



# Rutland County Council

---

## STATEMENT OF LICENSING POLICY

### LICENSING ACT 2003

## CONTENTS

## PAGE NO

	Definitions	3
	The County of Rutland	5
1.	Introduction	6
2.	Disclaimer	6
3.	Licensable Activities	6
4.	Objectives	6
5.	Consultation	7
6.	Fundamental Principles	7
7.	Immigration Act 2016	8
8.	Other Legislation	8
9.	Other Regulatory Systems and Policies	8
10.	Temporary Event Notices	9
11.	Duplication	10
12.	Cumulative Impact	11
13.	Licensing Hours / Zoning	12
14.	Children and Licensed Premises	13
15.	Licence Conditions	14
16.	Enforcement	15
17.	Reviews	16
18.	Delegations / Decision Making / Administration	16
19.	Appeals	17
20.	Effective Date and Review	18
21.	Table of Delegations	19
22.	Contact Details	20

## DEFINITIONS

**Note:** In this Policy, the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the Policy. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

**'the Act'** means the Licensing Act 2003 (c.17)

**'Licensable Activities'** means: -

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of Regulated Entertainment
- The provision of Late Night Refreshment

**'The Guidance'** means the guidance issued by the Secretary of State for the Department of Culture, Media and Sport under s.182 of the Act.

**'Licensed Premises'** includes club premises and events unless the context otherwise requires.

**'Designated Premises Supervisor (DPS)'** means the person (who must be a Personal Licence Holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder.

**'Regulated Entertainment'** is defined as;

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;
- Boxing or wrestling entertainment;
- A performance of live music;
- Any playing of recorded music;
- A performance of dance;
- Entertainment of a similar description to that falling within the performance of live music; the playing of recorded music and the performance of dance.

In some circumstances, the provision of regulated entertainment is not licensable, for further information please go to [www.gov.uk](http://www.gov.uk) (and search for entertainment licensing).

**'Late Night Refreshment'** means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.

**'Operating Schedule'** means a document containing a statement of the following matters (and any others that may be prescribed): -

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public
- Information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- The steps being taken to promote the Licensing Objectives

**'Other Persons'** means

Persons who live, or are involved in a business, in the relevant licensing Authorities area, who are likely to be affected by the application and are not a Responsible Authority.

**‘Responsible Authority’** means any of the following: -

- The Chief Officer of Police
- The Fire and Rescue Authority
- The enforcing authority for Health and Safety at Work
- The local planning authority
- The local weights and measures authority (Trading Standards)
- The council department responsible for minimising or preventing the risk of pollution of the environment or of harm to human health
- The body representing matters relating to the protection of children from harm
- In relation to a vessel, a navigation authority, the Environment Agency, or the Maritime and Coastguard agency
- The relevant Licensing Authority
- The Director of Public Health
- Home Office (Immigration Enforcement)

**‘Relevant Representations’** are representations which can be either in support of an application or against the application, (also called an objection) and must be:

- About the effect of the licensable activity on the promotion of the licensing objectives;
- Are made by a responsible authority or any other person, have not been withdrawn and, in the case of representations made by other persons, they are not in the Council’s opinion frivolous or vexatious.
- Must relate directly to an application and received during the consultation period. Representations received outside the consultation period cannot be considered.
- An objection must relate to the licensable activities requested, how individuals, businesses, communities and the objectives are likely to be adversely impacted by the activity, which the conditions proposed in the operating schedule of the application do not address or do not address sufficiently.

**‘Temporary Event Notice (TEN)’** means a Permitted Temporary Activity involving one or more Licensable Activities subject to various conditions and limitations (see section 10). For further information, please go to [www.gov.uk](http://www.gov.uk) (and search for alcohol licensing).

Standard TEN: Must be received no later than 10 working days prior to the event. (Not counting day of receipt of the application and day of the event).

Late TEN: Must be received between 5 and 9 working days prior to the event. (Not counting day of receipt of the application and day of the event).

# THE COUNTY OF RUTLAND

Rutland became a Unitary Authority in 1997. Rutland covers a total area of 39,398 hectares. This is mainly an area of mixed farms with small farms predominating. Rutland is a sparsely populated rural County, with a population density of approximately 0.87 people per hectare.

The two main market towns, Oakham and Uppingham, plus 50 villages make up the County. There are 37,369 residents according to the 2011 census. Oakham has a population of c.10, 500 and Uppingham c.4,000, thus neither are large enough to meet the Government definition of 'a town'. The number of residents from ethnic backgrounds other than white (British) account for less than 2% of the population.

Rutland is one of the best kept secrets of the English countryside and is absolutely brimming with things to see and do whether you are a resident or visitor. In fact, the county motto is 'Multum In Parvo', which means 'Much in Little'.

Tourism makes a significant contribution to the local economy within Rutland and provides a major focus for the Service's work. There are estimated to be about two million visitors a year, of those visiting, most are day-trippers.

There are around 1700 businesses operating in Rutland with a majority employing less than 10 people. Small businesses are the norm for Rutland. The two main market towns offer a great choice of boutique shops, bookshops, antique shops, fine art galleries, tearooms and restaurants.

