

**BOSTON BOROUGH COUNCIL**

**LICENSING ACT 2003**

**STATEMENT OF LICENSING POLICY**

Adopted 23 November 2020 (subject to resolution to adopt)  
Published 24 November 2020  
Effective 24 November 2020 to 23 November 2025

We can provide this information in other languages and formats for example, in large print, in Braille or on CD or audio cassette. Please phone (01205) 314200.

## Table of Contents

Executive Summary .....	3
1 Introduction .....	4
2 The Licensing Act 2003 .....	4
3 Integrated Strategies and the Avoidance of Duplication .....	7
4 Licensing Objectives.....	8
4.1 Prevention of crime and disorder.....	9
4.2 Public Safety.....	10
4.3 Prevention of Public Nuisance.....	11
4.4 Protection of children from harm .....	12
5 The Licensing Process .....	14
6 Premises Licences/Club Premises Certificates.....	16
7 Late night refreshment Premises.....	17
8 Minor variations of Premises Licences .....	17
9 Licence Hours.....	17
10 Personal Licences .....	17
11 Designated Premises Supervisor .....	18
12 Temporary Event Notices .....	18
13 Review of Premises Licences and Club Premises Certificates .....	19
14 Cumulative Impact.....	20
15 Early Morning Restriction Orders (EMROs) .....	22
16 Late Night Levy (LNL).....	23
17 Nudity and Striptease .....	23
<b>General Matters.....</b>	<b>24</b>
18 Outdoor Furniture and Street Café Licences.....	24
19 Smoke Free Legislation.....	24
20 Councillors as other persons .....	25
21 Drinking Up Time / Chill Out Period.....	25
22 Staff Training .....	25
23 Petrol Stations, Garages and similar premises .....	25
24 Karaoke.....	26
25 Excessive Consumption of Alcohol / Binge Drinking / Irresponsible Drinks Promotions.....	26
26 Community Premises and Applications for the Removal of the Requirement for a Designated Premises Supervisor .....	27
27 New Years Eve and New Years Day and British Summertime .....	28
28 Parish Councils.....	28
29 Challenge 25 Scheme .....	29
30 Licence/Club Premises Certificate Suspension – non payment of annual fee.....	29
31 Immigration Act 2016 – Entitlement to work.....	29
32 Enforcement .....	30
33 Review of Policy .....	30
34 Advice and Guidance.....	30
35 Delegation of functions .....	31
<b>APPENDIX 1 - Delegation of Functions.....</b>	<b>32</b>

# **BOSTON BOROUGH COUNCIL LICENSING AUTHORITY STATEMENT OF LICENSING POLICY**

## **Executive Summary**

The Licensing Act 2003 (the Act) came into effect in 2005. Section 5 of the Act requires the Licensing Authority (Boston Borough Council) to determine and publish a Statement of Licensing Policy that they propose to apply in exercising their functions under the Act. This process must be repeated every 5 years. The Licensing Authority must also keep the policy under review during each five-year period and make any such revisions it considers appropriate.

The policy was last adopted and published in 2016, since then there have been several important changes to the Act, including introducing measures to ensure that applicants for certain licence types have the authority to work in the UK. This has introduced the Home Office Immigration Department as a Responsible Authority and requires applicants to demonstrate a right to work in the UK on application. Additionally, the Policing and Crime Act 2017 introduced legislation enabling Licensing Authorities to consider suspending or revoking a Personal Licence issued by them, where the licence holder has been convicted of a relevant offence determined by the Act.

Any decision taken by the Licensing Authority, concerning the determination of licences, certificates and authorisations, will aim to promote the licensing objectives which are:

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

The Licensing Authority has the ability to grant licences for premises and certificates for qualifying club premises. It also grants personal licences and accepts Temporary Event Notices. Applicants for premises licences and club premises certificates should be aware of the expectations of the Licensing Authority and Responsible Authorities regarding the steps that are appropriate for the promotion of the licensing objectives.

Responsible Authorities, Councillors, members of the public and businesses are able to have their say and have their opinion heard through public consultation on this policy, and by making representations about applications for premises licences and club premises certificates, or by requesting reviews of the same where problems arise.

# 1 Introduction

- 1.1 Boston Borough Council is situated in the south of the county of Lincolnshire, which contains 7 district councils in total. The Borough has a population of 69,366 (as detailed in Office for National Statistics 2018 Mid-Year Population Estimates and is the smallest district in the County in terms of population. In terms of area it is the second smallest, covering 139 square miles. The council area is mainly rural with an urban area comprising of Boston town itself.

