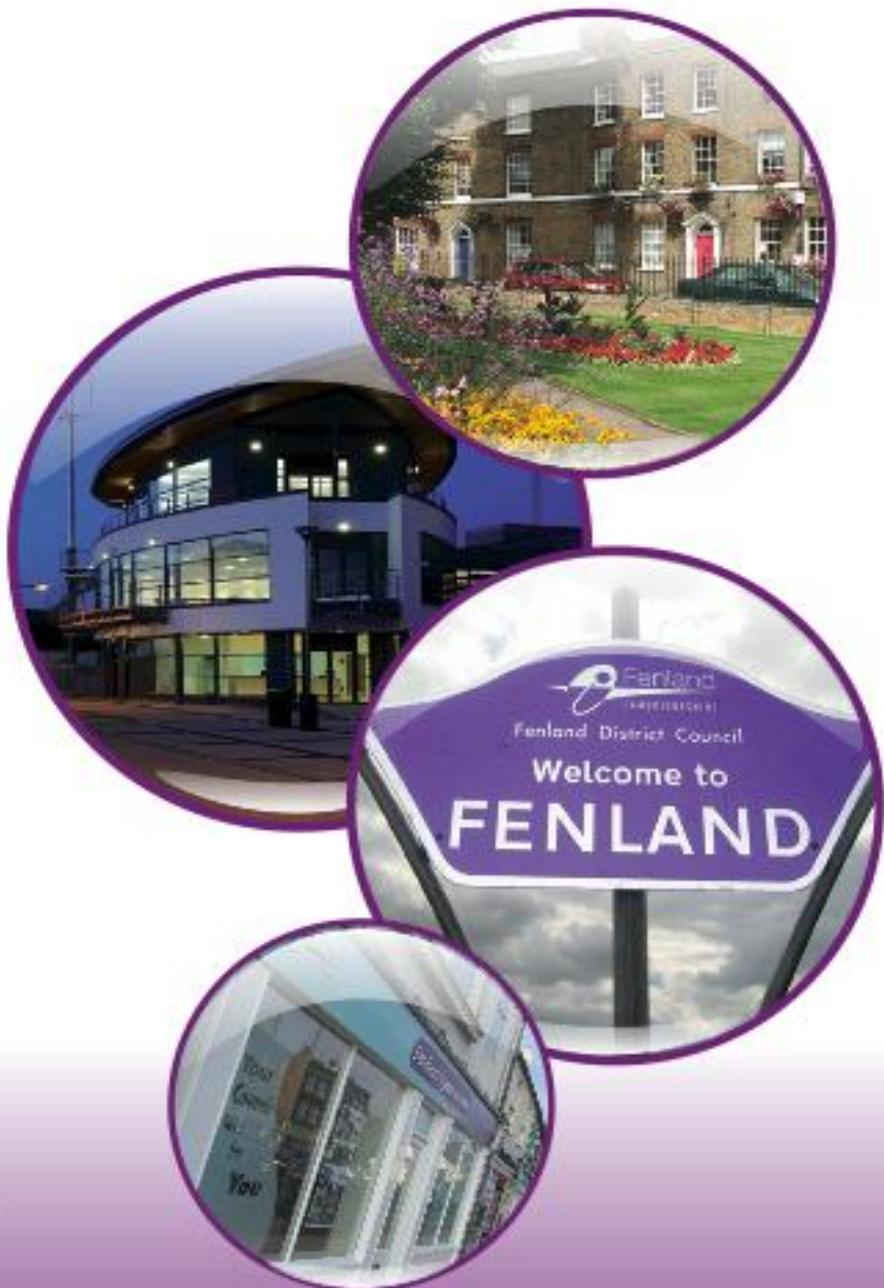


Statement of Licensing Policy

Effective from 2021 - 2026



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Summary of Changes

Section	Title	Comments/Updates
1.1, 1.3 & 1.4	Introduction	New Sections added to explain the policy
4	Links to Strategies and Plans	New section added for into of GDPR under the DPA 2018
5.3	Licensing Committee	New Section added to further explain the process
5.6	Licence Conditions	Addition of wording to clarify
5.7	Shadow Licence	New section added to update applicants
5.8	Licensing Hours	New section added to update applicants
5.10	Large scale events	New section added to update applicants
5.11	Personal Licence	Updated to include Home Office as a Relevant Authority
6.4	Inspection of Licensed Premises	New section to reflect the Responsible Authority Officer group (RAO) and inspection programme.
6.5	Complaints regarding Licensed Premises	New section to explain the process
6.6	Annual Fees	New Section added to remind applicants of the yearly fee required
6.7	Review of licenses	New section to explain the process
6.8	Crime & Police Act 2014	New Section updated to include the legislation
6.8	Immigration Act 2016	New Section added to include the legislation
7.1	Cumulative Impact Policy	Amended wording to reflect the change in the Licensing Act 2003
7.4	Special Policy - PSPO's	Section added to reflect the Public Spaces Protection order's (PSPO's)
8	Further Guidance	Updated section - Added the website and Email address Reflection of the paid Pre-Application service that is available.

Approved - 14 December 2020

Effective: - 01 January 2021

Preface

This Statement of Licensing Policy has been prepared by Fenland District Council acting as the licensing authority under section 5 of the Licensing Act 2003. It represents the authority's policy with respect to the exercise of its licensing functions for the licensing of the sale and supply of alcohol, certain forms of entertainment and the provision of late-night refreshment

This statement of licensing policy will be kept under review throughout its period of validity and amended as considered necessary. Any amendments will be subject to consultation, with the exception of changes that may be required in line with legislation requirements.

The statement takes effect from 01 January 2021 and will be scheduled for review in 2026

The Act has introduced greater flexibility for the entertainment industry, which can have a positive impact upon local communities in Fenland. This is balanced by tougher controls for the police and the licensing authority and an opportunity for other businesses and residents to raise concerns in the event of those greater freedoms having an adverse effect on our communities.

Fenland District Council covers an area of 54,645 hectares and is situated in the north-east of Cambridgeshire between the larger and contrasting centres of Cambridge, Peterborough, King's Lynn and Huntingdon. The area is predominantly rural in character with four market towns at Chatteris, March, Whittlesey and Wisbech plus a number of villages and hamlets. It has a population of approximately 95,262.

Fenland district offers a wide and developing variety of culture, history, businesses, recreation and dwellings with transport infrastructure provided by the mainline railway to London, Peterborough, Cambridge and Stansted Airport, and local bus services.

1 INTRODUCTION

1.1 Foreword

The licensing regime implemented by the Act and operated by Fenland District Council as licensing authority is about the appropriate control of licensed premises, qualifying clubs and temporary events. It also covers the people who manage these premises or hold personal licences within the terms of the Act. Applications covered by the Act and relevant to this statement include:

- personal licences
- premises licences – including provisional statements
- variations
- transfers
- interim authorities
- temporary events
- club premises certificates
- designated premises supervisors
- reviews.

Each application will be determined on its own merits having regard to the licensing objectives; relevant guidance including that issued under Section 182 of the Licensing Act 2003, and local criteria.

