

South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge  
CB23 6EA

t: 03450 450 500  
f: 01954 713149  
dx: 729500 Cambridge 15  
minicom: 01480 376743  
[www.scambs.gov.uk](http://www.scambs.gov.uk)



9 October 2013

To: Chairman – Councillor Alex Riley  
Vice-Chairman – Councillor Raymond Matthews  
Members of the Licensing Committee – Councillors Richard Barrett, Val Barrett,  
Trisha Bear, Nigel Cathcart, Andrew Fraser, Jose Hales, Roger Hall,  
Janet Lockwood, Mervyn Loynes, Cicely Murfitt, Charles Nightingale,  
Deborah Roberts and Neil Scarr

and Councillor Mick Martin, Environmental Services Portfolio Holder

Quorum: 4

Dear Councillor

You are invited to attend the next meeting of **LICENSING COMMITTEE**, which will be held in **SWANSLEY ROOM, GROUND FLOOR** at South Cambridgeshire Hall on **THURSDAY, 17 OCTOBER 2013 at 10.00 a.m.**

Members are respectfully reminded that when substituting on committees, subcommittees, and outside or joint bodies, Democratic Services must be advised of the substitution *in advance of* the meeting. It is not possible to accept a substitute once the meeting has started. Council Standing Order 4.3 refers.

Yours faithfully  
**JEAN HUNTER**  
Chief Executive

**The Council is committed to improving, for all members of the community, access to its agendas and minutes. We try to take all circumstances into account but, if you have any specific needs, please let us know, and we will do what we can to help you.**

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AGENDA		PAGES
1.	<b>APOLOGIES FOR ABSENCE</b>	
2.	<b>DECLARATIONS OF INTEREST</b>	
3.	<b>MINUTES OF PREVIOUS MEETING</b> To authorise the Chairman to sign the minutes of the meeting held on 12 June 2013 as a correct record.	1 - 2
4.	<b>LICENSING (2003 ACT) POLICY: REVIEW</b> Changes to the attached Policy are shown as tracked changes.	3 - 48

## **OUR LONG-TERM VISION**

South Cambridgeshire will continue to be the best place to live, work and study in the country. Our district will demonstrate impressive and sustainable economic growth. Our residents will have a superb quality of life in an exceptionally beautiful, rural and green environment.

The Council will be recognised as consistently innovative and a high performer with a track record of delivering value for money by focusing on the priorities, needs and aspirations of our residents, parishes and businesses.

## **OUR VALUES**

We will demonstrate our corporate values in all our actions. These are:

- Trust
- Mutual respect
- A commitment to improving services
- Customer service

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# Agenda Item 3

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

Minutes of a meeting of the Licensing Committee held on  
Wednesday, 12 June 2013 at 10.00 a.m.

PRESENT: Councillor Alex Riley – Chairman  
Councillor Raymond Matthews – Vice-Chairman

Councillors: Richard Barrett Val Barrett  
Trisha Bear Nigel Cathcart  
Andrew Fraser Jose Hales  
Roger Hall Janet Lockwood  
Mervyn Loynes Cicely Murfitt  
Charles Nightingale Deborah Roberts  
Douglas de Lacey Mick Martin

Officers: Myles Bebbington Licensing Officer  
Maggie Jennings Democratic Services Officer  
Tara King Licensing Administration Officer  
David Lord Senior Lawyer

Councillor Douglas de Lacey was in attendance as substitute for Councillor Neil Scarr and Councillor Mick Martin was in attendance in his capacity as Environmental Services Portfolio Holder.

Apologies for absence were received from Councillor Neil Scarr.

### 1. DECLARATIONS OF INTEREST

None received.

### 2. MINUTES OF PREVIOUS MEETING

The minutes of the meeting held on 11 October 2012 were agreed as a correct record.

### 3. LICENSING (2003 ACT) POLICY: REVIEW

The Licensing Committee was requested to review the Licensing (2003 Act) Policy and recommend to the Environmental Services Portfolio Holder the commencement of a consultation process on the draft proposals.

Under s.5 of the Licensing 2003 Act, a review of the Policy every five years was required. The last review was undertaken during 2010 and became effective in January 2011. However, changes introduced in respect of the Act relating to the Live Music Act 2012 and the Police & Social Responsibility Act 2011, together with guidelines issued by the Department of Culture, Media and Sports necessitated the requirement to undertake a review of the Policy.

A draft policy incorporating the amendments was presented to the Committee and Portfolio Holder for approval to commence the requisite consultation process.

Once the consultation process had been completed, the Policy incorporating any amendments received would be considered again by the Licensing Committee and Portfolio Holder in October for recommendation to Council on 28 November 2013.

The Head of Service for Environmental Health and Licensing informed Members that amendments could only be made to pages 7 to 21 in the agenda papers as the annexes to the Policy had already been adopted. It was noted however, that Annex B, the Environmental Health Enforcement Policy was undergoing a review and it was anticipated that that revised Policy would be incorporated into the new Licensing 2003 Act Policy.

Having considered the contents of the draft Policy, the Licensing Committee made the following amendments:

- P26 – 2.9 (Other Conditions) Add signage relating to the presence of CCTV cameras
- P29 – 5.29(ii) **All** persons should be aware of evacuation arrangements and (vii) add additional wording to read `All exits, including emergency exits are kept unobstructed ...
- P30 Fire action – Include evacuation procedure
- P31(m) Special Effects – Specially designed cabinets were required to store special effects and a designated person with an explosives licence was required to handle explosives
- P47, para 29 – add the words `excluding the performer`

The Licensing Committee **RECOMMENDED** to the Environmental Services Portfolio Holder that the draft Licensing (2003 Act) Policy as attached at Appendix A to the covering report be approved for consultation purposes, subject to the grammatical amendments proposed at the meeting.

The Environmental Services Portfolio Holder, being present at the meeting **APPROVED** the draft Licensing (2003 Act) Policy as attached at Appendix A to the covering report for consultation purposes, subject to the grammatical amendments proposed at the meeting.

At the conclusion of the meeting the Head of Service, Environmental Health and Licensing thanked Tara King, Assistant Licensing Officer for the extra work she had undertaken in order to prepare the draft Policy for consultation.

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**The Meeting ended at 10.45 a.m.**

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# Agenda Item 4

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Licensing Committee

23 October 2013

**AUTHOR/S:** Director of Health and Environmental Services

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### LICENSING (2003 ACT) POLICY: REVIEW

#### Purpose

1. To seek approval of the draft Licensing Policy statement, as attached at **APPENDIX A** following a 12 week consultation process, as South Cambridgeshire's formal Statement of Licensing Policy and in line with the requirements of s.5 of the Licensing Act 2003.
2. This is a key decision because it is significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority and it was first published in the Council's 23 April 2013 Forward Plan.

#### Recommendation

3. That the Licensing Committee recommends to full Council that the revised Licensing Policy statement, attached as **Appendix A** be adopted.

#### Reason for recommendation

4. Failure to adopt a revised policy will result in the Council failing in its statutory duties under the Licensing Act 2003.

#### Background

5. South Cambridgeshire District Council originally introduced a Statement of Licensing Policy, which became effective on 7 February 2005. The current Policy was reviewed in 2010 and became effective in January 2011. The Policy can remain in place for no more than a five-year period, in accordance with wording under s.5 of the Licensing Act 2003.
6. The review of a statement of Licensing Policy is a requirement under s.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 revised guidelines issued in October 2012 and legislative changes in April 2013 by the Department of Culture Media and Sports and the Home Office respectively.
7. The revised draft policy was published for public consultation in July 2013. Details of the policy were circulated to all Responsible Authorities along with persons or businesses that had been in contact with the Licensing section over the previous year. It was also published on the Council's website and publicised through local libraries and views were actively sought. The closing date for comments was the 27 September 2013.