In Oakham you can discover the hidden gems around town, starting at the excellent Rutland County Museum, it takes you to the many historical buildings around the town including Oakham Castle.

Uppingham is the smallest town in Rutland and is a quintessential English market town that has kept its old traditions and traders. The majority of shops are still family run with unique retailers hidden away along ancient alleyways.

Rutland Water is the largest man-made reservoir in Europe and an amazing spot for every type of water sport. Set in 4200 acres of open countryside, Rutland Water lies at the very heart of the county and is as spectacular in beauty as it is in size. Created in the 1970's to meet an ever increasing demand for water, nowadays it's widely regarded as a leading centre for water and land based leisure activities and has year round appeal for fishermen, cyclists, sailors and bird watchers.

Rutland's many attractive villages, set in the wonderful English countryside, are home to picture postcard cottages and traditional country pubs. Rutland has nearly 200 premises licensed under the Licensing Act 2003.

- 1.1 This Statement of Licensing Policy has been produced in accordance with s.5 of the Licensing Act 2003 (the Act) which requires the Council to review and where appropriate renew its contents on a five yearly basis (subject to changes in legislation or otherwise prescribed by the Secretary of State).
- 1.2 In reviewing the Statement of Licensing Policy the Council has considered the Guidance issued under s.182 of the Act.
- 1.3 This policy provides information and guidance to licence applicants, licence holders, objectors and Other Persons on the general approach to be taken by the Council in respect of its obligations under the Act.
- 1.4 This policy is made available in key Council offices and via the Council's website: [www.rutland.gov.uk](http://www.rutland.gov.uk) under My Business.
- 1.5 The contents within the policy have been amended in line with Local Government Association (LGA)' Best Practice Framework for the Review of Licensing Policy Statements.

## **2. DISCLAIMER**

- 2.1 The content of the Council's Statement of Licensing Policy is aimed only to provide guidance and should not be interpreted as legal advice. It is strongly recommended that persons obtain their own legal advice if they are not sure of the requirements of the Act and/or the Guidance and Regulations issued in accordance with it.

## **3. LICENSABLE ACTIVITIES**

- 3.1 This policy relates to all those activities identified as falling within the provisions of the Act, provided to the public, to registered club members or with a view to profit as defined within the Act.
- 3.2 The Licensing Act 2003 regulates the following activities:
  - Retail sale of alcohol
  - Supply of alcohol by or on behalf of a club, or to the order of, a member of the club
  - The provision of regulated entertainment
  - The provision of late night refreshment

## **4. OBJECTIVES**

- 4.1 The Council has a duty under the Act to carry out its licensing functions by promoting the licensing objectives, which are:-
  - The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 4.2 Each objective has equal importance.
- 4.3 The Council will also in carrying out its duties have regard to the Guidance, this policy and any responses to consultation regarding this policy.
- 4.4 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not be seen as a means for solving all problems within the community. The Council will therefore continue to work in partnership with its neighbouring authorities, responsible authorities such as the Police, Fire and Rescue Service, Health

Service etc. local businesses, licensed trade, residents and others, towards the promotion and delivery of the objectives.

- 4.5 The Council will expect individual applicants to address the licensing objectives in their Operating Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 4.6 It is recommended and encouraged that all applicants for authorisations enter into informal discussions prior to the submission of an application in order to avoid potential problems and unnecessary hearings and appeals.

## **5. CONSULTATION**

- 5.1 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration as part of the licensing functions and the promotion of the licensing objectives. The Council will continue to consult with these parties upon receipt of applications where relevant, and for the further continuation and development of the Licensing Policy.
- 5.2 In reviewing this Policy, the Council will consult over a three week period from 30 September 2019 to 18 October 2019 with the following:
- (a) Chief Officer of Police for the area;
  - (b) Fire and Rescue Authority for the area
  - (ba) Director of Public Health
  - (c) Persons/bodies representative of local holders of premises licenses;
  - (d) Persons/bodies representative of local holders of club premises certificates;
  - (e) Persons/bodies representative of local holders of personal licenses
  - (f) Persons/bodies representative of businesses and residents in its area;

(And other bodies and groups that the Licensing Authority consider appropriate)

- 5.3 All responses to the consultation will be given due consideration before determining the final policy.

## **6. FUNDAMENTAL PRINCIPLES**

- 6.1 Licensing is about regulating the carrying on of licensable activities by the appropriate control of licensed premises, qualifying clubs, and temporary events together with the people who manage such premises or hold Personal Licences within the terms of the Act.
- 6.2 In circumstances where conditions are required to be attached to the various authorisations, the focus will be on matters which are within the control of the individual licensee and others in possession of relevant authorisations (please see section 15 for more information on licence conditions).
- 6.3 In setting conditions the Council will primarily focus on the direct impact of the activities taking place at, or resulting from the licensed premises on those living, working or engaged in normal activity in the vicinity of the licensed premises.
- 6.4 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. However:
- (a) licensing law is a key aspect of such control and therefore will always form part of an all-round approach to the management of the entertainment evening and night-time economy within Rutland; and

(b) licensees and Certificate Holders should take all reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example, on the pavement, in a beer garden, or with the smoking ban in force, in a smoking shelter, where and to the extent that these matters are within their control.