## 2 The Licensing Act 2003

- 2.1 Boston Borough Council as Licensing Authority (hereinafter referred to as the Licensing Authority) is responsible for the licensing of all licensable activities under the Licensing Act 2003 (the Act). This document sets out the policies and principles that the Licensing Authority will apply when making decisions on applications for:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club;
- The provision of regulated entertainment; and
- The provision of late night refreshment.

The term licensee/licence holder is deemed to include licence holders, designated premises supervisors and club premises certificate holders.

This policy is intended to provide clarity to applicants, responsible authorities and other persons on how this Licensing Authority will determine applications to supply alcohol, provide regulated entertainment and operate late night refreshment premises. Guidance and best practice is available to assist applicants; this guidance does not form part of this Policy. The Licensing Authority will take this Policy into account if its discretion is engaged (i.e. at a hearing following relevant representations or a review hearing)

- 2.2 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
- the protection of children from harm

- 2.3 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as solving all problems within the community. The Licensing Authority will therefore continue to work in partnership with the Borough Council, its neighbouring authorities, the Police, Responsible Authorities, local businesses and local people towards the promotion of the objectives.

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

- Lincolnshire Police
- responsible authorities as defined by the Act
- representatives of licence holders and club premises certificate holders
- local businesses and their representatives
- local residents and their representatives
- Boston Borough Council Elected Members

- Parish Councils
- Other persons and organisations that the Authority considered could contribute to this Policy

A full list of consultees is available from the Licensing Section on request.

Appropriate weight has been given to the views of all those consulted prior to this policy statement taking effect on 24 November 2020.

2.5 In developing this Policy, the Licensing Authority took into account the legal requirements of the 2003 Act and had regard to other legislation and guidance, including, but not exclusively:

- Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the Borough
- The Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses
- The Provision of Services Regulations 2009 to ensure requirements are:
  - Non- discriminatory.
  - Justified by an overriding reason relating to the public interest.
  - Proportionate to that public interest objective.
  - Clear and unambiguous.
  - Objective.
  - Made public in advance, and
  - Transparent and accessible
- Human Rights Act, 1998
- Violent Crime Reduction Act, 2006
- Policing and Crime Act, 2009
- Police reform and Social Responsibility Act, 2011
- Live Music Act, 2012
- Anti-Social Behaviour, Crime and Policing Act, 2014
- The Legislative Reform (Entertainment Licensing) Order, 2014
- Deregulation Act, 2015
- Immigration Act, 2016
- Equality Act, 2010

2.6 The Act describes two “bodies” that may make representations to licence applications and may apply for an existing premises licence to be reviewed by the Licensing Authority, Responsible Authorities and “other persons”. Responsible Authorities are defined in the Act.

- 2.7 “Other persons” means any individual, body or business who is affected by the operation of a licensed premises regardless of their geographical location. Although they may be in any geographical location, any representation they make must be relevant to one or more of the licensing objectives and must not be considered to be frivolous or vexatious. Additionally, any application to review a premises licence must not be repetitious.
- 2.8 The Licensing Authority will, however, look at the geographical location of the author of any representation or review application received. Where the author lives or works a significant distance from the premises subject of an application or a review, this authority will examine the content of the representation particularly closely. The authority will expect the author to explain in detail how, in terms of the licensing objectives, they would be affected by the application. The Licensing Authority will consider rejecting any representation or review application which does not include sufficient detail to outline harm or disturbance which may be caused.
- 2.9 The purpose of licensing is to control licensed premises and other events within the terms of the Act. Where responsible authorities and other persons do not raise any representations about the application made to the Licensing Authority, it is the duty of the Authority to grant a licence or certificate subject to conditions that are consistent with the operating schedule and any mandatory conditions prescribed in the 2003 Act itself. The Licensing Authority will not impose any further conditions unless its discretion has been engaged following the making of relevant representation(s). It may then only impose such conditions as are appropriate to promote the licensing objectives arising out of the consideration of the representation(s).
- 2.10 These conditions will relate to the premises and other places being used for licensable activities and the impact of those activities in the vicinity. 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. Vicinity has not been given a definition within the Act and may vary in distance from the premises depending on the nature of the area. Considerations which will be taken into account when assessing “in the vicinity” 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/activities
  - The frequency of the activity/activities
- 2.11 The Licensing Authority will discharge its responsibilities identified by other Local and Government strategies and policies, so far as they impact on the objectives of the Licensing Act. Some examples of these strategies and policies are:
- Government Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance;
  - Safer Clubbing
  - Community Safety Strategy.
  - Public Space Protection Order (PSPO) Home Office guidance or any successor to this.