8. One formal response was received from Cambridgeshire Constabulary whose comments have been largely incorporated in the revised policy (**Appendix A**).
9. The Policy will remain 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.

### **Considerations**

10. The policy has been reviewed giving full regard to both the requirements of the Act itself and the changes to the guidelines issued by the Department of Culture Media and Sports in October 2013.
11. Careful consideration has been given to the views submitted and a finalised copy of the Licensing Policy is attached as **Appendix A**. Subject to the reasons below, it is recommended that the finalised copy of the licensing Policy remains largely unaltered from the draft circulated, however after feedback, suggested changes are highlighted for consideration on the following pages :

- Pages 4, 5, 8, 10, 11, 13 and 22

12. Following formal adoption by Council on 28 November 2013, 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.
13. The statement of Licensing Policy will be reviewed in full at 5 yearly intervals as required under Section.5 of the Act, unless otherwise stated by Central Government, but will be open to review at any time during that period should it prove necessary to do so

### **Options**

14. The Licensing Committee or full Council may approve, amend or reject the Statement of Licensing Policy., However, only full Council may formally adopt the final policy.

### **Implications**

15. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered:

#### ***Legal***

16. Failure to adopt a Policy in relation to the Licensing Act 2013 will mean that South Cambridgeshire District Council will fail in its statutory duties as defined in s.5 of the Licensing Act 2003, and may be subsequently subject to Judicial review.

#### ***Risk Management***

17. The consequences of failing to implement the new licensing regime could be extensive and could result in adverse publicity, loss of reputation and legal action against the Council.

### **Consultations**

18. As part of the consultation process officers consulted with a broad range of people including:
- Police
  - Fire Authority
  - Trading Standards
  - Social Services
  - Environmental Health
  - Planning
  - Health & Safety
  - All Premises Licence holders
  - Parish Councils
19. The consultation document was also available for general comment via the Council's website, reception and was publicised at local libraries.
20. Should the policy be adopted by full Council then no further consultation will be required before the implementation date of 31 January 2011. After this date the policy will effectively remain under review and should it require alteration, consultation will take place with the relevant persons before any amendments are implemented.

#### **Effect on Strategic Aims**

21. Commitment to being a listening council, providing first class services accessible to all by conducting the consultation over a 12 week period.
22. Commitment to making South Cambridgeshire a place in which residents can feel proud to live by advising readers that the concerns of relevant parties will be taken into consideration in line with the Licensing Act objectives when making decisions regarding premise applications within South Cambridgeshire.
23. Commitment to providing a voice for rural life by having a Sub-committee of the Licensing Committee to determine applications where any relevant representations have been made against applications.

**ackground Papers:** the following background papers were used in the preparation of this report:

S.182 Guidance issued by DCMS (October 2013)  
Licensing Act 2003  
South Cambridgeshire Statement of Licensing Policy

**Contact Officer:** Myles Bebbington – Head of Service, Environment, Health & Licensing  
Telephone: (01954) 713132

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**SOUTH CAMBRIDGESHIRE  
DISTRICT COUNCIL**

**LICENSING ACT 2003**

~~Draft Policy for consultation to Licensing Committee on 12 June 2013~~

Final Policy to Licensing Committee 23 October 2013 and Council 28 November 2013

## Executive Summary

The Licensing Act 2003 introduced major changes to the law relating to alcohol sales and supply, Public Entertainment and Late Night Refreshments. A unified system of regulation through District Councils has been fully operational since 7 February 2005. There are two types of licence: the Premises Licence and the Personal Licence. South Cambridgeshire District Council 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.

Since the introduction of the Licensing Act 2003 the authority and partners have established strong communication networks to share and gather intelligence, identify premises and operators whose activities undermined the objectives, and target resources in a measured response to resolve issues resulting from underperforming operators.

The challenges facing the authority and enforcement agencies, working with licenced premises in the district, are the allocation of limited resources over a large geographical area (and to remote areas) and encouraging operator engagement from a minority of licence holders whose activities may jeopardise the Licensing Objectives.

In response to these challenges the authority runs and attends a number of schemes and initiatives including Tasking and Coordination Groups, to identify and target resources to high-risk premises, Safety Advisory Group, to advise event organisers on the matters to be taken into account when planning events and Pub Watch, a scheme run by operators to discuss issues and resolutions arising from running licenced premises.

The Licensing Act 2003 permits flexibility in how premises are permitted to operate, and includes the possibility of extensions to opening hours balanced against greater accountabilities, new offences and strong enforcement powers. Following the Government's commitment to evaluate the success of the Act, and to 'rebalance the Licensing Act'; further deregulation has been introduced to reduce red tape for the benefit of the community and operators, with more proposed.

The 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. Whilst the Act requires the Licensing Authority to review its policy at five year intervals it is incumbent upon the authority to keep its policy under review during this period. Due to recent legislative changes it is deemed appropriate to review our current policy before the five year period has elapsed. The Policy was last reviewed in November 2010.

Partnership working is essential to the system and statutory bodies, Licensees and resident representatives are key stakeholders who will be consulted before the reviewed policy is finally adopted.

South Cambridgeshire District Council continues to integrate its 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 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. However, there may also be a negative impact from a few licenced premises. 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 licenced trades and the communities they serve.

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## 1. Purpose and Scope of the Licensing Policy

- 1.1 South Cambridgeshire is a rural area comprising over 100 villages that surround the City of Cambridge. It is recognised that licenced premises contribute much to the economic, cultural and social life of the District. In response to the Central Government's aim to 'improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries': the Government proposes to take steps to deregulate the carrying on of some activities. The proposed amendments mean that premises previously requiring entertainment permissions may no longer require regulation. Premises that may benefit from the proposed deregulation of entertainments are: schools (except higher education), hospitals, nurseries and events either organised by, or taking place on, Local Government owned premises.
- 1.2 This Licensing Policy Statement has 3 main objectives, which are:-
- (a) To inform applicants of the basis and process under which the Council will make Licence decisions, and therefore how a licenced premises is likely to be able to operate within the area. However, each case must be examined on its individual merits, see R v Torquay Licensing Justices ecp. Brockman [1951] 2KB 784
  - (b) To inform residents and businesses of the basis and process under which the Council will make decisions on Licence applications and therefore how their needs will be addressed.
  - (c) 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.

This Policy relates to all licenced premises within the South Cambridgeshire area.

- 1.3 Licensing is about the regulation of licensable activities in licenced 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 that are within the control of the individual licensee, and others in possession of relevant authorisations, and which reflect at least one of the four licensing objectives. In instances where the authority does not receive relevant representations from a responsible authority or interested party it has no legal authority to impose conditions on a licence other than those proposed within the application.
- 1.4 The Local Authority is 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). The authority will have regard to this policy statement where its discretion is engaged.
- 1.5 This policy document should not be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden.
- 1.6 This policy is produced in line with the requirement of the Act, and is in line with revised guidance issued under section 182 of the Act in October 2013<sup>32</sup>, as amended by the Police Reform and Social Responsibility Act 2011 (referred to as PRSR Act 2011 hereafter). 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, mail order, 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, (as amended 2013).