6.5 Nothing in this policy prevents each licence application being considered on its own merits nor will it override the right of any individual to apply under the terms of the Licensing Act 2003 for a variety of permissions.

6.6 This policy does not seek to override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

6.7 If no relevant representations are received from responsible authorities or any other persons, applications must be granted as applied for. The only conditions which will be applied are those proposed within the operating schedule and any applicable mandatory condition(s).

## **7. IMMIGRATION ACT 2016 (new edition to Policy)**

7.1 Since April 2017 all applicants applying for a personal licence or premises licence will be required to demonstrate that they have the right to work in the UK. The list of documents which an applicant may provide to demonstrate their entitlement to work in the UK is published on gov.uk, at Annex A of Section 182 guidance and on relevant application forms.

7.2 Where an applicant's immigration permission to live and work in the UK is time-limited, or is curtailed or revoked by the Home Office, the licence will lapse and become invalid when the immigration permission expires.

7.3 A person is disqualified from applying for a personal licence or premises licence by reason of their immigration status if:

- The person requires leave to enter or remain in the UK and has not been granted it; or
- The person's leave to enter or remain in the UK is invalid, ceases to have effect (whether by reason of curtailment, revocation, cancellation, passage of time, or otherwise), or
- Is subject to a condition preventing the person from doing work of that kind.

## **8. OTHER LEGISLATION**

8.1 Crime and Disorder Act 1998: Under this Act local authorities must have regard to the likely effect of the exercise of their functions, and do all they can to prevent crime and disorder in their area.

8.2 The Council will have particular regard to the likely impact of licensing on related crime and disorder in the district, particularly when considering the location, impact, operation and management of all proposed licence/certificate applications, renewals and variations of conditions. Any conditions attached to premises licences and club premises certificates will, so far as possible, consider and reflect the local crime prevention strategies.

8.3 The Council recognises that the Equality Act 2010 places a legal obligation on public authorities and has due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity.

## **9. OTHER REGULATORY SYSTEMS / POLICIES**

9.1 By consultation and liaison, the Council will secure the proper integration of this licensing policy with local crime prevention, community safety, environment, planning, tourism, health and wellbeing, race equality schemes and cultural strategies and any other relevant policy, in addition to plans introduced for the management of the County and the night-time economy.

These strategies may not be directly related to the promotion of the four licensing objectives, but, may indirectly impact upon them.

- 9.2 **Planning, building control and the licensing regimes:** Will be separate to avoid duplication and inefficiency. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the planning committee or following appeals against decisions taken by that committee. Where a terminal hour has been set as a condition of planning permission for the use of premises for commercial purposes that are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
- 9.3 **Cultural Strategies:** The Council will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing. As part of implementing cultural strategies, proper account will be taken of 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 the communities.
- 9.4 **Public Spaces:** The Council wishes to promote a broad range of entertainment within its area including live music, dancing and theatre. To promote this policy the Council may, where appropriate, seek to obtain premises licences for Council owned public spaces within the community such as market squares, village greens, etc.
- 9.5 **Travelling Circuses:** Where types of entertainment are present in a performance by a travelling circus they will not be licensable provided that certain qualifying conditions are met. Guidance has listed these qualifying conditions as follows:
- The entertainment is not an exhibition of a film or a boxing or wrestling entertainment;
  - The entertainment takes place between 08.00 and 23.00 on the same day
  - The entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure; and
  - The travelling circus has not been located on the same site for more than 28 consecutive days.

## 10. TEMPORARY EVENT NOTICES

- 10.1 A temporary event notice (TEN) is required for the sale of alcohol by retail, provision of regulated entertainment and/or the provision of late night refreshment, which is to take place at premises, which are currently unlicensed for the activities involved. Applicants are 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 the event closure or even prosecution. It is strongly recommended, therefore, that a means of recording the number of persons entering and leaving the premises is put into operation. There is nothing to stop a TEN being given for a premises where a premises licence is already in force although does not cover the type or time of event proposed.
- 10.2 If there are over 500 persons attending the event then this will fall outside the provisions of a temporary event notice and a premises licence will be required.
- 10.3 Applicants are reminded that an authorisation made under a TEN does not remove their obligations under any other legislation including that of statutory 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
  - Erection of temporary structures
  - Road closures

- Use of pyrotechnics
- Anti-social behaviour

10.4 As well as the limit on the number of persons permitted under a TEN the following conditions and limitations apply:-

- Duration – they are limited to events lasting for up to 168 hours (7 days);
- Use of the same premises – the same premises cannot be used on more than 15 occasions in a calendar year, but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used;
- The total number of notices (this includes late and standard TENs) given by an individual within a calendar year (1 January to 31 December) – a Personal Licence Holder is limited to 50 notices in one year and those who do not hold a personal licence, to 5 notices per year.
- The number of late TEN's is limited to 10 in a calendar year for a personal licence holder and two for those who do not hold a personal licence. If these limits are exceeded in a calendar year, the application will be returned as void and the event will not be authorised.
- There must be a minimum period of 24 hours between events authorised under separate TEN's at the same premises by the same premises user or associate.
- Relevant persons - Police and Environmental Health have the opportunity to consider whether they should object, modify or attach conditions to a TEN based on any of the licensing objectives

10.5 When calculating the number of working days for submission of TENs, the day the notice is received and the first day of the event are excluded from the calculation. If a TEN application requests for an event to start before midnight and end after midnight this will count as two days towards the 21 day limitation.

