary to attach conditions requiring premises to comply with the Portman Group Code of Practice.

4. Conditions relating to the prevention of public nuisance.

- a) Consideration may be given to conditions that ensure that:
 - 1) Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties
 - 2) Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
 - 3) The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in the surrounding areas are restricted.
 - 4) The placing of refuse - such as bottles- into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.
 - 5) Noxious smells from the licensed premises are not permitted (subject to existing legislation not providing adequate measures) so as to cause a nuisance to nearby properties and the premises are properly vented.
 - 6) Flashing or particularly bright lights on or outside licensed premises (any such condition must be balanced against the benefits of providing lighting to promote the prevention of crime and disorder).

B Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or club premises certificate for the prevention of public nuisance:

- 1) Conditions may be placed on premises restricting (other than where they are protected by the transitional provisions of the Act) the hours during which premises are permitted to be open to the public or to members and their guests.
- 2) Restrictions may be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times
- 3) Restrictions may be necessary on parts of a premise used for certain licensable activities at certain times.

5. Conditions Relating to Public Safety (including fire safety)

Conditions relating to public safety will be those that are necessary to promote the objective of public safety for individual premises or clubs. They should not duplicate other legal requirements. Equally the attachment of conditions to a premises licence or club premises certificate will not relieve employers of the statutory duty to comply with the requirements of Health and Safety legislation and the requirements under the management of Health and Safety at Work regulations 1999 and the Fire Precautions (Workplace) regulations 1997 to undertake risk assessments.

Conditions enforcing these arrangements will therefore be unnecessary.

Where existing legislation does not provide adequately for the safety of the public consideration may be given to conditions covering:

a) Disabled people

- 1) Adequate arrangements to enable their safe evacuation in the event of an emergency.
- 2) Disabled people on the premises are made aware of those arrangements

b) Escape routes

- 1) All exit doors are easily openable without the use of a key, card, or similar means
- 2) Doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept.
- 3) Any removable security fastenings are removed whenever the premises are open to the public or occupied by staff
- 4) All fire doors are maintained effectively self closing and shall not be held open other than by approved devices (For example, electromagnetic releases operated by smoke detectors).
- 5) Fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut.
- 6) The edges of treads of steps and stairways are maintained so as to be conspicuous.

c) Safety Checks

- 1) Safety checks are carried out before the admission of the public and details of such checks are kept in a log book.

d) Curtains, Hangings, Decorations and upholstery

- 1) Hanging, curtains and temporary decorations are maintained in a flame-retardant condition
- 2) Any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1, and crib ignition source 5 when tested in accordance with section 5 of BS 5852:1990.
- 3) Curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs, or fire fighting equipment.
- 4) Temporary decorations are not used without prior notification to the Licensing Authority/Fire Authority.

e) Accommodation limits

- 1) Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded
- 2) The licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.

f) Fire action notices

- 1) Notices detailing the actions to be taken in the event of a fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration
- 2) In the case of an outbreak of fire the fire brigade must be called at once to any outbreak, however slight and the details recorded in a Fire Log Book – to be kept available for inspection by the Council or an authorised officer
- 3) The local Fire Control Centre is notified as soon as possible if the water supply to any fire extinguishing equipment is cut off or restricted.

g) Access for emergency vehicles and first aid.

- 1) Access for emergency vehicles is kept clear and free from obstruction.
- 2) Adequate and appropriate supply of first aid equipment and materials is available on the premises
- 3) At least one suitably trained first-aider shall be on duty when the public are present and if more than one suitably trained first-aider that their respective duties are clearly defined.

H Lighting

- 1) In the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present
- 2) Fire safety signs are adequately illuminated
- 3) Emergency lighting is not altered
- 4) Emergency lighting batteries are fully charged before the admission of the public, guests and members
- 5) In the event of failure of normal lighting where the emergency lighting has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged. If the emergency lighting battery has a capacity of three hours the appropriate period by the end of which the public should have left is one hour.

I Temporary electrical installations

- 1) Temporary electrical wiring and distribution systems shall comply with the recommendations of applicable British Standards
- 2) Where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.

J Indoor sports entertainments

- 1) If necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature.
- 2) Where a ring is being used, it is constructed by a competent person and inspected by a competent authority and any material used to form the skirt around the ring is flame-retardant.
- 3) At any wrestling or other entertainment of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring

- 4) At water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times.

K) Alterations to premises

1. Alterations that make it impossible to comply with an existing condition to premises should be notified to the Local Authority
- 2) The holder of the premises licence should apply for a variation to the existing licence should any alterations make it impossible to comply with any existing condition.