- 1.7 The Police Reform and Social Responsibility Act 2011 creates new provision for Local Authorities to act as a regulator in addition to their role as administrator. The law does not place a requirement on 'Responsible Authorities' to make representations in respect of the grant of a premises licence or club premises certificate. South Cambridgeshire District Council will only make representations where concerns arise from a view that, in granting permissions, or where permission already exists, that the Licensing Objectives are likely to be or are being undermined.
- 1.8 The Authority will not make representations on behalf of other parties and will have regard to S.182 guidance advice on when it is appropriate for the council to act as Responsible Authority. Where the council believes that it is more appropriate for other parties to make representations, it will advise those parties of this requirement; in response to any request made to the council to act on their behalf. The council also acknowledges updated S.182 guidance with respects to the need for divided functions, in the interest of transparency and fairness to all parties concerned with applications: a matter addressed further on in the policy statement at paragraph 18.2.
- 1.9 The authority will consider making representations, where a number of minor infringements or unconnected complaints exist, that in themselves do not require another Responsible Authority to make representation, but when taken together present a breach of conditions or undermine one or more of the objectives.
- 1.10 Amended legislation removes the 'vicinity test' from the 2003 Act and consequently removes this category of interested party. 'Any person' may make representations in relation to applications for the grant and variation (including minor variation) of a premises licence or club premises certificate and may also make an application for the review of an existing licence/certificate where the council validates the grounds for review. The council will decide if representations are 'relevant' and should be included in a licensing hearing for determination by the licensing sub-committee. Where the Council considers that a representation is frivolous or vexatious and/or does not address the likely effect on any or all of the licensing objectives, the Council will reject the submission.
- 1.11 Any person wishing to make a representation, in connection with an application, is encouraged to read the application in conjunction with the operating schedule provided by the applicant/operator. The schedule will include information on the steps to be taken by the operator, to promote the Licensing Objectives. Reading the schedule may impact on a decision to make a representation, as the reader may be satisfied that adequate measures are in place to safeguard local communities, and therefore may prevent the submission of unnecessary objections to the authority.
- 1.12 The definition of regulated entertainment, for the purposes of the Licensing Act 2003 as amended by the PRSR Act 2011 and Live Music Act 2013, has further been amended under the is in the process of undergoing substantial change. The Department for Culture, Media and Sport released their response to the consultation on 'Entertainment Deregulation' in January 2013. The paper contained information relating to proposed future exemptions from the requirement to hold a licence and subsequently a draft statutory instrument was published entitled 'The Licensing Act 2003 (Descriptions of Entertainment) (Amendments) Order 2013'. Changes are likely to be made law in October 2013 and changes will be reflected in the final policy. This broadly amends the descriptions of entertainment in paragraph 2 of Schedule 1 to the Act so that an authorisation for an indoor sporting event or a performance of a play or dance may be required only when the audience exceeds a specified number or the entertainment does not take place between 8am and 11pm on any day.

### **Exemptions**

- 1.13 There are exemptions relating to specific circumstances where authorisation may not be required. Guidance on such exemptions should be sought from the Licensing Authority.

When considering whether an activity constitutes 'the provision of regulated entertainment' the authority will treat each case on its individual merits.

- 1.14 The Live Music Act 2012 came into force on 1<sup>st</sup> October 2012. The Act removes the requirement to licence amplified and unamplified 'live' music, under certain circumstances, between 8am and 11pm, and removes the requirement to licence the provision of entertainment facilities. Further proposed amendments are likely to include 'recorded music' in this category of exemption.
- 1.15 The Act removes licensing requirements for:
- amplified 'live' music between 8am and 11pm before audiences of no more than 200 people on the premises authorised to sell alcohol for consumption on the premises.
  - amplified 'live' music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licenced under the 2003 Act (or licenced only for the provision of late night refreshment).
  - unamplified 'live' music between 8am and 11pm in all venues.
  - the provision of entertainment facilities.
- 1.16 Where live or recorded music does not require regulation, existing conditions relating to music will be suspended. Where it is accepted that live or recorded music, within the terms of the act or falling outside of the regime, gives rise to grounds for a review of the premises licence the authority may seek to reinstate existing conditions or to impose new conditions in order to promote the Licensing Objectives. Conditions will only be reinstated following a hearing unless operators are in agreement that it is in their best interests to reinstate conditions. Operators wishing to reinstate conditions are advised to do so by submitting minor variation applications to the authority.
- 1.17 Where conditions are suspended under the terms of the Live Music Act, operators may apply for conditions to be removed using the minor variation process.

## **2. Objectives**

- 2.1 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:-
- (a) The Prevention of Crime and Disorder
  - (b) Public Safety
  - (c) The Prevention of Public Nuisance
  - (d) The Protection of Children from Harm.

Each objective is of equal importance.

- 2.2 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.
- 2.3 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.
- 2.4 Every application will be dealt with 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 to 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 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 licenced premises. The Council stresses that there are many additional powers available to other bodies to control such behaviour.

- 2.5 The Licensing Authority expects every licence holder or event organiser to minimise the impact of their activities on the surrounding area. Whether or not incidents can be regarded as being within the control of licensed premises will depend on the specific circumstances of the case. In cases of dispute the question will ultimately be decided by the courts. In addressing this matter, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

### **3. Consultation**

- 3.1 South Cambridgeshire District Council will consider the views of those it consults. The Policy will take effect from 31<sup>st</sup> January 2014 and will be reviewed in line with Government Guidance. 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.
- 3.2 S.5 of the Act stipulates a number of persons 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 representative of local holders of premises licences and club premises certificates
  - Persons or bodies representative of local holders of Personal Licences
  - Persons or bodies representative of businesses and residents in the area
  - The Relevant Health Authority as indicated by S.182 Guidance
- 3.3 This Council will consult with all of the above and any other relevant persons or bodies that wish to put forward relevant views. The views of these bodies/persons will be given appropriate weight when the policy is determined.
- 3.4 In addition we will consult with Parish Councils, Local members and other additional bodies as appropriate in relation to policy.

### **4. Cumulative Impact**

- 4.1 The Authority does not currently have a special policy in place relating to cumulative impact. South Cambridgeshire District Council has no evidence to suggest that there is a need to adopt a 'special policy' in the South Cambridgeshire District at this time. Any future decision to adopt a 'special policy' will be evidence based to reflect a genuine need to address serious problems of nuisance and disorder resulting from licenced premises. The Authority acknowledges S.182 guidance relating to the matters that should be taken into account when deciding if there is sufficient evidence to suggest that adopting such a policy is a proportionate measure within the area. Further, the Authority acknowledges the limitations on 'special policies' when exercising its functions. Where a policy is adopted the authority will observe the legal requirements of the consultation process.
- 4.2 The term 'cumulative impact' should not 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.

