

## 4. The Licensing Process

- 4.1 The functions of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority in accordance with the provisions of the Act. Delegated powers are in accordance with the table at Appendix 1. This table does not form part of the policy and may therefore be amended without consultation with statutory consultees.
- 4.2 Each application for licensing will be considered on its own merit. Nothing will undermine any person from applying for a variety of permissions under the Act.
- 4.3 Other than electronic applications applicants are reminded that documents submitted as part of an application which bear a signature, criminal record certificates, criminal conviction certificates, subject access documents and licensing qualifications must be original documents. Faxes and photocopies are not acceptable unless with the prior agreement of the Licensing Authority.
- 4.4 Applicants for any authority or permission are expected to make their application in accordance with the Act and any regulations made there under. Failure to meet this requirement may result in the application being returned. The Licensing Authority will endeavour to explain why the application is considered to be deficient and will invite the applicant to re-submit the application with all the required information. Application forms will not be returned where they contain obvious and minor factual errors that can easily be amended. Applications for a premises licence or club premises certificate must be copied to each of the appropriate Responsible Authorities. Where applicants fail, after being reminded, to copy applications to Responsible Authorities, or they resubmit applications which are still deficient, the application will be rejected. Re-submission of an application following rejection will be subject to the statutory advertising requirements.
- 4.4(a) A main part in ensuring compliance with the Act, and in particular showing how the four licensing objectives are to be achieved, is the "operating schedule" for the licensed premises. The operating schedule forms part of the licence application. The schedule will aid any Responsible Authority or other party to assess whether the steps to be taken to promote the licensing objectives are satisfactory. The schedule will form part of the conditions of the licence or certificate, if granted. The Licensing Authority will work with the licensees and applicants by providing guidance notes on the completion of the schedules. However, the responsibility for drawing up the operating schedule rests with the applicant. The operating schedule should detail the manner in which the business will be run and the steps/controls put in place to meet the licensing objectives. Any individual preparing an operating schedule is free to volunteer any measure as a step he or she intends to take to promote the licensing objectives. The operating schedule must specify all types of entertainment which will take place at the premises

- 4.5 Applications for minor variations may be subject to consultation with the appropriate responsible authorities and will be refused if any responsible authority indicates that they would make a representation on the proposed minor variation.
- 4.6 In an effort to avoid unnecessary hearings, applicants are strongly advised to prepare risk assessments and from these formulate any steps they consider necessary to promote the licensing objectives and then to consult with the responsible authorities as defined within the Act before submitting their applications. Failure to do so may lead to representations which can only be determined by the Licensing Sub-Committee. In respect of minor variations applicants are strongly advised to contact the appropriate responsible authorities before formally submitting their application in order to avoid unnecessary expense.
- 4.7 Account will be taken of the need to encourage and promote all types of entertainment, including live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance from these activities in a particular neighborhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community.
- 4.8 The guidance issued by the Home Office indicates that representations can be made in opposition to, or in support of, an application. With this in mind the Licensing Authority would remind all parties that all representations (both for and against an application) must relate to the promotion of the licensing objectives.
- 4.9 PREMISES LICENCES/CLUB PREMISES CERTIFICATES - Applicants will be required to submit their application in the form detailed in regulations made under the Act. Applicants will be required to submit, with their application for a premises licence, club premises certificate, Provisional Statement or a variation to their existing premises licence or club registration certificate, an Operating Schedule detailing: -
- The licensable activities to be conducted on the premises;
  - The times during which it is proposed that the relevant licensable activities are to take place;
  - Any other times when the premises are to be open to the public or to members of a club;
  - Where the licence is required only for a limited period, that period;
  - Where the licensable activities include the supply of alcohol, the name, address and licence number of the individual to be specified as the designated premises supervisor;

- Where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both; and
- The steps which the applicant proposes to take to promote the licensing objectives.
- All supporting documentation to satisfy the four licensing objectives.

4.10 Applications will be determined having regard to:

- This Policy
- The Licensing Act 2003 and subordinate legislation.
- Guidance issued by the Home Office
- Any relevant representations received (provided they are not determined to be frivolous or vexatious).