L Special effects

- 1) Any special effects including dry ice machines, cryogenic fog, smoke machines, fog generators, fireworks, firearms, motor vehicles, strobe lighting machines, lasers or explosives should be stored so as to minimise any risk to the safety of the audience, the performers and staff.
- 2) Use of certain special effects may be used subject to prior notification of the Licensing Authority or inspection by the Fire Authority

**Annex “B”
Environmental Health Enforcement Policy.**

1. INTRODUCTION

In March 1998 the Cabinet Office and Local Government Association jointly published an Enforcement Concordat. This sets out a blueprint for fair, practical and consistent enforcement across the Country and South Cambridgeshire District Council has formally adopted the Concordat for all its enforcement based services and in so doing gave a commitment to ensure best practice in enforcement policy and activities. This policy lays out the principles to be adopted by Officers exercising any enforcement function within Environmental Health.

The primary function of Local Government enforcement work is to protect the citizens, the environment and groups such as consumers and workers. At the same time carrying out enforcement activity in an equitable, practical and consistent manner helps promote a thriving national and local economy. South Cambridgeshire District Council is committed to these aims and to maintaining a fair and safe trading environment. This is reflected in the Environmental Health Statement of Purpose.

The effectiveness of legislation in protecting society depends crucially on the compliance of those regulated. The Council believes in providing a balanced approach to enforcement, providing help to those who need it, while taking firm action, including prosecution where appropriate. We will, therefore, provide a service which is courteous and helpful and which works with individuals and businesses, wherever possible, to help them comply with the law. Officers will have regard to the needs of people covered by the Council's Vulnerable Adult and Child Protection Policies.

In drafting this policy, the Council has considered the implications of the Human Rights Act 1998 and believes that it is compatible with Convention Rights. The first part of the policy sets out the general principles adopted and is annexed with specialist service specific policies.

1.1 Environmental Health Statement of Purpose

1.1.1 Objectives – The objectives of Environmental Health services within South Cambridgeshire District Council are to work with local organisations, businesses and the wider community to:

- ❖ Minimise environmental damage, now and in the future.
- ❖ Enhance a sense of well being within our villages, communities and businesses.
- ❖ Safeguard and improve public health.
- ❖ Improve the quality of life of citizen's generally and for those disadvantaged specifically.
- ❖ Install a sense of pride in being associated with Environmental Health at SCDC.

1.1.2 **Values**

- ❖ High quality service to the public.
- ❖ Target resources to areas of greatest risk/effect/change.
- ❖ Consult and provide sensible, clear, open, honest and fair decisions.
- ❖ Use new technology to improve service to the public.
- ❖ Be consistent, responsible and equitable.
- ❖ Use common sense.
- ❖ Be responsive and flexible to people's needs.
- ❖ Set standards by which to be judged.

1.2 **What do we mean by Enforcement?**

The Environmental Health function enforces a wide range of laws, primarily designed to ensure public health and safety and improve the quality of life of citizens. Primary responsibility to abide by these laws rests with us all, as individuals, and we recognise that most people and businesses wish to comply. Effective enforcement is not just about inspection, instruction, licensing or prosecution; it is much more than this. We will, therefore, provide free information and advice to help people understand legal requirements and will proactively seek to raise awareness of the requirements and good practice.

2. **PRINCIPLES OF ENFORCEMENT**

Enforcement activities will be guided by the framework principles of good enforcement contained in the Enforcement Concordat. This policy is built on the principles of proportionality, consistency, openness and targeting of enforcement action.

2.1 **Proportionately** – The enforcement action taken will be proportionate to the risks posed and to the seriousness of the breach of the law. In coming to a decision we will consider not only the seriousness of the risk to public health and safety, environmental damage or loss of public or residential amenity but also the attitude of the alleged offender. We will also minimise the costs of compliance by ensuring the required action or works are proportionate to the risks.

2.2 **Consistency** – Individuals and businesses with similar legal obligations expect consistency from the Council. This includes any advice given, its response to complaints and other incidents, the use of powers and in decisions on whether to prosecute.

However, consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends. Officers are faced with many variables; the level of hazard, the attitude and

competence of management and the compliance history may vary. Decisions on enforcement action are a matter of professional judgement and the Officer must exercise discretion, the Council has arrangements in place and will continue to develop them to promote consistency including effective arrangements for liaison with other enforcement authorities.

- 2.3 **Openness** – The public must have confidence in the Council's ability to protect them via effective regulation. This confidence can only be attained if the Council is open in what it does. This means helping them to understand what is expected of them and what they should expect from the Council. It means making clear not only what they have to do but also where it is relevant and what they do not. This entails distinguishing between legal requirements and advice or guidance about what is desirable but not compulsory.