However, it should be recognised that this policy covers a wide variety of premises and activities undertaken therein, including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 23:00 hours. For this reason, it is not practical to detail all the possible factors that could influence the achievement of the licensing objectives in any given scenario.

1.2 Licensing Committee

The Licensing Act gained Royal Assent on 10 July 2003 and replaced regimes previously administered by either the Licensing Justices or the local authority with a unified system of licensing under the control of the local authority. The new regime came into effect on 24 November 2005. The council set up a Licensing Committee as part of these changes

The Licensing Authority is required to discharge its licensing function through a committee of between 10 and 15 members known as the Licensing Committee. The Council has appointed a Licensing Committee compatible with this requirement and a Licensing Sub-Committee has been established to determine applications. The quorum of the Sub-Committee is three members.

No licensing functions may be discharged by the Council's executive. The vast majority of licensing functions cannot be undertaken by the Council itself but are the

responsibility of a special Licensing Committee which has been established by the Council. The responsibilities and powers are detailed in the Act. Fenland's statutory Licensing Committee comprises twelve councillors appointed by the whole Licensing Authority, that is, the Full Council.

1.3 Licensing Function

The licensing authority recognises that the provision of entertainment is a major contributor to the economy of the council's area. It makes for a vibrant and attractive area, which subsequently has a positive effect on employment. The licensing authority also recognises that owners and occupiers of commercial premises have a legitimate expectation of an environment that makes and keeps their businesses sustainable.

The licensing authority welcomes the opportunity to encourage the development of the cultural, artistic, leisure and hospitality sectors in Fenland. It will assist all applicants in endeavouring to meet their aspirations within the law.

The licensing authority also has regard to wider considerations affecting the residential population and the amenity of any area. These include dropping litter and street fouling, noise and street crime. It is, however, recognised that the licence holder has limited control over individuals once they are away from the premises.

The licensing authority recognises that the diverse range of licensed premises throughout Fenland makes a major contribution to attracting both initial and repeat visitors to both the historic localities, and diverse venues.

1.4 Key Aims

The key aims of this statement of licensing policy are for the council as the licensing authority to:

- • Promote and give precedence to the licensing objectives.
- • Recognise the need to assist in building a fair, vibrant, and prosperous society in Fenland that properly balances the rights of residential communities, the business sector and other relevant parties.
- • Secure the safety and amenity of residential communities whilst facilitating a sustainable, diverse, entertainment and hospitality sector in Fenland.
- • Integrate its aims and objectives with other initiatives that will:
 - create an attractive and vibrant area, which has a positive effect on employment
 - reduce local crime, disorder and anti-social behaviour
 - reduce alcohol harm
 - stop the supply and use of illegal drugs in licensed premises
 - encourage the self-sufficiency of local communities
 - reduce the burden of unnecessary regulation on businesses and promote self-help

- reduce the health impacts of alcohol misuse and dependence; reduce the impact of alcohol related incidences on Emergency Services
- continue its commitment to working in partnership with other agencies and organisations through both formal and informal arrangements towards the promotion and achievement of the objectives set out in this policy
- give direction to applicants, so that they can make informed decisions in respect of their own ventures.

When assessing applications, the Licensing Authority must be satisfied that the measures proposed in the applicant's operating schedule aim to achieve the four licensing objectives

However, it should be recognised that this policy covers a wide variety of premises and activities undertaken therein, including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 23:00 hours. For this reason, it is not practical to detail all the possible factors that could influence the achievement of the licensing objectives in any given scenario.

2 LICENSING OBJECTIVES

The 2003 Act requires the Licensing Authority to undertake its various licensing functions in a manner that promotes the four licensing objectives.

These are

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

These objectives are the only matters to be taken into account in determining the application and any conditions to be attached must be necessary to achieve the licensing objectives.

In respect of each of the four licensing objectives, applicants will need to provide evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract, larger audiences.

The section below sets out the Local Authority policy in relation to each objective:

2.1 Prevention of Crime and Disorder

The District Council acknowledges that the Police are the main source of advice on Crime and Disorder

Fenland District Council is committed to improving further the quality of life for the people of the district by continuing to reduce crime and the fear of crime.

Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty upon Fenland District Council, Cambridgeshire Police, Cambridgeshire County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.

The promotion of the licensing objective to prevent crime and disorder places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.

When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact upon crime and disorder have been considered. These could include

- under-age drinking
- drunkenness on premises
- public drunkenness
- drugs
- violent behaviour
- anti-social behaviour.

Within the operating schedule for premises from which alcohol will be sold, the premises licence holder must specify a personal licence holder as the 'Designated Premises Supervisor' (DPS). The Licensing Authority will normally expect the premises licence holder to give the DPS the day-to-day responsibility for running the premises.

Although there is no legal obligation for the DPS to be on the premises at all times, the Licensing Authority acknowledges that the premises licence holder and the DPS, in particular with regard to the sale of alcohol, remain responsible at all times, including in their absence from the premises, for compliance with the terms of the Licensing Act 2003 and conditions attached to the premises licence to promote the licensing objectives.

In addition to the DPS holding a personal licence, the Licensing Authority would strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

Whilst the Licensing Act 2003 requires each sale of alcohol to be made or authorised by a personal licence holder, there is no requirement for every sale to be made by a personal licence holder or for them to be personally present at every transaction. In

determining whether real authorisation is given, the Guidance issued by the Secretary of State encourages the practice of an overt act of authorisation, such as a specific written statement being given by personal licence holders to persons not holding a personal licence to make sales of alcohol in their absence.

Certain temporary events are not required to be licensed but can be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending upon the nature and location of such events, these can have serious crime and disorder implications.

Organisers of these events are encouraged to submit their notification as soon as reasonably practicable, giving at least ten working days minimum statutory notice, to enable the police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder. The Licensing Authority acknowledges that 'ten working days' notice' means ten working days exclusive of the day on which the event is to start and exclusive of the day on which the notice is given.

2.2 **Public Safety**

Fenland District Council is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.

Licence holders have a responsibility to ensure the safety of those using their premises as part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning.

When addressing the issue of public safety, an applicant must demonstrate that those factors that impact upon the standards of public safety have been considered.

The following non exhaustive examples of good management practice are given to assist applicants who may wish to take account of them when preparing their operating schedule, having regard to their particular type of premises and/or activities:

- suitable and sufficient risk assessments
- effective and responsible management of premises
- provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons

- adoption of best practice guidance (e.g. licensing trade voluntary codes of practice, including those relating to drinks promotions)
- provision of effective CCTV in and around premises
- The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. The District Council expects applicants to consider these when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they will achieve that.

2.3 Prevention of Public Nuisance

Licensed premises have a significant potential to impact adversely upon communities through public nuisances that arise from their operation. Fenland District Council wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises, whilst recognising the valuable cultural, social and business importance that such premises provide.

The Licensing Authority intends to interpret “public nuisance” in its widest sense and takes it to include such issues as noise, light, odour, litter and anti- social behaviour, where these matters impact upon those living, working or otherwise engaged in normal activity in an area.

In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours unless there are exceptional reasons relating to disturbance or disorder.

Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
- the hours of opening, particularly between 23.00 and 07.00
- the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- the design and layout of premises and, in particular, the presence of noise-limiting features
- the availability of public transport
- ‘wind down period’ between the end of the licensable activities and closure of the premises

- last admission time.

The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- effective and responsible management of premises
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly
- control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries
- adoption of best practice guidance (e.g. licensing trade voluntary codes of practice, including those relating to drinks promotions)
- installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- management of people, including staff, and traffic (and resulting queues) arriving and leaving premises
- liaison with public transport providers
- siting of external lighting, including security lighting
- management arrangements for collection and disposal of litter
- effective ventilation systems to prevent nuisance from odour.

2.4 Protection of Children From Harm

It is an offence under the 2003 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 those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice.

In addition it is 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 under the authority of any premises licence, club premises certificate, or temporary event notice. Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity.

Between 5am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and even many pubs where the main business activity is the consumption of both food and drink. This does not mean that children should automatically be admitted to such premises.

It is not intended that the definition 'exclusively or primarily' in relation to the consumption of alcohol should be applied in a particular way by reference to turnover, floor space or any similar measure. The expression should be given its ordinary and

natural meaning in the context of the particular circumstances. It will normally be quite clear that the business being operated at the premises is predominantly the sale and consumption of alcohol. Mixed businesses may be harder to pigeonhole and we would advise operators to consult with enforcement agencies where necessary about their respective interpretations of the activities taking place on the premises before any moves are taken which may lead to prosecution

The protection of children from harm is a most important issue. It is hoped that family-friendly premises will thrive but the risk of harm to children remains a paramount consideration when determining applications.

The general relaxation in the Licensing Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family-friendly leisure. Clearly, this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.

The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programs or videos. This includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances, children are more vulnerable and their needs will require special consideration.

Conditions requiring the admission of children to any premises cannot be justified and will not be attached to licenses or certificates.

The Licensing Authority considers that, on the one hand, there should be no presumption of giving children access or, on the other hand, no presumption of preventing their access to licensed premises. The Licensing Authority has no intention of imposing conditions requiring the admission of children and where no licensing restriction is necessary, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.

Applicants 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.

Whilst children may be protected adequately from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact upon harm to children have been considered. Areas that will give particular concern in respect of children include:

- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with evidence of under-age drinking
- with a known association with drug taking or dealing
- where there is a strong element of gambling on the premises, and

- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

Venue operators seeking premises licences and club premises certificates may also volunteer such 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, these volunteered prohibitions and restrictions will become conditions attaching to the licence or certificate and will be enforceable as such. No other conditions concerning the presence of children on premises will be imposed by the District Council in these circumstances.

The District Council recognises the Cambridgeshire Safeguarding and Standards Unit as the lead responsible authority in relation to the protection of children from harm.

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 schedule, having regard to their particular type of premises and/or activities:

- effective and responsible management of premises
- provision of a sufficient number of people employed or engaged to secure the protection of children from harm
- appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
- adoption of best practice guidance (e.g. licensing trade voluntary codes of practice, including those relating to drinks promotions)
- 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 PASS accredited 'proof of age' cards and/or 'new type' UK driving licences with photographic ID
- measures to ensure that children do not purchase, acquire or consume alcohol
- measures to ensure that children are not exposed to incidences of violence or disorder.

These examples can be adopted in any combination.

In the case of film exhibitions, the Licensing Authority will expect licence and certificate holders and those who have given notice of a temporary event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or Fenland District Council. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to conduct an assessment of the

suitability of the film for exhibition to children and to implement measures that restrict viewing by children if necessary

3 STATEMENT OF LICENSING POLICY

The 2003 Act further requires that the Licensing Authority publishes a 'Statement of Licensing Policy' which sets out the policies that the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

The Licensing Authority for Fenland ('the Council') makes this Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003 ('The Act').

The policy sets out how Fenland will exercise its licensing functions. Licensing functions are the duties and powers of the Council in its capacity as 'the Licensing Authority'.

The licensing authority under the Licensing Act 2003 and is responsible for the licensing of licensable activities as defined under the Act.

These are:

- 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 a club;
- The provision of regulated entertainment;
- The provision of late night refreshment (i.e. the supply of hot food or hot drink between 11pm & 5am).

3.1 Regulated Entertainment

This is where the entertainment takes place in the presence of an audience and is provided for the purpose of entertaining that audience. The descriptions of entertainment are:

- A performance of a play,
- An exhibition of a film,
- An indoor sporting event,
- A boxing or wrestling entertainment,
- A performance of live music,
- Any playing of recorded music,
- A performance of dance,

Entertainment of a similar description to a performance of live music, recorded music or performance of dance.

3.2 Other Legislation

This policy statement will not seek to regulate matters which are provided for in other legislation e.g. planning, health & safety, fire safety etc.

The Secretary of State has provided guidance on the relationship between planning and licensing stating that they are separate regimes. Where the Licensing Authority receives relevant representations that a licensing proposal is contrary to a planning consent and that to grant a licence for such activity would be likely to affect the licensing objectives then a refusal, or the attaching of conditions to prevent such a use until the position has been regularised may be appropriate. It would be expected that a responsible and prudent applicant would ensure that an appropriate planning consent was in place before submitting a licence application.

3.3 Policy Consultation

This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the Home Office Guidance issued under Section 182 of the Act.

The 2003 Act further requires the Licensing Authority to monitor, review, and, where appropriate, amend its Statement of Licensing Policy

Before determining its policy for any five year period, the Licensing Authority will consult the community and in particular:

- a) The chief officer of police for the area (Cambridgeshire Constabulary);
- b) The fire authority for the area (Cambridgeshire Fire and Rescue Service);
- c) Persons/bodies representative of local holders of premises licences;
- d) Persons/bodies representative of local holders of club premises;
- e) Persons/bodies representative of local holders of personal licences; and
- f) Persons/bodies representative of businesses and residents in its area.

The views of all these persons/bodies listed will be given appropriate weight when the policy is determined. It is recognised that it may be difficult to identify persons or bodies' representative for all parts of industry affected by the provisions of the 2003 Act, but the Licensing Authority will make reasonable efforts to identify persons or bodies concerned.

The consultation process was conducted by way of an email to those identified and also via publication on the council's website. Responses received were listed on a matrix document and each point made was given due consideration

In determining its policy, the Licensing Authority will have regard to the guidance issued under Section 182 of the Licensing Act 2003

This Statement of Licensing Policy was reviewed in 2020, circulated for consultation between 21 September 2020 and 15 November 2020 prior to being ratified by Council on 14 December 2020

3.4 Disclaimer

Advice and guidance contained in the Statement of Licensing Policy is intended only to assist readers and should not be regarded as legal advice. Readers are strongly

advised to seek their own individual legal advice if they are unsure of the requirements of the Licensing Act 2003 or of the Guidance or Regulations issued under the Act.

3.5 Stake Holders

There are a number of groups which have a stake in the leisure industry, including providers, customers, residents and enforcers, all of which have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.