4.11 **LARGE SCALE EVENTS** - Organisers of large events, major festivals and carnivals should approach the Licensing Authority and Responsible Authorities at the earliest opportunity to discuss arrangements for the licensing of those activities falling within the provisions of the Licensing Act 2003. In respect of some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations within the premises. Anyone wishing to hold such an event should notify the Licensing Authority no less than 6 months before the event is due to happen. This will allow time for the preparation of a substantial operating schedule, by the applicant, which may be required to ensure promotion of the licensing objectives. The Licensing Authority will expect applicants applying for permissions to stage events, which draw in large numbers of people and/or have an impact on the road network, to have consulted with the Boston Safety Advisory Group and Lincolnshire County Council (as the Highways Authority).

4.12 **PERSONAL LICENCE** - A person wishing to sell or supply, or authorise the sale or supply of alcohol, for consumption on or off a licensed premises will need to apply for a Personal Licence. The Licensing Authority strongly encourages premises licence holders, where alcohol is being sold, to ensure that there are sufficient personal licence holders present at the premises to ensure adequate supervision of the sale of alcohol. In circumstances where the Personal Licence holder has delegated the responsibility for the sale of alcohol, they will still have a duty of responsibility for the actions of those they have authorised to make those sales.

4.13 Applicants for a personal licence are expected to make their application in accordance with the Act and any regulations made there under. Failure to meet this requirement may result in the application being returned.

4.14 Where an application for a personal licence reveals a disclosable conviction for a relevant offence under the Act, the Licensing Authority recommends that the Police

carry out full and proper enquiries (including interviewing applicants as necessary) so as to provide evidence as to the reasons the crime prevention objective will be undermined by the grant of the licence before exercising its discretion to make an objection.

## 5. Licensing Hours

- 5.1 Under the Act there are no standard permitted hours for the sale of alcohol. Applicants are able to suggest in their operating schedule the hours they wish to be open for the sale of alcohol and to apply to vary their existing licences if they wish to sell alcohol beyond their current hours. However, there is no general presumption in favour of lengthening licensing hours in any area of the Borough and the four licensing objectives will be the paramount consideration at all times.
- 5.2 As far as the Licensing Authority's overall approach to licensing hours is concerned it is not intended that any form of zoning will be introduced. Experience in other areas shows that this can lead to the significant movement of people across boundaries in search of premises opening later and puts greater pressure on the centre than is necessary and can lead to unnecessary disorder and nuisance. Applicants should note that the Licensing Authority will give more careful consideration to applications for premises situated in predominantly residential areas, where relevant representations have been received and the proposed hours of operation are between 11.00pm and 7.00am. In the absence of any representation the application must be granted.
- 5.3 Shops, stores and supermarkets should generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes subject to paragraph 5.2 above. However, in the case of individual shops that are known to be or are in an area which is known to be a focus of disorder and disturbance, or in largely residential areas where the proposed operation is likely to result in noise nuisance, subject to receiving relevant representations, a further limitation on licensing hours may be appropriate.

## 6. Licensing Objectives

Each of the four licensing objectives is of equal importance and no one objective will take precedence over others when considering applications.

The Licensing Authority considers the effective and responsible management of premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. For this reason these elements should be specifically considered and addressed within the applicants operating schedule.

The Licensing Authority recommends that applicants carry out their own risk assessments in relation to the four licensing objectives in order to assist them in deciding whether any steps are required to be taken in order to meet those objectives.

In accordance with the Home Office Guidance to Licensing Authorities, this Authority expects applicants to demonstrate knowledge of the area within which the licensed premises is situated. This would include, for example, proximity to residential properties, areas where children congregate and any risk posed to the local area by the applicant's proposed licensable activity.

### 6.1 Prevention of crime and disorder

- 6.1.1 The Licensing Authority will carry out its licensing functions with a view to promoting the prevention of crime and disorder and will seek to ensure that licensees/certificate holders/designated premises supervisors take measures to regulate the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises.
- 6.1.2 In addition to the requirement for the Licensing Authority to promote this licensing objective, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect on, and do all it reasonably can to prevent, crime and disorder in the Borough.
- 6.1.3 When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their type of premises and/or activities) which are likely to adversely affect the promotion of the crime and disorder objective. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.