- 4.3 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 need for a policy for any particular area the Council will have regard to section 182 guidance.
- 4.4 The Council will not adopt a quota which in effect determines any application before it is submitted.
- 4.5 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. Early Morning Restriction Orders

- 5.1 Early Morning Restriction Orders (EMRO's) give licensing authorities the discretion to restrict sales or supply of alcohol in the whole or parts of a district. These provisions came into force on 31<sup>st</sup> October 2012 and are intended to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour.
- 5.2 The [Council power to introduce an EMRO lies with the Licensing Authority and](#) will only take the decision to introduce an EMRO where, it considers that there is sufficient evidence [either from the public or a responsible authority](#) to suggest that this measure is an appropriate and proportionate response, to matters arising from licenced premises, within the district or specific areas within the district.
- 5.3 There are currently no EMROs' in operation within any area of South Cambridgeshire.
- 5.4 [The Police reform and social Responsibility Act 2011 \(PRSR Act 2011\) also confers powers to the Licensing Authority to allow the introduction of a Late Night Levy. Such a decision to impose a levy will be dealt with by powers granted under the PRSR Act 2011 rather than the Licensing Act 2003.](#)

## 6. Licensing Hours

- 6.1 The Council recognises current Government guidance in that flexible licensing hours can avoid a concentration of customers leaving simultaneously, which can alleviate public nuisance in circumstances where there are a large number of premises closing at the same time, particularly in town and city centres.
- 6.2 It is also recognised that licensing hours should not inhibit the development of a thriving and safe evening and night time local economy. Providing consumer choice and flexibility will be balanced against the four licensing objectives and the rights of local residents to peace and quiet. The Licensing Authority makes no general presumption in favour of lengthening licensing hours and the four licensing objectives are of paramount consideration at all times.
- 6.3 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 relevant representations a limitation of licensing hours will be considered. Should South Cambridgeshire District Council adopt a Cumulative Impact Zone in any area, it will be presumed that restrictions on activities and hours will result.

- 6.4 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.
- 6.5 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 in the early mornings for deliveries, maintenance etc but not to conduct a licensable activity such as the sale or supply of alcohol.

## 7. Children and Licensed premises

- 7.1 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 licenced 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 may be required to hold a licence under the Licensing Act 2003 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 subject to limitations under the Act or is considered necessary to do so to protect children from physical, moral or psychological harm.
- 7.2 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, which are addressed under the Gambling Act 2005).
  - 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)
- k) Full exclusion of those people under 18 from the premises when any licensable activities are taking place.

7.3 The Council cannot impose conditions requiring children to be admitted 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.

7.4 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.

## **8. Children and Cinemas**

8.1 In the case of premises licenced 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 the absence of any recognised certification, the Licensing Authority will retain the right to view the film prior to its being shown to the general public and impose an age restriction as it considers appropriate to promote the Licensing objectives

## **9. Enforcement**

9.1 Licensing Law is not the primary mechanism for the general control of nuisance and anti-social behaviour beyond licenced premises. However, licenced 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 [aim to](#) 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 licenced events. In line with the Council's enforcement policy a 'lighter touch' approach will be adopted for low risk premises and those which are well run.

9.2 The Council's Enforcement and Inspection 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.

## **10. Conditions of Licensing**

10.1 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. Where the authority imposes conditions it will consider if the conditions are clear, enforceable and whether they are expressed in plain language for operators and their staff to understand.

10.2 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](#) [eCrime and Disorder Reduction Partnership plan](#) but they must also — be reflective of one or more of the four

licensing objectives. Conditions cannot be imposed on licences and certificates for other purposes.

- 10.3 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.
- 10.4 Conditions attached to premises licences and club premises certificates, will so far as possible, reflect ~~local crime prevention strategies~~, [crime and Disorder Reduction Partnership plan](#).
- 10.5 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.
- 10.6 Where a Community Premises applies for disapplication of the mandatory conditions relating to alcohol, the authority will have regard to the S.182 guidance and consider the matters below:
- if the premises in question satisfies the description contained within relevant law
  - if the applicant is a Management Committee of the premises in question and sufficient management arrangements are in place to ensure the adequate supervision of the supply of alcohol on the premises
  - any constitution or documented management structure submitted
  - if key members of the committee can be identified by the authority

## 11. Amusements with prizes

- 11.1 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 be derived from The Gambling Act 2005.

## 12. Integration with Council strategies

- 12.1 When considering and reviewing this policy the District Council will consider local and regional strategies and policies including the ~~Local Community Strategy~~, [Crime and Disorder Reduction Partnership plan](#), 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 2004, Disability Discrimination legislation and the Regulatory Reform (Fire Safety) Order 2005.
- 12.2 The Council is aware of its obligations under the Race Relations Act 1976 as amended with the Council's Race Equality Scheme and 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.
- 12.3 The Council recognises that the provision of regulated entertainment plays an important role for the wider cultural benefit of communities. The Licensing Authority subscribes to the view expressed in the Guidance to the Act that the absence of cultural provision in any area can in itself lead to a loss of community awareness and can expose young people to anti-social activities that damage local communities
- 12.4 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 licences 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 (where it is still regarded as 'regulated entertainment') by the imposition of indirect costs of a disproportionate nature on the premises or applicant. However, the Council is clearly aware

that each application should be considered on its individual merits and that the promotion of the four licensing objectives remains paramount.

- 12.5 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. Licence 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 approval where appropriate.

### 13. The Licensing process

- 13.1 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.
- 13.2 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.
- 13.3 Many of the functions will be largely administrative in nature with no areas of contention. In the interests of efficiency and cost effectiveness officers will for the most part, carry these out.
- 13.4 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 Director of Health and Environmental Services or Head of Service Environmental Health and Licensing or his appointed representative. A table of delegation of licensing functions is attached as Annex C.
- 13.5 The Council will expect individual applicants to address the licensing objectives in their Operational Schedule 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' are advised to pay careful attention to completing the operating schedule accompanying any application. Failure to fill in the operating schedule may result in a decision by the Authority to reject applications, as a blank schedule may be indicative of a failure to consider the likely effect of the grant of any permission on the Licensing Objectives or steps to be taken in order to promote the objectives.
- 13.6 Event organisers expecting high capacity attendance (typically, but not exclusively over 5,000) to events are advised, in addition to a plan of the premises, to include information relating to available capacity on the premises, safe capacity limits (whilst attendees are stationary and walking) at a venue, crowd flow i.e. the direction that people are expected to enter and exit premises, and how it is proposed to ensure that safe limits are not exceeded whilst within the boundary of the premises or during entry or exit during ordinary circumstances and in an emergency situation. Information relating to proposed emergency plans, during ingress and egress, and whilst within the boundary of the site should be included with applications.
- 13.7 Organisers of large events ([Typically, but not exclusively between 500 and 5000](#)) are requested to detail all proposed means of communication with event attendees in emergency situations and how they propose to manage the crowd in the event of an emergency and communicate messages that may have a negative impact on the mood of the crowd.
- 13.8 Where the Authority receives a risk assessment, and has concerns that the assessment is either out of date, does not address emergency situations adequately or is not fit for

purpose, it reserves the right to request that the organiser demonstrate that proper consideration has been given to crowd management and safety. Organisers of large scale events are advised to seek independent advice, in addition to advice from the Councils Safety Advisory Group or equivalent, with respect to the matters contained within paragraph 13.6.