In developing this policy statement, the Licensing Authority consulted widely. Along with the statutory consultees (the Responsible Authorities), the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

3.6 Need for Licensed Premises

There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a Licensing Authority in discharging its licensing functions or for its Statement of Licensing Policy.

4 LINKS TO STRATEGIES AND PLANS

In preparing this Statement of Licensing Policy, the Licensing Authority has had regard to and consulted with those involved in Fenland District Council’s local strategies on crime prevention, planning, transport, culture, tourism, community, eGovernment and economic development, to ensure the proper co-ordination and integration of the aims and actions of these policies. Review and amendment of these strategies will be considered for their impact upon this Statement of Licensing Policy.

This Statement of Licensing Policy will have key links to Cambridgeshire’s Health & Wellbeing Board, the Clinical Commissioning Groups emerging Primary Care Network and Fenland District Council’s Health and Wellbeing Strategy. Public Health has been working closely with representations from Fenland District Council and Fenland Community Safety Partnership to work collaboratively to address alcohol misuse and we welcome an inclusion of the role of this partnership and associated strategies in this section.

The Licensing Authority recognise that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

The Licensing Authority also recognises its responsibilities under the Data Protection Act 2018, and the General Data Protection Regulation (GDPR) when it comes to

handling and storing personal data, and has created a data retention and sharing policy which is available via the Council's website

5 LICENSING PROCESS

5.1 Applications - Overview

When considering applications, the Licensing Authority will have regard to

- the Licensing Act 2003 and the licensing objectives
- Home Office Guidance issued under Section 182 of the Licensing Act 2003
- any supporting regulations
- this Statement of Licensing Policy.

This does not, however, undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.

When the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation.

When one part of Fenland District Council seeks a premises license from the Licensing Authority, the Licensing Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered fairly and impartially by the committee. Those making representations genuinely aggrieved by a positive decision in favour of a local authority application by the Licensing Authority are entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision made.

It should be noted that incomplete applications will not be accepted and processed but will be returned with an explanation of why it is incomplete.

The licensing authority welcomes applications made via Fenland District Council's electronic application facility.

5.2 Delegation of Function

The District Council appreciates the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process. The District Council delegates decisions and functions and has appointed officers and established sub-committees to deal with them.

Where under the provisions of the Act, there are no relevant representations on an application for the grant of a premises licence or club premises certificate or police objection to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters will be dealt with by officers to speed matters through the system.

With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. The Council has an approved scheme of delegation of functions under the Licensing Act 2003

The Act itself requires that applications be granted unless a representation or objection is raised. Where a function is delegated to an officer, they will be responsible for liaising with the applicant, interested parties and the responsible authorities to ensure that any licence granted is subject to proportionate and necessary conditions. Where objections/representations are made, the officer will liaise with the applicant, those making the representation and the responsible authorities to see if a settlement is possible to overcome the representations without the need for the matter to go before the licensing subcommittee. Only where issues are raised which cannot be agreed will the application be referred through to the licensing sub-committee for determination.

5.3 Licensing Committee Hearings

Whilst contested licensing applications are quasi-judicial in nature, the licensing subcommittee will try to keep the proceedings as informal as possible. However, some degree of formality is needed to ensure that all parties receive a fair hearing. The procedures are designed to ensure that all parties are able to express their views openly and fairly. The procedure is inquisitorial rather than adversarial and, whilst applicants, individuals and businesses who may be affected, and responsible authorities are entitled to bring legal representation with them if they wish, this is not a requirement.

Whilst the licensing sub-committee usually meets in public, it does have power to hear certain applications in private and to receive legal advice similarly. A decision is made publicly when the matter has been determined.

The licensing sub-committee will determine each case on its individual merits whilst taking into consideration the terms of this policy document. Where the licensing subcommittee determines 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. Such conditions will be proportionate to the activity to be controlled and will only be imposed in the interests of the licensing objectives.

The licensing authority will expect the applicant to have had due regard to the contents of this policy and the attached appendices that provide guidance only.

A decision of the licensing authority can be the subject of an appeal at the magistrates' court. As a consequence, the licensing authority will record full reasons for any decision(s) made. The refusal of an application does not prevent a further application being made, but the licensing authority would expect the applicant to carefully consider the issues of concern before doing so.

Regulation 24 of the Licensing Act 2003 (Hearings) Regulations requires the District Council to give all parties at licensing hearings an equal maximum period of time to present their case.

Copies of applications and letters of representation will be included within the report and distributed prior to hearings before a Licensing Sub Committee. Applicants, Responsible Authorities, and Other Persons wishing to present additional evidence in support of their application/representations should do so at least 3 working days before the hearing starts. Failure to do so may result in the Licensing Sub-Committee dis regarding this additional evidence.

5.4 Applications for Premises Licence/Club Certificate

Where no premises licence or club premises certificate exists in respect of a premises, an application for a new premises licence or club premises certificate must be made to enable the carrying out of licensable activities.

Applications for the grant or variation of a premises licence or club premises certificate should be accompanied by a set of plans, which will be endorsed and issued with the premises licence/club premises certificate.

Applications for the grant or variation of a premises licence or club premises certificate should be accompanied by a 'copy of the public notice'. This acknowledges the applicants understanding for the requirement of displaying notices and should avoid any undue delay in the application process.

Applications for the grant or variation of a premises licence or club premises certificate should be accompanied by a 'copy of the public notice. This acknowledges the applicants understanding for giving a copy of the application to the responsible authorities and should avoid any undue delay in the application process.

Where applications have to be advertised, licensing officers will routinely check that public notices are displayed at the premises and in a local newspaper as part of the application validation process.

The District Council is required under the Act to suspend premises licenses and club premises certificates where the annual fee has not been paid. The District Council will invoice each licence/certificate holder when the annual fee is due. Where the fee has not been paid or there has been no claim of administrative error, the District Council will serve a notice to suspend the licence until such time as the fee has been paid.

5.5 Applications to Vary a Premises Licence/Club Premises Certificate

An application to vary an existing premises licence or club premises certificate should be made where the proposed variation is in respect of changes to the types of licensable activities that are to be undertaken and/or the hours that those activities are to take place, or where structural changes are to be made to the premises.

Where the proposed variation to a premises licence or club premises certificate is in respect of structural alterations, the application must always be accompanied by a plan of the proposed alterations in addition to the existing premises licence or club premises certificate and the plan to which it relates.

If the actual date when the alterations have been completed differs from that requested, applicants must inform the licensing authority so that the premises licence or club premises certificate can be issued correctly. Failure to do so may result in an offence being committed under Section 136 of the Licensing Act 2003 of carrying on a licensable activity otherwise than under and in accordance with an authorisation.

5.6 Licence Conditions

The District Council will not impose conditions unless it has received a representation from a responsible authority, such as the police or an environmental health officer, or Other Persons, such as a local resident or local business, which is a relevant representation, or is offered in the applicant's Operating Schedule. Any conditions will be proportional and appropriate to achieve the Licensing Objectives.

Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act.

The Licensing Authority may not impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose such conditions as are necessary to promote the licensing objectives arising out of consideration of the representations.

