



South  
Cambridgeshire  
District Council

**SOUTH CAMBRIDGESHIRE  
DISTRICT COUNCIL**

**DRAFT**

**LICENSING ACT 2003**

# PREAMBLE

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 February 7<sup>th</sup> 2005. There are two types of licence: the Premises Licence and the Personal Licence. As a result South Cambridgeshire District Council instead of the Magistrates Court have assumed responsibility for licensing all outlets within the District that sell or supply alcohol or carry out any of the licensable activities as described within this policy.

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

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. 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 new responsibilities with existing policies, strategies and legislation and in particular those that have a direct relevance to any of the four key objectives. The Council recognises that the 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 licensed 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 licensed trades and the communities they serve.

The Licensing Act requires the Licensing Authority to currently review its policy at 3-year intervals, however the council acknowledges the intention of DCMS to remove this requirement as a mandatory procedure.

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## 1. Introduction

- 1.1 South Cambridgeshire is a rural area comprising over 100 villages that surrounds the City of Cambridge. There is a wide mix of premises that are covered by the new Licensing regime ranging from schools to village halls and public houses. It is recognised that these premises contribute much to the economic and social life of the District.
- 1.2 Licensing is about the regulation of licensable activities in licensed premises, qualifying clubs and temporary events within the terms of the Licensing Act 2003. Any conditions attached to licences or certificates will be focused on matters 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.
- 1.3 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).
- 1.4 This policy document should not be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden.
- 1.5 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 on the 27<sup>th</sup> March 2010. 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 to the public or to club members or with a view to profit.

Regulated entertainment is defined within the Act as:-

- Performances of a play
- Film exhibitions [1]
- Indoor sporting events
- A boxing or wrestling event
- Live music performances
- Playing of recorded music
- Dance performances
- Entertainment of a similar description to that falling within the performance of live music, playing or recorded music and performance of dance
- Provision of facilities for making music
- Provision of dance facilities-
- Provision of facilities for entertainment similar to making music or for dancing

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

[1] An exhibition of a film means any exhibition of moving pictures subject to the following exemptions:-

- Demonstrate any product
- Advertise any goods or services
- Provide information, education or instruction. Or.
- Consists or forms part of an exhibit put on show for any purpose of a museum or art gallery
- Consists of the simultaneous reception and playing of a programme included in a programme service within the meaning of the Broadcasting Act 1990 (c.42)

## Exemptions

- 1.6 The 2003 Act provides exemptions relating to specific circumstances where authorisation may not be required. Guidance on such exemptions relating to private entertainments, pub games and the playing of incidental music should be sought from the Licensing Authority.
- 1.7 This Licensing Policy Statement has 3 main objectives, which are:-
- To inform applicants of the basis and process under which the Council will make Licence decisions, and therefore how a licensed premises is likely to be able to operate within the area. However, each case must be examined on its individual merits, e.g. R v Torquay Licensing Justices ecp. Brockman [1951] 2KB 784
  - 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.
  - To inform elected members on the Licensing Committee of powers of the Council and the limits of those powers, and to provide elected members with the parameters under which to make their decisions.

## 2. Objectives

- 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:-
- The Prevention of Crime and Disorder
  - Public Safety
  - The Prevention of Public Nuisance
  - 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 impartially and on its individual merits. Where the Council has received a representation from a responsible authority (such as the Police or an Environmental Health officer), or an interested party (such as a local resident or local business which is a relevant representation), it may refuse to grant or vary an application or it may impose conditions provided such conditions promote one or more of the licensing objectives. The Council is aware of the powers under the Anti Social Behaviour Act (s 40,41 - noise causing a public nuisance) and is also aware that the use of conditions and the

application of Licensing law should not be used as a tool in the control of anti-social behaviour either by groups or individuals once those groups or individuals are beyond the direct control of a person or organisation responsible for licensed premises.

2.5 There is no provision for a Licensing Authority itself to make representations in respect of an application. The authority is obliged to issue the licence on the terms sought unless relevant representations are made either by a responsible authority or an interested party.

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

2.7 The Licensing Authority expects every licence holder or event organiser to minimise the impact of their activities on the surrounding area and any anti social behaviour created by their customers in and within the vicinity of their premises by taking appropriate measures and actions consistent with that responsibility. Whether or not incidents can be regarded as being in 'the vicinity' of the 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 the 7<sup>th</sup> February 2011 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 including club premises
- Persons or bodies representative of local holders of Personal Licences
- Persons or bodies representative of businesses and residents in the area

3.3 This Authority 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 When determining each Licence application the Council will take into account the cumulative impact of the application on the four Licensing Objectives.