We will:

- (a) provide advice and information in plain language;
- (b) discuss what is required to comply with the law before formal enforcement action is taken, unless urgent action is required, for example to protect the environment, to prevent the destruction of evidence or to protect health and safety; where such urgent action is required a written explanation will be provided as soon as practicable after the event;
- (c) provide a clear explanation (in writing if necessary and/or requested) as to why any action is necessary, when it must be carried out and distinguish between legal requirements and best practice recommendations;
- (d) provide a written explanation on any rights of appeal against formal enforcement action;
- (e) provide contact details, including e.mail and telephone details, to encourage customers to seek advice, information and clarification;
- (f) Officers will identify themselves by name except for surveillance purposes; in any event, if requested Officers will show their identification and provide a means of checking that identity if necessary;
- (g) publicise our complaints service;
- (h) translate letters into other languages and arrange for interpreters, if necessary.

- 2.4 **Targeting** – Regulatory effort will be directed towards those who are responsible for risk to health and safety or whose activity gives rise to serious risks, where the risks are least well controlled or against deliberate or organised crime. Action will be focused on lawbreakers or those directly responsible for the risk and who are best placed to control it.

The Council has systems in place for prioritising regulatory effort. They include the response to complaints from the public about regulated activities,

the assessment of the risks posed by operations and the gathering and acting on intelligence about illegal activity. Business management actions and competence are important. Repeated related incidents or breaches may be an indication of an unwillingness to change behaviour, or inability to achieve sufficient control and may require greater regulatory control from the Council. A relatively low hazard activity or site, poorly managed, has the potential for greater risk to the environment and/or health and safety than a higher hazard activity or site when proper control measures are in place.

3. **SPECIFIC ENFORCEMENT ACTIVITIES**

3.1 ***Routine/Programme Inspections***

The Officer will state the purpose of the inspection at the start of the visit. At the conclusion of all programmed inspections, the Officer will offer to discuss their findings with the responsible person. Written inspection reports will be issued following all programmed inspections, even in those circumstances where conditions at the time of the inspection were satisfactory.

Revisits will be made to ensure that significant breaches have been remedied and to check on compliance with formal notices once they have expired.

3.2 ***Investigations***

The Environmental Health unit will respond to and, where appropriate, investigate all complaints. The response may vary according to the nature of the allegation and its seriousness. In most circumstances, the identity of the complainant will not initially be disclosed.

3.3 ***Powers of Entry***

Inspection and visits to premises and work activities will normally be made without prior warning. In instances where it is appropriate to do so, appointments may be arranged, eg where the presence of a particular manager, owner or employee is required to discuss a particular issue.

In appropriate circumstances, Notice of Entry will be served or an application made to the Magistrates Court for a warrant to enter, eg if access is refused or the premises are vacant or the seriousness of the investigation requires timely access. Such Notices will be served in accordance with the relevant legislation's powers of entry.

3.4 ***Working Hours***

The Council recognises that enforcement activity is not solely a Monday to Friday, 09.00 to 17.00 hours function and that the District has a 24 hour society. Accordingly, the Council provides a 24 x 7 reactive environmental health emergency response service available to all. In addition, planned inspections, visits and investigations are carried out outside normal working hours to cater for times when businesses are operating or when the activity under investigation is occurring.

3.5 **Shared Enforcement Roles**

Situations often occur where the enforcement responsibility is shared with another agency or body or a multi-agency approach is required. In such circumstances the Council will liaise with the appropriate agency, eg HSE, Food Standards Agency, Environment Agency, Fire Authority, Police and Trading Standards. The service specific enforcement policies annexed to this General Policy contains the detailed references.

4. **ENFORCEMENT OPTIONS**

4.1 Much of our enforcement activity is governed by guidance in the form of Codes of Practice, Government Circulars, orders etc. When making enforcement decisions, Officers must have regard to any relevant national or other guidance, as well as the provisions of the Human Rights Act 1998, RIPA and this Enforcement Policy.

The decision as to which types of enforcement action is appropriate must always be governed by the particular circumstances of the case. In coming to a decision the criteria to be considered will include:

- ❖ the seriousness of the offence;
- ❖ the history of the activity/offender
- ❖ contamination of the environment or risk to health;
- ❖ public expectation;
- ❖ any special or local circumstances which make the problem more or less acute;
- ❖ confidence in achieving compliance;
- ❖ consequences of non-compliance;
- ❖ likely effectiveness of various enforcement options.

The criteria are not exhaustive and those that apply will depend on the particular circumstances in each case. This does not mean that all factors must be in favour of enforcement action, rather than, on balance, the preponderance is in favour.

4.2 **Options** – Having considered the enforcement criteria the following options are available.