10.6 **Standard and Late Temporary Event Notices:** There are two types of TEN, a standard TEN and a late TEN. These are subject to different processes. A standard TEN is given no later than ten working days before the event to which it relates, and a late TEN is given not before nine and not later than five working days before the event.

10.7 **Standard Temporary Event Notices:** Whilst a minimum of 10 working days' notice must be given to the Council and relevant persons for applications, it should be noted that this gives very little time for the Council to process the application and for the relevant persons to respond. Applicants are therefore encouraged to provide a minimum of 28 days' notice of a licensable event.

10.8 Where a TEN is held on premises where a premises licence or club premises certificate is in place, and the relevant persons believe that allowing the premises to be used in accordance with the TEN would undermine the licensing objectives they can object and/or modify and/or request conditions from the premises licence or club premises certificate to be applied to the TEN.

10.9 Where an objection to a TEN is received from relevant persons and not withdrawn, the licensing authority must hold a hearing to consider the objection, unless all parties agree that this is unnecessary.

10.10 **Late Temporary Event Notices:** are intended to assist premises users who are required for reasons outside their control to provide licensable activities at premises in shorter time scales. However, there is a risk that the event may receive an objection from relevant persons, where this occurs the notice will not be valid, as there is no scope for a hearing or the application of any existing conditions.

## 11. DUPLICATION

11.1 So far as is possible, this policy is not intended to duplicate existing legislation and other regulatory regimes that already place obligations on the self-employed, employers and

operators of venues both in respect of employers and of the general public when on the premises in question. Therefore, conditions and control measures which would be a duplication of existing legislative requirements, cannot be imposed in the context of licensing law as they are already provided for in other legislation.

## **12. CUMULATIVE IMPACT**

- 12.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Council can consider within its licensing policy statement. This should not, however, be confused with 'need' which concerns the commercial demand for a particular type of premises, e.g. a pub, restaurant or hotel. The issue of 'need' is therefore primarily a matter for the market to decide and does not form part of this licensing policy statement.
- 12.2 The licensing authority can only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area is causing a cumulative negative impact on one or more of the licensing objectives.
- 12.3 Cumulative Impact was only ever described in Section 182 Guidance, however, with effect from 06 April 2018 cumulative impact is incorporated within Section 5A of the Licensing Act 2003, following commencement of Section 141 of the Policing and Crime Act 2017 which amended the Licensing Act 2003. This puts Cumulative Impact Assessments on a statutory footing and requires authorities to set out the evidence as to why the authority is of the opinion that a CIP is required for those types of premises and that defined area.
- 12.4 Information which the licensing authority may be able to draw on to evidence the cumulative impact of licensed premises on the promotion of the licensing objectives includes:
- Local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
  - Statistics on local anti-social behaviour offences;
  - Health-related statistics such as alcohol-related emergency attendances and hospital admissions;
  - Environmental health complaints, particularly in relation to litter and noise;
  - Complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
  - Residents' questionnaires;
  - Evidence from local and parish councillors; and
  - Evidence obtained through local consultation.
- 12.5 Section 5A of the Act requires CIA's to be reviewed and re-evaluated every three years in order to establish if the CIA is still relevant to current problems in the defined area.
- 12.6 Where, after considering the available evidence and consulting with relevant individuals and organisations listed within the Act, the council is satisfied that it is appropriate to address the problems caused by an accumulation impact, the council may adopt a 'special policy' and publish a cumulative impact assessment.
- 12.7 If the Council adopts a special policy, it will define the areas affected and there will be a presumption that applications will be refused whenever it receives relevant representations by responsible authorities and other persons, unless the applicant can demonstrate that the operation of the premises involved will not add to the cumulative impact already being experienced.
- 12.8 A special policy will never be absolute. Each application will be considered on its own merits. Licences that are unlikely to add to the cumulative impact, on the licensing objectives, or receive no objections, will be granted, subject to meeting the remaining criteria.
- 12.9 The absence of a special policy however, does not prevent any responsible authority or other persons making representations on a new application for the grant of a licence on the grounds

that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

- 12.10 Once away from licensed premises, a minority of consumers will behave badly and unlawfully. The licensing policy is part of a much wider strategy for addressing these problems. Other mechanisms both within and outside the licensing regime are available for addressing such issues. For example:
- Planning controls
  - Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority
  - The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols.
  - Powers of local authorities to designate parts of the local authority area as Public Spaces Protection Orders. Confiscation of alcohol from adults and children in designated areas.
  - Police enforcement of the general law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices.
  - Prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale).
  - Powers to close down instantly premises or temporary events to prevent a nuisance or disorder from continuing, recurring or occurring.
  - The power for responsible authorities and other persons to seek a review of a premises licence or club premises certificate.