The Licensing Authority encourages applicants to include in their operating schedule the steps they propose to take to reduce/deter crime and disorder. These steps will vary from premises to premises according to the type of licensable activities that are to be carried on. Examples of measures the Licensing Authority encourage applicants to consider and address include

- Physical security features e.g. use of toughened, polycarbonate or plastic drinking glasses
- Procedure for risk assessment of alcohol promotions to ensure they do not promote irresponsible drinking or potentially breach the mandatory condition on irresponsible drinks promotions
- The use and number of Security Industry Authority (SIA) registered door supervisors
- Amount of seating to be provided to reduce the risk of high volume vertical drinking
- Training given to staff in crime prevention and drug awareness measures
- Measures agreed with the Police to reduce crime and disorder
- Measures to prevent the use or supply of illegal drugs
- Search procedures
- Participation in the use of the radio network scheme
- Membership of Boston Pubwatch or a similar scheme
- Formalisation of a dispersal policy
- Measures to prevent glasses and bottles being taken away from the premises
- Training given to staff to prevent the sale of alcohol to those who are under age or appear drunk

CCTV remains one of the most effective measures for reducing crime and disorder. The Licensing Authority expects premises that retail alcohol for consumption on or off the premises will have an effective CCTV system installed that operates in compliance with the requirements of Lincolnshire Police

- 6.1.4 The British Beer and Pub Association (BBPA) has consolidated good practice on combating violence in licensed premises into a guide to risk assessment. This is available on the BBPA's website: [www.beerandpub.com](http://www.beerandpub.com).
- 6.1.5 Pub Watch – The Licensing Authority recognises the important role of licensees working together to create a safe and secure environment for customers, thereby reducing crime and disorder in the area. The Licensing Authority will therefore do all that it can to support the effective working of Pub Watch and other trade associations in the borough.

## 6.2 Public Safety

- 6.2.1 The Licensing Authority will carry out their licensing functions with a view to promoting public safety and will seek to ensure that licensees/certificate holders/designated premises supervisors take measures to protect the safety of performers and persons attending licensable activities. The risk to public safety will vary according to the type of premises and the activities carried out.

The Licensing Authority encourages applicants to include in their operating schedules the steps they propose to take to promote public safety.

- 6.2.2 Where an applicant identifies an issue in regard to public safety, which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure public safety.
- 6.2.3 Depending on the individual style and characteristics of the premises and/or events the following issues may be of relevance:
- Use of equipment and effects
  - Levels of door supervision
  - Measures to prevent the supply and use of illegal drugs
  - Free availability of potable water where this is not covered by the mandatory condition.
  - Physical safety features e.g. use of toughened glass, polycarbonate and plastic containers
  - Fire evacuation procedures
  - Provision of CCTV (see para 6.1.3)

N.B. In relation to free potable water applicants and licence holders are reminded of the mandatory licence condition, in relation to on licensed alcohol premises, which require the provision of free potable water to customers.

- 6.2.4 It will be the responsibility of licence/certificate holders/designated premises supervisors to ensure they have complied with all Health and Safety legislation.
- 6.2.5 Where a premise is on a vessel for which a current Passenger Ship Certificate is in force, the public safety objective can generally be considered to be met in respect of the layout, structure, access arrangements and operation of the vessel.
- 6.2.6 Whilst the Licensing Authority cannot require documentation regarding risk assessments to be attached to the operating schedule, it considers such risk assessments to be good practice. Risk assessments are a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder, in the event of needing to make an application for variation of a premises licence or in response to changing circumstances/conditions at the premises.

### 6.3 Prevention of Public Nuisance

- 6.3.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority 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.
- 6.3.2 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 on those living, working or otherwise engaged in normal activity in an area.
- 6.3.3 When addressing public nuisance the applicant should initially identify any particular issues (having regard to their type of premises and/or activities) which are likely to

adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule. For example the Licensing Authority expects an applicant to identify how public nuisance will be controlled in outside areas, particularly in smoking areas, that are not within the boundary of the licensed area. This would include prohibiting the consumption of alcohol.