- 2.12 The Licensing Authority takes the following approach to the decision making process:
- Each case will be decided upon its merits. This Authority will not apply a rigid rule to its decision making;
  - Other persons can include residents'/ tenants' associations, community associations, trade associations and elected members. Councillors may represent other persons, providing they do not also sit on the Licensing Sub-Committee determining the application in question.
  - We will give clear reasons for our decisions.

Where valid representations are made applications will be considered by a Licensing Sub-Committee (consisting of Councillors); we give applicants, responsible Authorities and other persons an equal opportunity to state their case in accordance with our protocol, which is available from the Licensing Section.

- 2.13 The licensing function is not to be seen as the primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. Whilst there are 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(s) contained in a relevant representation
- 2.14 The Licensing Authority is committed to the implementation and application of this policy in such a manner and to ensure that no applicant or other person is treated less favourably on the grounds of sex, marital status, race, nationality, ethnic or national origin, colour, disability or age, 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. An Equality Impact Assessment has been undertaken with respect to this policy
- 2.15 The Licensing Authority is fully committed to promoting equal opportunities and non-discriminatory practice. For further information, please see <https://www.mybostonuk.com/5885-2/>

### **3 Integrated Strategies and the Avoidance of Duplication**

- 3.1 The Boston Borough Council aims to make the Boston area a safer place to live, work and visit by reducing crime and the fear of crime and reducing antisocial behaviour.
- 3.2 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.
- 3.3 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Licensing Committee may therefore receive and may act upon relevant reports concerning:-

- crime and disorder
- community safety issues
- needs of the local tourist economy
- 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
- impact of licensing on regulated entertainment and particularly live music and dancing with reference to any cultural strategy
- any other reports considered appropriate to the licensing function

3.4 The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. There are several key differences between licensing and planning control. Licensing is concerned with the fitness of the operator and detailed issues concerning the operation and management of the premises that are not addressed by the planning control process. Planning control relates to use of the premises. The grant of planning permission should not be a presumption that a premises licence will automatically follow and vice versa. Additionally, there is no legal basis for the Licensing Authority to refuse a licence application because it does not have planning permission.

3.5 Applicants are strongly encouraged to make any necessary applications for Planning permission /Building Regulations approval permission before or at the same time as they make an application for a licence/club premises certificate. Furthermore, to reduce the risk of being subject to planning enforcement, applicants are advised 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.

3.6 In reaching a decision of whether or not to grant a licence, the Licensing Authority will take account of any non-compliance with other statutory requirements brought to its attention, particularly where these undermine the licensing objectives. Non-compliance with statutory requirements may demonstrate that the premises are unsuitable for the activities proposed or that the management of the premises is not adequate to protect the public from harm or nuisance.

3.7 In order to avoid duplication with other existing legislation and regulatory regimes the Licensing Authority will not attach conditions to the licence unless they are considered appropriate for the promotion of the licensing objectives. Conditions will be considered unnecessary if they are already adequately covered by other legislation.

3.8 Conditions (other than mandatory conditions and those in the applicant's operating schedule) may not be attached to a premises licence or club premises certificate unless the application has been the subject of a relevant representation.

## **4 Licensing Objectives**

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

The Licensing Authority considers the effective and responsible management of premises, instruction, training and supervision of staff and the adoption of best practice to



be amongst the most essential control measures for the achievement of all the licensing objectives. For this reason these elements should be specifically considered and addressed within the applicants operating schedule.

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

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

## **4.1 Prevention of crime and disorder**

4.1.1 The Licensing Authority will carry out its licensing functions with a view to promoting the prevention of crime and disorder and will seek to ensure that licensees/certificate holders/designated premises supervisors take measures to regulate the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises.

4.1.2 In addition to the requirement for the Licensing Authority to promote this licensing objective, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect on, and do all it reasonably can to prevent, crime and disorder in the Borough.

4.1.3 When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their type of premises and/or activities) which are likely to adversely affect the promotion of the crime and disorder objective. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.

