

LICENSING COMMITTEE

**Tuesday, 17 September
2019**

5.30 pm

Committee Room 1, City Hall

- Membership: Councillors Jane Loffhagen, Alan Briggs, Liz Bushell, Kathleen Brothwell (Chair), Loraine Woolley (Vice-Chair), Biff Bean, Bill Bilton, Ronald Hills, Adrianna McNulty, Ralph Toofany, Pat Vaughan and Keith Weaver
- Substitute member(s): Councillors Bob Bushell, Gary Hewson and Jackie Kirk
- Officers attending: Tom Charlesworth, Ian Cullen, Democratic Services and Legal Services

A G E N D A

| SECTION A | Page(s) |
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| 1. Confirmation of Minutes - 18 March 2019 | 3 - 4 |
| 2. Declarations of Interest | |
| Please note that, in accordance with the Members' Code of Conduct, when declaring interests members must disclose the existence and nature of the interest, and whether it is a disclosable pecuniary interest (DPI) or personal and/or pecuniary. | |
| 3. Licensing Act 2003 Statement of Licensing Policy | 5 - 60 |

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Present: Councillor Kathleen Brothwell (*in the Chair*),
Councillor Loraine Woolley, Councillor Biff Bean,
Councillor Adrianna McNulty, Councillor Fay Smith and
Councillor Pat Vaughan

Apologies for Absence: Councillor Bill Bilton, Councillor Gill Clayton-Hewson,
Councillor Ronald Hills, Councillor Andy Kerry, Councillor
Ralph Toofany and Councillor Keith Weaver

57. Confirmation of Minutes - 6 March 2019

RESOLVED that the minutes of the meeting held on 6 March 2019 be confirmed.

58. Declarations of Interest

No declarations of interest were received.

59. Hackney Carriage and Private Hire minutes of previous meeting - 28 February 2019

RESOLVED that the minutes of the Hackney Carriage and Private Hire Sub-Committee held on 28 February 2019 be confirmed.

60. Review of Hackney Carriage Fares

The Licensing Officer:

- a) Presented an application to increase the fares for Hackney Carriages in Lincoln.
- b) Highlighted that the last fare increase took place in January 2012, with the current tariffs shown at Appendix A and set out in paragraph 3 of the report.
- c) Reported that the application sought an increase to rate 1 by 20p every 180 metres and an increase to rate 2 by 30p every 202 metres. The consequence of these increases was set out in paragraph 6 of the report and in Appendix B.
- d) Reported that, following consultation, 17 operators were in favour of the proposal, 9 operators were against the proposal and one operator had abstained.
- e) Invited members' comments and questions.

Members of the Licensing Committee took the opportunity to ask questions of the applicant, James Richard Hodgson, for points of clarification in support of his application.

It was RESOLVED that the proposal be endorsed and referred to Council for approval.

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| SUBJECT: | LICENSING ACT 2003 STATEMENT OF LICENSING POLICY |
| DIRECTORATE: | COMMUNITIES & ENVIRONMENT |
| REPORT AUTHOR: | IAN CULLEN, LICENSING TEAM LEADER |

1. Purpose of Report

1.1 To update the committee on the result of the consultation of the Statement of Licensing Policy (the Policy) under the Licensing Act 2003 ('the Act').

2. Executive Summary

2.1 An updated Statement of Licensing Policy under the Licensing Act 2003 has been out for consultation.

2.2 Following feedback from various stakeholders, approval is sought to forward the amended Policy to Full Council for adoption.

3. Background

3.1 The Act requires that the Licensing Authority publish its Statement of Licensing Policy at least every five years. The current Statement of Licensing Policy came into effect in October 2014 and under current legislation was therefore due for revision by October 2019.

3.2 Core to the Licensing Act are the four licensing objectives. These are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

3.3 The draft Policy was forwarded to a total of 85 persons/organisations and to every member of the Licensing Committee. The Policy was also placed on the Councils website.

3.4 The list of persons consulted when reviewing the licensing policy was deliberately wide. This enables the licensing authority to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the policy.

3.5 A working group was formed from members of the Licensing Committee which has steered the draft policy through its consultation and final drafting.

3.6 The consultation period commenced on 5th July 2019 and ended on the 19th August 2019. A total of 3 responses were received.

3.7 This report comments on the responses received and necessary weight has been given to them by the Committee Working Group. Alterations have therefore been made to the draft policy and a suggested final policy can be seen in the final draft at **Appendix A**.

3.8 The statutory Section 182 Guidance to licensing authorities states:

Before determining its policy, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- *the chief officer of police for the area;*
- *the fire and rescue authority for the area;*
- *each local authority's Director of Public Health in England (DPH)¹⁴ or Local Health Board in Wales for an area any part of which is in the licensing authority's area,*
- *persons/bodies representative of local premises licence holders;*
- *persons/bodies representative of local club premises certificate holders;*
- *persons/bodies representative of local personal licence holders; and*
- *persons/bodies representative of businesses and residents in its area.*

The views of all these persons or bodies should be given appropriate weight when the policy is determined. It is recognised that in some areas, it may be difficult to identify persons or bodies that represent all parts of industry affected by the provisions of the 2003 Act, but licensing authorities must make reasonable efforts to do so. Licensing authorities should note that the terms of the 2003 Act do not prevent them consulting other bodies or persons.

4. Consultation results

4.1 The committee working group met on 28th August 2019 to consider the responses to the consultation.

4.2 The first response was from the Council Noise officer in the Public Protection and Anti-social behaviour team. His comments referred specifically to paragraph 5.4 of the Policy document regarding the prevention of public nuisance and the potential noise impact of services vehicles visiting licensed premises. The working group took note of the comments and a reference to the impact of service vehicles has been included at paragraph 5.4.4. The noise officer's full response can be found at **Appendix B**.

4.3 The second response was from Steve Renshaw, Secretary of the Lincoln Campaign for Real Ale (CAMRA) branch. He makes comment on the wording of paragraph 5.2.4 of the Policy document namely:

"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."

4.4 Mr Renshaw expressed a concern that the insertion of this paragraph creates a requirement for all alcohol licensed premises to have CCTV installed, at potential expense to operators.

- 4.5 Mr Renshaw was contacted and it was explained that this is not creating a requirement for all alcohol licensed premises to install CCTV but rather gives the Licensing Authority's opinion that CCTV is one of the best tools in the detection and prevention of crime and disorder and that operators should give serious consideration to its inclusion when making an application.
- 4.6 The working group felt that the wording of this paragraph reflected the views of the Licensing Authority and that its inclusion was merely to guide prospective applicants. If the discretion of the Licensing Authority were engaged, following relevant representations, then any such condition would only be imposed if it were appropriated for promoting the licensing objective put at risk. Mr Renshaw's full response can be seen at **Appendix C**.
- 4.7 The final response received was a letter from Barry Hepton on behalf of 'A Plan for Bailgate' – a group of Lincoln residents and others. Their response gives an overview of the aims of 'A Plan for Bailgate' and makes some specific comments on the draft policy. The full response can be seen at **Appendix D**.
- 4.8 Contact was made with the author of the letter and the points raised were discussed. The working group analysed the response and have made amendments to the policy as set out below.
- 4.9 The working party gave weight to the comments made at the bottom of page 3 of Mr Hepton's response with reference to the mention of local conditions. Therefore an additional paragraph has been inserted at 1.14 of the policy document.
- 4.10 An amendment has also been made to paragraph 3.6.3 of the Policy document to now read '*Applicants are strongly advised to make enquiries...*'. It was felt by the working group that the addition of the word 'strongly' further enhances the belief that applicants should take into account local circumstances when preparing applications.
- 4.11 Reference is made in the response to paragraph 6.3 of the Policy concerning cumulative impact. A Cumulative impact assessment is to be conducted separately to the main policy and many of the concerns raised in the response would contribute more appropriately to a cumulative impact assessment rather than the main policy document.
- 4.12 Mr Hepton was thanked for his feedback on the Policy, however it was felt by the working party that much of the content of the consultation response was specific to the Bailgate area within the City rather than the city as a whole.
- 4.13 The working party felt that the policy is intended as a document to provide guidance for various stakeholders as well as guide the Council in its decision making process. To inform applicants of the parameters under which the authority will make licensing decisions and provide clarity of the expectations of the licensing authority with regard to promoting the licensing objectives. The statement cannot create new requirements for applicants outside of the Act, or override the right of anyone to make an application under the Act, make representations or seek a review of a licence.

- 4.14 The policy sits alongside many other policies, strategies and local initiatives to help promote the licensing objectives. Therefore, save for the amendments as mentioned in paragraphs 4.9 and 4.10 above it was felt that no further amendments were necessary to the draft policy.
- 4.15 No other responses were received during the consultation period.

5. Strategic Priorities

5.1 Let's drive economic growth

By keeping the statement of policy up to date it will ensure that there is clear guidance for businesses.

5.2 Let's reduce inequality

Protecting vulnerable people is a key objective of the Act. This Statement of Licensing Policy should ensure that the licensing objectives are promoted and the most vulnerable are protected.

5.3 Let's deliver quality housing

N/A

5.4 Let's enhance our remarkable place

N/A

5.5 High performing services

N/A

6. Organisational Impacts

6.1 Finance (including whole life costs where applicable)

Cost of consultation and printing of Policy can be contained within the current licensing budget.