The Licensing Authority actively promotes the benefits of partnership working between the Council and local businesses to enhance business operations and thereby achieve the community benefits of minimisation of waste, enhancement of the street scene, promotion of community safety, reduction of the fear of crime and the encouragement of tourism and inward investment.

To maximise the efficiency of administering licences and reduce the necessity for hearings, the Licensing Authority will actively encourage applicants and clubs to consult with Responsible Authorities and seek professional guidance from Council services, when operating schedules are being prepared to allow for proper liaison to take place in such areas as noise reduction, CCTV, refuse and litter, etc., to avoid representations being necessary. The Licensing Authority accepts that while some applicants may find it useful to contact the Responsible Authorities and Council services for advice and

professional assistance, others will not need to do so, and that applications cannot be refused on the basis that such consultation has not taken place.

Where relevant representations are made, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to various authorisations and others in possession of relevant authorisations, to secure achievement of the licensing objectives.

Any conditions arising from the operating schedule or as a result of representations will focus primarily upon the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters that are within the control of individual licensees.

The Licensing Authority acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned.

If an applicant volunteers a prohibition or restriction in his/her operating schedule because his/her own risk assessment has determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to the licence or certificate and will be enforceable as such. The Licensing Authority reserves the legal right to amend the wording of offered prohibitions or restrictions to ensure they are clear and enforceable, but will ensure that the amended wording does not go beyond the original offering

The Licensing Authority will consider all applications on an individual basis and any condition attached to such a licence will be tailored to each individual premise, depending upon the facts of each particular application, to avoid the imposition of disproportionate, unnecessary and other burdensome conditions on those premises. Standard conditions, other than mandatory conditions, will, therefore, be avoided and no condition will be imposed that cannot be shown to be necessary for promotion of the licensing objectives.

5.7 Shadow Licence

Nothing within the 2003 Act prevents two or more authorisations having effect concurrently in respect of the whole or a part of the same premises or in respect of the same person. (section 2, Licensing Act 2003). The s.182 Guidance further provides at paragraph 8.19, "There is nothing in the 2003 Act which prevents an application being made for a premises licence at premises where a premises licence is already held."

Shadow Licences may occur where for example a Landlord seeks to protect the Premises Licence by creating a 'shadow licence' where the licensed premises are

operated by a tenant. Shadow licences are usually created on the same terms as the existing premises licence.

When granting a licence on a premises that already holds a premises licence, the responsible authorities may seek to add conditions to the additional licence, that mirror the current premises licence or may seek to impose a 'cooling off' period before trading can begin. Responsible authorities are also able to review the shadow licence whenever the original licence is under review. It must always be clear to the responsible authorities as to which licence is in operation to avoid two individuals trading within the same licensed area at the same time under a different premises licence.

5.8 Licencing Hours

The licensing authority deals with the issue of licensing hours on the individual merits of each application. However, when issuing a licence with hours extending beyond 11pm, higher standards of control generally need to be included in operating schedules in order to promote the licensing objectives, especially for premises, which are situated in, or near, residential areas or in areas where crime and / or anti-social behaviour takes place. There is no presumption within the legislation for longer opening hours.

In considering all licence applications, the licensing authority takes into account the adequacy of the measures proposed to deal with the potential for nuisance and/or public disorder and has regard to all the circumstances of the case.

Where no representations are received an application is approved as applied for. Where a hearing or a review takes place the licensing authority may set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area. In addition the licensing authority may in the case of an application refuse to grant a licence and at a review, revoke an existing licence. Throughout the application process consultation with relevant partners is welcomed and encouraged.

The licensing authority recognises that having fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people leave licensed premises at the same time. The licensing authority aims, through the promotion of the licensing objectives, to reduce the potential for concentrations of people and thus achieve a slower dispersal of people from licensed premises through longer opening times when appropriate.

The licensing authority does not seek to adopt fixed terminal hours in designated areas (known as "zoning"), as this can lead to the significant movement of people across boundaries in search of premises opening later.

Shops, stores and supermarkets are generally permitted to sell alcohol for consumption off the premises during their normal trading hours, unless there are exceptional reasons relating to the licensing objectives, in particular the prevention of crime and disorder and public nuisance.

5.9 Permitted temporary activities (TEN's)

The Act requires that a minimum of 10 working days' notice must be given for a standard temporary event notice and a minimum of 5 working days' notice for a late temporary event notice. Section 193 of the Act defines a 'working day' as any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales. 'Working days' notice means working days exclusive of the day on which the event is to start, and exclusive of the day on which the notice is given.

There is no discretion to relax either the 10 working days' notice or the five working days' notice, so the District Council encourage notice givers to provide the earliest possible notice within 12 months of events likely to take place.

5.10 Large scale events

These are events that are temporary, but more than 499 people are expected to attend. Much larger crowds may be attracted to large-scale events and the risk to public safety and to crime and disorder, as well as public nuisance, may be considerable. The licensing authority and all other statutory consultees, should be given at the earliest opportunity, notice of such major events to discuss operating schedules with the organiser, prior to a formal application being submitted. It is the responsibility of the event organizer / applicant to provide the licensing authority and all other statutory consultees, at the earliest opportunity, notice of such major events. This will enable discussion about operating schedules prior to a formal application being submitted.

It is expected that the applicant will consider how their event will take place safely and how it will impact on the surrounding area. For large events such as festivals the licensing authority will expect to receive an event management plan to be submitted with their application for a licence. An event management plan should be a working document to include information which outlines how the premises will be run during the event. Details should be provided of (although not limited to):

- Roles and responsibilities of the event organiser
- Crowd management
- Contractor management
- Electrical, gas and water supply
- Temporary structures
- Fire safety
- Medical and first aid provision
- Site accessibility
- Traffic Management
- Security staff/stewards/marshals
- Incident management
- Health and Safety management for members of the public
- Welfare provision for members of the public

The licensing authority requires they are given at least six months' notice to allow for a sufficient lead in time. Failure to consult in sufficient time may result in an objection on the grounds that insufficient time has been allowed to properly assess and consult to ensure that, in particular, public safety is not undermined.

Fenland Council has an established Events Safety Advisory Group (ESAG). This includes relevant council officers, representatives of the emergency services and the voluntary first aid sector. ESAG's aim is to advise on safety at public events held throughout Fenland, regardless of whether or not a premises licence or a temporary event notice is required. Event organisers are encouraged to make contact with the Licensing team for advice at the earliest opportunity when planning their community events.

5.11 Applications for Personal Licenses

The Police and Home Office Immigration will have the right to object to a person applying for a personal licence if that person has a relevant unspent conviction (at the time of application) or if they obtain a relevant conviction during the application period of their licence.

An individual may seek a personal licence regardless of whether or not they have current employment or business interests associated with the use of the licence. Applications cannot be made in the name of a corporate body.

The licensing authority must grant a personal licence if the applicant:

- is aged 18 years or over
- is in possession of a relevant licensing qualification or is a person of a prescribed description
- has not forfeited a personal licence in the previous five years, beginning with the day the application was made
- has not been convicted of any relevant offence under Schedule 4 of the Act, or a foreign offence
- has the right to work in the UK
- has paid the appropriate fee to the licensing authority

Applicants with unspent criminal convictions for the relevant offences set out in the Licensing Act 2003 are encouraged to first discuss their intended application with the police and licensing authority before making an application.