6.3.4 Applicants are encouraged 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. These may include:

- The location of premises and proximity to residential and other noise sensitive premises , such as hospitals, local businesses, hospices and places of worship
- The hours of opening, particularly between 23.00 and 07.00
- The nature of the 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 the premises
- The design and layout of the premises and in particular the presence of noise limiting and/or monitoring features
- The occupancy capacity of the premises (Where appropriate)
- The availability of public transport to facilitate dispersal of customers
- 'wind down period' between the end of the licensable activities and the closure of the premises
- last admission time
- The formulation of a dispersal policy
- Control of nuisance from persons using outside areas and in particular smoking areas.

6.3.5 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 the premises, including such matters as deliveries
- Adoption of best practice guidance (e.g. Good practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics)
- 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
- Undertaking noise impact assessments

- Regular assessments of the noise coming from the premises when used for regulated entertainment and steps to control the level of noise so as not to cause disturbance to local residents.
- Regular assessment of any noise coming from outside areas, including smoking areas, and steps to control the level of noise so as not to cause disturbance to local residents.
- Keeping a written record of assessments in a log book kept for that purpose including, the time and date of the checks, the person making them and the results including any remedial action.
- Identifying smoking areas in operating schedules to enable responsible authorities to appraise proposals with a view to promoting the prevention of public nuisance licensing objective.
- Keeping external doors (except for access and egress) and windows closed when regulated entertainment is being provided except in the event of an emergency.
- The disposal of empty glass bottles not being undertaken externally between 23.00 hours and opening hours on the following day on every day of the week.
- Posting at exits from the premises in a place where they can be seen and easily read by the public, notices requiring customers to leave the premises and the area quietly and in an orderly manner.
- Regularly clearing outside the premises of litter associated with the operation of the premises e.g. cigarette ends.

#### 6.4 Protection of children from harm

- 6.4.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Except as prohibited by law, access by children to all types of premises will not be limited in any way unless it is considered necessary to do so to protect them from harm. It is hoped that family friendly premises will thrive but the risk of harm to children remains a paramount consideration when determining applications.

The protection of children from harm includes protection of children from moral, psychological and physical harm.

- 6.4.2 When receiving relevant representations and deciding whether to limit access to children, other than in circumstances where the law demands their access to be limited, applicants/licence/certificate holders should consider the activities carried on at the premises. Examples which may give rise to concern in respect of children would include premises.
- Where entertainment or services of an adult or sexual nature are commonly provided;
  - Where 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;
  - With a known association with drug taking or dealing
  - Where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines)

- 6.4.3 Films - 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 Licensing Authority itself. Applicants will be expected to explain in their operating schedule the steps they intend to take to ensure children and young persons do not gain access to films with a restricted access classification.

Where a film is to be shown locally within the authority's area and has not been classified by the British Board of Film Classification, an application can be made to the Authority for the film to be classified. Applications should be made in accordance with the guidelines set out by the British Board of Film Classification. These guidelines can be found at: [www.bbfc.co.uk](http://www.bbfc.co.uk).

- 6.4.4 Theatres- In certain cases it may be necessary to impose a condition to restrict the admission of children to theatres, which are incorporating adult entertainment in their productions.
- 6.4.5 Where a large number of children are likely to be present on any licensed premises and representations are received; conditions may be imposed requiring the presence of an appropriate number of adult staff to ensure public safety and their protection from harm. Where the Licensing Authority considers it appropriate, following receipt of relevant representation(s) it may require the adult supervisors (being persons over the age of 18) to be subject to a criminal record check. The onus will be on the Premises Licence holder to ensure that staff members are suitable to carry out the supervision of children, which may include criminal record disclosure from the Disclosure and Barring Service (DBS).
- 6.4.6 The options available for limiting access by children would include –
- Limitations of the hours when children may be present
  - Limitations or the exclusion of the presence of children under certain ages when particular specified activities are taking place;
  - Limitations on the parts of premises to which children might be given access;
  - Age limitations (below 18 years);
  - Requirements for accompanying adults (including for example, a requirement which provide that children under a particular age must be accompanied by an adult); and
  - Full exclusion of those people under 18 years of age from the premises when any licensable activities are taking place.
- 6.4.7 The Licensing Authority will not impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder/certificate holder or designated premises supervisor.

6.4.8 The body responsible for the interests of children is:

Lincolnshire Safeguarding Children Board

Lincolnshire Safeguarding Children Board can be contacted through Lincolnshire County Council.