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

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

- Training given to staff to prevent the sale of alcohol to those who are under age or appear drunk
- Measures to tackle street drinking including not selling single cans or bottles of beer, lager and cider; not selling super strength (ABV above 6.5) beer, lager and cider; and attaching water proof labels with printed shop names and addresses to cans and bottles of beer, lager and cider.

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

- 4.1.4 The British Beer and Pub Association (BBPA) has consolidated good practice on combating violence in licensed premises into a guide to risk assessment. This is available on the BBPA's website: [www.beerandpub.com](http://www.beerandpub.com).

## 4.2 Public Safety

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

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

- 4.2.2 Where an applicant identifies an issue in regard to public safety, which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure public safety.

- 4.2.3 Depending on the individual style and characteristics of the premises and/or events the following issues may be of relevance:

- Use of equipment and effects
- Levels of door supervision
- Measures to prevent the supply and use of illegal drugs
- Physical safety features e.g. use of toughened glass, polycarbonate and plastic containers
- Fire evacuation procedures
- Provision of CCTV (see para 7.1.3)
- Occupancy figures

- 4.2.4 It will be the responsibility of licence/certificate holders/designated premises supervisors to ensure they have complied with all Health and Safety legislation.

- 4.2.5 Where a premise is on a vessel for which a current Passenger Ship Certificate is in force, the public safety objective can generally be considered to be met in respect of the layout, structure, access arrangements and operation of the vessel.

- 4.2.6 Whilst the Licensing Authority cannot require documentation regarding risk assessments to be attached to the operating schedule, it considers such risk assessments to be good practice. Risk assessments, including fire risk assessments, are a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder,

in the event of needing to make an application for variation of a premises licence or in response to changing circumstances/conditions at the premises.

### **4.3 Prevention of Public Nuisance**

- 4.3.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 4.3.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 4.3.3 When addressing public nuisance the applicant should initially identify any particular issues (having regard to their type of premises and/or activities) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant’s operating schedule. For example, the Licensing Authority expects an applicant to identify how public nuisance will be controlled in outside areas, particularly in smoking areas, that are not within the boundary of the licensed area. This would include prohibiting the consumption of alcohol.
- 4.3.4 Applicants are encouraged to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events. These may include:
- The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, local businesses, hospices and places of worship
  - The hours of opening, particularly between 23.00 and 07.00
  - The nature of the activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside the premises
  - The design and layout of the premises and in particular the presence of noise limiting and/or monitoring features
  - The occupancy capacity of the premises (Where appropriate)
  - The availability of public transport to facilitate dispersal of customers
  - ‘wind down period’ between the end of the licensable activities and the closure of the premises
  - last admission time
  - The formulation of a dispersal policy
  - Control of nuisance from persons using outside areas and in particular smoking areas.
- 4.3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities
- Effective and responsible management of premises
  - Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance e.g. to ensure customers leave quietly

- Control of operating hours for all or parts (e.g. garden areas) of the premises, including such matters as deliveries
- Adoption of best practice guidance (e.g. Good practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics)
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Management of people, including staff and traffic (and resulting queues) arriving and leaving premises
- Liaison with public transport providers
- Siting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour
- Undertaking noise impact assessments
- Regular assessments of the noise coming from the premises when used for regulated entertainment and steps to control the level of noise so as not to cause disturbance to local residents.
- Regular assessment of any noise coming from outside areas, including smoking areas, and steps to control the level of noise so as not to cause disturbance to local residents.
- Keeping a written record of assessments in a log book kept for that purpose including, the time and date of the checks, the person making them and the results including any remedial action.
- Identifying smoking areas in operating schedules to enable responsible authorities to appraise proposals with a view to promoting the prevention of public nuisance licensing objective.
- Keeping external doors (except for access and egress) and windows closed when regulated entertainment is being provided except in the event of an emergency.
- The disposal of empty glass bottles not being undertaken externally between 23.00 hours and opening hours on the following day on every day of the week.
- Posting at exits from the premises in a place where they can be seen and easily read by the public, notices requiring customers to leave the premises and the area quietly and in an orderly manner.
- Regularly clearing outside the premises of litter associated with the operation of the premises e.g. cigarette ends.

## **4.4 Protection of children from harm**

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

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

4.4.2 When receiving relevant representations and deciding whether to limit access to children, other than in circumstances where the law demands their access to be limited, applicants/licence/certificate holders should consider the activities carried on at the premises. Examples which may give rise to concern in respect of children would include premises;

- Where entertainment or services of an adult or sexual nature are commonly provided;
- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
- With a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines)

4.4.3 Films - In the case of premises which are used for film exhibitions, conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Licensing Authority itself. Applicants will be expected to explain in their operating schedule the steps they intend to take to ensure children and young persons do not gain access to films with a restricted access classification.