- 13.9 Where possible the Licensing Authority shall aim to assist the applicant in completing any applications and correcting any minor factual errors in their application, however the authority advises applicants to seek independent legal advice. The Licensing Authority shall not consider potential breaches of regulations or errors which could result in changes to consultation dates as a "minor" error.
- 13.10 Pre-application dialogue between stakeholders is encouraged in order to address potential problems and avoid unnecessary hearings and appeals. The onus is on the applicant to ensure that the details of the application are correct at the time of submission. The Authority will endeavour to contact the applicant for clarification of any ambiguous details contained within an application, however if the Authority deem that significant errors have been made within the application, then the application will be rejected. The interpretation of what is an obvious and minor factual error shall rest with the Licensing Authority.
- 13.11 Applicants are 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 Schedule.
- 13.12 With regard to minor variations the Licensing Authority shall take into account the supplementary Guidance issued under Section 182 on the simplified process for minor variations to Premises Licences and Club Premises Certificates. Minor variations would generally fall in to four categories:
- Minor changes to the structural layout of a premise
  - Small adjustments to licensing hours, but not including extensions to hours for sale of alcohol
  - Removal of all out of date, irrelevant or unenforceable conditions or the addition of volunteered conditions
  - The addition of certain licensable activities

In all cases related to minor variations the overall test is whether the proposed variation would impact adversely on any of the four licensing objectives. Applicants should be aware that a minor variation cannot be used to extend the hours for sale or supply of alcohol as defined in the legislation, or where changes increase the capacity for drinking on the premises. It is the view of the Licensing Authority that the minor variation process should not generally be used to seek an increase in hours of live or recorded music where it remains a licensable activity under the relevant law.

- 13.13 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) and the wording of the Licensing Act 2003 itself.

#### **14. Personal Licences**

- 14.1 Any individual may apply for a personal licence whether or not they are currently employed 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.

- 14.2 If the licence is refused on grounds that there is still a risk to the community in granting the licence, the applicant maintains a right of appeal.
- 14.3. 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).

## **5. Provisional Statements**

- 15.1 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 was followed. Any decision of the Local Authority on an application for a provisional statement does not relieve the applicant of the need to comply with building control or planning legislation. Provisional statements may not be sought or given for a vessel, a vehicle or a moveable structure.

## **16. Open Spaces**

- 16.1 South Cambridgeshire District Council will consider where appropriate the licensing of public open spaces for events that are not covered by Temporary Event Notices.
- 16.2 In the case of festivals and carnivals, where a Premises Licence is required or a Temporary Event Notice is to be served, it will be the responsibility of the event organiser and the landowner to ensure that the appropriate permission is in place. Where appropriate, the Licensing Authority recommends that the organiser contacts the Safety Advisory Group as soon as is practicable in order to seek advice on holding their events in order to promote the four Licensing Objectives.
- 16.3 In the case of circuses, organisers are advised to contact the Licensing Authority in the first instance in order to ascertain whether or not a Premises Licence or Temporary Event Notice is required. Forthcoming amendments are likely to make Circuses exempt from regulation; in which case this section will be amended to reflect the changes.

## **17. Temporary Event Notices (TEN)**

- 17.1 A TEN may last for a maximum period of 168 hours. It is a legislative requirement for 10 working days' notice ("Ten working days" will exclude the day the notice is received and the first day of the event) to be given of a standard temporary events notice. The Council would wish applicants to make contact with the Licensing section at an early stage before a notice is served. This is important particularly for larger events of up to 499 persons. The Council can provide appropriate and essential advice on issues surrounding the event especially as they relate to the licensing objectives. Persons giving notice of a TEN are advised notices served too far in advance of an event may be difficult for the police or Environmental Health Officers to make a sensible assessment and could lead to avoidable objections being made. For this reason that the council requests that TENs are not made more than six months in advance of the date for which an event is due to take place. The requested notice period will allow many issues to be addressed and may avoid objections by the Police or Environmental Health Officer. Although the authority requests that notices are given six months in advance, it has no legal power to insist upon this notice period.
- 17.2 Where objections are received in connection with TENs', and are upheld, the council will make arrangements for a hearing to take place (where all parties i.e. applicant, Police and Environmental Health consider that this is necessary) in order to determine whether the

TEN should go ahead as served, if modifications should take place and/or if conditions should be attached. The council will only resolve to impose conditions upon a TEN as a result of a hearing; and where the TEN is to be held on premises where a premises or club premises certificate is in place, conditions already exist (and are not impacted by the Live Music Act), and where the condition is deemed as relevant to the TEN.

- 17.3 Late Temporary Event Notices will only be accepted where they are served 5 days prior to an event (this will exclude the day the notice is received by the authority and the first day of the event) and no earlier than 9 working days before the event is due to take place. The Authority would anticipate that the use of Late TEN's by premises users will be the exception rather than the rule, for example, where a venue has cancelled a programmed event at short notice. The Police Authority and Environmental Health Officer have discretion to 'veto' a late TEN, with no right of appeal, where they consider that an event would undermine the objectives and a relevant representation is submitted to this effect. The authority will return notices as 'void' where any of the statutory limits relating to TEN's have been exceeded.
- 17.4 Applicants are reminded that the serving on the Council of a Temporary Event Notice 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 include:
- Planning permission
  - Health and Safety
  - Noise pollution
  - The erection of temporary structures
  - Road closures
  - Regulations relating to the use of pyrotechnics
  - Legislation relating to Anti-social behaviour
- 17.5 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 under part 8 of the Act 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.
- 17.6 Applicants are also reminded that an upper limit of 499 persons may attend a TEN at any one time 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.

## **18. Sexual Entertainment**

- 18.1 The Council has a policy in place relating to Sex Establishments and Sexual Entertainment venues. The policy was adopted in line with the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. Standard conditions are attached to such licences Annex F; however where similar conditions are attached to licences under the two regimes, the more onerous will apply.
- 18.2 The Council acknowledges that the Local Government (Miscellaneous Provisions) Act 1982 allows premises to provide sexual entertainment 11 times per year, where events are not being held more than once in a calendar month. The Authority would wish operators to notify the Licensing Officer of any intention to utilise the exemption provided and to highlight on a TEN where sexual entertainment is intended to take place and the nature of such entertainment. Where no reference to adult entertainment has been included on the original premises licence application, the authority will take the view that operators should use the full licence variation process to add this type of entertainment.

18.3 Where concerns are raised that a premises providing sexual entertainment is undermining the licensing objects, it may lead to review of the licence and the imposition of conditions.

## **19. Licence Reviews**

19.1 The process set out in the Licensing Act 2003 for reviewing premises licences represents a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.

19.2 The division of duties between officer role and the role of Responsible Authority will be clearly defined to ensure transparency and integrity are maintained in the decision-making process with respects to licensing functions. Only the Head of Service Environmental Health and Licensing and Corporate Director for Health and Environmental Services will act as Responsible Authority for South Cambridgeshire District Council. The authority will ensure that an officer advising the licensing committee i.e. as the licensing authority will be a different person from the officer who is acting for the responsible authority. Whilst acting as Responsible Authority the relevant officers will not be involved in the licensing decision process and will not discuss the merits of the case with those involved in making the determination by the licensing authority.

19.3 The Licensing Authority will work in partnership with responsible authorities to achieve the promotion of the licensing objectives and will encourage responsible authorities to give licensees early warning of any concerns identified at a premises.

19.4 When a review has been requested the role of the Licensing Authority will be to administer the process and determine its outcome at a hearing.

19.5 The Licensing Authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In appropriate cases the Authority may issue an informal warning to the licence holder and/or recommend improvement within a particular period of time. Any warnings or recommendations will be issued in writing.

19.6 Where the Licensing Authority considers that action under its statutory powers is necessary it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition);
- to exclude a licensable activity from the scope of the licence;
- to remove the designated premises supervisor;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

19.7 In cases where the crime prevention objective is being undermined the Licensing Authority will give serious consideration to revoking the licence even in the first instance.

## **20. Fees**

20.1 Where Central Government allow the setting of a local fee structure, the Council will set fees based on a cost recovery basis. Where the cost of enforcement activities is legally recoverable, this will be included in the cost of fees in addition to the costs associated with administering Licensing Services.