In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, applicants will be required to produce a relevant criminal record office basic disclosure certificate, with the application form, together with a signed disclosure form by them.

The licensing authority and police may arrange a joint interview with a prospective personal licence holder(s) to discuss the circumstances surrounding their conviction(s). Ultimately, the police may be minded to object to the grant of the personal licence. In these circumstances, the applicant is entitled to a hearing before the licensing sub-committee. The application will be refused, based on the police's objection, if the licensing authority considers it appropriate for the crime prevention objective to do so.

Fenland District Council licensing authority will be the 'relevant licensing authority' for all personal licences, regardless of the subsequent place of residence of the holder. It will maintain all notified changes of address on its database.

The Policing and Crime Act 2017 amended the Licensing Act 2003 to allow the Licensing Authority to suspend, for up to 6 months, or revoke a Personal Licence upon a Personal Licence Holder being convicted of a Relevant Offence.

5.12 Responsible Authorities and Other Persons

Responsible authorities are public bodies that are statutory consultees that must be notified of licensing applications. A list of the responsible authorities in respect of applications and notices made to the District Council can be found at Appendix A to this policy or alternatively at www.fenland.gov.uk/licensing

An "other person" is defined as any person who lives or is involved in a business in the relevant authority's area, who is likely to be affected by the application.

The Licensing Authority will also consider the term 'involved in any businesses in its widest possible context, which might include partnerships, charities, faith groups and medical practices.

Cambridgeshire County Council Director of Public Health (DPH) are now responsible authorities with all of the powers and responsibilities this brings. This Licensing Authority acknowledges that DPH will be useful in providing evidence of alcohol-related health harms when there is a revision of policy particularly in relation to cumulative impact policies or early morning restriction orders. This Licensing Authority envisages that DPH's will also be useful in providing evidence such as alcohol-related A & E admissions or ambulance service data that might be directly relevant to an application under the Act.

When dealing with licensing applications for premises licences and club premises certificates the District Council is obliged to consider representations from two categories of persons, referred to as responsible authorities and other persons. This allows for a broad range of comment to be received both for and against the licensing applications.

The District Council has carefully considered its role as the Licensing Authority as a Responsible Authority under the Act. It achieves separation of responsibilities through procedures and approved delegations within the authority to ensure procedural fairness and eliminate conflicts of interest.

The District Council does not expect to act as a Responsible Authority on behalf of third parties but accepts that there may be exceptional circumstances where this approach may be required.

In cases where this Licensing Authority is also acting as responsible authority there will be a separation of powers between those officers who exercise that role and those who administer the licensing application to ensure procedural fairness and eliminate conflicts of interest.

5.13 Representations

Any Responsible Authority or Other Person may make relevant representations on applications for the grant of a premises licence or club premises certificate and request reviews of licences or certificates that have been granted.

A representation will only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation in relation to Other Persons must not be frivolous or vexatious.

Only the Chief Officer of Police may make representations in respect of the grant of a personal licence relating only to the crime prevention objective of the Act.

As the Licensing Authority must be satisfied that the representation is made by an Other Person, which can generally only be determined by reference to the name and address of the person making it, this authority will not consider any representation that fails to provide those details.

Where relevant representations are made, the Licensing Authority must provide copies of those representations to the applicant or his/her representative. The Licensing Authority accepts that in exceptional circumstances another Person may not wish for his/her personal details to be disclosed to the applicant.

Where the Licensing Authority considers that a relevant representation has been made and that exceptional circumstances exist, details of the name and address may be deleted from the copy of the representation that is provided to the applicant or his/her representative.

In all cases, applicants and those making representations that are genuinely aggrieved by a decision of the Licensing Committee are entitled to appeal to the Magistrates' Court against the decision of the committee.

Where the Responsible Authorities or Other Persons do not raise any relevant representations about the application made to the Licensing Authority, the Licensing Authority will grant the premises licence or club premises certificate subject only to

conditions that are consistent with the operating schedule and any mandatory conditions prescribed by the Licensing Act 2003.

6 COMPLIANCE

6.1 Cultural Activities

The Licensing Authority recognises the need to encourage and promote a broad range of entertainment for the wider cultural benefit of the communities. A natural concern to prevent disturbance in neighbourhoods will always be carefully balanced with these wider cultural benefits, particularly the cultural benefits for young people. In determining what conditions should be attached to licence and certificates as a matter of necessity for the promotion of the licensing objectives, the Licensing Authority is aware of the need to avoid measures which deter regulated entertainment by imposing indirect costs of a disproportionate nature.

6.2 Duplication

The District Council has a firm commitment to avoid duplication with other regulatory regimes so far as possible. For example legislation governing health and safety at work and fire safety will place a range of general duties on the self-employed, employers and operators of venues both in respect of employees and of the general public when on the premises in question. Similarly, many aspects of fire safety will be covered by existing and future legislation. Conditions in respect of public safety will only be attached to premises licences and club premises certificates that are 'necessary' for the promotion of that licensing objective and if already provided for in other legislation, they cannot be considered as necessary in the context of licensing law. Such regulations will not however always cover the unique circumstances that arise in connection with licensable activities particularly regulated entertainment, at specific premises and tailored conditions may be necessary.

6.3 Enforcement

The District Council recognises that most licence, certificate and notice holders seek to comply with the law. Notwithstanding, any enforcement action will take a graduated approach and in the first instance will include education and guidance. Where holders of authorisations continue to flout the law or act irresponsibly then firm action, including prosecution may be taken.

Fenland District Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can trade fairly. The administration and enforcement of the licensing regime is one of these services. The authority has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, Fenland District Council is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.

The Enforcement Concordat is based upon the principles that businesses should

- receive clear explanations from enforcers of what they need to do and by when
- have opportunities to resolve differences before enforcement action is taken, unless immediate action is needed
- receive an explanation of their rights of appeal.

A copy of the Council's Enforcement Policy is available on www.fenland.gov.uk .

The Licensing Authority recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives that it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or break the law consistently.

6.4 Inspection of licensed Premises

The licensing authority aim to inspect premises on a risk based approach to secure compliance with the Licensing Act and to promote the licensing objectives.

Authorised officers will have the discretion as to which premises require a 'during performance' inspection and the frequency when they are undertaken. Where appropriate, joint visits will take place encompassing a number of relevant agencies.

The Licensing Authority works in partnership with all of the Responsible Authorities under the Licensing Act 2003 on enforcement issues. This joint working protocol provides for a more efficient deployment of staff and police officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises. In particular, these protocols should also provide for the targeting of agreed problem and high-risk premises, which require greater attention, while providing a lighter touch in respect of low risk premises, which are well run.

The 2003 Act does not require inspections to take place save at the discretion of those charged with this role. The principal of risk assessment and targeting will prevail and inspections will not be taken routinely but if and when they are judged necessary. This should ensure that resources are more effectively concentrated on problem premises.

