

Amended Statement of Licensing Policy



RUTLAND COUNTY COUNCIL

STATEMENT OF LICENSING POLICY

LICENSING ACT 2003

December 2007

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1. Introduction

- 1.1 This Statement of Licensing Policy has been produced as a requirement of the Licensing Act 2003, and has been prepared in accordance with official guidance issued to local authorities under section 182 of the Act by the Department for Culture Media and Sport. This licensing policy (the policy) explains how Rutland County Council as the Licensing Authority will carry out its role under the Act. The policy will be re-published every three years. It will be kept under review and may be subject to revision following consultation with the bodies outlined below.

1.2 It will also:

- Be used as a guide by members of the of the Licensing Authority in their decision making
- Inform applicants about how applications will be viewed and how a licensed premise is likely to be able to operate within the area of the Licensing Authority, albeit that each application will be examined and considered on an individual basis
- Inform residents and businesses about how applications will be viewed and how their needs will be addressed
- Be used to support decisions made by the Licensing Authority when these decisions are challenged in a court of law

2. Consultation

- 2.1 In developing this licensing policy the Licensing Authority has consulted with the groups set out below:

- the Police
- the Fire Authority
- bodies representing local holders of premises licences
- bodies representing local holders of club premises certificates
- bodies representing local holders of personal licences
- bodies representing businesses and residents in its area
- the Leicestershire and Rutland Area Child Protection Committee
- other bodies and groups that the Licensing Authority consider appropriate

3. Licensable Activities

- 3.1 Licensing is about the control of licensable activities on licensed premises, qualifying clubs and temporary events within the terms of the Licensing Act 2003. Activities which require a licence under the Licensing Act 2003, and are covered by this policy include:

- the retail sale of alcohol
- the supply of alcohol by or on behalf of a club, or to the order of a member of the club
- the provision of late night refreshment
- the provision of regulated entertainment, to the public, to club members or with a view to profit , and includes the following:-

a performance of a play
an exhibition of a film
an indoor sporting event
a boxing or wrestling entertainment
a performance of live music (not incidental music, e.g. a piano in a restaurant)
any playing of recorded music (not incidental recorded music)
a performance of dance
the provision of facilities for making music
the provision of dancing facilities
any similar types of entertainment

4. Scope of the Policy

- 4.1 The scope of the policy covers new licence and permit applications, renewals, transfers and variation of conditions for annual and where applicable occasional licences. This also includes the consideration of representations and appeals.
- 4.2 In carrying out its licensing functions under the Act the Licensing Authority will promote the four licensing objectives which are:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance; and
 - the protection of children from harm.
- 4.3 To achieve these objectives the Licensing Authority will, in addition to the licensing legislation, also use a full range of measures, including its planning controls, and crime and disorder policies and powers. The Licensing Authority will enter partnership arrangements in a number of areas, working closely with the police, the fire authority, local businesses, community representatives and local people in meeting these objectives.

5. Licence Application and Conditions

- 5.1 In determining a licence application the principle adopted by the Licensing Authority will be that each application will be determined on its merits. Licence conditions will be focused on matters within the control of individual licensees and others in possession of relevant authorisations. The Licensing Authority may therefore only attach to premises licences and club premises certificates, those conditions that are tailored to the individual style and characteristics of the premises and the events concerned. ***The Licensing Authority cannot attach conditions to a Premises Licence (with the exception of mandatory conditions) unless they are upheld or determined by the Licensing Authority following a representation from responsible authorities or interested parties, or they are volunteered and agreed by the applicant.***
- 5.2 Any conditions that are attached by the Licensing Authority will be necessary to meet the previously referred to licensing requirements. These are the achievement of one or more of the following aims:
- the prevention of crime and disorder,
 - public safety,
 - the prevention of public nuisance, or
 - the protection of children from harm.

Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public; health and safety at work, and fire safety legislation for example.

- 5.3 Conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies. The local Community Safety Strategy will be reflected in the application of conditions where appropriate.