### **13. LICENSING HOURS / ZONING**

- 13.1 EMRO's: Early Morning Restriction Orders, are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 13.2 LNL: Late Night Levy, is a levy imposed on businesses which sell alcohol between midnight and 6am or part thereof. Funds raised by this levy are applied to the costs of policing crime and disorder connected to those sales of alcohol.
- 13.3 The Council notes guidance on the late night levy and EMRO's and has considered the options of adopting the provisions, but has no intention at this time of implementing either provision. The Council reserves the right to review this decision in the future.
- 13.4 The Council has not adopted fixed trading hours as a matter of policy. It recognises that flexible licensing hours with regard to the sale of alcohol is important to ensure that the concentrations of customers leaving premises simultaneously are avoided.
- 13.5 The Council recognises that providing consumers with greater choice and flexibility is important to a thriving evening and night-time economy however, this will be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.
- 13.6 There is no general presumption in favour of lengthening licensing hours and accordingly the Council may when issuing new licences or following reviews of existing licences reject a proposal or grant it with appropriate conditions and/or different hours from those requested.
- 13.7 Shops, stores and supermarkets will normally be permitted to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are good reasons based on the four licensing objectives for restricting those hours. For example, a limitation on licensing hours may be appropriate following Police representations in the case of premises known to be a focus of disorder and disturbance because youths gather there.

## **14. CHILDREN AND LICENSED PREMISES**

- 14.1 There are a great variety of premises for which licences may be sought, including theatres, cinemas, restaurants, cafes, fast food outlets, public houses and clubs, community halls and schools where children may frequent. No statement of policy can properly anticipate every issue of concern that could arise in respect of children in relation to individual premises, and therefore the individual merits of each application will be considered in each case.
- 14.2 It is an offence under the Act to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on the premises.
- 14.3 It is also an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises.
- 14.4 This does not mean that children should automatically be admitted to such premises. The Act does not automatically permit unaccompanied children under the age of 18 to have free access to premises where the consumption of alcohol is not the exclusive or primary activity, or to the same premises even if they are accompanied, or to premises where the consumption of alcohol is not involved.
- 14.5 Subject only to the provisions of the 2003 Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. Conditions requiring the admission of children cannot be attached to licences or certificates.
- 14.6 Where it is deemed appropriate to attach conditions to the licence in relation to access by children, this will be for the prevention of physical, moral or psychological harm to them.
- 14.7 Venue operators seeking premises licences and club premises certificates will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events. It may also be that their own risk assessments have determined that the presence of children is undesirable or inappropriate.
- 14.8 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedules, having regard to their particular type of premises and/or activities:-
- Effective and responsible management of the premises
  - Provision of a sufficient number of people employed or engaged to secure the protection of children, including child performers, from harm
  - Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
  - Limitations on the hours when children may be present in all or parts of the premises
  - Limitations or exclusions by age when certain activities are taking place
  - Imposition of requirements for children to be accompanied by an adult
  - Acceptance of accredited 'proof of age' cards and/or 'new type' driving licences with photographs.
  - Full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 14.9 Where no relevant representations are made to the Council, any proposed conditions in the operating schedule will be attached as conditions to the licence or certificate, along with any mandatory conditions, and will be enforceable.

- 14.10 Following receipt of any relevant representations, the Council will consider and determine each application, on its merits, as to whether to limit access by children or exclude them altogether from licensed premises by attaching any relevant conditions.
- 14.11 The conditions limiting and restricting access by children may include a combination of those identified in paragraph 14.8, where:-
- Entertainment or services of an adult or sexual nature for example, lap-, table- or pole dancing, topless bar staff or striptease are commonly provided
  - There is a strong element of gambling on the premises (but not where there is a small number of cash prize gaming machines);
  - Premises with a known association to drug activities – taking or dealing;
  - There have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking.
  - The premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 14.12 The Council recognises Leicestershire & Rutland Safeguarding Children Partnership as the responsible authority and competent body to advise on these matters.
- 14.13 **The Portman Group:** The Council commends the Portman Group 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 old or older.
- 14.14 **Proof of Age Schemes:** The Council commends proof of age cards accredited under the Proof of Age Standards Scheme (PASS).
- 14.15 **Children and Cinemas:** In the case of premises which are used for film exhibitions conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Council itself.