6.5 Complaints regarding licensed premises

The licensing authority will investigate or refer to other relevant agencies/council services complaints received against licensed premises where appropriate, normally providing that the complainant's personal details and the nature of the issue(s) must be provided from the outset. For certain matters the complainant may be encouraged to raise the issue of concern directly with the licensee.

In exceptional circumstances the personal details referred to above may not be required, whilst the facts of the complaint are referred onto the police.

6.6 Annual Fees for premises Licence and Club Premises Certificates

The Police Reform and Social Responsibility Act 2011 introduced a requirement for Licensing Authorities to suspend Premises Licences and Club Premises Certificates when the annual fee is not paid by the due date.

Where a licence or certificate holder disputes the presented fee, or claims an administrative error prior to the annual fee due date, the suspension will start after the 21 day permitted grace period has expired.

6.7 Review Of Licenses

Where possible and appropriate, the Licensing Authority and the Responsible Authorities will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

The Act sets out the arrangements to enable a review of a premises licence where it is alleged that the licensing objectives are not being promoted. This arrangement will follow an application from a responsible authority or any other person. The Section 182 guidance will be used to ensure that all matters for review are considered appropriately. The process shall not be subject to abuse by disaffected parties. Matters for consideration must be relevant, and not vexatious, frivolous or repetitious. However, matters involving the following may be considered as serious shortcomings by the licensing sub-committee at their hearings:

- use of licensed premises for the sale and distribution of illegal drugs and/or the laundering of the proceeds of drug crimes
- use of licensed premises for the sale and/or distribution of firearms
- evasion of copyright in respect of “pirated” films and music
- underage purchase and/or consumption of alcohol
- use of licensed premises for prostitution or the sale of unlawful pornography
- use of licensed premises for unlawful gaming
- use of licensed premises as a base for organised criminal activity
- the closure of the premises by a senior police officer, or an environmental health officer due to noise nuisance
- use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks
- use of licensed premises for the sale of smuggled tobacco or goods
- the use of licensed premises for the sale of stolen goods
- where the police are frequently called to attend to incidents of disorder
- prolonged and/or repeated instances of public nuisance
- where serious risks to public safety have been identified, and the management is unable or unwilling to correct those
- where serious risks to children have been identified e.g. repeat underage sales
- significant or repetitive breaches of licence conditions/licensing law

- failure to act on previous warnings/advice/uncooperative attitude towards authorised officers.

In a hearing to determine an application for a licence or consider a review application, the overriding principle adopted by the licensing authority is that each application will be considered on its own individual merits. Licence conditions applied at such a hearing will be tailored to the individual premises and activities and only those necessary to meet the licensing objectives will be applied.

Upon review of a premises licence, the licensing authority must, having regard to the application for review and any relevant representations, take such steps as it considers necessary for the promotion of the licensing objectives. Such steps might be:

- the modification of the conditions of the licence
- the exclusion of a licensable activity from the scope of the licence
- the removal of the designated premises supervisor
- the suspension of the licence for a period not exceeding three months
- the revocation of the licence.

Any Responsible Authority or Other Person may apply for a review of a Premises licence or a club premises certificate by serving a notice containing details of the application on the holder of the licence or certificate and to each of the Responsible Authorities.

Where an Other Person applies for a review, the Licensing Authority must be satisfied that the application is relevant. There is no appeal to the decision of the Licensing Authority other than by the way of Judicial Review.

This Authority will not consider any application that fails to provide the name and address applicable to the Other Persons

6.8 **Crime and Policing Act 2014**

A senior police officer, of the rank of superintendent or higher, or an inspector of weights and measures, may issue a closure notice where there is evidence that a person has committed the new offence of persistently selling alcohol to children at the premises in question, and he considers that the evidence is such that there would be a realistic prospect of conviction if the offender was prosecuted for it.

A closure notice will prohibit sales of alcohol at the premises in question for a period not exceeding 48 hours; and will offer the opportunity to discharge all criminal liability in respect of the alleged offence by the acceptance of the prohibition proposed in the notice. The premises licence holder will have fourteen days to decide whether or not to accept the proposed prohibition or to elect to be tried for the offence. Where the licence holder decides to accept the prohibition, it must take effect not less than fourteen days after the date on which the notice was served at a time specified in the closure notice.

Closure notices may be served by police officers, trading standards officers and community support officers.

Anti- Social Behaviour, Crime and Policing Act 2014 permits an authorised officer acting on behalf of the council, to require the immediate closure, for a period of up to 24 hours of any licensed premises if it is considered that noise emanating from within its curtilage is causing a public noise nuisance. The 'test' is a lesser one than required to determine a statutory noise nuisance and the statutory defence of 'best practicable means' is not available.

The licensing authority also recognises that there are other tools and powers at their, and their partner agencies', disposal. All powers are subject to change and amendments, in particular by the Anti-Social Behaviour, Crime and Policing Act 2014. More details can be made available on request to the licensing authority.

6.9 Immigration Act 2016

The Immigration Act 2016 amends the Licensing Act 2003 to provide Immigration Officers enforcement powers. An Immigration Officer will be able to issue an "illegal working closure notice" for up to 48 hours if he or she is satisfied, on reasonable grounds, that an employer operating at the premises is employing a person who does not have the correct work status.

The closure notice prohibits access to the premises unless authorised in writing by the immigration officer.

An application to the Court for a compliance order must be made by the immigration officer and heard within 48hrs after service of the closure notice. The Court may issue the compliance order if satisfied, on the balance of probabilities, that an illegal worker was working on the premises and that it is necessary to make the order to prevent the employer at the premises from employing illegal workers.

The Court can make an order which includes, prohibiting the access to the premises; requiring right to work checks to be carried out; requiring right to work documents to be produced and specifying times for an immigration officer to enter the premises. A compliance order can have effect for a maximum of 12 months, but the immigration officer may apply for this to be extended.

The Court will notify the licensing authority of the order and the licensing authority must then review the premises licence. If an offence is committed in relation to the compliance order, the court can impose a prison sentence for up to 51 weeks or a fine.

The licensing authority will have regard to the European Convention on Human Rights particularly:

- Article 6- entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal and
- Article 8 - the right to respect for home and private life; and
- Article 1 of the First Protocol - that every person is entitled to the peaceful enjoyment of their possessions, as they may interface with the licensing objectives.

6.10 Regulated Entertainment

Having regard to Fenland District Council's equality and diversity policies and the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified in 1976, a diverse provision of cultural activities is welcomed for the benefit of communities.

The Licensing Authority will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances, circuses, etc. to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events.

The Licensing Authority will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children & young people.

6.11 Planning and Building Control

The licensing authority will ensure that planning, building control and licensing regimes will be separated to avoid duplication and inefficiency.

The licensing authority would normally expect that applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, the licensing authority acknowledges that applications for premises licences or club premises certificates may be made prior to any relevant planning permission having been sought or granted by the planning authority. Applicants would be expected to ensure that all relevant permissions are obtained.