- (a) To take no action;
- (b) to take informal action;
- (c) to serve statutory notices;
- (d) to issue formal cautions;
- (e) to suspend, revoke or refuse to renew a licence;
- (f) to impose an administrative penalty;
- (g) to do the work in default and recover all costs in so doing;
- (h) to prosecute;
- (i) apply for a Court Order or Injunction.

Where appropriate, a staged approach to enforcement should be adopted. In the first instance every opportunity should be given to discuss and remedy problems before any formal action is taken, unless immediate action is required.

4.3 **Informal Action** – Informal action may consist of any or all of the following:

- ❖ Giving advice, offering general assistance and guidance;
- ❖ issuing verbal warnings;
- ❖ written communications requiring attention.

Informal action will be taken when:

- (a) the act or omission is not serious enough to warrant formal action; or
- (b) from the individual's or business' past history it can be reasonably expected that informal action will achieve compliance; or
- (c) the confidence in an individual or business proprietor is high; or
- (d) the consequences of non-compliance will not pose a significant risk to public health, safety or the environment;
- (e) the informal action will not produce a lower standard of compliance than would be achieved by the use of formal legal procedures.

When an informal approach is used to secure compliance with legislation confirmation of what action is required must be in writing and in accordance with Section 2.3 of this Policy.

4.4 **Statutory Notices** – Statutory Notices will be used after first considering the informal action route as detailed in Section 4.3. If the criteria under informal action cannot be met and/or

- (a) where there is a statutory duty to serve a Notice;
- (b) where, in addition to prosecution, measures need to be taken to remedy conditions that are serious, deteriorating, or where the service of a Notice is needed to support a prosecution:

then the service of a Notice will follow. Failure to comply with a statutory Notice will normally, where relevant, result in prosecution and/or works in default as appropriate.

4.5 **Prohibition Notices** – The service of a Prohibition Notice or Injunction will be considered in one or more of the following circumstances:

- (a) an imminent risk of injury to health or safety can be demonstrated;
- (b) an imminent risk of serious pollution to the environment can be demonstrated;
- (c) the consequence of not taking immediate and decisive action to protect the public would be unacceptable;
- (d) there is no confidence in the integrity of an unprompted offer made by a proprietor to voluntarily close premises or cease the use of any equipment, process or treatment associated with the imminent risk; or
- (e) a proprietor is unwilling to confirm in writing his/her unprompted offer of a voluntary prohibition;

- (f) where it would be the most effective remedy available.

4.6 **Prosecution**

4.6.1 **General** – The Council recognises that the decision to prosecute is significant and would have far reaching consequences on the offender. The decision to undertake a prosecution will normally be taken by the Chief Environmental Health Officer in consultation with the Council’s Head of Legal Services. No prosecution will be undertaken without consideration to the tests outlined in “The Code for Crown Prosecutors”. The criteria for the issue of proceedings are:

- (a) The alleged offence involves a flagrant breach of the law, such that public health, safety or well being is or has been put at risk or irreversible damage has resulted.
- (b) There has been a disregard for the environment.
- (c) The integrity of the licensing framework is threatened.
- (d) The alleged offence involves a failure by the suspected offender to correct an identified serious potential risk having been given a reasonable opportunity to comply with the lawful requirements of an authorised Officer.
- (e) The alleged offence involves a failure to comply in full or in part with the requirements of a statutory Notice.
- (f) There is a history of similar offences.
- (g) The alleged offence causes public alarm and it is desirable to reassure the public and deter other offenders.
- (h) The alleged offence involves obstruction, failure to disclose information or making a false statement or an assault on an enforcement officer.
- (i) A prosecution is in the public interest; there is a realistic prospect of conviction and sufficient evidence to support proceedings.

The Council will always seek to recover the costs of the investigation and court proceedings.

4.6.2 **Prosecution without Warning**

The general guiding principle of this policy is to give a person or a company a reasonable opportunity to comply with the law. However, there are circumstances where prosecution may be undertaken without prior warning, eg:

- ❖ the contravention is a particularly serious one;
- ❖ there has been a particularly blatant disregard of the law;

- ❖ a statutory Notice has been previously issued for a similar offence; or
- ❖ the integrity of the licensing framework is threatened.

4.6.3 **Formal Caution**

A formal caution may be issued by the Chief Environmental Health Officer as an alternative to a prosecution. Formal cautions will be issued to:

- ❖ deal quickly and simply with less serious offences;
- ❖ divert less serious offences away from the courts; or
- ❖ reduce the chances of repeat offences.

To safeguard the suspected offender's interests the following conditions will be fulfilled before a caution is administered:

- ❖ there must be evidence of the suspected offender's guilt, sufficient to give a realistic prospect of conviction; and
- ❖ the suspected offender must admit the offence; and
- ❖ the suspected offender must understand the significance of a formal caution and give an informed consent to being cautioned.