6.2 Legal Implications including Procurement Rules

Licensing Act 2003 section 5.

Each Licensing Authority (in this case the City Of Lincoln Council) must in respect of each five year period-

- a) Determine its policy with respect to the exercise of its licensing functions, and
- b) Publish a statement of that policy before the beginning of the period.

The implication here is that in order to carry out its licensing function, it must have a licensing policy that is valid.

6.3 Equality, Diversity and Human Rights

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees.

It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities

The statement of policy shall ensure that the licensing function is conducted in a fair and transparent way.

The licensing policy provides transparency for everyone, including local residents and applicants for premises licences, who will be able to refer to the statement when making representations or when preparing their applications. There is therefore not a need to complete an Equality Impact Assessment as there are no specific impacts on anyone who has a protected characteristic.

7. Risk Implications

7.1 (i) Options Explored

7.2 (ii) Key risks associated with the preferred approach

8. Recommendation

8.1 The Committee is asked to:

- Note the contents of the report and approve the draft policy; and
- recommend it to Full Council for adoption

Is this a key decision? No

Do the exempt information categories apply? No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? No

How many appendices does the report contain? 4

List of Background Papers: Appendix A – Draft Policy document
 Appendix B – Response of Noise officer
 Appendix C – Response of Steve Renshaw, CAMRA
 Appendix D – Response of Barry Hepton, A Plan for Bailgate

Lead Officer: Ian Cullen, Licensing Team Leader
 Telephone (01522) 873714



CITY OF
Lincoln
COUNCIL

Appendix A

Statement of Licensing Policy

Licensing Act 2003

2019 - 2024

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STATEMENT OF LICENSING POLICY

1. Introduction

1.1 The City of Lincoln has a population of 98,400 and is part of a greater economic area with a population of over 200,000. It is also home to a growing student population and is a major tourist attraction drawing in some 4 million visitors annually.

1.2 The leisure industry forms part of the appeal of the City and is a major contributor to its economic wellbeing.

1.3 The City of Lincoln Council (herein after referred to as the Licensing Authority) is responsible for the licensing of all licensable activities under the Licensing Act 2003 (the Act) within the City of Lincoln. This document sets out the policies and principles that the Licensing Authority will apply when making decisions on applications and authorizations for:

- The retail sale 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 ¹regulated entertainment; and
- The provision of ²late night refreshment.

This policy is intended to provide clarity to applicants, ³responsible authorities and other persons on how this Licensing Authority will determine applications under the Act. This document also seeks to assist the licensing process by including advice and recommendations from the Licensing Authority. Such advice and recommendations are not mandatory and for identification purposes are printed in italics. Further guidance is available to assist applicants on request or may be found on our website (www.lincoln.gov.uk), from the Home Office (www.gov.uk/government/organisations/home-office) and the Department for Digital, Culture, Media & Sport (www.gov.uk/government/organisations/department-for-digital-culture-media-sport). Additionally, the Act and Regulations made thereunder can be found at www.legislation.gov.uk.

1.4 The Licensing Authority has a duty under the Act to carry out its functions with a view to promoting the 4 licensing objectives. These are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

¹ See Glossary Appendix A

² See Glossary Appendix A

³ See Glossary Appendix A

1.5 Consultation was carried out on this policy between 5th July 2019 and 19th August 2019 and the Council adopted it on 24th September 2019

1.6 It is recognised that the licensing function is an important means of securing the delivery of the above objectives but should not be seen as solving all problems within the community. **The Licensing Authority will therefore continue to work in partnership with its neighbouring authorities, the Police, local businesses and local people towards the promotion of the objectives as outlined.** Individuals who commit offences or act in an anti-social manner are subject to the normal rule of law and should be expected to take responsibility for their own actions and consequences.

1.7 In preparing this policy statement the Licensing Authority has consulted with the following:

- Lincolnshire Police;
- Lincolnshire Fire and Rescue;
- the planning authority;
- the health and safety authorities;
- environmental health and pollution;
- trading standards;
- Lincolnshire Safeguarding Children Board;
- navigation authorities;
- Local Health Board;
- representatives of licence holders and club premises certificate holders;
- local businesses and their representatives;
- local residents and their representatives; and
- other bodies and persons that the Authority considered could contribute to this policy.

Appropriate weight has been given to the views of all those consulted prior to this policy statement taking effect on 1st October 2019.

1.8 The purpose of licensing is to regulate licensable activities and authorizations within the terms of the Act. Each licence application or authorization will be considered on its own merits in the context of the four licensing objectives, and unless a ⁴relevant representation is received and the discretion of the Licensing Authority is engaged, there is no provision for it to impose conditions on a licence or authorization other than those proposed within an application. **If no representations are made in respect of an application, the Authority is obliged to issue the licence on the terms sought.**

1.9 The Licensing Authority cannot attach conditions to licences, certificates or provisional statements unless they are mandatory, volunteered by the applicant or imposed by it following a hearing resulting from the receipt of relevant representations.

⁴ See Glossary Appendix A

- 1.10 In the case of ⁵temporary event notices, the Licensing Authority can only impose conditions following a hearing resulting from the receipt of a valid representation from a ⁶relevant person and then such conditions are confined to any existing conditions on a premises licence or club premises certificate in respect of those premises for which the notice is given.
- 1.11 Conditions shall relate to the premises used for licensable activities and the impact of those activities in the vicinity of those premises. In this regard the Licensing Authority will primarily focus on the direct impact of any activities taking place on those living, working or otherwise engaged in the area concerned.
- 1.12 The Licensing Authority has not defined vicinity nor has it been given a defined perimeter and may vary in distance away from the premises dependent on the nature of the area. Certain considerations may be taken into account in assessing “in the vicinity”. These may include but are not limited to:
- the nature of the licensable activity;
 - the nature and locality of the premises;
 - the time of day of the proposed licensable activity;
 - the frequency of the activity; and.
 - **Type of structure used for the activity.**
- 1.13 The licensing process can only seek to manage those measures within the control of the licensee or premises user and should not to be seen as the primary mechanism for the general management of anti-social behaviour by individuals once they are beyond the direct control of the licensee or user of any premises concerned. Whilst there is a range of statutory powers available to deal with such behaviour, these powers will not always be sufficient to control negative impacts on the licensing objectives in the vicinity. Therefore, the fact that such impact may occur is a relevant factor in the consideration of licensing applications. This may lead to a refusal of the application or the addition of conditions to meet the concern contained in a relevant representation.
- 1.14 From the historic Cathedral and Castle Quarter of uphill Lincoln to the thriving night time economy of the City Centre, each area of the district has its own character and challenges. The Licensing Authority expects applicants and operators alike to be aware of local conditions when fulfilling their duty to promote the licensing objectives.
- 1.15 In undertaking its licensing function, the Licensing Authority will have regard to other legislation, including, but not exclusively:
- Section 17 of the Crime and Disorder Act 1998 – requires a Local Authority to have due regard to the likely effect of the exercise of its functions on and the need to do all that it reasonably can to prevent, crime and disorder in its area.

⁵ See Glossary Appendix A

⁶ See Glossary Appendix A

- The European Convention on Human Rights, which is given effect by the Human Rights Act 1998 which places a duty on public authorities to protect the rights of individuals in a variety of circumstances;
- The Legislative and Regulatory Reform Act 2006
- The Regulatory Enforcement and Sanctions Act 2008
- The Provision of Services Regulations 2009.
- Live Music Act 2012
- **Anti-Social Behaviour Crime and Policing Act 2014**
- **Deregulation Act 2015**
- **Violent Crime Reduction Act 2006**
- **Police and Crime Act 2009**
- **Immigration Act 2016**
- **Equality Act 2010**

- 1.16 The Council is committed to the implementation and application of this policy in such a manner as to ensure that no applicant or other person is treated less favourably on the grounds of **age, disability, gender reassignment, civil or marital status, pregnancy and maternity, race, religion or belief, sex and sexual orientation**, nor is disadvantaged by the application of a rule, condition or requirement, which has a discriminatory effect which cannot be justified either in licensing terms or as a requirement of law.

2. Integrated Strategies, the Avoidance of Duplication and Partnership Working

- 2.1 By consulting widely prior to this policy statement being published the Licensing Authority has endeavoured to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.

- 2.2 The Licensing Authority will seek to discharge its responsibilities identified by other Government and local strategies and policies, so far as they impact on the objectives of the Licensing Act. Some examples of these strategies and policies are:

- Lincoln Community Cohesion Strategy;
- City of Lincoln Council Strategic Plan;
- LACORS/TSI Code of Best Practice on Test Purchasing;
- The Government's Alcohol Strategy;
- Local Crime and Disorder initiatives;
- Child Protection Plan;
- Regulators' Compliance Code; and
- The Council's own Licensing Enforcement Policy

- 2.3 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Licensing Authority's Licensing Committee may therefore receive and may act upon relevant reports concerning:

- crime and disorder;

- community safety issues;
- the needs of the local tourist economy;
- cultural strategy for the area;
- employment situation in the area and the need for new investment and employment where appropriate;
- planning considerations which might affect licensed premises;
- local transport arrangements; and
- any other reports considered appropriate to the licensing function.