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

4.4.4 Theatres- In certain cases it may be necessary to impose a condition to restrict the admission of children to theatres, which are incorporating adult entertainment in their productions.

4.4.5 Where a large number of children are likely to be present on any licensed premises and representations are received; conditions may be imposed requiring the presence of an appropriate number of adult staff to ensure public safety and their protection from harm. Where the Licensing Authority considers it appropriate, following receipt of relevant representation(s) it may require the adult supervisors (being persons over the age of 18) to be subject to a criminal record check. The onus will be on the Premises Licence holder to ensure that staff members are suitable to carry out the supervision of children, which may include criminal record disclosure from the Disclosure and Barring Service (DBS).

4.4.6 The options available for limiting access by children would include –

- Limitations of the hours when children may be present
- Limitations or the exclusion of the presence of children under certain ages when particular specified activities are taking place;
- Limitations on the parts of premises to which children might be given access;
- Age limitations (below 18 years);
- Requirements for accompanying adults (including for example, a requirement which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of those people under 18 years of age from the premises when any licensable activities are taking place.

4.4.7 The Licensing Authority will not impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder/certificate holder or designated premises supervisor.

4.4.8 The body responsible for the interests of children is:

Lincolnshire Safeguarding Children Partnership

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

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

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

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

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

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

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

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

## 5 The Licensing Process

5.1 The functions of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority in accordance with the provisions of the Act. Delegated powers are

in accordance with the table at Appendix 1. This table does not form part of the policy and may therefore be amended without consultation with statutory consultees.

- 5.2 Each application for licensing will be considered on its own merit. Nothing will undermine any person from applying for a variety of permissions under the Act.
- 5.3 Other than electronic applications applicants are reminded that documents submitted as part of an application which bear a signature, criminal record certificates, criminal conviction certificates, subject access documents and licensing qualifications must be original documents. Faxes and photocopies are not acceptable unless with the prior agreement of the Licensing Authority.
- 5.4 Applicants for any authority or permission are expected to make their application in accordance with the Act and any regulations made there under. Failure to meet this requirement may result in the application being returned. The Licensing Authority will endeavour to explain why the application is considered to be deficient and will invite the applicant to re-submit the application with all the required information. Application forms will not be returned where they contain obvious and minor factual errors that can easily be amended. It is the responsibility of the applicant to send a copy of their application and any other relevant documentation to each of the Responsible Authorities, unless the application has been properly made electronically, in which case it is the responsibility of the Licensing Authority to circulate it. Where applicants fail, after being reminded, to copy applications to Responsible Authorities, or they resubmit applications which are still deficient, the application will be rejected. Re-submission of an application following rejection will be subject to the statutory advertising requirements.
- 5.5 A main part in ensuring compliance with the Act, and in particular showing how the four licensing objectives are to be achieved, is the "operating schedule" for the licensed premises. The operating schedule forms part of the licence application. The schedule will aid any Responsible Authority or other party to assess whether the steps to be taken to promote the licensing objectives are satisfactory. The schedule will form part of the conditions of the licence or certificate, if granted. The Licensing Authority will work with the licensees and applicants by providing guidance notes on the completion of the schedules. However, the responsibility for drawing up the operating schedule rests with the applicant. The operating schedule should detail the manner in which the business will be run and the steps/controls put in place to meet the licensing objectives. Any individual preparing an operating schedule is free to volunteer any measure as a step he or she intends to take to promote the licensing objectives. The operating schedule must specify all types of entertainment which will take place at the premises
- 5.6 Applications for minor variations may be subject to consultation with the appropriate responsible authorities and will be refused if any responsible authority indicates that they would make a representation on the proposed minor variation.
- 5.7 In an effort to avoid unnecessary hearings, applicants are strongly advised to prepare risk assessments and from these formulate any steps they consider necessary to promote the licensing objectives and then to consult with the responsible authorities as defined within the Act before submitting their applications. Failure to do so may lead to representations which can only be determined by the Licensing Sub-Committee. In respect of minor variations applicants are strongly advised to contact the appropriate responsible authorities before formally submitting their application in order to avoid unnecessary expense.
- 5.8 Account will be taken of the need to encourage and promote all types of entertainment, including live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance

from these activities in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community.