## 15. LICENCE CONDITIONS

- 15.1 There are three different types of condition that may be attached to a licence or certificate:  
Proposed: those conditions offered with the operating schedule of the application.  
Imposed: attached by licensing authority following a hearing.  
Mandatory: imposed by the Act and can be amended by the Secretary of State.  
All conditions should be clear, enforceable, evidenced, proportional, relevant, and capable of being understood.
- 15.2 One of the key concepts of the Act is that any conditions (other than the statutory mandatory conditions and those proposed within the application) attached to licences or certificates can only be imposed to licences at a hearing following relevant representations. Conditions will be tailored to the individual style and characteristics of the premises and events concerned.
- 15.3 The Council will only attach conditions to premises licences and club certificates where they are appropriate for the promotion of one or more of the four licensing objectives.
- 15.4 Conditions that are appropriate for the promotion of the licensing objectives should emerge initially through the operating schedule and risk assessment carried out by a prospective licensee or certificate holder at the time of application. However, the licensing Authority cannot simply replicate the wording from an applicant's operating schedule. A condition will be interpreted in accordance with the applicant's intention.
- 15.5 The Council will not impose any conditions unless they are proposed or its discretion has been engaged following relevant representations having been received and upheld. In these circumstances, it may then only impose conditions as are appropriate to promote the licensing objectives arising out of the consideration of representations.

- 15.6 The Council will take into account:
- The character of the surrounding area;
  - The nature and character of the proposed operation;
  - The impact that the activity will have on those living, working or engaged in normal activities in the area concerned.
- 15.7 Conditions will generally be considered inappropriate if they are already adequately covered by other legislation.
- 15.8 The pool of conditions cover, among other things, issues surrounding:
- Crime and disorder, incorporating local crime prevention strategies, e.g. CCTV or SIA door supervisors at certain premises;
  - Public safety (including physical safety);
  - Anti-social behaviour (Inc.: public nuisance, provision of clearance of litter outside premises, fly posting);
  - Protection of children from harm; (includes the protection of children from moral, psychological and physical harm)
- 15.9 In determining what condition(s) should be attached to licences and certificates, to appropriately promote the licensing objectives, the Council will be aware of the need to avoid measures which might deter live music, dancing or theatre by imposing indirect costs of a substantial nature.

## **16. ENFORCEMENT**

- 16.1 The Council will establish arrangements with the responsible authorities on enforcement issues in addition to carrying out their own regular inspections. These protocols will provide for the targeting of agreed problem and high-risk premises, with a light touch to low risk, well managed premises.
- 16.2 Operators are reminded of their obligations to provide appropriate training for staff to ensure the promotion of the licensing objectives, compliance with the Act and conditions of operation.
- 16.3 All decisions and enforcement action taken by the Council will have regard to the relevant provisions of the Act, national guidance, e.g. BRDO (Better Regulation Delivery Office) Regulators' Code and any enforcement policy of the Council. To this end, the key principles of consistency, targeting, transparency and proportionality will be maintained.
- 16.4 Responsible authorities may carry out their own enforcement activities such as test purchasing, on and off sales, underage and proxy sales. Any national guidance will be observed when these activities are conducted.
- 16.5 Premises licences and club premises certificates are subject to an annual fee. The Council must suspend these authorisations for the non-payment of the annual fee. Where disputes or administrative errors arise, there is a grace period of 21 days to resolve (from the due date of the invoice). If the dispute or error is not resolved, a notice of suspension will be given to the premises providing the date (minimum of two working days) when the suspension notice takes effect.
- 16.6 Where an authorisation is suspended, any licensable activities taking place would be unauthorised and subject to further enforcement. Responsible authorities will be notified of suspension notices issued.
- 16.7 With effect from April 2017 (following changes made by the Policing and Crime Act 2017), the Licensing Authority may revoke or suspend (for a maximum period of 6 months) a personal licence where the licence holder is convicted of a relevant or foreign offence and or required to pay an immigration penalty.

## **17. REVIEWS**

- 17.1 The licensing authority works in partnership with the responsible authorities to promote the licensing objectives and will aim to give licensees early warning of any concerns identified at a premises.
- 17.2 Reviews of premises licences represent a key protection for the community where matters arise at the premises in connection with any of the four licensing objectives.
- 17.3 There are certain circumstances (as detailed within guidance), when the crime prevention objective is being undermined, it is expected that revocation of the licence, even in the first instance will be seriously considered.
- 17.4 At any stage following the grant of a Premises Licence a responsible authority or any other person may request a review. Evidence would be required based on one or more of the licensing objectives.
- 17.5 If relevant representations are made about a current licence, the Council will hold a hearing to consider them, unless the Council, the applicant and those making representations agree that the hearing is not necessary.
- 17.6 Additionally a review of the licence will normally follow any action by the Police or Local Authority to close down the premises on grounds of disorder or public nuisance.
- 17.7 No more than one review will normally be permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances or where it arises following a Closure Notice or Order.
- 17.8 Where entertainment is deregulated, between 08.00 and 23.00 and it is having a negative impact on the licensing objectives, a premises licence or club premises certificate can be reviewed to bring the entertainment back under the scope of the authorisation and appropriate conditions can be applied and enforced.
- 17.9 A summary review (or expedited) is appropriate for premises experiencing serious crime or disorder. It is a fast track licence review where the Council can attach interim conditions (where appropriate) to a premises licence where the responsible authority consider that the premises concerned is associated with serious crime or disorder or both. The Council can take the following interim steps:
- Modification of the conditions of the premises licence
  - The exclusion of the sale of alcohol (or other licensable activities) from the scope of the licence
  - Removal of the DPS
  - Suspension of the licence
- 17.10 The decision takes effect immediately or as soon as the Council directs. The Council will have regard to the Guidance when processing summary reviews.
- 17.11 Licensing officers may not initiate their own review of premises licences.