20.2 The council must suspend premises licences and club premises certificates on the non-payment of annual fees. The council acknowledges the procedures set out in regulation when suspending permissions and guidance relating to such matters. Where an account is due for payment, a suspension notice will not be considered until a minimum period of 30 days has elapsed. The Council will notify operators of any intention to suspend a licence or club premises certificate in writing and will specify the date on which the suspension takes effect, acknowledging the legal requirements of notice.

## 21. Equal opportunities

21.1 The council is aware of its obligations under the Equalities Act 2010. Where a policy or function is identified as having an adverse impact on equality and diversity the authority will use available powers to resolve the problem. Anybody wishing to request a copy of the Policy in large print may do so by contacting the Authority on 03450 500 500.

## 22. Contacts and applications

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

- Business Team
- ◆ Environmental Health and Licensing Service  
South Cambridgeshire District Council  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridgeshire  
CB23 6EA
- By E-mail: [licensing@scambs.gov.uk](mailto:licensing@scambs.gov.uk)
- ◆ Telephone: 01954 713132/ 713024
- ◆ Downloading the information from the Council's website at:  
[www.scambs.gov.uk](http://www.scambs.gov.uk)
- Safety Advisory Group  
~~Ms J Stallabrass~~ Mrs E Trollope  
South Cambridgeshire District Council  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridgeshire  
CB23 6EA
- ◆ By E-mail: - ~~juli.stallabrass@scambs.gov.uk~~ [dutyhes@scambs.gov.uk](mailto:dutyhes@scambs.gov.uk)
- Telephone: - 01954 713024

All applications should be sent to:

- The Licensing Officer  
South Cambridgeshire District Council  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridgeshire  
CB23 6EA

22.2 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

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CB1 1JG

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

Cambridgeshire Social Services  
Licensing Applications  
Safeguarding & Standards Unit  
BOX NO: CC1010  
Room C007, Castle Court  
Shire Hall  
Cambridge  
CB3 0AP  
Tel: 01223 706380  
Fax: 01223 475965  
Email: [Jill.Sheldon@cambridgeshire.gov.uk](mailto:Jill.Sheldon@cambridgeshire.gov.uk)

Corporate Manager Health & Environmental Services  
South Cambridgeshire District Council  
Cambourne Business Park  
Cambourne  
Cambridgeshire  
CB23 6EA

Directorate of Planning  
South Cambridgeshire District Council  
Cambourne Business Park  
Cambourne  
Cambridgeshire  
CB23 6EA

Trading Standards (Licensing)  
Cambridgeshire County Council  
PO Box 450  
Cambridge City  
CB3 6ZR

The Public Health Director  
PO Box No. CC1318  
Shire Hall  
Castle Hill  
Cambridge  
CB3 0AP

## 1. Pool of conditions

- 1.1 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.
- 1.2 It should be noted that in addition to any relevant conditions placed on a premise that it is unlawful under the 2003 Act:
- (i) to knowingly sell or supply or attempt to sell or supply alcohol to a person who is drunk
  - (ii) to knowingly allow disorderly conduct on licenced premises
  - (iii) for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licenced premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
  - (iv) 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) Text/radio Pagers

- 2.1 In cases where it is recommended that a condition requiring the text/radio pager links to the police, it should include the following requirements:
- (i) The text/pager equipment is kept in working order at all times;
  - (ii) The pager link is activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
  - (iii) Any police instructions/directions are complied with whenever given; and
  - (iv) All instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

### (b) Door Supervisors (registered with the Security Industries Authority)

- 2.2 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:
- (i) Preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
  - (ii) Keeping out excluded individuals (subject to court bans or bans imposed by licence holder);
  - (iii) Searching and excluding those suspected of carrying illegal drugs or carrying offensive weapons and;
  - (iv) Maintaining orderly queuing outside venues
- 2.3 Where door supervisors are to be a condition of a licence they are required to be licenced through the Security Industries Authority in line with the Securities Industry Act 2000.

(c) **Bottle bans**

- 2.4 It is recognised that glass vessels (e.g. bottles and glasses) may be used as weapons inflicting serious harm during incidents of disorder. Conditions may include:
- (i) 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.
  - (ii) No customer carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.
- 2.5 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.

(d) **Open containers not to be taken from the premises**

- 2.6 Drinks purchased in licenced premises or clubs may be taken from those premises for consumption elsewhere. This is lawful where premises are licenced for the sale of alcohol for consumption off the premises.
- 2.7 Consideration should be given to conditions preventing customers from taking alcoholic and other drinks from the premises in open containers such as cans, bottles or glasses to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.
- 2.8 Restrictions on taking open containers from the premises may also be relevant necessary measures to prevent public nuisance.

(e) **CCTV**

- 2.9 The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licenced premises. Conditions may include:
- (i) The need to have CCTV cameras on the premises
  - (ii) The precise positioning of each camera
  - (iii) The requirement to maintain cameras in good working order
  - (iv) The requirement to retain recordings for an appropriate period.

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

- (a) Restriction on drinking areas
- (b) Capacity limits
- (c) Proof of age cards
- (d) Crime prevention notices
- (e) Signage at or immediately outside the premises
- (f) Use of plastic containers and toughened glass

**3. Conditions relating to the protection of children from harm**

(a) **Age Restrictions – specific**

- 3.1 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.
- 3.2 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**

- 3.3 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.
- 3.4 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
- 3.5 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.
- 3.6 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.
- 3.7 Possible Expression of Condition:
- (a) Where a programme includes a film recommended by the licensing authority as falling into an age restricted category no person appearing to be under the age specified shall be admitted to any part of the programme; where a programme includes a film recommended by the licensing authority as falling into a category requiring any persons under a specified age to be accompanied by an adult no person appearing to be under the age specified shall be admitted to any part of the programme unaccompanied by an adult, and the licence holder shall display in a conspicuous position a notice clearly stating the relevant age restriction and requirements. For example:

PERSONS UNDER THE AGE OF [INSERT AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME.

(c) **Conditions relating to Children’s access to Theatres and performances especially for children**

- (i) Types of event or activity where consideration for the application of age restrictions may include activities of an adult nature.
- (ii) 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.
- (iii) 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 may be required.

(d) **Children in performances**

- (i) Venue – The backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.

- (ii) 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.
- (iii) 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.
- (iv) 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**

- 3.8 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.
- 3.9 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.
- 3.10 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**

- 4.1 Consideration may be given to conditions that ensure that noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties.
- 4.2 The following conditions may be considered:
- (a) A simple requirement to keep doors and windows at the premises closed;
  - (b) Limiting live music to a particular area of the building;
  - (c) Moving the location and direction of speakers away from external walls or walls that abut private premises;
  - (d) Installation of acoustic curtains;
  - (e) Fitting of rubber seals to doorways;
  - (f) Installation of rubber speaker mounts;
  - (g) Requiring the licensee to take measure to ensure that music will not be audible above background level at the nearest noise sensitive location;
  - (h) Require the licensee to undertake routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary;
  - (i) Require noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful);
  - (j) 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.
  - (k) The use of explosives, pyrotechnics and fireworks of a similar nature, which could cause disturbance in the surrounding areas, are restricted.
  - (l) The placing of refuse - such as bottles- into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.
  - (m) Noxious smells from the licenced premises are not permitted (subject to existing legislation not providing adequate measures) so as not to cause a nuisance to nearby properties and the premises are properly vented.
  - (n) Flashing or particularly bright lights on or outside licenced premises (any such condition must be balanced against the benefits of providing lighting to promote the prevention of crime and disorder).