- 5.9 The guidance issued by the Home Office indicates that representations can be made in opposition to, or in support of, an application. With this in mind the Licensing Authority would remind all parties that all representations (both for and against an application) must relate to the promotion of the licensing objectives.
- 5.10 The Licensing Authority acknowledges that the views of vocal minorities should not be allowed to predominate over the general interest of the community.

## **6 Premises Licences/Club Premises Certificates**

6.1 Applicants will be required to submit their application in the form detailed in regulations made under the Act. Applicants will be required to submit, with their application for a premises licence, club premises certificate, Provisional Statement or a variation to their existing premises licence or club registration certificate, an Operating Schedule detailing:

- The licensable activities to be conducted on the premises;
- The times during which it is proposed that the relevant licensable activities are to take place;
- Any other times when the premises are to be open to the public or to members of a club;
- Where the licence is required only for a limited period, that period;
- Where the licensable activities include the supply of alcohol, the name, address and licence number of the individual to be specified as the designated premises supervisor;
- Where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both; and
- The steps which the applicant proposes to take to promote the licensing objectives.

6.2 Applications will be determined having regard to:

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

6.3 **LARGE SCALE EVENTS** - Organisers of large events, major festivals and carnivals should approach the Licensing Authority and Responsible Authorities at the earliest opportunity to discuss arrangements for the licensing of those activities falling within the provisions of the Licensing Act 2003. In respect of some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations



within the premises. Anyone wishing to hold such an event should notify the Licensing Authority no less than 6 months before the event is due to happen. This will allow time for the preparation of a substantial operating schedule, by the applicant, which may be required to ensure promotion of the licensing objectives. The Licensing Authority will expect applicants applying for permissions to stage events, which draw in large numbers of people and/or have an impact on the road network, to have consulted with the Boston Safety Advisory Group and Lincolnshire County Council (as the Highways Authority).

## **7 Late night refreshment Premises**

- 7.1 With regard to premises providing late night refreshment for consumption off the premises, the Licensing Authority will (on the receipt of relevant representations) carefully consider the level of nuisance likely to be caused by way of noise and litter/food refuse being deposited in the vicinity of the premises. Applicants should consider proposing practical steps in their operating schedule to reduce the likelihood of such problems.

## **8 Minor variations of Premises Licences**

- 8.1 Officers acting under delegated powers will determine applications for the minor variation of a premises licence. Any application which does not qualify as a minor variation will be rejected. Licence holders are encouraged to use the minor variation process to add the provision of live music to a licence. However the Licensing Authority will not consider the addition of live music between midnight and 0900hrs as a minor variation. Such application would require a full variation application.

## **9 Licence Hours**

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

## **10 Personal Licences**

- 10.1 A person wishing to sell or supply, or authorise the sale or supply of alcohol, for consumption on or off a licensed premises will need to apply for a Personal Licence. The Licensing Authority strongly encourages premises licence holders, where alcohol is being sold, to ensure that there are sufficient personal licence holders present at the premises to ensure adequate supervision of the sale of alcohol. In circumstances where the Personal Licence holder has delegated the responsibility for the sale of alcohol, they will still have a duty of responsibility for the actions of those they have authorised to make those sales.
- 10.2 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.
- 10.3 Where an application for a personal licence reveals a disclosable conviction for a relevant offence under the Act, the Licensing Authority acknowledges 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.
- 10.4 Where a personal licence application reveals an unspent conviction for a relevant offence and the police object to the application, the Licensing Authority will normally refuse such an application unless there are exceptional and compelling circumstances to justify granting the licence. Any application for a personal licence, which is the subject of a police objection, will be considered at a licensing hearing which the applicant may attend and be heard.

## **11 Designated Premises Supervisor**

- 11.1 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment. Because of this, the Licensing Authority will normally expect that the DPS for a licensed premise will be able to demonstrate that they are in day to day control of the premises and playing an active role in its operation through a regular personal presence.
- 11.2 The main purpose of the Designated Premises Supervisor is to ensure that there is always one specified individual, among the personal licence holders at the premises, who can be readily identified for the premises where the sale of alcohol is permitted. The premises licence holder will normally have given that person day-to-day responsibility for running the premises.
- 11.3 This Licensing Authority recommends that the DPS undergoes relevant training, such as the Designated Premises Supervisor course provided by the British Institute of Innkeeping Awarding Body, in order that they are made aware of the responsibilities this position brings with it.