## **18. DELEGATION / DECISION MAKING / ADMINISTRATION**

- 18.1 When determining applications the Council will have regard to the Guidance and this policy. Therefore, determination of applications made under the Act will be made by either the Planning and Licensing Committee, by a Sub-Committee of the Planning and Licensing Committee, or by one or more authorised officers acting in accordance with the Council's Scheme of Delegation. (See table of delegations on page 19)

- 18.2 A decision made by an officer under the Council's Scheme of Delegation, will be considered a decision made by the Council.
- 18.3 The Council will consider relevant representations made both in support of or opposition to any application.
- 18.4 Where a relevant representation is made then the authorised officer will liaise with the applicant and relevant parties to try and reach an agreement between them and the Council, as to the need for final determination by the Planning and Licensing Committee or Sub-Committee.
- 18.5 Where relevant representations are raised which cannot be resolved by mediation, matters will be referred to either of the aforementioned committees for determination.
- 18.6 The licensing authority is also a responsible authority and will make representations and review licenses where it considers appropriate. This does not negate the requirement for other responsible authorities or other persons from acting in their own capacity.
- 18.7 Where the licensing authority utilises the responsible authority provision, there is separation of responsibilities to ensure procedural fairness and eliminate any conflicts of interest. The officer acting as the responsible authority will be a different officer to that who is acting in its capacity as the licensing authority.
- 18.8 In cases where only positive relevant representations are received and upon agreement of the Applicant, the Licensing Authority and the other persons making those representations, it will not be necessary to hold a hearing to determine the application.
- 18.9 Each application will be determined on its individual merits taking into consideration the four licensing objectives.
- 18.10 Where it is determined that it is appropriate to attach conditions to a licence or certificate it will ensure that those conditions are focused on the direct impact of the activities taking place at the premises concerned, on members of the public living, working or engaged in normal activity in the area concerned. Such conditions will be proportionate to the activity to be controlled and will only be imposed in the interests of the licensing objectives.
- 18.11 If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Council's consideration will balance those representations against the wider benefits of the community.
- 18.12 All parties will receive a fair hearing.
- 18.13 The Council will ensure that Members and Officers having responsibility under the Act will receive appropriate training to administer and enforce the Act.
- 18.14 Upon request, the Planning and Licensing Committee will receive regular reports on decisions made by officers to ensure that an overall picture of the state of licences in the area is maintained.
- 18.15 The Council will give comprehensive reasons for its decisions and such reasons shall also address the extent to which the decision has been made with regard to this Policy and Guidance.

## **19. APPEALS**

- 19.1 **Magistrates' Court Appeals:** Other than in the case of personal licences, all appeals in connection with various decisions made by the Council will be determined by the Magistrates' Court in the area which the premises concerned are situated.

- 19.2 In the case of personal licences, the appeal must be made to the Magistrates' Court in the area in which the Council (or any part of it) which made the decision is situated.
- 19.3 Beginning with the day the appellant was notified by the Council of the decision to be appealed against; the appellant has a period of 21 days to commence his appeal by the issue of a complaint and notice of appeal to the Magistrates' Court. A fee is payable to the Court and the 21 day period is strict and cannot be extended.
- 19.4 The Council will always be a Respondent to the appeal, but in cases where a favourable decision has been made for an applicant licence holder, club or premises user against the representations of a responsible authority or an interested party or the objections of the chief officer of Police, the holder of the premises or personal licence or club premises certificate or the person who gave an interim authority notice or the premises user will also be a respondent to the appeal and the person who made the relevant representation or the chief officer of Police will be the appellants.
- 19.5 On determining an appeal, the court may:
- Dismiss the appeal;
  - Substitute for the decision appealed against any other decision which could have been made by the Council; or
  - Remit the case back to the Council to dispose of it in accordance with the direction of the court.
- 19.6 The court may make such order as to costs as it sees fit.
- 19.7 The court, on hearing any appeal, may therefore review the merits of the decision on the facts and consider points of law or address both.
- 19.8 In hearing an appeal against any decision made by the Council, the Magistrates' Court will have regard to this licensing policy statement and the Guidance.
- 19.9 The Court can depart from both if it is justified to do so, depending on the individual circumstances.
- 19.10 This Council, therefore, when determining applications will give comprehensive reasons for its decisions.
- 19.11 Any decision made by the Magistrates' Court will be implemented by the Council immediately.

## **20. REVIEW**

- 20.1 This policy statement will be kept under review, consulted on, and will remain in existence for a period of up to five years. It is subject to review and further consultation before 06 January 2025 (subject to changes in legislation prescribed by the Secretary of State).