2.4 The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process and it will ensure that there is a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. **There is no legal basis for the Licensing Authority to refuse a licence application because it does not have planning permission. Premises operating in breach of their planning permission would be liable to prosecution under planning law.**

2.5 There are several key differences between licensing and planning control. Licensing is concerned with detailed issues concerning the operation and management of the premises that are not addressed by the planning control process. Planning control relates to need and the use of the premises.

2.6 **Applicants are encouraged to make any necessary applications for planning permission before or at the same as they make an application for a licence. Furthermore applicants are asked to ensure that:**

- **The activity to be authorised by the premises licence or club premises certificate is a lawful planning use; and**
- **The hours sought do not exceed those authorised by any planning permission**

2.7 **When as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes and these hours are different to the licensing hours, the applicant must always observe the earlier closing time.**

2.8 The Licensing Authority does not intend to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators (for example, The Health and Safety (First Aid) Regulations 1981 and the Regulatory Reform (Fire Safety) Order 2005) and it will therefore not attach conditions to licences if they are already adequately covered by other legislation.

2.9 The Licensing Authority will work closely with the police, trading standards and its neighbouring authorities and those concerned with:

- health and safety
- environmental health
- pollution control
- planning and building control;
- child protection;
- river navigation;
- health;

- business improvement;
 - the licensed trade and its representatives;
 - community safety;
 - all local businesses; and
 - local people
- with the aim of promoting the licensing objectives.

2.10 The Licensing Authority will endeavour to ensure its officers are active in local initiatives that promote the licensing objectives such as the Pubwatches, Safer Lincolnshire Partnership groups, Lincolnshire Health and Wellbeing Board in its promotion of safe, sensible drinking, Lincoln Business Improvement Group and the Lincoln Events Safety Advisory Group,

3. The Licensing Process

3.1 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 (See Appendix B for further details).

3.2 Each application for licensing will be considered on its own merits, for example, free from the imposition of quotas on the number of licensed premises or generalized closing times (subject to the power a licensing authority has to introduce Early Morning Restriction Orders, referred to as EMROs hereon⁷) and nothing will undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have each application considered on its individual merits.

3.3 If an application for or a variation to a premises licence, or club premises certificate or an application for a provisional statement has been made lawfully and there have been no representations from responsible authorities or other persons the licensing authority is required to grant the application, subject only to relevant mandatory conditions and conditions that are volunteered and are consistent with the operating schedule.

3.4 Applications for minor variations may be subject to consultations 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.

3.5 Officers acting under delegated powers will determine applications for the minor variation of a premises licence. Prospective applicants are advised to contact the Licensing Team before submitting a minor variation in order to ascertain whether the proposed change does in fact qualify as a minor variation. Officers will reject any application that does not qualify as a minor variation.

3.6 Premises licences and Club Premises Certificates

⁷ See Glossary Appendix A

- 3.6.1 Applicants for premises licences, club premises certificates and variations thereof, provisional statements and reviews are expected to make their application in accordance with the Act and any regulations made thereunder. 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. Applications for a premises licence or club premises certificate must be copied to each of the appropriate Responsible Authorities. It is the responsibility of the applicant to send the copies to the Responsible Authorities, unless the application has been properly made by means of an electronic application facility in which case it is the responsibility of the Licensing Authority to circulate the copies.**
- 3.6.2 Applicants shall be expected to have had regard to this policy and be aware of the expectations of the Licensing Authority and responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives. They should be able to demonstrate knowledge of the area for which the application is made and take that knowledge into account when preparing the operating schedule⁸.
- 3.6.3 *Applicants are **strongly** advised to make enquiries about the premises locality thereby assisting them to determine the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider how this impacts upon their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives and include positive proposals in their application on how they will manage any potential risks. Where there are no known concerns, they should acknowledge this in their application.*
- 3.6.4 *Applicants for premises within any cumulative impact area are expected to demonstrate an understanding of how the policy impacts on their application and detail any measures they will take to mitigate the impact; and include why they consider their application should be an exception to the policy*
- 3.6.5 *Therefore 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 Licensing Authority and other responsible authorities 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. To remove all doubt; officers are not empowered to change operating schedules once submitted to the Licensing Authority even*

⁸ See Appendix C for further information on preparing operating schedules.

though parties may have agreed changes, nor can officers accept conditional withdrawals of relevant representations.

- 3.6.6 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.
- 3.6.7 The Licensing Authority is a responsible authority and it makes a clear separation of the role of its licensing officers who administer applications and officers that can make representations. To that end, the Licensing Authority has nominated the Assistant Director - Health and Environment Services as the officer able to make representations on behalf of the Licensing Authority.
- 3.6.8 The Licensing Authority does not intend to make representations that should be made by another responsible authority or other person. However, there are occasions when it may wish to make representations e.g. when there are a number of unconnected complaints that in themselves do not require another responsible body to make a representation, but when taken together may undermine one or more of the licensing objectives.
- 3.6.9 The Public Health Directorate Lincolnshire County Council is also a responsible authority and the Licensing Authority recognizes the Director of Public Health, Lincolnshire County Council as representing that authority.
- 3.6.10 If relevant representations have been made, applications will be determined having regard to:
- this policy;
 - the Licensing Act 2003 and subordinate legislation;
 - case law;
 - guidance issued by the Home Office; and
 - the content of any 'relevant representations' received.
- 3.6.11 Account will be taken of the need to encourage and promote all types of entertainment including ⁹live 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 arising out of these activities in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community.
- 3.6.12 The Licensing Authority acknowledges that the views of vocal minorities should not necessarily be allowed to predominate over the general interest of the community.
- 3.6.13 *It is strongly recommended that advice on fire safety be sought from Lincolnshire Fire and Rescue.*

⁹ See Live Music Act 2012 for exemptions to live music and The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 for plays, performance of dance, indoor sporting events and wrestling and boxing.

3.7 Temporary Event Notices

- 3.7.1 Organizers of Temporary Events are required to give notice to the Licensing Authority no later than ten clear working days in the case of ¹⁰standard notices and not less than five and not more than nine working days in the case of ¹¹late notices before the day on which the event period begins. Clear working day does not include the day the temporary event notice was received by the Licensing Authority or the day of the event itself, nor does it include bank holidays or weekends. *Organizers are encouraged to submit their notifications to the Licensing Authority, Police and Environmental Protection as soon as is reasonably practical in order for the Police and Environmental Protection to consider whether or not there are any concerns and where there are concerns, to enable all parties to take the necessary steps to resolve them.*
- 3.7.2 *The Licensing Authority recommends that for normal temporary events that at least 20 working days and no more than 40 working days notice be given. For events that may attract larger numbers of people or may have an impact on traffic or road management, earlier contact with responsible authorities, the Highway Authority (and possibly the Lincolnshire Safety Advisory Group) is advisable. For events taking place in the city centre it is also advisable to contact Lincoln Business Improvement Group (commonly referred to as Lincoln BIG) who have day to day control of the running of this area of the city and Lincolnshire County Council Highways.*
- 3.7.3 **The Police and the Council's Environmental protection are the only bodies who may make representations to a TEN. They can object on grounds that allowing the event to proceed would undermine any one of the licensing objectives. Where objections are received to a Standard TEN the matter will be put before the Licensing Sub-Committee at a hearing. The Sub-Committee may decide to:**
- **Allow the TEN to go ahead.**
 - **Reject the TEN.**
 - **If the premises already has a premises licence which authorises the sale of alcohol the Sub-Committee may allow the TEN but impose some, or all, of the conditions on the premises licence onto the TEN if appropriate.**
- 3.7.4 **The Police and Environmental protection have a period of three working days from when they are given the notice to object to a TEN. If there is an objection from either the police or environmental protection to a Late TEN, the event will not go ahead. In these circumstances there is no scope for a hearing or the application of existing conditions, nor is there a right of appeal.**
- 3.7.5 Event organizers are reminded of Police powers to close down events without notice, on the grounds of disorder, the likelihood of disorder, or public

¹⁰ See Appendix A

¹¹ See Appendix A

nuisance. The Licensing Authority, therefore, expects organizers to be aware of their responsibilities under the licensing laws.

3.8 Personal licences and Designated Premises Supervisors

3.8.1 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.

3.8.2 *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.*

3.8.3 Personal licences remain valid unless surrendered, suspended, revoked or declared forfeit by the courts. The requirement to renew a personal licence was removed from the Licensing Act 2003 by the Deregulation Act 2015. While personal licences issued before the 2015 Act have expiry dates, these licences will remain valid and such dates no longer have an effect. Once granted, the licensing authority which issued the licence remains the “relevant licensing authority” for it and its holder, even though the individual may move out of the area or take employment elsewhere. The personal licence itself will give details of the issuing licensing authority.

3.8.4 Every premises licence that authorises the sale of alcohol will require that every supply of alcohol under that licence must be made or authorised by a person who holds a personal licence. This in most instances will be the designated premises supervisor (DPS) who must hold a valid personal licence.

3.8.5 The Licensing Authority will require one of the Personal Licence holders to be a Designated Premises Supervisor at premises where alcohol is sold (premises with Club Premises Certificates are exempt from this requirement and Community Premises e.g. Village Halls can apply to remove the requirement). The main purpose being to ensure that there is always one specified individual who can be readily identified as responsible for the day-to-day management of the business at the premises.