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

- 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 saturation policy for any particular area the Council will have regard to:-
- (a) Evidence or identification of serious and chronic concern from a responsible authority or local residents about nuisance and disorder.
  - (b) The identification of the area from which problems arise and the boundaries of that area
  - (c) An assessment of the evidence
  - (d) Adopting a strategy to deal with future applications relating to new and existing premises in the defined area
  - (e) Consultations with those specified in S5(3) of the 2003 Act, and subject to the outcome of the consultation.
  - (f) Inclusion and publication of details of special policy in the Licensing policy statement
- 4.4 The Council will not adopt a quota which in effect determines any application before it is submitted. Nor will it seek to impose general limitations on opening hours of licensed premises in particular areas (commonly known as zoning, a term used where there is a high number of licensed premises within a small geographical area).
- 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. Licensing Hours**
- 5.1 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.
- 5.2 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.
- 5.3 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 Police 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.
- 5.4 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. This may include the extension of opening hours and may also include stricter conditions in other areas such as noise and public nuisance measures.
- 5.5 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.

## 6. Children and premises

6.1 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 licensed premises by children should be encouraged subject to the limitations of the Act. The Council also recognises there is a wide range of premises that 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.

6.2 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.

6.3 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.

6.4 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.

## **7. Children and Cinemas**

- 7.1 In the case of premises licensed for the exhibition of films conditions will be imposed in line with any limitations imposed by the British Board of Film Classification (BBFC). In such cases where an exhibition of a film does not hold a BBFC certificate, the venue operator will be expected to self regulate the film in line with the BBFC classification system. In 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.

## **8. Enforcement**

- 8.1 Licensing Law is not the primary mechanism for the general control of nuisance and anti-social behaviour beyond a licensed premises. However, licensed premises must be maintained and operated so as to ensure the continued promotion of the Licensing objectives and compliance with specific requirements of the Act. The Council will establish and maintain enforcement protocols with the Police and other enforcement agencies to ensure that the most effective use is made of enforcement resources. These protocols will provide targeting for known problem premises and high-risk premises as well as potentially problematic individual licensed events. 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.
- 8.2 The Council's Environmental Health Enforcement Policy (Annex B) demonstrates the principles of good enforcement. In general, enforcement action will be conducted within these policy guidelines or the guidelines of relevant legislation to ensure consistency and transparency wherever possible.

## **9. Conditions of Licensing**

- 9.1 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.
- 9.2 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 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.
- 9.3 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.
- 9.4 Conditions attached to premises licences and club premises certificates will, so far as, possible reflect local crime prevention strategies.
- 9.5 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. Amusements with prizes

- 10.1 The responsibility for grant of these permits has passed over to the Licensing Authority along with the new Licensing Act. The granting of such permits is not a licensing function under the 2003 Act and the authority for the grant or refusal of such permits will be derived from The Gambling Act 2005.

## 11. Integration with Council strategies

- 11.1 When considering and reviewing this policy the District Council will consider local and regional strategies and policies including the Local Community Strategy, Crime Prevention, Transport, Tourism and cultural strategies. However it recognises the need to avoid, so far as possible, duplication of existing legislation and other regulatory regimes that place obligations on employers and operators such as The Health and Safety at Work Act 1974, The Environmental Protection Act 1990, Children Act 2004, Disability Discrimination legislation and the Regulatory Reform (Fire Safety) Order 2005.
- 11.2 Arrangements will be made for the licensing committee to receive reports when appropriate on the following matters to ensure these are reflected in their decisions:-
- a) The needs of the local tourist economy and cultural strategy, including the arts for the District
  - b) The employment situation in the District and the need for investment and employment where appropriate.
- 11.3 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.
- 11.4 The Council recognises that the provision of regulated entertainment is a licensable activity in its own right along with the need to encourage and promote a broad range of entertainment particularly live music, dancing and theatre (including the performance of a wide range of traditional and historic plays), for the wider cultural benefit of communities. The 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.
- 11.5 A natural concern to prevent disturbance in neighbourhoods will always be carefully balanced with the wider cultural benefits, particularly the cultural benefits to children. In determining what conditions should be attached to licenses or certificates as a matter of necessity for the promotion of the Licensing objectives, the Council will bear in mind the need to avoid measures which might deter live music, dancing and theatre by the imposition indirect costs of a disproportionate nature on the premises or applicant. However, The Council is clearly aware that each application should be considered in its individual merits and that the promotion of the four licensing objectives remains paramount.
- 11.6 Where possible officers will follow the government guidance on monitoring the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing.
- 11.7 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 where appropriate.

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## **12. The Licensing process**

- 12.1 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.
- 12.2 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.
- 12.3 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.
- 12.4 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 Corporate Manager Health & Environmental Services or his appointed representative. A table of delegation of licensing functions is attached as Annex "C".
- 12.5 In 'the vicinity' will be a question of fact and will depend on the particular circumstances of a case, although in determining this wording the council 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.
- 12.6 The Council will expect individual applicants to address the licensing objectives in their Operational Plan having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 12.7 Where possible the Licensing Authority shall aim to assist the applicant in completing any applications and correcting any minor factual errors in their application. The Licensing Authority shall not consider potential breaches of regulations or errors which could result in changes to consultation dates as a "minor" error. The interpretation of what is an obvious and minor factual error shall rest with the Licensing Authority.
- 12.8 Pre-application dialogue between stakeholders is encouraged in order to address potential problems and avoid unnecessary hearings and appeals.
- 12.9 Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate, when formulating their Operating Plan.
- 12.10 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 premises
  - 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; furthermore 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.