No pressure will be applied to a person to accept a formal caution. Should a person decline the offer of a formal caution a prosecution will be pursued.

5. **NON-COMPLIANCE WITH POLICY AND COMPLAINTS**

If any person is unhappy with the action taken, or information or advice, given, then they will be given the opportunity of discussing the matter with the relevant manager. Should they still be aggrieved then their views should be made known directly to the Chief Environmental Health Officer or the Council's corporate complaint procedure should be followed (copy available on request).

This is without prejudice to any formal appeals mechanism.

6. **TRAINING AND APPOINTMENT OF OFFICERS**

All Officers undertaking enforcement duties will be suitably trained and qualified so as to ensure that they are fully competent to undertake enforcement activities. The Department supports the principle of continuing professional development and will ensure that all Officers are provided with additional in post training to maintain up-to-date knowledge and skills commensurate with their position.

All Officers will be formally authorised by the Council, as delegated, to exercise specific powers under relevant statutes. The Chief Environmental Health Officer will determine the level of authorisation for each Officer, by their qualifications, experience and competence having regard to any relevant national guidelines.

Authorisation will be in writing and in a form that can be shown on request.

7. **MONITORING OF ENFORCEMENT**

The Chief Environmental Health Officer on a regular basis will review staff competency and the consistency of enforcement. The Department maintains systems to monitor the quality and nature of enforcement activities undertaken so as to ensure, as far as is reasonably practicable, a uniform and consistent approach. Where local or national co-ordinating bodies exist, such as FSA, HSE, LACORS, Cambridgeshire Food Liaison Group and Cambridgeshire Health & Safety Liaison Group, the Department will ensure that wherever possible its enforcement practices are consistent with best practice.

The review of the enforcement services may involve any of the following activities and any variations from the policy will be addressed within the appropriate service's Continuous Improvement Plan:

- ❖ supervisory officer for enforcement action;
- ❖ monitoring visits by line managers;
- ❖ shadowing visits by colleagues;
- ❖ monitoring of correspondence and statutory notices;
- ❖ complaint procedures
- ❖ peer review exercise
- ❖ internal training sessions and workshops on enforcement issues;
- ❖ employee development scheme;
- ❖ customer satisfaction surveys.

Annex “C”

Table of Delegations in respect of the Licensing Functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police representation is made	If no representation is made
Application for personal licence with unspent convictions relevant to the act		All Cases	
Application for premises licence/club premises certificate	If relevant representation relates to Cumulative impact	If a relevant representation is made	If no representation is made
Application for provisional statement	If relevant representation relates to Cumulative impact	If a relevant representation is made	If no representation is made
Application to Vary premises licence/club premises certificate	If relevant representation relates to Cumulative impact	If a relevant representation is made	If no representation is made
Application to vary designated personal licence holder		If a police representation is made	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police representation is made	All other cases
Application for interim authority		If a police representation is made	All other cases
Application to review premises licence/club premises certificate		If a relevant representation is made	All other cases

Annex “D”

Definition of Clubs

Guidance issued under section 182 of the Licensing Act 2003

Statutory qualifying conditions for clubs

The following qualifying conditions for clubs are extracted from the Licensing Act 2003.

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The general conditions

(1) The general conditions which a club must satisfy if it is to be a qualifying club in relation to a qualifying club activity are the following.

(2) Condition 1 is that under the rules of the club persons may not —

(a) be admitted to membership, or

(b) be admitted, as candidates for membership, to any of the privileges of membership,

without an interval of at least two days between their nomination or application for membership and their admission.

(3) Condition 2 is that under the rules of the club persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission.

(4) Condition 3 is that the club is established and conducted in good faith as a club (see section 63).

(5) Condition 4 is that the club has at least 25 members.

(6) Condition 5 is that alcohol is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club.

Determining whether a club is established and conducted in good faith

(1) In determining for the purposes of condition 3 in subsection (4) of section 62 whether a club is established and conducted in good faith as a club, the matters to be taken into account are those specified in subsection (2).

(2) Those matters are —

(a) any arrangements restricting the club’s freedom of purchase of alcohol;

(b) any provision in the rules, or arrangements, under which —

(i) money or property of the club, or

(ii) any gain arising from the carrying on of the club,

is or may be applied otherwise than for the benefit of the club as a whole or for charitable, benevolent or political purposes;

(c) the arrangements for giving members information about the finances of the club;

(d) the books of account and other records kept to ensure the accuracy of that information;

(e) the nature of the premises occupied by the club.