3.8.6 The Licensing Authority will expect the DPS to have been given day-to-day responsibility for running the premises by the holder of the Premises Licence.

4. Licensing Hours

- 4.1 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 other than those subject to any EMRO that the Licensing Authority puts in place.
- 4.2 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. 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 then, subject to receiving relevant representations, a limitation on licensing hours may be appropriate.
- 4.3 The Licensing Authority will deal with the issue of ¹²licensing hours on the individual merits of each application. When issuing a licence or certificate, subject to receiving relevant representations, it may be necessary to impose stricter conditions with regard to noise control and/or limitations to the opening hours on premises which are situated in residential or sensitive areas.
- 4.4 *The Licensing Authority recommends applicants applying for late night hours, or extended hours to cater for non-specified dates, such as international sporting events, to make provision on their operating schedules to address the licensing objectives for these specific times applied for. For example additional or a different set of operating conditions may apply during these extended hours.*

5. Licensing Objectives

5.1 General

- 5.1.1 Each of the four licensing objectives is of equal importance. The Licensing Authority considers the effective and responsible management of the premises, and the instruction, training and supervision of staff in the adoption of best practice to be amongst the most essential control measures for the achievement of the licensing objectives. *For this reason it is recommended that these elements be specifically considered and addressed within an applicant's operating schedule.*
- 5.1.2 *As set out in paragraph 3.10, 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.*

¹² Applicants should be aware that the Licensing Authority may over-ride licensing hours with Early Morning Restriction Orders when appropriate to promote the licensing objectives.

5.1.3 *Although not a requirement under the legislation, applicants are advised to copy any risk assessments undertaken to the responsible authorities in order that they can assess the suitability of the operating schedule. This may assist in reducing the number of representations and subsequent hearings.*

5.2 Prevention of Crime and Disorder

5.2.1 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 take measures to regulate the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises.

5.2.2 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 of the exercise of those functions on, and do all it reasonably can to prevent, crime and disorder in the City.

5.2.3 When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their particular 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.

Examples of steps the Licensing Authority advises applicants to consider and address include:

- *Physical security features e.g. use of polycarbonate, toughened or plastic drinking glasses;*
- *Procedure for risk assessment of alcohol promotions to ensure that they do not promote irresponsible drinking or potentially breach the mandatory condition on irresponsible drinks promotions;*
- *The use and numbers of SIA licensed 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,*
- *Training given to staff to prevent the sale of alcohol to those who are under age or appearing to be drunk;*
- *Training for staff to a recognised level such as the awards for personal licence holders, responsible drink retailing and designated premises supervisors;*
- *Adoption of the Retail of Alcohol Standards Group Challenge 21 or Challenge 25 policy incorporating the British Retail Consortium's Proof of Age Standards Scheme (PASS);*
- *Measures agreed with the Police to reduce crime and disorder;*
- *Measures to prevent the use or supply of illegal drugs;*
- *Search procedures;*
- *Provision of CCTV in and around the premises;*

- *Participation in the use of the Lincoln Business Improvement Group's Radio Link Scheme;*
- *Formulation of a dispersal policy;*
- *Measures to prevent glasses and bottles being taken away from the licensed premises.*

5.2.4 **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.**

5.3 Public Safety

5.3.1 The Licensing Authority will carry out their licensing functions with a view to promoting public safety and will seek to ensure that licensees 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.

5.3.2 Where an applicant identifies an issue in regard to public safety (including fire 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. *Depending on the individual style and characteristics of the premises and/or events, the following issues might be of relevance:*

- *Suggested occupancy figures (including staff and performers),*
- *Use of equipment and effects,*
- *Levels of door supervision,*
- *Measures to prevent the supply and use of illegal drugs,*
- *Physical safety features e.g. use of toughened glass, polycarbonate and plastic drink containers,*
- *Fire safety, training and evacuation procedures,*
- *Provision of CCTV.*

5.3.3 *The Licensing Authority would advise applicants applying for permissions to stage events which are likely to draw in large numbers of people and/or have an impact on the road network to have consulted with those authorities concerned with public safety and in particular with the Lincoln Events Safety Advisory Group (SAG) and Highways Authority.*

5.3.4 *SAG is not a responsible authority but is made up from representatives from bodies concerned with public safety; some of which are responsible authorities. Applicants are advised that the planning and consultation with SAG should commence at an early stage and on particularly large events promoters/organisers should commence consultation at least a year in advance of the event.*

- 5.3.5 *It is also advisable for applicants to read the guidance for large scale events titled HSG 195, The Event Safety Guide (for health, safety and welfare at music and similar events) commonly known as the Purple Guide.*
- 5.3.6 *The occupancy capacity for premises, and events as appropriate, is a fundamental factor in the achievement of the four licensing objectives (except in respect of premises licensed for the consumption of food and/or alcohol off the premises). The Licensing Authority recommends the issue of occupancy capacity (including staff and performers) to be considered and addressed within the premises' fire risk assessment.*
- 5.3.7 *The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include but are not limited to:*
- The nature of the premises or event,*
 - The nature of the licensable activities being provided,*
 - The provision or removal of such items as temporary structures, such as a stage, or furniture,*
 - The number of staff available to supervise customers both ordinarily and in the event of an emergency,*
 - The customer profile,*
 - Availability of suitable and sufficient sanitary accommodation,*
 - Nature and provision of facilities for ventilation.*
- 5.3.8 *The agreement to a capacity for premises or events should not be interpreted as a requirement in all cases to also provide permanent monitoring arrangements such as door staff, attendance clickers or maintenance of attendance records. The Licensing Authority recognises that the person in charge at the premises can often readily assess the capacity of premises without the need to resort to such measures. However, where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant is advised to detail the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.*

5.4 Prevention of Public Nuisance

- 5.4.1 Licensed premises have a significant potential to impact adversely on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 5.4.2 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.

5.4.3 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.

5.4.4 When addressing public nuisance the applicant should initially identify any particular issues (having regard to their particular 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. *These issues may include:*

- *The location of premises and proximity to residential and other noise sensitive premises, such as local businesses, hospitals, 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,*
- *The availability of public transport,*
- *The availability of parking and access to such parking,*
- *The impact on the road network,*
- *'Wind down period' between the end of the licensable activities and the closure of the premises,*
- *The formulation of a dispersal policy,*
- *Last admission time.*
- *The impact of service vehicles, particularly outside of business operating hours. e.g. delivery vehicles, waste and bottle collection etc.*

5.4.5 *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,*
- *Provision of CCTV,*
- *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,*

- *The need for temporary traffic regulation orders,*
- *Liaison with public transport providers,*
- *Sighting 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.*
- *Signage requiring customers to leave the premises in a quiet and orderly manner.*

5.5 Protection of children from harm

5.5.1 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 or centres 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. **In all other cases it will be a matter for the discretion of the licensee.**

5.5.2 **The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting them from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). The Licensing Authority is especially mindful that it must always consider the need to protect children from sexual exploitation.**

5.5.3 After receiving relevant representations on limiting access by children, the Licensing Authority, when deciding whether to limit access to children or not, will judge each application on its own individual merits. *Examples, which may give rise to concern in respect of children and would likely lead to a refusal of permitting access to children under 18, would include premises –*

- *Where entertainment or services of an adult or sexual nature are provided;*
- *Where there has been a conviction of a member of the current staff at the premises for serving alcohol to a minor or with a reputation for underage drinking;*
- *Where there has been a conviction of a member of current staff at the premises for an offence which may pose a risk to children;*
- *With a known (having been provided with evidence) 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); and*
- *Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.*

- 5.5.4 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 (BBFC) or, in specific cases, a certificate given to the film by the Licensing Authority itself.
- 5.5.5 **Films that have not been classified by the BBFC may only be shown after they have been classified by the Council. The Council has delegated the function of classifying such films, using the BBFC classification guidelines prevailing at the time, to designated officers. The Council requires that films are presented for classification at least 28 days prior to the intended date of exhibition.**
- 5.5.6 **Where a large number of children are likely to be present on any licensed premises, the applicant will be required to include within their Operating Schedule the steps they will take to protect children from harm whilst on the premises. The Licensing Authority will expect the presence of an appropriate number of adult staff (being over 18 years of age) to ensure the children's protection from harm., 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 a criminal record check from the Disclosure & Barring Service.**
- 5.5.7 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);
 - Requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied and supervised by an adult); and
 - Full exclusion of those people under 18 years of age from the premises when any licensable activities are taking place.
- 5.5.8 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 licensee or club, subject to the requirements of the Act.
- 5.5.9 In respect of premises licensed for the sale of alcohol, the Licensing Authority commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks and compliance with the Retail Alert Bulletin.
- 5.5.10 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. **The Licensing Authority will therefore expect licensed premises to have**

adequate controls in place to prevent under age sales of alcohol to children and young persons.