6. Licensing Hours

- 6.1 In some areas local residents may be affected by an increase in entertainment uses and longer hours of operation. Commercial occupiers of premises also have a legitimate expectation of an environment that is attractive and sustainable for their businesses. The Licensing Authority will generally permit longer licensing hours which it is envisaged will help to ensure that nuisance is minimised to local residents. However stricter conditions over noise ~~will~~ **may** be attached where necessary in areas of denser residential accommodation, or where nuisance may be caused.
- 6.2 Shops stores and supermarkets will be free to provide sales of alcohol for consumption off the premises at any time the outlet is open for shopping, unless there are very good reasons for restricting those hours. For example a limitation may be appropriate following police representations in the case of some shops known to be the focus of disorder and disturbance.
- 6.3 Zoning, the setting of fixed trading hours with a designated termination hour, will not be adopted as a policy.
- 6.4 Entertainment providers will be encouraged to provide a range of entertainment during their operating hours and to promote live music, dancing and theatre for the wider cultural benefit of the community. It will be a matter for individual applicants to address the licensing objectives in their operational plan within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community. The Licensing Authority will seek to provide consumers with greater choice and flexibility.
- 6.5 The decisions taken by the Licensing Authority will be focused on matters within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. 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 public living, working or engaged in normal activity in the area concerned. In taking its decisions the Licensing Authority will take into account the fact that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned.
- 6.6 The Licensing Authority recognises that the licensing law is an important part in an overall approach to the management of the evening night-time economy in town and village centres.

7. Cumulative Impact

- 7.1 In determining an application the Licensing Authority will take into account, in the interests of public safety and the avoidance of nuisance, the cumulative effect that the existence of a saturation of premises in one area may have. A saturation of licensed premises can attract customers to an area that has an impact on the surrounding area beyond the control of individual licence holders. Where the cumulative effect of many licensed premises within an area gives rise to problems of public disorder and nuisance in the surrounding area the Licensing Authority may consider it inappropriate for further licensed premises to be established in that area.
- 7.2 Where the cumulative effect of licensed premises may give rise to problems of nuisance for local residents at particular times the Licensing Authority may consider it appropriate to limit the hours of individual licensed premises, as well as limiting the overall numbers.
- 7.3 However there are at present no parts of Rutland where a particular concentration of licensed premises is directly causing a cumulative impact. There will therefore be no requirement for any special policy of refusing new licences.

8. Range of alternatives to Prevent Harm to Children

- 8.1 The Licensing Authority recognises that there will be a considerable variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, cafes, village halls, take-aways and fast food outlets, as well as public houses and clubs. Subject to the licensee's discretion and any conditions included in a premises licence or club premises certificate, the Act does not prohibit children having access to licensed premises of all kinds, including those selling alcohol for consumption on those premises.
- 8.2 The Licensing Authority will not limit the access of children to such premises unless it is necessary for the prevention of harm to children. No statement of Licensing Policy can properly anticipate every issue of concern that could arise in respect of children with regard to individual premises and so general rules have not been included in this policy. Consideration of the individual merits of each application remains the best mechanism for judging such matters.
- 8.3 However notwithstanding the above, the Licensing Authority considers that the following premises give rise to particular concern in respect of children:
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or the premises has a reputation for under age drinking;
 - with a known association with drug taking or dealing;
 - 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 machines);
 - where entertainment or services of an adult or sexual nature are commonly provided;
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided;

8.4 In these circumstances the Licensing Authority will consider the appropriate option(s) for the prevention of harm to children. Whilst complete bans on access to children are likely to be rare, there may be circumstances when this is the only option considered appropriate. However in the majority of cases where limiting the access of children to licensed premises is considered necessary the following options will be considered:

- Limiting the hours when children may be present;
- Age limitations (below 18);
- Requirements for an accompanying adult;
- Full exclusion of people under the age of 18 from the premises when any licensable activities are taking place;

8.5 The Licensing Authority will not impose conditions requiring that children must be admitted to any premises. Where the above restrictions are not considered necessary, access to licensed premises will remain a matter for the discretion of the individual licence holder or club. Where the licence holder volunteers prohibitions and restrictions, and no relevant representations are made, the volunteered prohibitions and restrictions will be made into conditions. Where these conditions are considered adequate for the prevention of harm to children no other conditions in relation to the presence of children will be applied.

8.6 The Licensing Authority will expect adult staff to be present at places of public entertainment to control the access and egress of children and to assure their safety and be responsible for children who are performers. The ratio of adults to children will be in accordance with Annex H, of the Guidance issued under section 182 of the Licensing Act 2003, or such other ratios that a Responsible Authority may recommend.