## Hours

- 4.3 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:
- (a) 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.
  - (b) 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.
  - (c) 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)

- 5.1 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 Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments.

### Conditions enforcing these arrangements will therefore be unnecessary

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

(a) **Persons with Disabilities**

- (i) Adequate arrangements to enable their safe evacuation in the event of an emergency.
- (ii) All persons on the premises are made aware of those arrangements.

(b) **Escape routes**

- (i) All exit doors are easily openable without the use of a key, card, or similar means.
- (ii) Doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept.
- (iii) Any removable security fastenings are removed whenever the premises are open to the public or occupied by staff.
- (iv) 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).
- (v) Fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut.
- (vi) The edges of treads of steps and stairways are maintained so as to be conspicuous.
- (vii) Exits are kept unobstructed, with non-slippery and even surfaces, free of trip hazards and clearly identified.
- (viii) Where chairs and tables are provided in restaurants and other premises, internal gangways are kept unobstructed.

(c) **Safety Checks**

Safety checks are carried out before the admission of the public and details of such checks are kept in a logbook.

- (d) **Curtains, Hangings, Decorations and upholstery**
- (i) Hangings, curtains and temporary decorations are maintained in a flame-retardant condition.
  - (ii) 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.
  - (iii) Curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs, or fire fighting equipment.
  - (iv) Temporary decorations are not used without prior notification to the Licensing Authority/Fire Authority.
- (e) **Accommodation limits**
- (i) Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded.
  - (ii) 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**
- (i) 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.
  - (ii) 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 which should be kept available for inspection by the Council or an authorised officer.
  - (iii) 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.**
- (i) Access for emergency vehicles is kept clear and free from obstruction.
  - (ii) Adequate and appropriate supply of first aid equipment and materials is available on the premises.
  - (iii) 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 is present that their respective duties are clearly defined.
- (h) **Lighting**
- (i) 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.
  - (ii) Fire safety signs are adequately illuminated.
  - (iii) Emergency lighting is not altered.
  - (iv) Emergency lighting batteries are fully charged before the admission of the public, guests and members.
  - (v) 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**

- (i) Temporary electrical wiring and distribution systems shall comply with the recommendations of applicable British Standards.
- (ii) 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.
- (iii) Temporary electrical wiring and distribution systems are not provided without notification to the licensing authority at least ten days before commencement of the work and/or prior inspection by a suitably qualified electrician.

(j) **Indoor sports entertainments**

- (i) 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.
- (ii) 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.
- (iii) 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.
- (iv) 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, and are clearly identifiable.

(k) **Alterations to premises**

- (i) Alterations that make it impossible to comply with an existing condition to premises should be notified to the Local Authority.
- (ii) 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**

- (i) 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.
- (ii) Use of certain special effects may be used subject to prior notification of the Licensing Authority or inspection by the Fire Authority e.g. strobe lighting

## ENVIRONMENTAL HEALTH ENFORCEMENT POLICY

### 1. Introduction

- 1.1 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.
- 1.2 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.
- 1.3 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.
- 1.4 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.

#### Environmental Health Statement of Purpose

- (a) **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 wellbeing 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 SDCD.

(b) **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.

**What do we mean by Enforcement?**

- 1.5 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**

- 2.1 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.
- (a) **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.
- (b) **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.
- 2.2 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.
- (c) **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:

- (i) provide advice and information in plain language;
  - (ii) 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;
  - (iii) 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;
  - (iv) provide a written explanation on any rights of appeal against formal enforcement action;
  - (v) provide contact details, including e-mail and telephone details, to encourage customers to seek advice, information and clarification;
  - (vi) 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;
  - (vii) publicise our complaints service;
  - (viii) translate letters into other languages and arrange for interpreters, if necessary.
- (d) **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.

2.3 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

#### (a) *Routine/Programme Inspections*

- 3.1 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.
- 3.2 Revisits will be made to ensure that significant breaches have been remedied and to check on compliance with formal notices once they have expired.

**(b) Investigations**

- 3.3 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.

**(c) Powers of Entry**

- 3.4 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, e.g. where the presence of a particular manager, owner or employee is required to discuss a particular issue.
- 3.5 In appropriate circumstances, Notice of Entry will be served or an application made to the Magistrates Court for a warrant to enter, e.g. 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.

**(d) Working Hours**

- 3.6 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.

**(e) Shared Enforcement Roles**

- 3.7 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, e.g. 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.
- 4.2 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.
- 4.3 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.

(a) **Options** – Having considered the enforcement criteria the following options are available.

- (i) to take no action;
- (ii) to take informal action;
- (iii) to serve statutory notices;
- (iv) to issue formal cautions;
- (v) to suspend, revoke or refuse to renew a licence;
- (vi) to impose an administrative penalty;
- (vii) to do the work in default and recover all costs in so doing;
- (viii) to prosecute;
- (ix) apply for a Court Order or Injunction.

4.4 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.

(b) **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.

4.5 Informal action will be taken when:

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

4.6 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.

(c) **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

- (i) where there is a statutory duty to serve a Notice;
- (ii) 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.

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

- (i) an imminent risk of injury to health or safety can be demonstrated;
- (ii) an imminent risk of serious pollution to the environment can be demonstrated;

- (iii) the consequence of not taking immediate and decisive action to protect the public would be unacceptable;
- (iv) 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
- (v) a proprietor is unwilling to confirm in writing his/her unprompted offer of a voluntary prohibition;
- (vi) where it would be the most effective remedy available.

(e) **Prosecution**

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:

- (i) 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.
- (ii) There has been a disregard for the environment.
- (iii) The integrity of the licensing framework is threatened.
- (iv) 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.
- (v) The alleged offence involves a failure to comply in full or in part with the requirements of a statutory Notice.
- (vi) There is a history of similar offences.
- (vii) The alleged offence causes public alarm and it is desirable to reassure the public and deter other offenders.
- (viii) The alleged offence involves obstruction, failure to disclose information or making a false statement or an assault on an enforcement officer.
- (ix) A prosecution is in the public interest; there is a realistic prospect of conviction and sufficient evidence to support proceedings.

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

(f) **Prosecution without Warning**

4.8 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, e.g.:

- ❖ 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.

(g) **Formal Caution**

- 4.9 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.
- 4.10 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.
- 4.11 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**

- 5.1 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).
- 5.2 This is without prejudice to any formal appeals mechanism.

**6. TRAINING AND APPOINTMENT OF OFFICERS**

- 6.1 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.
- 6.2 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.
- 6.3 Authorisation will be in writing and in a form that can be shown on request.

**7. MONITORING OF ENFORCEMENT**

- 7.1 The Corporate Manager, Health and Environmental Services, 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.

7.2 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.

TABLE OF DELEGATIONS IN RESPECT OF THE LICENSING FUNCTIONS

<b>Matters to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All Cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All Cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All Cases	
Determination of an objection to a temporary event		All Cases	

notice			
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases
Request to be removed as designated premises supervisor			All cases

## DEFINITION OF CLUBS

Guidance issued under section 182 of the Licensing Act 2003

### Qualifying Clubs

The Act defines a 'qualifying club' as:

- having an interval of at least two days between a member's nomination/application for membership and their admission;
- having at least 25 members;
- and being established and conducted 'in good faith'.