The reasons the Licensing Authority has chosen the above as a Responsible Authority competent to advise it on the protection of children from harm are:

- That this body is answerable to democratically elected persons and is not answerable to a particular vested interest group;
- That this body is responsible for the area covered by this Licensing Authority and this policy;
- That this body is experienced in dealing with the protection of children.

6.4.9 In respect of premises licensed for the sale of alcohol, The Portman Group Code of Practice on The Naming, Packaging and Promotion of Alcoholic Drinks should be followed to ensure drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years or older.

6.4.10 The sale of alcohol to children and young persons under the relevant age is a criminal offence, often resulting in harm to the children and young persons concerned and disturbance and nuisance to local residents and businesses. Applicants should detail adequate control measures in their operating schedule to prevent under-age sales. The Licensing Authority recognises that Lincolnshire County Council Trading Standards Service, as part of its responsibilities and duties under the legislation controlling the sale of age restricted products, including alcohol, provides advice and guidance on the controls and systems that may be adopted to help prevent such sales. Applicants are strongly advised to contact Trading Standards for advice on this matter. The Licensing Authority also recognises that in liaison with the Police, the Trading Standards Service conducts covert test purchasing exercises to check compliance with the law.

Challenges 21/25 – The mandatory licence conditions (introduced in October 2014) require relevant premises to hold an age verification policy in relation to the sale or supply of alcohol. The Licensing Authority supports the adoption of the Challenge 21/25 Schemes (or similar scheme) for licensed premises.

A suitable proof of age policy adopted by a licence holder should require the production of a photo-driving licence or passport before sale or entry into the premises. For added security, licence holders are encouraged to consider use of the Proof of Age Standards Scheme (PASS) and accept cards showing the PASS logo.

6.4.11 Where licence holders wish to employ children they should ensure that the legislation regarding this matter is complied with and any necessary permits to work have been obtained. Further information on the requirements of this legislation is available from the Lincolnshire Safeguarding Children Board.

## **7. Cumulative Impact**

- 7.1 Cumulative impact is not mentioned specifically in the Act. Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises. This should not, however, be confused with 'need'. Need concerns the commercial demand for another pub, restaurant or shop and is a matter for the market and not a matter for the licensing authority to consider in discharging its licensing functions or for its statement of licensing policy. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the licensing authority to consider.

Where the number, type or density of premises selling alcohol is high or exceptional and serious problems of nuisance and disorder are arising or have begun to arise outside or some distance from those premises and where there is sufficient evidence this authority will consider adopting a cumulative impact policy.

The effect of adopting a policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally, following relevant representations and subject to certain limitations, be refused unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

- 7.2 The absence of a cumulative impact policy does not prevent any responsible authority or other person making representations on an application for the grant or variation 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.
- 7.3 The Licensing Authority will not operate a quota of any kind which would pre-determine any application. Regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, other clubs and off licences all sell alcohol, but with contrasting styles and characteristics. Proper regard will be had to those differences and the impact they are likely to have on the local community.

17. Staff Training

- 17.1 The Licensing Authority recommends that all persons employed on licensed premises who are engaged in the sale and supply of alcohol be encouraged to attend training programmes to raise their awareness in this area of responsibility. Similarly persons employed at on-licensed premises should be encouraged to attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all staff involved in managing or supervising the premises. It is also recommended that persons employed on premises providing entertainment for children attend training programmes in basic child protection and safety. All persons employed on licensed premises should be provided with in-house training on basic public safety and the housekeeping arrangements relative to those premises.

26. Challenge 21/Challenge 25 Schemes.

- 26.1 The Licensing Authority strongly supports campaigns to reduce the illegal sale of items to underage persons and the adoption of a Challenge 21/25, or similar policy, within the licensed trade. Under the scheme, premises selling alcohol should seek proof of age from anybody who appears to be under the age of 21/25.

N.B. The mandatory licence conditions, introduced in 2014, require relevant premises to have an age verification policy in relation to the sale or supply of alcohol.

- 26.2 The policy should create a culture of expectation that in pubs, clubs, off-licences and similar premises that proof of age should either be offered or produced on demand and that this should be the norm as far as the sale of alcohol to young persons is concerned. Asking for identification at an age limit that is higher than the legal age for the sale of the product means that licence holders are much more likely to avoid an illegal sale to someone who looks older than their true age.