## **12 Temporary Event Notices**

- 12.1 Where there is an event with less than 500 attendees at any one time, including staff, which involves licensable activities for a period of up to 168 hours, premises users may serve a Temporary Event Notice.
- 12.2 Temporary Event organisers are encouraged to submit their notifications to the Licensing Authority as soon as is reasonably practicable in order for the Police and Environmental Health 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. The Licensing Authority recommends that at least 20 working days notice be given. Under the provisions of the Act normally at least 10 working days notice must be given. Persons are however permitted to submit a limited number of late TENs between 5 and 9 working days before an event. Working days do not include the day of service of the notice, the day of the event, Saturdays, Sundays or Bank holidays. Where less than 5 working days notice is given, or 10 working days if the number of permitted late TENs has been reached, the notice WILL NOT be accepted. Provision of licensable activities except in accordance with the Licensing Act is an offence.

12.3 It should be noted that the Police and the Borough's Environmental Health (Pollution) are the only bodies who may make representations to a TEN. However, these two bodies may only object to a TEN on the grounds that one or more of the licensing objectives would not be promoted should the event go ahead. Where objections are received to a late TEN the notice will, as required under the provisions of the Act, be rejected. Where objections are received to a standard TEN the matter will be heard by a Licensing Sub-Committee. The Sub-Committee may:

- Allow the TEN to go ahead
- Reject the TEN
- If the premises where the TEN is proposed to take place already has a premises licence the Sub-Committee may allow the TEN but impose some, or all, of the conditions on the premises licence onto the TEN if appropriate to do so for the promotion of the licensing objectives.

Licensing legislation allows event organisers to submit up to 10 Late TENs per year if they hold a personal licence and 2 late TENs if they do not hold a personal licence.

## **13 Review of Premises Licences and Club Premises Certificates**

13.1 The Licensing Authority will consider the full range of powers available to it when an application for review of a licence or club premises certificate is heard. It will however be mindful of the need to prevent the review process being used as an opportunity by Responsible Authorities and other persons to re-run earlier representations without due cause. The power to review premises licences represents a crucial protection for the community, especially with regards to the promotion of the four licensing objectives. Reviews of licences may be triggered at any stage by Responsible Authorities or other persons due to a matter arising at the licensed premises and relating to one of the four licensing objectives. It is the Licensing Authority's belief that the promotion of the licensing objectives is best achieved in an atmosphere of mutual co-operation between all stakeholders. Reviews should therefore be mainly reserved for circumstances where early warnings of concerns, where appropriate, and the need for improvement have gone unheeded by the management of the licensed premises.

13.2 This Authority emphasises the importance of all parties working in partnership to achieve the promotion of licensing objectives; the Authority expects that Responsible Authorities will aim to give licensees early warning of any concerns identified at a premises.

13.3 Responsible Authorities and other persons (e.g. local residents, local organisations and Boston Borough Council Councillors) can apply for the review of a licence; the Licensing Authority itself can also initiate the review process.

- 13.4 When acting as a Responsible Authority the Licensing Authority will operate in accordance with the Home Office Guidelines to Licensing Authorities. There will be a clear and identifiable separation of responsibilities. The Head of Service for the area of concern leading to the need for review (or an officer so directed by them) will initiate any premises reviews or make any relevant representations in relation to licence applications. Reviews will not be initiated, or representations made, by the licensing team who shall process applications, administer application and review hearings and offer advice to the Licensing Authority.

However, the Licensing Authority does not, as a general rule, intend to act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community groups). Such parties can make relevant representations in their own right, and it is reasonable to expect them to make representations themselves where they are reasonably able to do so.

- 13.5 The Licensing Authority will seek to establish the cause or causes of the concern and remedial action will be targeted at such causes. Any action will be proportionate to the problems involved.

## **14 Cumulative Impact**

- 14.1 Cumulative impact has been described within the S182 Guidance since the commencement of the 2003 Act. Cumulative Impact Assessments were introduced into the Act by the Policing and Crime Act 2017 with effect from April 2018. Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area. This should not, however, be confused with 'need'. Need concerns the commercial demand for another pub, restaurant or shop and is a matter for the market and not a matter for the licensing authority to consider in discharging its licensing functions or for its statement of licensing policy. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the licensing authority to consider.

Where the number, type or density of licensed premises selling alcohol is high or exceptional and serious problems of nuisance and disorder may arise outside or some distance from those premises and where there is sufficient evidence, this authority will consider adopting a cumulative impact policy. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queueing for fast food outlets or for public transport.