## 21. Table: Recommended Delegations of Functions

Matter to be dealt with	Sub Committee	Officers
Application for Personal Licence	If a Police objection	If no objection made
Application for Personal Licence with unspent convictions	All cases	
Application for Premises Licence/Club Premises Certificate	If a relevant representation made	If no relevant representation made
Application for Provisional Statement	If a relevant representation made	If no relevant representation made
Application to vary Premises Licence/Club Premises Certificate	If a relevant representation made	If no relevant representation 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
Applications for interim authorities	If a Police objection	All other cases
Application to review Premises Licence/club Premises Certificate	All cases	
Decision on whether a representation is irrelevant, frivolous, vexatious etc		All cases
Decision to object when Local Authority is a Consultee and not the relevant Authority considering the application	All cases	
Determination of an objection to a Temporary Event Notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If police objection	All other cases
Decision whether to consult other responsible authorities on minor variation applications		All cases
Determination of minor variation application		All cases

## 22. CONTACT DETAILS

### THE LICENSING AUTHORITY:

The Licensing Officer  
Rutland County Council  
Catmose  
Oakham  
Rutland  
LE15 6HP  
T: 01572 722577  
E: [licensing@rutland.gov.uk](mailto:licensing@rutland.gov.uk)

[www.rutland.gov.uk](http://www.rutland.gov.uk) (under My Business section)

### THE RESPONSIBLE AUTHORITIES:

#### Leicestershire Constabulary

Licensing Department  
Leicestershire Constabulary  
Mansfield House  
74 Belgrave Gate  
Leicester  
LE1 3GG  
T: 01162 484330  
E: [licensing@leicestershire.pnn.police.uk](mailto:licensing@leicestershire.pnn.police.uk)

#### Fire and Rescue Authority:

LFRS Headquarters  
12 Geoff Monk Way  
Birstall  
Leicester  
LE4 3BU  
T: 01162 872241  
E: [firesafetyadvisors@lfrs.org](mailto:firesafetyadvisors@lfrs.org)

#### Safeguarding Children Board

Leicestershire & Rutland  
Safeguarding Children Partnership  
Local Safeguarding Business Office  
Room 100  
County Hall  
Glenfield  
LE3 8RA  
T: 01163 057130  
E: [james.fox@leics.gov.uk](mailto:james.fox@leics.gov.uk)

#### Environmental Health - Pollution

Environmental Health Team  
Rutland County Council  
Catmose  
Oakham  
Rutland  
LE15 6HP  
T: 01572 722577  
E: [environmentalhealth@rutland.gov.uk](mailto:environmentalhealth@rutland.gov.uk)

#### Health and Safety:

e.g. Public houses, nightclubs,  
shops, restaurants, takeaways,  
Community centres managed by  
a committee

Food & Safety Team  
Peterborough City Council  
Sand Martin House  
Bittern Way  
Fletton Quays  
Peterborough  
PE2 8TY  
T: 01733 747474  
E: [foodandsafety@peterborough.gov.uk](mailto:foodandsafety@peterborough.gov.uk)

Premises **managed** by Rutland  
County Council e.g. schools, leisure  
centres

Health and Safety Executive  
900 Pavilion Drive  
Northampton  
NN4 7RG  
T: 01604 738300

**Planning**

Head of Planning & Development Control  
Rutland County Council  
Catmose  
Oakham  
Rutland  
LE15 6HP  
T: 01572 722577  
E: [planning@rutland.gov.uk](mailto:planning@rutland.gov.uk)

**Trading Standards**

Trading Standards Department  
Peterborough City Council  
Sand Martin House  
Bittern Way  
Fletton Quays  
Peterborough  
PE2 8TY  
T: 01733 747474  
T: 03454 040506 for consumer advice  
E: [tstand@peterborough.gov.uk](mailto:tstand@peterborough.gov.uk)

**Public Health**

Director of Public Health  
Leicestershire County Council  
County Hall  
Glenfield  
Leicester  
LE3 8RA  
E: [phlicensing@leics.gov.uk](mailto:phlicensing@leics.gov.uk)

**Home Office**

Home Office (Immigration Enforcement)  
Alcohol Licensing Team  
Lunar House  
40 Wellesley Road  
Croydon  
CR9 2BY  
E: [alcohol@homeoffice.gsi.gov.uk](mailto:alcohol@homeoffice.gsi.gov.uk)

**For vessels carrying more than 12 passengers the certifying authority will be: -**

Maritime & Coastguard Agency  
Surveyor In Charge  
Harwich Marine Office  
East Terrace  
Walton-on-Naze  
Essex  
CO14 8PY  
T: 01255 682107

**For Vessels carrying 12 or less passengers the certifying authority will be: -**

Environment Agency  
Kingfisher House  
Goldhay Way  
Orton Goldhay  
Peterborough  
PE2 5ZR  
T: 01733 464277

**Further information can be found on the following links:**

Rutland County Council website; [www.rutland.gov.uk/my-business/licensing/](http://www.rutland.gov.uk/my-business/licensing/)

Home Office website: [www.gov.uk/government/organisations/home-office](http://www.gov.uk/government/organisations/home-office)

Guidance issued under section 182 of the Act:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

The Licensing Act 2003: [www.legislation.gov.uk/ukpga/2003/17/contents](http://www.legislation.gov.uk/ukpga/2003/17/contents)

Information Commissioners Office: [ico.org.uk](http://ico.org.uk)

DRAFT