8.7 The list of Responsible Authorities who must be notified about applications for licences and certificates must include a body recognised by the Council for being competent to advise it in relation to matters relating to the protection of children from harm. The Licensing Authority recognises the:

Rutland County Council's Children and Young People Services or the Leicestershire and Rutland Area Child Protection Committee, as the Responsible Authority. The Responsible Authority must be notified about applications for premises licences or club premises certificates or major variations of the same and are entitled to lodge representations or request reviews of premises licenses and club premises certificates.

9. Children and Cinemas

9.1 Where the exhibition of films is permitted the Licensing Authority will expect age restrictions to be complied with in accordance with the British Board of Film Classifications recommendations in respect of the film to be exhibited. Variations of this general rule will only be considered exceptionally by the Licensing Authority. Children will not be permitted to view un-certificated films

10. Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

- 10.1 The Portman Group operates this Code of Practice on behalf of the alcohol industry. The Code of Practice seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are aged 18 or over. Complaints about products under the code are considered by an Independent Complaints Panel and the decisions of the Panel are published on the Portman Group's Web site. The Code is an important weapon in protecting children from harm as it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner that might appeal to minors. The Licensing Authority commends the Portman Group Code of Practice within their policy.

A copy of the Code of Practice can be found at www.portman-group.org.uk

11. Temporary Event Notices

- 11.1 Part 5 of the Licensing Act allows licensing activities to be carried out in specified circumstances on a temporary basis, subject to a temporary event notice being served on the Licensing Authority, with a copy to the Chief Officer of Police, at least ten working days before the event. The Chief Officer of Police may object to the event if he/she is satisfied that the crime prevention objective would be undermined.
- 11.2 The Licensing Authority considers that it is important that the police have sufficient time to properly evaluate the likely impact of a temporary event. Where insufficient notice of the event is given this may lead to objections being made that may have been unnecessary if a fuller evaluation had been possible. Equally, if notice of an event is given too far in advance it may be difficult to evaluate because of future uncertainty.
- 11.3 The Licensing Authority would therefore suggest as best practice that a temporary event notice is served between one and two months ahead of the event taking place.

12. Personal Licences

- 12.1 The Licensing Authority recognises the important role that personal licence holders have to play in the promotion of the licensing objectives at premises selling alcohol. For this reason personal licence holders are required to have prescribed training and not have relevant convictions, which would indicate their unsuitability.
- 12.2 Every sale of alcohol at a licensed premises is required to be authorised by a personal licence holder. Because of the importance of their role, the Licensing Authority considers it to be good practice for personal licence holders to have significant operational involvement in the sale of alcohol rather than to undertake a remote, periodic authorisation of other staff. In practical terms this would mean authorisation on at least a daily basis, and to be available on the premises throughout most of the day to deal with circumstances requiring their expertise and authority.
- 12.3 In accordance with the Secretary of State's advice, the Licensing Authority will normally refuse applications where the police have issued an objection notice, unless there are, in the opinion of the Licensing Authority, exceptional and compelling reasons which justify granting the application.

13. Integrating Strategies

Promotion of Racial Equality

- 13.1 Rutland County Council is committed to its obligations and statutory duties under the Race Relations Act 1976, as amended by the Race relations (Amendment) Act 2000. The Council as the Licensing Authority will therefore, in carrying out its functions under the licensing legislation eliminate unlawful discrimination and promote equality of opportunity and good relations between persons of different racial groups.

Cultural Strategies

- 13.2 As referred to earlier, the Licensing Authority will encourage entertainment providers to promote a range of entertainment. In tandem with this, the Licensing Authority will monitor the impact of licensing on the provision of licensed entertainment, in particular with regard to live music and dancing. The views of the Rutland Arts Forum will be sought on a regular basis.

Transport

- 13.3 Where the need arises the Licensing Authority will seek to agree protocols with the local police and the Transport Authority about arrangements to disperse people quickly from town centres.

Tourism and Employment

- 13.4 The Local Authority will ensure that information on the local tourist economy needs is available to the Licensing Committee as part of their considerations.
- 13.5 Similarly they will arrange that information on the employment situation in the area and the need for new investment and employment is available for consideration.