- 5.5.11 The Licensing Authority recognises that Lincolnshire County Council Trading Standards Service, as part of its responsibilities and duties under 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. The Licensing Authority also recognises that in liaison with the Police, the Trading Standards Service conducts covert test purchasing exercises in response to complaints and information received to check compliance with the law.
- 5.5.12 Mandatory conditions require the adoption of a proof of age scheme. The Licensing Authority commends a scheme such as the British Retail Consortium's Proof of Age Standards Scheme (PASS), the "Challenge 21" scheme, "Challenge 25" scheme or any locally or nationally approved scheme. All staff engaged in the sale or supply of alcohol should be fully trained in the application of any policy adopted.
- 5.5.13 **The Designated Premises Supervisor at a licensed premises is legally responsible for ensuring that the supply of alcohol at the premises is carried on in accordance with the age verification policy.** ¹³The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:
- a) a holographic mark, or
 - b) an ultraviolet feature.
- 5.5.14 The body responsible for the interests of children is:
The Lincolnshire Safeguarding Children Board which is contactable through Lincolnshire County Council.

6. Cumulative Impact

- 6.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Licensing Authority can take into account. Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. For example the potential impact on crime and disorder or public nuisance on a town or city centre of a large concentration of licensed premises. This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises e.g. a pub, restaurant or hotel. The issue of 'need' is therefore a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.

¹³ (The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014)

- 6.2 Following the introduction of section 5A of the Licensing Act 2003 Cumulative Impact has been placed on a statutory footing. A legal framework now exists under which such policies are to be developed and reviewed.**
- 6.3 This provides provision for licensing authorities to publish a document, cumulative impact assessment, stating that the licensing authority considers that a number of relevant authorisations in respect of premises in one or more parts of its area, described in the assessment, is such that it is likely that it would be inconsistent with the authority's duty under the Act to grant any further relevant authorisations in respect of premises in that part or those parts. As a consequence any Cumulative Impact Policy will now exist independently to this Policy, enabling it to be developed and reviewed in accordance with this framework.**
- 6.3 The Licensing Authority will not operate a quota of any kind, which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Instead, 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, and other clubs all sell alcohol, serve food and provide entertainment 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.
- 6.6 There are a number of other mechanisms for addressing issues of unruly behaviour which occur away from licensed premises. These include:
- planning controls;
 - positive measures to create a safe and clean city environment in partnership with local businesses, transport operators and other departments of the Council;
 - the provision of CCTV surveillance in the City, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
 - powers for the Council to designate parts of the local authority area as places where alcohol may not be consumed publicly;
 - police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
 - Directions to leave under section 27 of the violent crime reduction act 2006.
 - the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
 - the confiscation of alcohol from adults and children in designated areas;
 - the power of a magistrates court requiring premises to be closed for a period not exceeding 24 hours, where disorder occurs or is expected to occur;
 - police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of

disorder or noise emanating from the premises causing a nuisance;
and

- the power of the police, other responsible authorities or other persons to seek a review of the licence or certificate in question.

6.7 The Licensing Authority may address a number of these issues through the Safer Lincolnshire Partnership and County Licensing Group in line with the strategic objectives for crime and disorder reduction within the City.

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7. Regulated entertainment and relevant entertainment.

7.1 A number of deregulatory changes have amended the Licensing Act 2003 to remove the licensing requirement for some activities within the definition of regulated entertainment under certain circumstances.

7.2 The cumulative effects of the deregulatory changes mean that no licence is required for the following activities:

- Live unamplified music anywhere between 08.00 and 23.00
- Live amplified music in licensed premises and workplaces between 08.00 and 23.00 as long as the audience does not exceed 500.
- Recorded music between 08.00 and 23.00 in on-licensed premises provided the audience does not exceed 500.
- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.
- Boxing or wrestling entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.

7.3 Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:

- any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
- any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
- any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor.

7.4 An authorisation for regulated entertainment is always required for entertainment activities that take place before 08.00 or after 23.00, unless exempted under any other provision of the 2003 Act. *Applicants*

and operators are encouraged to check with the Licensing Authority if there is any doubt whether a licence, club premises certificate or temporary event notice is required.

- 7.5** The Authority also acknowledges that the changes aim to strike a balance between the management of risks and regulatory burdens. The Licensing Authority is also mindful that anyone involved in the organisation or provision of entertainment activities whether or not any such activity is licensable under the 2003 Act – must comply with any applicable duties that may be imposed by other legislation relevant to the event (e.g. in areas such as crime and disorder, fire, health and safety, noise, nuisance and planning). Any such person should take steps to be aware of relevant best practice, and may find responsible authorities a useful source of expert support and advice.
- 7.6** The Licensing Authority can remove the effect of the deregulation following a licence review and make live and recorded music in licensed premises licensable.
- 7.7** The deregulation of entertainment licensing as briefly outlined in this section does not remove the requirement for other licences required in the course of the provision of entertainment, for example music and screening licences to protect copyrights and child performance licences.
- 7.8** The Policing and Crime Act 2009 has amended the Licensing Act 2003 and the Local Government (Miscellaneous Provisions) Act 1982 and introduced a separate licence, the sexual entertainment venue licence which permits entertainment such as lap dancing, striptease and similar entertainment termed relevant entertainment. The City of Lincoln Council has adopted provisions of that Act.
- 7.9** If an operator wishes to provide entertainment covered by the amended 1982 Act then a licence under that Act will have to be obtained. If, the venue is exempted from requiring such a licence under the amended 1982 Act (due to the infrequent nature of providing the entertainment) an authority to provide such entertainment shall be required under the 2003 Act.
- 7.10** Additionally, any regulated entertainment not covered by the definition of relevant entertainment under the 1982 Act will need an authorization under the 2003 Act. As most venues providing relevant entertainment under the 1982 Act would also provide for the sale or supply of alcohol; both an authorization under the 2003 Act and a licence under the 1982 Act will be required.
- 7.11** Where premises licence applications include striptease or any other kind of nudity, the Licensing Authority will (on the receipt of relevant representations) have particular regard to the location of the premises in relation to places of religious worship or instruction, schools, youth clubs, nurseries, children’s centres or other premises where significant numbers of children are likely to attend. With regard to location the

Licensing Authority will give close scrutiny to those applications, which are in close proximity to the aforementioned premises.

- 7.12 Where a premises has a licence issued under the 2003 Act and a sex entertainment venue licence issued under the Local Government (Miscellaneous Provisions) Act 1982 and there are similar conditions on both licences, the more onerous will apply.**

8. Licence Conditions

- 8.1 Where the responsible authorities or other persons do not raise any representations about an application made to the Licensing Authority, it is the duty of the Licensing Authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed in the Act itself.
- 8.2 The Licensing Authority may not therefore impose any additional conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing that it is appropriate to impose conditions due to the representations raised. It may then only impose or modify conditions appropriate for the promotion of the licensing objectives arising out of the consideration of the representations. The Licensing Authority will expect that those making representations, which include suggested conditions, to provide evidence of the appropriateness for those conditions to be applied in respect of the specific premises.
- 8.3 When considering conditions the Licensing Authority will look to the relevant responsible authorities to assist and advise on the appropriate measures to be taken.
- 8.4 Where an applicant considers that representations may be likely or probable, it is recommended that the applicant discuss proposals with the Licensing Authority and those from whom they think representations are likely to be made prior to submitting their application. Applicants are specifically referred to paragraphs 3.4, 3.6.2 and 3.6.5 above.
- 8.5 The Licensing Authority does not propose to implement standard conditions on licences across the board. *Applicants are advised to consult section 10 of the section 182 guidance when formulating their operating schedules.*
- 8.6 The Licensing Authority is aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a substantial nature and will take account of this.
- 8.7 The Licensing Authority is mindful that, additionally, any conditions which it attaches should be:**
- **Appropriate**
 - **Proportionate**
 - **Enforceable**

- **Precise, unequivocal and unambiguous**
- **Not duplicated by other statutory provisions**
- **Expressed in plain language capable of being understood by those expected to comply with them.**

8.8 There is now scope within the Act for the management committees of community premises to apply for the mandatory alcohol condition under the Act requiring a designated premises supervisor in respect of the sale of alcohol to be disapplied.

8.9 The Licensing Authority will need to be satisfied that the arrangements for the management of the premises are sufficient to ensure adequate supervision of the supply of alcohol on the premises.

8.10 If such an application is successful, the effect of the alternative licence condition will be that the licence holder (i.e. the management committee) is responsible for all alcohol sales made under the premises licence. There will be no requirement for a Designated Premises Supervisor or for alcohol sales to be authorised by a personal licence holder.

9 General Matters

9.1 Licence Suspensions – Non-payment of annual fee

9.1.1 Most premises licences and club premises certificates attract an annual fee, the payment of which is due on the anniversary of the grant of the licence or certificate. The Act requires a licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due, unless the payment was not made because of an administrative error, or a disputed liability for the fee notified before or at the time of the due date. In either of these cases there is a grace period of 21 days to allow the licensing authority and the licence holder the opportunity to resolve the dispute or error.

9.1.2 A dispute is one relating to liability to pay the fee at all or relating to its amount. In either case, the licence or certificate holder must notify the licensing authority of the dispute on or before the date on which the fee to which it relates becomes due.

9.1.3 There is no definition of “administrative error” in the 2003 Act, but it can include an error on the part of the licensing authority, the licence or certificate holder, or any other person. Therefore, “administrative error” will be given its plain, ordinary meaning. An example might be where post has been misdirected.