(3) If a licensing authority decides for any purpose of this Act that a club does not satisfy condition 3 in subsection (4) of section 62, the authority must give the club notice of the decision and of the reasons for it.

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or on behalf of the club.

Guidance issued under section 182 of the Licensing Act 2003

The additional conditions for the supply of alcohol

(1) The additional conditions which a club must satisfy if it is to be a qualifying club in relation to the supply of alcohol to members or guests are the following.

(2) Additional condition 1 is that (so far as not managed by the club in general meeting or otherwise by the general body of members) the purchase of alcohol for the club, and the supply of alcohol by the club, are managed by a committee whose members —

- (a) are members of the club;
- (b) have attained the age of 18 years; and
- (c) are elected by the members of the club.

This subsection is subject to section 65 (which makes special provision for industrial and provident societies, friendly societies etc.).

(3) Additional condition 2 is that no arrangements are, or are intended to be, made for any person to receive at the expense of the club any commission, percentage or similar payment on, or with reference to, purchases of alcohol by the club.

(4) Additional condition 3 is that no arrangements are, or are intended to be, made for any person directly or indirectly to derive any pecuniary benefit from the supply of alcohol by or on behalf of the club to members or guests, apart from —

- (a) any benefit accruing to the club as a whole, or
- (b) any benefit which a person derives indirectly by reason of the supply giving rise or contributing to a general gain from the carrying on of the club.

Industrial and provident societies, friendly societies etc.

(1) Subsection (2) applies in relation to any club which is —

- (a) a registered society, within the meaning of the Industrial and Provident Societies Act 1965 (c. 12) (see section 74(1) of that Act),
- (b) a registered society, within the meaning of the Friendly Societies Act 1974 (c. 46) (see section 111(1) of that Act), or
- (c) a registered friendly society, within the meaning of the Friendly Societies Act 1992 (c. 40) (see section 116 of that Act).

(2) Any such club is to be taken for the purposes of this Act to satisfy additional condition 1 in subsection (2) of section 64 if and to the extent that —

- (a) the purchase of alcohol for the club, and
 - (b) the supply of alcohol by the club,
- are under the control of the members or of a committee appointed by the members.

(3) References in this Act, other than this section, to —

- (a) subsection (2) of section 64, or
 - (b) additional condition 1 in that subsection,
- are references to it as read with subsection (1) of this section.

(4) Subject to subsection (5), this Act applies in relation to an incorporated friendly society as it applies in relation to a club, and accordingly —

- (a) the premises of the society are to be treated as the premises of a club,
- (b) the members of the society are to be treated as the members of the club, and
- (c) anything done by or on behalf of the society is to be treated as done by

(5) In determining for the purposes of section 61 whether an incorporated friendly society is a qualifying club in relation to a qualifying club activity, the society is to be taken to satisfy the following conditions —

- (a) condition 3 in subsection (4) of section 62,
- 173 Guidance issued under section 182 of the Licensing Act 2003
- (b) condition 5 in subsection (6) of that section,
 - (c) the additional conditions in section 64.

(6) In this section “incorporated friendly society” has the same meaning as in the Friendly Societies Act 1992 (see section 116 of that Act).

Miners’ welfare institutes 66

(1) Subject to subsection (2), this Act applies to a relevant miners’ welfare institute as it applies to a club, and accordingly —

- (a) the premises of the institute are to be treated as the premises of a club,
- (b) the persons enrolled as members of the institute are to be treated as the members of the club, and
- (c) anything done by or on behalf of the trustees or managers in carrying on the institute is to be treated as done by or on behalf of the club.

(2) In determining for the purposes of section 61 whether a relevant miners’ welfare institute is a qualifying club in relation to a qualifying club activity, the institute is to be taken to satisfy the following conditions —

- (a) condition 3 in subsection (4) of section 62,
- (b) condition 4 in subsection (5) of that section,
- (c) condition 5 in subsection (6) of that section,
- (d) the additional conditions in section 64.

(3) For the purposes of this section —

- (a) “miners’ welfare institute” means an association organised for the social well-being and recreation of persons employed in or about coal mines (or of such persons in particular), and
- (b) a miners’ welfare institute is “relevant” if it satisfies one of the following conditions.

(4) The first condition is that —

- (a) the institute is managed by a committee or board, and
- (b) at least two thirds of the committee or board consists —
 - (i) partly of persons appointed or nominated, or appointed or elected from among persons nominated, by one or more licensed operators within the meaning of the Coal Industry Act 1994 (c. 21), and
 - (ii) partly of persons appointed or nominated, or appointed or elected from among persons nominated, by one or more organisations representing persons employed in or about coal mines.