- 12.11 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.

### **13. Personal Licences**

- 13.1 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.
- 13.2 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.
- 13.3. 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).

### **14. Provisional Statements**

- 14.1 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.

### **15. Open Spaces**

- 15.1 South Cambridgeshire District Council will consider where appropriate the licensing of public open spaces for events that are not covered by Temporary Event Notices.
- 15.2 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 licence 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.
- 15.3 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. The Licensing Authority recognises that music and dancing may be considered as ancillary to the circus performance. The Licensing Authority shall, however, treat each application on its own merit.

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

- 16.1 Whilst it is a legislative requirement for 10 working days notice (exclusive of the day on which the event is to start) to be given of a temporary events notice, the Council would wish applicants to make contact with the Licensing section at an early stage before a formal application is made. 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 that notices given too far in advance of an event may be difficult for the police to make a sensible assessment and could lead to avoidable objections being made. For this reason it is suggested that TENs are not made more than nine months in advance of the date for which an event is due to take place. Early consideration will allow many issues to be addressed and may avoid objections by the Police.
- 16.2 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 may include:
- Planning permission
  - Health and Safety
  - Noise pollution
  - The erection of temporary structures
  - Road closures
  - The use of pyrotechnics
  - Anti-social behaviour
- 16.3 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.
- 16.4 Applicants are also reminded that a limit of fewer than 500 persons at any one time applies to a temporary event and failure to comply with this limit may lead to prosecution. Accordingly organisers are strongly recommended to employ means of recording the number of persons entering and leaving the premises.

## **17. Licence reviews**

- 17.1 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.
- 17.2 The Licensing Authority cannot itself initiate the review process. Only Responsible Authorities and interested parties (i.e. local residents, local organisations and councillors) can apply for the review of a licence.
- 17.3 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.
- 17.4 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.
- 17.5 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.

- 17.6 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.
- 17.7 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.

## **18. Contacts and applications**

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

- Licensing Section  
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  
South Cambridgeshire District Council  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridgeshire  
CB23 6EA
- By E-mail: - [juli.stallabrass@scambs.gov.uk](mailto:juli.stallabrass@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

- 18.2 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  
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

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](#)

## 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 licensed premises
  - (iii) for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
  - (iv) To allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed 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 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 licensed through the Security Industries Authority in line with the Securities Industry Act 2000.

(c) **Bottle bans**

2.4 It is recognised that glass vessels (i.e. 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 licensed premises or clubs may be taken from those premises for consumption elsewhere. This is lawful where premises are licensed 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 licensed 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:**

- (i) Restriction on drinking areas
- (ii) Capacity limits
- (iii) Proof of age cards
- (iv) Crime prevention notices
- (v) Signage at or immediately outside the premises
- (vi) 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 That when films are classified, by either the Film Classification Body as specified in the licence or the Licensing Authority they will be classified in the following way:
- U – Universal, suitable for audiences four years and over
  - PG – Parental Guidance. Some scenes may be unsuitable for young children.
  - 12A – Passed only for viewing by persons aged over 12 years or older or persons younger than 12 years when accompanied by an adult.
  - 15 – Passed only for viewing by persons aged 15 years and over
  - 18 – Passed only for viewing by persons aged 18 years of age and over
- 3.5 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 Conditions that where the Local Authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises to make people aware of the classification attached to any film or trailer.
- 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 licensed 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 licensed 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) **Disabled people**
    - (i) Adequate arrangements to enable their safe evacuation in the event of an emergency.
    - (ii) Disabled people 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) Hanging, 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.
- (l) **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.
- (m) **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

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

(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>Matter to be dealt with</b>  | <b>Full Committee</b> | <b>Sub Committee</b>                 | <b>Officers</b>                       |
|---|-----------------------|--------------------------------------|---------------------------------------|
| Application for personal licence  |                       | If a police representation is made   | If no representation is made          |
| Application for personal licence with unspent convictions relevant to the act                                     |                       | All Cases                            |                                       |
| Application for premises licence/club premises certificate  |                       | If a relevant representation is made | If no relevant representation is made |
| Application for provisional statement   |                       | If a relevant representation is made | If no representation is made          |
| Application to Vary premises licence/club premises certificate  |                       | If a relevant representation is made | If no relevant representation is made |
| Application to vary designated premises supervisor  |                       | If a police objection                | All other cases                       |
| Request to be removed as designated premises supervisor   |                       |                                      | All cases                             |
| Application for transfer of premises licence  |                       | If a police objection                | All other cases                       |
| Application for interim authority   |                       | If a police objection                | All other cases                       |
| Application to review premises licence/club premises certificate  |                       | All Cases                            |                                       |
| Decision on whether a complaint and/or request for review is irrelevant, frivolous or vexatious                   |                       |                                      | All Cases                             |
| Decision to object when local authority is a consultee and not the relevant authority to consider the application |                       |                                      | All Cases                             |
| Determination of a police objection to a temporary event notice   |                       | 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.