9.1.4 Where such a suspension takes place the Licensing Authority must give a minimum of two days notice and may inform the police and other Responsible Authorities of the suspension. All licensable activities must cease when the suspension takes effect. The suspension will only cease

on payment of the outstanding fee irrespective of any transfer or hearing which may take place. Any non-compliance with a suspension notice may result in prosecution and also revocation of the licence.

9.1.5 The Licensing Authority urges licence holders to consider surrendering licences in cases where the licence is no longer active. This will avoid the accrual of annual fees.

9.2 Garages and Petrol Stations

9.2.1 Section 176 of the Act provides that no premises licence, club premises certificate or temporary event notice can authorise the sale of alcohol on or from certain premises including premises used primarily as a garage (as defined in the Act) or form part of premises which are primarily so used. The Licensing Authority will establish primary use based on an examination of the intensity of use by customers of the premises and not based on an examination of gross or net turnover.

9.3 Outdoor Furniture and Street Café Licences

9.3.1 The Licensing Authority will (on the receipt of relevant representations) carefully consider any application for a premises licence where outdoor tables and chairs are to be provided. In particular the Licensing Authority will consider the premises in the context of their location, the hours during which the premises are to be open, the proposed licensable activities and proposals for control of tables and chairs outside the hours of operation. Where appropriate, licence holders should ensure that they have an agreement (street café licence) with Lincolnshire County Council to use the public footway for the provision of tables and chairs.

9.4 Drinking Up Time/Chill Out Period

9.4.1 The hours during which applicants are licensed to sell or supply alcohol and the opening hours of a premises need not be identical and therefore applicants of premises licensed for the on-sale of alcohol are recommended to consider a drinking up/cooling down period during which music volume (especially base beat) may be reduced, customers may consume their drinks, use the toilet facilities and make arrangements for transport from the premises. The Licensing Authority considers that this approach will assist in the gradual dispersal of customers and consequently reduce impact on the surrounding area.

9.5 Excessive Consumption of Alcohol / Binge Drinking / Irresponsible Drinks Promotions

9.5.1 The Licensing Authority is acutely aware of the link between the supply of excessively discounted alcohol, irresponsible drinks promotions, and incidents of alcohol related disorder as well as the impact that excessive or binge drinking can have on public health. The Licensing Authority will

use the powers contained within the Licensing Act to ensure operators' promotional activities do not undermine the licensing objectives.

- 9.5.2** Licence holders are reminded that the mandatory licence conditions require the responsible person at the licensed premises to take all reasonable steps to ensure that staff do not carry out irresponsible promotions. Irresponsible promotion means carrying on an activity (defined in the mandatory condition), which carries a significant risk to the licensing objectives. When deciding whether a drinks promotion constitutes an irresponsible promotion the Authority will make specific reference to the guidance issued by the Home Office in relation to drinks promotions and the Authority will give appropriate weight to the Home Office document in its decision making process.
- 9.5.3** Irresponsible drinks promotions are likely to encourage excessive consumption or binge drinking and result in alcohol fuelled incidents of crime and disorder and implications for public safety, public nuisance and may expose children to risk of harm.
- 9.5.4** Any premises found to be promoting irresponsible drinks promotions (likely to have a negative effect on the licensing objectives) will be liable for prosecution. Responsible Authorities have stated that where evidence shows that a premises' alcohol drinks promotions are undermining one or more of the licensing objectives, then they may instigate a review of the licence.
- 9.5.5** Where relevant representations are made or reviews are requested on any individual case, the licensee will be expected to demonstrate to the Licensing Authority that appropriate measures are in place to ensure that promotions do not carry a significant risk to the licensing objectives.
- 9.5.6** On receipt of relevant representations from a Responsible Authority or other persons, which demonstrate a clear link between sales promotions and levels of crime and disorder or public nuisance on or in the vicinity of the premises, the Licensing Authority will seriously consider the status of the premises licence.
- 9.6** Immigration Act 2016 – Entitlement to work
- 9.6.1** Section 36 of and Schedule 4 to the Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention of these changes is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.
- 9.6.2** The commencement of the Immigration Act 2016 made it a requirement for licensing authorities to be satisfied that an applicant has the right to work in the UK. An application made by someone who is not entitled to work in the UK must be rejected.

- 9.6.3 Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.
- 9.6.4 A premises or personal licence issued in respect of an application made on or after 6 April 2017 will lapse if the holder's permission to live or work in the UK comes to an end.
- 9.6.5 The statutory prevention of crime and disorder licensing objective in the Licensing Act 2003 includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The licensing authority will work in partnership with the Home Office (Immigration Enforcement) and Lincolnshire Police with a view to preventing illegal working in premises licensed for the sale of alcohol or late night refreshment.
- 9.6.6 The licensing authority will have regard to any guidance issued by the Home Office in relation to the immigration related provisions now contained in the Licensing Act 2003.

9.7 Staff training and safeguarding

- 9.7.1 The licensing authority recognises the role that licensed premises play towards safeguarding and the protection of vulnerable persons. Safeguarding is not limited to children and young people, and vulnerability is an inherent part of the night time economy. Various training packages and resources exist which could help promote safeguarding awareness amongst staff members. This Authority recognises and supports initiatives such as Ask for Angela, the Welfare and Vulnerability Engagement (WAVE) Initiative and the work of Drinkaware. Furthermore the authority expects operators to be proactive in their approach to vulnerability in the night time economy.

10. Reviews

- 10.1 A review of premises licences or club premises certificates is a means available to responsible authorities and other persons to examine the operation of the premises when it becomes problematic and is putting the licensing objectives at risk.
- 10.2 The licensing authority recommends that responsible authorities and other persons should give premises early warning of problems. By doing so operators may be able to address these problems without the intervention of formal action. **It is the Licensing Authority's belief that the promotion of the licensing objectives is best achieved through mutual co-operation between all stakeholders. Reviews should therefore be mainly reserved for circumstances where early warnings of concerns and the need for**

improvement have gone unheeded by the management of the licensed premises. However it is acknowledge that under certain circumstances a review of the licence may be the appropriate course of action even in the first instance.

10.3 It should be noted that although the Licensing Authority can initiate a review it does not intend to do so in circumstances when the application should be made by another responsible authority or other person. However, there are occasions when it may wish to make such an application or make representations e.g. when there are a number of unconnected complaints that in themselves do not require another responsible body or other person to make a representation , but when taken together may undermine the licensing objectives.

10.4 The role of the licensing authority is to administer the process and determine the outcome at a hearing.

The steps the authority may take at a review hearing are;

- Modify (which includes adding, deleting or altering) the conditions.
- Excluding licensable activities from the licence/certificate.
- Remove the designated premises supervisor.
- Suspend the licence for a period not exceeding 3 months.
- Revoke the licence/certificate.
- Take no action.

11. Enforcement

11.1 The Licensing Authority approach to enforcement shall be in accordance with the Authority's own enforcement policy, which reflects the agreed principles that are consistent with the Enforcement Concordat and the BERR Statutory Code of Practice for Regulators. To this end the key principles of targeting consistency, transparency and proportionality will be maintained.

11.2 **All decisions, determinations, inspections and enforcement action taken by the Authority will have regard to the relevant provisions of the Licensing Act 2003, national guidance and the enforcement policy of the City Council.**

12. Review of Policy

12.1 The Policy Statement will remain in existence for a period of 5 years and will be subject to review and further consultation before 30th September 2024. However, following consultation, the Licensing Authority may make revisions to it as deemed necessary.

13. Exchange of Information

- 13.1 The Authority may from time to time exercise its' powers under Section 115 of the Crime and Disorder Act 1998 to exchange data and information with the Police and other partners to fulfil its' statutory objective of reducing crime in the area.

14. Advice and Guidance

- 14.1 For further advice, information or guidance on the application process, please contact the City of Lincoln Council's Licensing Section at:
Communities and Environment, City of Lincoln Council, City Hall, Beaumont
Fee, Lincoln, LN1 1DD;
01522 873564; or
licensing@lincoln.gov.uk

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Glossary:

Premises Licence

A Premises Licence / Club Premises Certificate is required in respect of any premises that are to be used for one or more of the licensable activities. These include:

- (a) The sale of alcohol by retail;**
- (b) The supply of alcohol by or on behalf of a club;**
- (c) The provision of Regulated Entertainment;**
- (d) The provision of late night refreshment.**

Regulated Entertainment

Subject to the conditions, definitions and the exemptions referred to in Schedule 1 the types of entertainment regulated by the 2003 Act (as amended) are:

- a performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- a boxing or wrestling entertainment;
- a contest, exhibition or display which combines boxing or wrestling with one or more martial arts (“combined fighting sports”);
- 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, any playing of recorded music or a performance of dance.

See Live Music Act 2012 for exemptions to live music and The Licensing Act 2003 (Descriptions of Entertainment)(Amendment) Order 2013 for plays, dance, indoor sporting events and wrestling and boxing..

Due to continued amendments please contact the Licensing Team for up to date details.

Late Night Refreshment

Defined in Schedule 2 of The Act. The provision of food/drink heated to above ambient temperature between the hours of 23:00 and 05:00 the following morning. Contact the Licensing Team for fuller details.

Responsible Authority

The term ‘Responsible Authority’ includes public bodies that must be fully notified of applications and that are entitled to make

representations to the Licensing Authority in relation to the application for the grant, variation or review of a licence.