(5) The second condition is that —

- (a) the institute is managed by a committee or board, but
- (b) the making of —
 - (i) an appointment or nomination falling within subsection (4)(b)(i), or
 - (ii) an appointment or nomination falling within subsection (4)(b)(ii),is not practicable or would not be appropriate, and
- (c) at least two thirds of the committee or board consists —
 - (i) partly of persons employed, or formerly employed, in or about coal mines, and
 - (ii) partly of persons appointed by the Coal Industry Social Welfare Organisation or a body or person to which the functions of that Organisation have been transferred under section 12(3) of the Miners’ Welfare Act 1952 (c. 23).

(6) The third condition is that the premises of the institute are held on trusts to which section 2 of the Recreational Charities Act 1958 (c. 17) applies.

Annex "E"

Procedures to be followed when dealing with an appeal

Chairman's Introduction

The Chairman will welcome those present and make the necessary introductions. Members of the Committee will be asked to make any Declaration of Interests and will be reminded that, in the interests of fairness and impartiality, they should not sit or vote on any item within their ward.

The Applicant and any objectors will take their places at the tables provided.

1. Environmental Health, Fire, Police and Local Member representations

- 1.1 An Officer from the Environmental Health Department will outline details of the application and objections which have been received.
- 1.2 Representatives from the Fire Service, Police, local Members, or Environmental Health who have observations to make (eg. as to certain minor works that might need to be carried out before a Licence can be granted) may address the Committee.
- 1.3 The Licensing Officer will then make his comments/recommendations.

2. Applicant's Representations

- 2.1 The Applicant or their representative addresses the Committee and calls any supporting evidence.
- 2.2 Objectors have the opportunity to put questions to the Applicant.
- 2.3 Members of the Committee can put questions to the Applicant.

3. Objector's Representations

- 3.1 Objectors are given the opportunity to address the Committee.
- 3.2 The Applicant can put questions to the objectors.
- 3.3 Councillors can question the objectors.
- 3.4 The objectors are given a chance to sum up their case.

4. Applicant's summary

The Applicant will be invited to summarise his/her case and respond to points raised by any objectors. The Applicant will not be permitted to introduce any additional information at this stage.

Decision

The Committee will then retire from the room to consider the application and make its decision. The Legal Officer will accompany the Committee to advise on any legal issues and the Clerk will also be present to take notes.

On reaching a decision the Committee will return to the hearing room when the Chairman will announce the decision of the Committee and give reasons for that decision.

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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Licensing Committee

28th October 2004

AUTHOR: Chief Environmental Health Officer

**SUB-COMMITTEE STRUCTURE FOR DETERMINING LICENSING HEARINGS
UNDER THE LICENSING ACT 2003**

Purpose

1. To seek approval by the Licensing Committee for the adoption of sub committees to hear applications in relation to the Licensing Act 2003 as per the table of delegations in respect of the Licensing functions contained within the Licensing Policy Statement.

Effect on Corporate Objectives

2.

Sustainability	The main objectives of the Act have the objective of sustainability at their heart, see comments on village life and quality, accessible services
Quality, Accessible services	Premises will be permitted more flexibility in how they operate, but this will be balanced by greater accountabilities
Village Life	The objectives of the Act are all aimed at the promotion of Village life ie prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.
Partnerships	Licensing Policy promotes the closer working in partnership with organisations including Police and Fire Authorities.

Background

3. On the 7th July 2004 the Government issued its formal guidance to accompany the Act, allowing for the development of the Licensing Policy to proceed. The Act proposes greater freedom for licensees and the licensed trade, including the possibility of 24 hour liquor licensing. The Council will have a greater responsibility to work with industry and other agencies such as the Police to ensure a smooth transition to the new licensing regime.
4. At the same time as issuing the guidance Central Government also declared that the first date for accepting applications will be the 7th February 2005. Officers have identified that there are approximately 365 existing premises that will be able to submit applications for new licences after the 7th February 2005 and up to 750 personal licence holders. Applicants will have 2 courses of action available to them. The first being applying for a licence under their existing Grandfathering Rights. This will require no action (except in very exceptional circumstances) by the Council and after 2 months the application will be deemed as granted. The second course of action is to either separately or simultaneously apply for a variation to their existing Licence.
5. Within the powers granted to Local Authorities under the Licensing Act is the power to appoint Sub Committees comprising of 2 members and an appointed Chairman to determine matters where representations have been made and not withdrawn. Such Committees must be established by the Licensing Committee and will be empowered to discharge any function of the Licensing Committee. This power has been allowed

for within the Councils constitution and annex C of the Draft Licensing Policy details the matters to be delegated to Sub Committees (Attached as **Appendix A**)