Qualifying clubs are entitled to certain benefits, which include:

- The authority to supply alcohol to members and sell it to guests without the need for any member or employee to hold a personal licence.
- The absence of a requirement to specify a designated premises supervisor.
- More limited rights of entry for the police and authorised persons because the premises are considered private and not generally open to the public.

The certificate authorises qualifying clubs to use club premises for qualifying club activities, which are:

- The supply of alcohol by or on behalf of a club to a member for consumption on the premises.
- The sale by retail of alcohol by or on behalf of a club to a guest of a member for consumption on the premises.
- The provision of regulated entertainment by or on behalf of a club for its members and guests.

The certificate is of unlimited duration but there will be an annual fee.

### Definition of a club conducted in 'good faith'

In deciding whether a club is conducted 'in good faith' the following matters are taken into account:

- any arrangements restricting the club's freedom of purchase of alcohol;
- any arrangements where any financial gain arising from the carrying on of the club does not benefit the club as a whole or is not for charitable, benevolent or political purposes;
- the arrangements for giving members information about the finances of the club and the accuracy of financial information kept;
- the nature of the premises occupied by the club.

### Which activities does a club premises certificate authorise?

A club premises certificate may authorise the conduct of any of the qualifying club activities, namely:

- The supply of alcohol by or on behalf of the club to, or to the order of, members of the club.
- The sale by retail of alcohol by or on behalf of the club to a guest of a member of the club for consumption on the premises where the sale takes place.
- The provision of regulated entertainment (where that provision is by or on behalf of a club for members of the club or members of the club and their guests).

## **Members and Guests**

Qualifying clubs are able to admit their own members and guests as well as associate members and their guests when qualifying activities are being carried on without compromising the use of their club premises certificate. This reflects traditional arrangements where such clubs make their facilities open to members of other clubs, which operate reciprocal arrangements.

The Licensing Act does not define a “guest”. An “associate member” is merely one form of guest included in the 2003 Act for the sake of clarity. A “guest” can be served in the club as long as they are a “guest” defined in the club’s own rules. This gives the club discretion as to the creation of its own rules defining who will be considered as a “guest”, the only restriction is that the club must be run ‘in good faith’ as a genuine members’ club – that it must not become a bar open to the general public. The Licensing Act 2003 provides for the licensing authority to decide whether the club is operating ‘in good faith’.

## PROCEDURES TO BE FOLLOWED WHEN DEALING WITH AN APPEAL

### Chairman's Introduction

1. 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.
2. The Applicant and any objectors will take their places at the tables provided.

### Environmental Health, Fire, Police and Local Member representations

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

### Applicant's Representations

6. The Applicant or their representative addresses the Committee and calls any supporting evidence.
7. Objectors have the opportunity to put questions to the Applicant.
8. Members of the Committee can put questions to the Applicant.

### Objector's Representations

9. Objectors are given the opportunity to address the Committee.
10. The Applicant can put questions to the objectors.
11. Councillors can question the objectors.
12. The objectors are given a chance to sum up their case.

### Applicant's summary

13. 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

14. 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.
15. 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. All decisions will be put in writing and issued to all parties concerned in compliance with the Act.

## Annex F

### Standard Conditions for Sex Establishment Licence

South Cambridgeshire District Council reserve the power to alter, modify or dispense with these conditions as it sees fit at any time.

#### Management of the Premises

1. The Licensee or some responsible person nominated by him and approved in writing by the Authority for the purpose of managing the sex establishment ("the manager") shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public.
2. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Authority within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Authority.
3. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Authority or the local trading standards authority.
4. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he/she or they are responsible for the conduct of the Premises.
5. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Authority must be notified within 24 hours in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.
6. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licenced.
7. No person under the age of 18 shall be admitted to the Premises and a notice to this effect, in accordance with condition 19, shall be displayed on the outside of the Premises.
8. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the vicinity of the Premises.
9. The Licensee shall ensure that during the hours that the Premises are open for business every employee wears a badge of a type approved by the Authority indicating his/her name and that he/she is an employee.
10. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Authority.

#### Opening of the Premises

11. The Premises shall not, without the written consent of the Authority, be opened and used for the purposes for which the licence is granted except during the following hours:

**Monday – Saturday 9 am – 6 pm**

12. **The Premises shall not, without the written consent of the Authority, be opened and used for the purposes for which the licence is granted on Sundays, Good Friday, or Christmas Day.**

**Conduct of the Premises**

13. No change from a sex cinema to a sex shop or a sex shop to a sex cinema shall be made without the written consent of the Authority.
14. No sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.
15. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.
16. No film or video recording (or computer game) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.
17. No moving picture shall be provided or displayed at the licenced premises unless it is that of advertising videos on a loop system or allowing a prospective purchaser a short preview, being no longer than 3 minutes in length of films upon request.

**External Appearance**

18. The holder of a sex establishment licence may exhibit on the outside of the Premises the name of the business and a notice, capable of being enclosed by a rectangle one square metre in area or such other size as agreed with the Authority, consisting of the words 'Licenced Adult Establishment'.
19. The holder of a sex establishment licence shall exhibit on the outside of the Premises a notice, capable of being enclosed by a rectangle one square metre in area, of the times of opening and of the words 'No person under the age of 18 allowed. People over the age of 18 but under the age of 21 will be required to show proof of their age.'
- 20(a) No other words, advertisement, letter, model, sign, placard, board, notice sign, device, representation, drawing, writing, display or any other matter, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 18 and 19 or otherwise approved by the Authority in writing;
- 20(b) No external loudspeakers may be installed.
21. The windows and openings of the Premises shall be of a material or covered with material, which will render the interior of the Premises invisible to passers-by.

**State, Condition and Layout of the Premises**

22. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his/her obligations under any lease or other agreement for the use of the Premises, he/she shall maintain the Premises in good repair and condition.
23. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

24. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the Premises shall be visible when persons are entering or leaving the Premises.
25. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
26. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
27. Alterations or additions, either internal or external, shall be not be made to the Premises without prior written consent from the Authority.
28. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.
29. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.

**Safety and Security**

30. The Licensee shall submit details of the steps to be taken, for the approval of the authority, to check the age of customers entering the shop who appear to be between the ages of 18 and 21 in order to ensure that they are not younger than 18. He/she shall ensure the approved steps are implemented.
31. The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Authority.

**Goods Available in Sex Establishments**

32. All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a Sex Establishment shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
33. All printed matter, films and video films offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed inside the Sex Establishment. (This regulation does not require that films or video films be exhibited (played) to customers).
34. The Licensee shall without charge, display and make available in the Sex Establishment such free literature on counselling on matters related to sexual problems as may be published by the FPA (formerly the Family Planning Association) and by such other similar organisations from time to time and in particular any such material related to AIDS. Such literature is to be displayed in a prominent position approved by the Authority adjacent to all cash collection points in the Sex Establishment.

## **26. References**

Licensing Act 2003 as amended by Police Reform and Social Responsibility Act 2011  
Secretary of State Guidance issued under section 182 of the Licensing Act 2003 – Home Office  
Best Practice Framework for the Review of Licensing Policy Statements – Local Government Association  
South Cambridgeshire District Councils Comprehensive Equalities Policy (updated 2010)  
Live Music Act 2012  
Policing and Crime Act 2009  
Anti-Social Behaviour Act 2003  
Crime and Disorder Act 1998  
Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000  
Clean Neighbourhoods and Environment Act 2005  
Local Government (Miscellaneous Provisions) Act 1982 – Sex Establishments  
Human Rights Act 1988  
Disability Discrimination Act 1995  
Equalities Act 2010