- **the relevant licensing authority and any other licensing authority in whose area part of the premises is situated;**
- **the chief officer of police;**
- **the local fire and rescue authority;**
- **the relevant enforcing authority under the Health and Safety at Work etc Act 1974;**
- **the local authority with responsibility for environmental health;**
- **the local planning authority;**
- **a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm;**
- **each local authority's Director of Public Health (DPH);**
- **the local weights and measures authority (trading standards); and**
- **Home Office Immigration Enforcement (on behalf of the Secretary of State).**

In relation to a vessel, responsible authorities also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed, or any waters where it is proposed to be navigated when being used for licensable activities; the Environment Agency; the Canal and River Trust; and the Secretary of State

Relevant representation

To be relevant, the representation must concern one or more of the licensing objectives and not be frivolous, repetitive or vexatious.

Temporary Event Notice

A system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the "premises user") gives notice to the licensing authority of the event (a "temporary event notice" or "TEN").

Standard TEN

A notice given with at least ten working days notice (not including the day of the event or the day the licensing authority received the notice).

Late TEN

A notice given with at least five working days notice but less than ten (not including the day of the event or the day the licensing authority received the notice).

Relevant person

- a) the chief officer of police for any police area in which the premises are situated, or
- b) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health.

EMROs

- applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
- applies for any period beginning at or after midnight and ending at or before 06:00. It does not have to apply on every day of the week, and can apply for different time periods on different days of the week;
- applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
- applies to the whole or any part of the licensing authority's area;
- will not apply to any premises on New Year's Eve (defined as midnight to 06:00 on 1 January each year);
- will not apply to the supply of alcohol by those who provide hotel or similar accommodation to their residents between midnight and 06:00, provided the alcohol is sold at those times only through mini-bars and/or room service; and
- will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the 2003 Act.

APPENDIX B**Delegation of Functions**

The delegation of functions in relation to licensing matters are as follows: -

| Matter to be dealt with | Licensing Committee | Sub Committee | Officers |
|---|----------------------------|--------------------------------------|------------------------------------|
| Application for personal licence | | If a Police or Home Office objection | If no objection made |
| Application for personal licence with unspent convictions | | All cases | |
| Decision whether to suspend or revoke a personal licence | | All cases | |
| Application for premises licence/club premises certificate | | If a relevant representation made | If no relevant representation made |
| Application for provisional statement | | If a relevant representation made | If no relevant representation made |
| Application for a full variation of a premises licence/club premises certificate | | If a relevant representation made | If no relevant representation made |
| Application to vary designated premises supervisor | | If a Police objection | All other cases |
| Determination of an application to vary a premises licence at a community premises to include the alternative licence condition | | If a Police objection | All other cases |
| Decision whether to consult other responsible authorities on minor variation application | | | All other cases |
| Determination of minor variation application | | | All other cases |
| Request to be removed as designated premises supervisor | | | All cases |
| Application for transfer of premises licence | | If a Police or Home Office objection | All other cases |

| | | | |
|--|--|--------------------------------------|-----------------|
| Applications for Interim Authorities | | If a Police or Home Office objection | All other cases |
| Application to review premises licence/club premises certificate | | All cases | |
| Decision on whether a representation is relevant, frivolous, vexatious or repetitious | | | All cases |
| Decision to object when the Council is a consultee and not the relevant authority considering an application | | All cases | |
| Determination of an objection to a temporary event notice | | All cases | |

The Sub Committee of the Licensing Committee shall comprise of 3 Members of that Committee

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APPENDIX C

An operating schedule is a required document for all new applications for premises licences and club premises certificates. It forms part of the application. It is the documentation that outlines what activities are proposed to take place on the premises and when and where these activities will take place; the overall opening hours when the public are permitted on the premises; and how the activities will be managed in respect of the licensing objectives.

It is advisable to apply for realistic hours for any intended activity. Consideration should be given to the effect of hours not only on the residents and businesses in the vicinity but also the other service industries such as street cleaning, transport etc. The Police will look at their ability to provide resources and may make representations should it be felt that they are unable to make their limited resources available to suit your hours. Therefore, early discussion with the Police is essential.

Particular thought should be given to premises licence applications within the cumulative impact area. It is for the applicant to demonstrate that their application would not only have a neutral effect on the licensing objectives but in fact a positive effect.

One of the most critical parts of the operating schedule is the section where the applicant describes the steps intended to promote the four licensing objectives. Careful consideration of what is entered is advised. What is written in this section will be translated into conditions on the licence or certificate. However, as a guide the Council's Statement of Licensing Policy should be used to see what is expected to be addressed in the operating schedule.

Applicants should be aware that once the application has been submitted and accepted by the licensing authority as being a valid application, the proposed conditions within the operating schedule cannot be changed by officers.

If an application attracts a representation then the matter can only be resolved at a hearing. If agreement is made prior to the hearing between the applicant and the person(s) making representations, that change can be made to the application by the Licensing Sub-Committee without a hearing, but only if all parties (including the licensing authority itself) agree.

The operating schedule will be examined by the responsible authorities to ensure that they are satisfied that the risks to the licensing objectives have been addressed and the steps you intend to take so as not to put the objectives at risk. A representation can be expected from responsible authorities or other persons if the operating schedule is not specific, sufficiently detailed and robust enough to address the issues.

The starting point of the operating schedule should be a risk assessment. This should include the proposed activities and the risks they pose to the licensing objectives. Close liaison should be made with the responsible

authorities and persons living or working in the area for their views and assistance in preparing the risk assessment.

Premises that provide alcohol as part of their operation, will present some level of risk to the four licensing objectives.

Having identified risks, the operating schedule should include the steps that the applicant will take to address those risks and promote the licensing objectives in the form of proposed conditions.

Therefore, you are advised that to minimize the risk of representations, the steps that should be taken before submitting you application are:

- initially consult with responsible authorities and other persons;
- draw up a risk assessment;
- draw up an operating schedule;
- liaise again with the relevant authorities and other persons.

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Appendix B

Licensing Policy Consultation 2019 response - Public Protection and Anti- Social Behaviour Team

Hi Ian,

I have had look at the Draft Policy, to be honest only paying close attention to 5.4 Prevention of Public Nuisance as this is the bit I have involvement with.

I have noted that there appears to be no reference to potential nuisance form service vehicles e.g. delivery vehicles, waste and bottle collection etc.

May I suggest an inclusion in 5.4.4, possible something along the lines of:

The impact of service vehicles particularly outside of business hours.

You may also consider adding a control measure covering this area for example:

No vehicle servicing the licenced premises before 8.00 a.m.

After Music noise this is probably one of our most common complaints.

Kind Regards,

Julian Cozens

Noise Officer

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Appendix C

Licensing Policy Consultation 2019 response – Lincoln Campaign for Real Ale

Hello Ian

Thank you for the opportunity to comment on the draft Statement of Licensing Policy.

We note that the draft introduces an expectation that "**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.**" If this means that all premises must install CCTV, we would object, on the grounds that this is an unnecessary expense for pubs where there is no history of disorder.

We also note that, if the Council decides to produce a Cumulative Impact Policy, it will exist independently of the Licensing Policy. If a draft Cumulative Impact Policy is produced, we would welcome the chance to comment on it.

Cheers

Steve Renshaw
Secretary
Lincoln CAMRA

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[REDACTED]
[REDACTED]
[REDACTED]
19 August 2019

Dear Ian,

STATEMENT OF LICENSING POLICY 2019

Thank you for sending a draft statement as part of the document review.

This letter is from **A Plan for Bailgate**, a group of Lincoln residents and others who are working to make sure that the future of this important area is protected from unsympathetic development and to fill what we see as a significant local policy and strategy vacuum. It's a group with significant knowledge and skills. The team will grow in number as the project develops. Amongst our tasks is the establishment of a Neighbourhood Plan that gives us statutory rights to influence change and a series of meetings with key stakeholders such as the recent round table with the Police and Crime Commissioner. We are also building a community voice, so that the views of residents and others are properly heard and shared far more effectively across the city. An introduction to the project is attached to this letter, as are the notes from the meeting with the Commissioner.

One of our major concerns is the growth in anti social behaviour due to drinking, especially seen at weekends. The problem has been known for several years but has not yet been addressed. One reason is that the day to day public experience often sits below crime and incident reporting thresholds and is therefore ignored in official reporting. We recently challenged the Commissioner about this and whilst understanding the Police's defensive legal position nevertheless believe that both they and yourselves should be far more vocal in describing the experience of the community. Should there be any doubt of the effect antisocial behaviour has in the area, we have attached some but not all of the witness statements made when four local people challenged the recent granting of a licence for a new bar in Bailgate.

A major behaviour shift in Bailgate and the Cathedral Quarter relates to the growth in the number of drinking groups walking the streets. It was formally reported to the Licensing Sub Committee in 2016 and is informally acknowledged from time to time but we see no strategy on the part of the Responsible Authorities to properly map the

issue or to agree an appropriate strategy. We see good will on the part of officers that has yet to be translated into properly structured action.