Considerations

6. Officers and national surveys have indicated that up to 90% of applicants will request a variation to their existing licence. Due to the commercial nature of the licensed trade and the information being supplied to them by their own representative bodies, such as the Licensed Victuallers Association, officers believe that there will be a peak period for receiving applications from February to May 2005. It is anticipated that during this period, due to representations being received, up to 200 applications may require a hearing.
7. The hearings will take place in one room with another room booked for members to retire to in order to make their decision. Steps have been taken to ensure that for the period March to early May rooms have been booked for hearings to take place 5 days per week for 8 weeks. It is anticipated that a hearing will last for one to one and a half hours and there will need to be 5 hearings per day. Therefore the pressure on room availability will be high.
8. The Licensing Committee currently comprises of 15 members from which Sub-Committees of 3 members will be appointed to determine hearings. Although the workload of these Members will be shared it will still be high at a time when there will be an added pressure on Members because hearings will coincide with meetings arranged for the L.D.F (Local Development Framework).
9. Under the constitution it is for the Licensing Committee to authorise the use of sub-committees to administer the functions as laid out in paragraph 6. Consideration should be given to the appointment of a number of chairmen who can operate on a rota system with a number of members who can be available to attend hearings also on a rota basis.
10. Officers have suggested in ANNEX "A" a possible system that would allow flexibility and at the same time distribute the potential workload between Committee members.
11. It is felt that the election of Chairmen to the sub-Committees should exclude the Chairman and Vice Chairman of the full Licensing Committee. These roles are essential to the organisation and appointments of the sub-committees, and will involve taking on overview of hearings etc.

Financial Implications

12. The costs of holding hearings as part of the licensing process are to be met within existing budgets. Any decision made by any Committee in respect of hearings may result in an appeal to a Magistrates Court where costs can be levied.

Legal Implications

13. Any decision by either a full Committee or a Sub-Committee carrying out any delegated powers in respect of applications would be subject to an appeal in the Magistrates Court by either the person making the representations or the applicant depending on the decision of the Committee

Staffing Implications

14. Staffing implications arising from the need for appeal hearings were reported to Cabinet on the 14th October 2004

Consultations

15. The views of the Legal section have also been sought to ensure that the proposals will stand up to any challenges on procedural impropriety. It is felt that such a recommendation would satisfy the requirement of the Licensing Act and our own Constitution.

Recommendations

16. That members of the Licensing Committee agree to:-
- (a) the formula as laid out in **Appendix A** for the structure of Sub-Committees to deal with hearings in respect of the Licensing Act 2003,
 - (b) the six members to chair the Sub-Committees, and
 - (c) delegate authority to the Chairman and Vice Chairman of the Licensing Committee in consultation with the Chief Environmental Health Officer to approve the membership of each of the 36 Sub-Committees.

Background Papers: The Following papers were used in the preparation of this report:
DCMS: Guidance issued under Section 182 of the Licensing Act 2003
The Licensing Act 2003
South Cambridgeshire Council Constitution

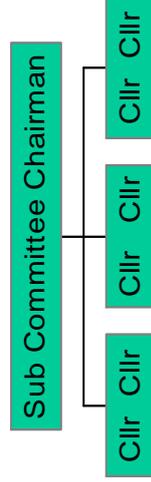
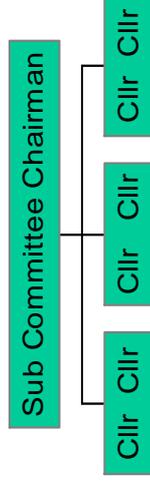
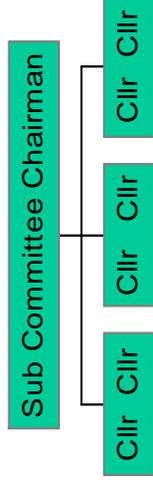
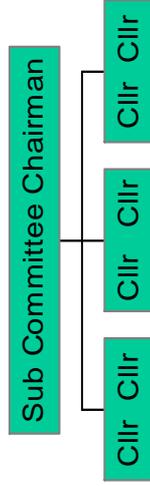
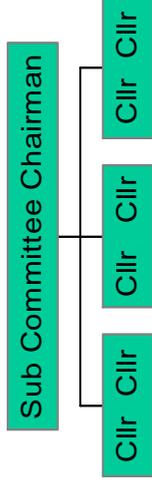
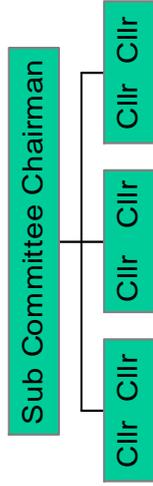
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CHAIRMAN

VICE CHAIRMAN



6 Sub –Committees under the Chairmanship of 6 Sub-Committee Chairman producing 36 different Sub-Committees to be called from.

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