Planning

- 13.6 There must be a proper separation of the planning and licensing regimes to avoid duplication and inefficiency. Licensing applications should not be a re-run of the planning application and should not cut across planning decisions taken by the Rutland County Council's Development Control and Licensing Committee (DCLC) or following appeals against decisions taken by that Committee. Reports will be made to the DCLC on the situation regarding licensed premises in the area to ensure proper integration, including the general impact of alcohol related crime and disorder, and to provide background information to any planning applications for potential licensed premises under consideration. The DCLC has a duty to consider matters of crime and disorder at this stage. This will enable the DCLC to have regard to such matters when taking its decisions and avoid unnecessary overlap.
- 13.7 The Local Authority reminds applicants that the granting of a Premises Licence does not override any planning constraints that may exist on the premises, for example the hours that the business premises may open. Planning consent is obtained separately to licensing authorisation.
- 13.8 If an application relates to premises which have not previously been used for the activity proposed, planning consent may be required. Obtaining Planning consent before applying for a Premises Licence, whilst not legally required, is strongly recommended.

Building Control

- 13.9 The Licensing Committee recognises the need to ensure proper separation of decisions made by Rutland County Council's Building Control section to ensure the proper function of the Building Control and Licensing activities.

14. General

- 14.1 Applicants for licences will be expected to have taken the local crime prevention strategy, planning and transportation policies and the cultural strategy into account in determining their operating plans. Where the employment of door supervisors is identified as necessary for the safety and security of visitors to a licensed premises, only registered and accredited security staff shall be used.

14.2 All applications, temporary event notices and representations should be sent to:

Rutland County Council
Community Services Department
Council Offices
Catmose
Oakham
Rutland
LE15 6HP

Leicestershire Constabulary
Licensing Department
Mansfield House
74 Belgrave Gate
Leicester
LE1 3GG

15. Enforcement

- 15.1 Where necessary, enforcement action will be taken in accordance with the principles of the Enforcement Concordat and the Licensing Authority's Licensing Enforcement Policy. The Licensing Authority intends to establish protocols with the local police on enforcement and inspection of licensed premises.

16. Use of Council's Own Premises

- 16.1 There is a provision whereby a Local Authority can license itself in respect of public spaces within their community. Under these circumstances performers and entertainers have no need to apply for a licence and merely require the permission of the Local Authority. Such an arrangement would help the Local Authority to promote cultural diversity. This Council will pursue such a policy. They will make the necessary arrangements to ensure the officers or committee will make decisions from a strictly neutral and objective standpoint in the event of representations.

17. Contact Points

- 17.1 In order that members of the public can obtain advice about licensing issues, officer contact points are attached at Appendix A. This information will be updated from time to time.

18. Recommended Authorisations

18.1 Many of the decisions involved in licensing are administrative in nature and will be delegated to the Director of Community Services. In broad terms, where representations, (i.e. objections), are made to an application, these will be referred to the Licensing Act Committee. The table below sets out the Licensing Authority's policy on this.

18.2

Matter to be dealt with	Licensing Act Committee	Officers
Application for personal licence	If a representation made	All other cases
Application for personal licence where applicant has unspent convictions	Where a police representation made	All other cases
Application for provisional statement	If a representation made	All other cases
Application to vary premises licence or club premises certificate	If a representation made	All other cases
Application to vary designated personal licence holder	If a police representation is made	All other cases All cases
Request to be removed as designated personal licence holder		All cases
Application for transfer of premises licence	If a police representation made	All other cases
Applications for Interim Authorities	If police representation made	All other cases
Application to review premises licence or 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 lead authority		All cases
Determination of a Police representation to a Temporary event notice	All cases	

Appendix A- Contact Points

Org/Dept	Contact	Tel No	E-Mail
Licensing Authority	Licensing Officer Rutland County Council Catmose Oakham Rutland LE15 6HP	01572 722577	licensing@rutland.gov.uk
Environmental Health	Head of Environmental Services Rutland County Council Catmose Oakham Rutland LE15 6HP	01572 722577	environmentalhealth@rutland.gov.uk
Planning	Head of Planning & Development Control Rutland County Council Catmose Oakham Rutland LE15 6HP	01572 722577	planning@rutland.gov.uk
Crime and Disorder	Community Safety Officer Rutland County Council Catmose Oakham Rutland LE15 6HP	01572 722577	communitysafety@rutland.gov.uk
Protection of Children	Head of Service Children and Young People Rutland County Council Catmose Oakham LE15 6HP	01572 722757	enquiries@rutland.gov.uk
Police	Licensing Department Leicestershire Constabulary Mansfield House 74 Belgrave Gate Leicester LE1 3GG	0116 2484330	liquor.licensing@leicestershire.pnn.police.uk

Fire Authority	Licensing Community Risk Management Southern Fire Station Meridian East Meridian Business Park Leicester LE19 1WZ	0116 287 2241	rist@lfrs.org
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