The issue is simple, that Bailgate has become a destination for groups keen to enjoy periods of extended drinking in an itinerant way, starting in one bar then moving to others over a time that used to be late afternoon and evening but can now be from mid morning. The problem is not just an Uphill one—there are many accounts of drinking groups arriving by train and making their way up the High Street.

Drinking groups are often stag and hen parties but also include increasing numbers of informally constituted groups, mainly men.

Drinking groups per se do not represent a problem but their group behaviour can and does. Even if benign, large groups (a group of seventeen were counted walking Bailgate on 3 August for example) can be disruptive when understanding that Bailgate needs to be a safe haven for families.

Often these groups are seen by others in the street as loud and aggressive. They can and do block pavements, shout and display behaviour associated with drunkenness. In one example from Saturday 10 August, a group of men walked out of a pub door barging into one of our project team before moving down the road in a random fashion shouting to each other, stopping in the middle of the street and lurching to and fro whilst they organised the next venue.

These two events are minor evidence of how the streetscape has radically changed over the last few years. Sometimes the atmosphere can be ugly. Examples include shouting in ways that sounds to passers-by as violent (this is a frequent occurrence), falling off pavements and urinating in alley ways.

Some behaviours will be seen by groups themselves as harmless—the carrying of sex dolls for example. One recent hen party carried a penis blow up through the city, leaving it for more than an hour tied to pavement seating in a busy street. We know of no challenges from the police or other authorities to this behaviour despite the impact it may have on children and families.

The problem gets worse during summer months and over bank holidays. It isn't uniform and is to a degree weather dependent. At its worst the street is a chaotic and frightening place.

A rapidly growing problem is the carrying of glasses and bottles from bar to bar. The habit is for itinerant groups to take their drinks with them along the street. One local

pub manager has openly said that they cannot control that happening yet the potential consequences are worrying.

The bars and pubs where groups go will be known to the authority. We believe that the groups often know the journey they will take from drinking station to drinking station and the progress has become a well established path.

We believe that some pubs and bars are gross contributors to the group drinking problem. They are the places that effectively act as signposts to incoming groups. Vertical drinking, outside drinking spaces and drink offers are all part of signposting that has created the problem or at least has been a catalyst in its development. We also think that some pubs and bars are better able to control problems than others because of their siting and internal arrangements.

The growth in two other phenomena should be noted as critically important; that of pre-loading and the increased use of social drugs. The Licensing Authority will have access to research into these behaviours. It causes much concern to bar managers, please see the attached notes of the dialogue between local people, the Police and Crime Commissioner and a senior police officer.

This issue of group drinking, Bailgate as a drinking destination and the resulting impact on the community and the many thousands of visitors who want to enjoy our extraordinary place is in our view, a crisis. We find it difficult to see that the Licensing Authority is able to address the Four Licensing Objectives while it continues.

We fully understand that the Licensing Authority does not have the total responsibility for '...securing the delivery of the [above] objectives...' (1.6 in the Statement) but its role is of paramount importance in ensuring licensed premises obey their legal obligations. We don't see the evidence of this when glasses can be freely carried in the street, drunk or near drunk groups wander to and fro and the key public area of Castle Hill becomes from time to time a beer garden. The broader issues of intimidating atmospheres and sometimes offensive behaviour have to be addressed by the Responsible Authorities acting in consort but we don't see the evidence of that either at this time.

The next part of this letter is a direct response to the draft policy;

We note that the Statement is both a policy and a sort of delivery strategy but it makes no mention of local conditions, challenges (such as that we've described above), assessments of risk or a city wide alcohol strategy. It is perhaps why the

authority is seen as reactive rather than pro-active and that it will miss key civic responsibilities in consequence.

Under 3.6.3 'Applicants are advised to make enquiries about the premises locality...'— this seems to us an extraordinarily weak demand given the responsibility placed on applicants in 3.6.2 (an excerpt from the statutory guidance). We argue that the applicant's local knowledge should be formally tested. We know of an instance where an applicant was asked in court what he knew of the area. He simply replied that 'he had friends who lived in the city...!'

In a related way, in 3.6.5 we note the need for risk assessments but don't see any account of the form they should take or how they should be presented to the authority.

Under 3.6.8 we see a distinct problem. We know that the police will only report from within a tightly defined series of parameters exclusively around recorded crime but the true picture is clearly much more nuanced and much will be recorded on police intel. We note that local police officers, PCSOs and Special Officers will have a close understanding of a city area but believe that their knowledge is rarely shared with the Licensing Authority or Licensing Sub Committee. The Licensing Authority, particularly given increasingly closely integrated working practices with the police and other agencies may know these stories and have a duty to report what they know. Our account of anti social behaviour at the start of this letter is an example in point, where there is a duty on the authority to check its veracity, respond with appropriate action and strategy, and to inform the Licensing Committee.

In 3.6.11 'wider benefits to the community' means very little. For example we have a distinct problem on Bailgate where a pub plays very loud music in its yard from time to time, producing a significant and disruptive noise footprint. We don't see any proper methodology to assess and balance the interests of the pub's customers and local residents/visitors. We believe there should be much, much clearer guidelines and that the former, the local community/residents, should be given precedence in any balancing exercise, given that they are effective victims. It is our view that one of the deepest flaws of licensing law is the myth of 'balancing'.

3.6.12 is in our view out of place in the statement. It's self evident that the authority should be capable of weighing evidence and its sources without prejudice or bias.

3.7.3 gives the right of the Police and Environmental Protection alone to object to a TEN but there may be times when objections are raised from within the local

community. We understand the reasons for these conditions but think that the Licensing Authority should clearly state that the public have a right to object, even if those objections have to be routed through the agencies above.

5.2.3 illustrates in our view a fundamental problem with the Statement, that it vires between 'must' and 'should' (or 'are advised') in a loose and inconsistent way. It becomes more than just a stylistic language issue when the listed examples given are so serious, the density of vertical drinking for example. We think the authority should not prevaricate but demand that applicants address each of these without fail.

5.4 Prevention of Public Nuisance is an exemplar of the 'should' problem, see above.

While 5.4.1 is a worthy but presently empty statement. It's a coverall wish that needs to be underpinned by a proper understanding of the communities that are to be impacted. We think that the Statement should reference civic policies where they exist but more importantly set out the rights of communities to live socially, economically and culturally rewarding lives.

The threat Bailgate faces from being a 'drinking destination' is an example of a threat to these rights. We believe the Licensing Authority has both the duty to report this changing landscape and make sure that licensed premises actively respond.

In the same way 5.4.2 is at best vague.

6.3 is another example of worthy aims unsupported by community strategy. We don't know whether a quota is legally definable or can be applied under law but if every licensing application is granted on individual merits alone, there is potentially no protection for communities. Some part of this issue is around planning, and it's sometimes extremely difficult to see when licensing stops and planning starts, nevertheless the Licensing Authority has to take much responsibility in explaining the differences. The argument is that, as may become the case for Bailgate, more and more premises licences are granted, then public nuisance will cumulatively become a greater and greater problem and the Licensing Authority will fail to address its statutory objectives. At the moment, in this Statement, and the lack of policy and strategy elsewhere, there is no defence against change that damages rather than enhances the community and the environment.

7.2 describes instances where activities do not require licences but it's not clear whether licensees have any right for music and noise to be heard beyond the curtilage of the premises. How does the Licensing Authority understand this risk and address the objective of Public Nuisance in turn? It has a local importance in Bailgate given

recent instances of loud music being played in a pub carpark without apparent constraint or thought of the consequence.

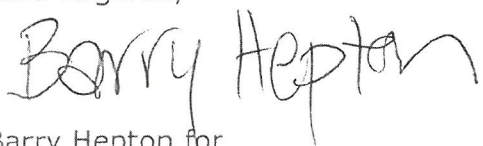
We hope the above commentary makes sense. Given changes in the way alcohol is treated in society and the rise in social drug use, we believe the Licensing Authority should have a public yearly review to sit alongside its statutory duty to publish a five yearly statement. One of our frustrations has been to get the Responsible Authorities to understand let alone to effectively take action in our community. The idea of waiting five years for the next round of policy making is plainly wrong.

This next observation relates to the form and purpose of the Statement: It is a confused document at best. It is described as a policy but presents in part as no more than an applicants' handbook. It frequently makes worthy claims unsupported by strategy and action. There are great confusions between which agency is responsible for what task—the responsibilities often look to us to be fudged. The document is of great importance to the city and has to be a model of vision and clarity as well as serve its statutory duty.

Above all, Licensing policy looks to us as a defensive system rather than a pro active one and the Statement is an example of that problem. We know that the Authority and its partner Responsible Authorities do not want this but there is plenty of evidence both in the Statement and our own recent experiences.

Finally, the Licensing Authority will be aware of the frailties of the 2003 Licensing Act. You will know that in April 2017 The House of Lords Select Committee on the Licensing Act 2003 published a damning report about the licensing process. We're sure that the Licensing Committee will have read and understood what the Lords have said. We've seen the effect of its failure on Bailgate lives which is why we think the City of Lincoln Council and its partners need to take a radical view of licensing policy and strategy, particularly by binding it far more tightly with other civic policy and creating a city wide dialogue.

Kind Regards,



Barry Hepton for

Jason Bradbury, Shirley Brook, Julian Free OBE, Elizabeth Murray, Paula West and Karolina Szynalska