The licensing authority recognises that licensing applications should not be a re-run of planning applications nor should they cut across decisions taken by the planning committee or following appeals against decisions taken by the Council's planning committee. The licensing authority's licensing committee will not be bound by decisions made by the Council's planning committee and vice versa.

Where the granting of any variation to a premises licence or club premises certificate involves a material alteration to a premise, the licensing authority would expect the applicant to apply for relevant planning permission or building control consent where appropriate.

The licensing authority recognises that when, as a condition of planning permission a terminal hour has been set for the use of the premises for commercial purposes, and where these hours are different from 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.

7 SPECIAL POLICIES

The Licensing Act 2003 permits a Licensing Authority to introduce a number of special policies within its Statement of Licensing Policy where evidence exists to support the introduction of such a special policy.

7.1 Cumulative Impact of a Concentration of Licensed Premises

“Cumulative impact” means the potential impact upon the promotion of the licensing objectives where there are a number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a Licensing Authority to consider in developing its Statement of Licensing Policy.

The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases, the amenity of local residents can be placed under severe pressure but may not be attributable to any individual premises.

The Licensing Authority may adopt a special policy on cumulative impact based on evidence that a significant number of licensed premises concentrated in one area are resulting, in unacceptable levels of crime and disorder or public nuisance.

During the adoption of such policy, Section 5A of the Licensing Act will be observed and any policy of this nature will be considered by the Licensing Sub - Committee.

7.2 Early Morning Restriction Orders (EMRO)

The power for this licensing authority to introduce an EMRO is specified in sections 172A to 172E of the 2003 Act which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. These provisions and the regulations prescribing the requirements in relation to the process were brought in force on 31st October 2012. Government Guidance has also been produced.

The legislation provides this licensing authority with the discretion to restrict sales of alcohol by introducing an EMRO to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of this licensing authority’s area and if relevant on specific days and at specific times. This licensing authority must be satisfied that such an order would be appropriate to promote licensing objectives.

The only exemptions relating to EMRO's are New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service. The decision to implement an EMRO will be evidence based. The function of making, varying or revoking an EMRO is specifically excluded from the delegation of functions and may not be delegated to the Licensing Committee.

7.3 Late Night Levy

The legislative provisions relating to the late-night levy are not part of the Licensing Act 2003 but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions came into force on 31st October 2012.

Regulations have been brought into force setting out the way in which the levy must be applied and administered, and arrangements for expenses, exemptions and reductions. Government Guidance has been produced.

These new powers enable licensing authorities to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night-time economy. The function of making, varying or ceasing the requirement for a levy may not be delegated to the licensing committee.

7.4 Public Spaces Protection Orders (PSPO)

Public Space Protection Orders (PSPO's) replaced Designated Public Place Orders (DPPO's) when the Anti-social Behaviour Crime and Policing Act 2014 came into effect.

Fenland District Council's Community Safety Partnership is responsible for the introduction and management of PSPO's within the district

8 FURTHER ADVICE AND GUIDANCE

The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act 2003 provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority and the Responsible Authorities will offer as much advice and guidance to applicants as resources permit.

The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that he/she discusses his/her proposal with the Licensing Section and those from who they think representations are likely prior to submitting an application. Once an application has been lodged, there are statutory timescales imposed upon the

application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

All application forms and further advice can be obtained from Fenland District Council's licensing pages - www.fenland.gov.uk/licensing

You can also contact a member of the team by emailing licensing@fenland.gov.uk

If additional assistance is required, the Licensing Authority provides a paid for licensing pre - application advice service for all applicants. Full details are available on the Council's website.

8.1 Other Relevant Legislation

Adult Entertainment

The District Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and premises offering regular entertainment of a sexual nature must be licensed as a sex establishment under those provisions. The District Council acknowledges that there is an exemption which allows sexual entertainment to be provided at premises licensed under the Licensing Act 2003, as long as it is provided on no more than 11 occasions within 12 months and with at least 1 month between each occasion. Premises using this exemption should ensure that procedures are in place to exclude children when entertainment of this nature is offered.

Gaming Machines

Automatic entitlement in licensed premises. There is provision in the Gambling Act 2005 (GA2005) for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines of category C and/or D.

Gaming Machine Permit

If a premises wishes to have more than 2 machines of categories C and/or D, then it needs to apply for a permit and the District Council will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under section 25 of the Act, and such matters as licensing officers consider relevant.

Exempt Gaming

Premises licensed under the Licensing Act 2003 may offer gaming such as poker and bingo provided the stakes and prizes do not exceed permitted levels. Details of these limits are available from the District Council or the Gambling Commission.

Appendix title: A- RESPONSIBLE AUTHORITIES

Cambridgeshire Constabulary

Police Licensing Officer (Fenland)

March Police Station, Burrowmoor Road March, Cambridgeshire PE15 9RB

Telephone: 101 Ext 6440

Email: licensingnorth@cambs.pnn.police.uk

Cambridgeshire Fire and Rescue Service

Chief Fire Officer Hinchingsbrooke Cottage Brampton Road Huntingdon PE29 2NA

Telephone: 01480 444500

Email: fireprotectionnorthconsultations@cambsfire.gov.uk

The Body Responsible for the Protection of Children from Harm

Safeguarding & Standards Unit Licence applications

PO Box 144 St Ives Cambridgeshire PE27 9AU

Telephone: 01223 706380 Email:

ReferralCentre.Children@cambridgeshire.gov.uk

Web: www.cambridgeshire.gov.uk

Local Authority Planning Authority

Fenland District Council Development Services

Fenland Hall County Road March Cambridgeshire PE15 8NQ

Telephone: 01354 654321

Email: planning@fenland.gov.uk

Public Health

Cambridgeshire County Council Public Health Programmes Scott House

Box No SCO 2213_5 George Street Huntingdon Cambridgeshire PE29 3AD

Email: PublicHealth.AdminTeam@cambridgeshire.gov.uk

Local Authority Environment and Health Services

Fenland District Council

Environmental Health

Fenland Hall County Road Cambridgeshire PE15 8NQ Telephone: 01354 654321

Email: envhealth@fenland.gov.uk

The Body Responsible for Health and Safety

Fenland District Council

Environmental Health

Fenland Hall County Road March Cambridgeshire PE15 8NQ Telephone: 01354 654321

Email: envhealth@fenland.gov.uk

Local Authority Licensing Compliance Officer

Licensing Compliance Officer - Andy Fox

Fenland Hall County Road March Cambridgeshire PE15 8NQ Telephone: 01354 654321

Email: Afox@fenland.gov.uk

Web: www.fenland.gov.uk

Weights and Measures (Trading Standards)

Supporting Businesses and Communities

Cambridgeshire County Council PO Box 450

Great Cambourne Cambridge CB23 6ZR

Helpline: 0345 0455206

Email: ts.administration@cambridgeshire.gov.uk

Local Authority Environment and Health Services

Fenland District Council

Environmental & Leisure Support Team Fenland Hall

County Road Cambridgeshire PE15 8NQ Telephone: 01354 654321

Email: envhealth@fenland.gov.uk

Web: www.fenland.gov.uk

Home Office Immigration

Email: alcohol@homeoffice.gov.uk