A Cumulative Impact Assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates in a specified area.

- 14.2 The absence of a cumulative impact policy does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. However, in each case it would be incumbent on the person making the representation to provide relevant evidence of cumulative impact.
- 14.3 The Licensing Authority will not operate a quota of any kind which would pre-determine any application. Regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels,

theatres, other clubs and off licences all sell alcohol, but with contrasting styles and characteristics. Proper regard will be had to those differences and the impact they are likely to have on the local community.

14.4 There must be an evidential basis to include a special policy within the statement of licensing policy. Information which may be considered to evidence the cumulative impact of licensed premises on the promotion of the licensing objectives includes;

- Local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
- Statistics on local anti-social behaviour offences;
- Health related statistics such as alcohol-related emergency attendances and hospital admissions;
- Environmental health complaints, particularly in relation to litter and noise;
- Complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
- Residents' questionnaires;
- Evidence from Local and Parish Councillors;
- Evidence obtained through local consultation.

14.5 After considering the available evidence and undertaking appropriate consultation this licensing authority may be satisfied that it is appropriate to adopt a special policy in relation to cumulative impact. At present there are no policies in relation to cumulative impact adopted.

14.6 Cumulative impact policies are not absolute and such a policy must allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted. Further, such policies must not restrict such consideration by imposing quotas based on either the number of premises or the capacity of those premises as this will indirectly have the effect of predetermining the outcome of any application.

14.7 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 town centre environment in partnership with local businesses, transport operators and other departments of the local authority including Best Bar None, Pubwatch or Business Improvement Districts;
- Community Protection Notices;
- The provision of CCTV surveillance in town centres, -taxi ranks, provision of public conveniences open late at night; street cleaning and litter patrols;
- Powers of local authorities to adopt Public Space Protection Orders in designated areas;
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;

- The prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
- The confiscation of alcohol from adults and children in designated areas;
- Police enforcement of the general law concerning disorder and anti-social behaviour, including issuing of fixed penalty notices;
- The power of the police, other responsible authorities or other persons to seek a review of the licence or certificate in question;
- Early morning restriction orders; and
- Raising a contribution to policing the late night economy through the Late Night Levy.

## **15 Early Morning Restriction Orders (EMROs)**

- 15.1 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times and serious public nuisance and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 15.2 EMROs can restrict the sale of alcohol between Midnight and 0600hrs, in the whole or part of its area, if satisfied that this would be appropriate for the promotion of the licensing objectives.
- 15.3 It is the licensing authority's intention to support businesses rather than hinder them whilst ensuring promotion of the licensing objectives. However, where this has deemed to fail then an EMRO could be considered as a possible solution.
- 15.4 The introduction of an EMRO must be reasonable, justified and proportionate. Other measures that could be taken instead of making an EMRO include:
- Cumulative Impact Policy
  - Reviewing licences of specific problem premises
  - Encouraging the creation of business-led best practice schemes
  - Planning controls
  - Prosecution of premises where non-compliance with licensing conditions is evident
  - Police enforcement of the general law concerning disorder and anti-social behaviour.
- 15.5 An Early Morning Restriction Order
- 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 12am and ending at or before 6am. It does not have to apply on every day of the week and can apply for different periods on different days of the week;
  - Applies for a limited or unlimited period
  - Applies to the whole or part of the Licensing Authority's area
  - Will not apply to any premises on New Year's Eve (defined as 12am until 6am on 1 January every year)
  - Will not apply to the supply of alcohol to residents by accommodation providers between 12am and 6am, provided the alcohol is sold through mini-bars/room service; and
  - Will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the Licensing Act 2003.

- 15.6 Before the Licensing Committee determines to recommend that the full Council make a proposed EMRO, it must be satisfied that there is sufficient evidence to demonstrate that making the order would be appropriate for the promotion of the licensing objectives.
- 15.7 There are currently no EMROs in place within the Licensing Authority's area. Any consultation in relation to an EMRO or decision to implement an EMRO will be undertaken separate to this policy.

## **16 Late Night Levy (LNL)**

- 16.1 Late night levies allow Licensing Authorities to raise a contribution from late opening alcohol retailers towards the policing costs generated by the late night economy. The levy will apply to all premises (on and off trade) throughout the Licensing Authority's area which are authorised to sell or supply alcohol in the time period set by the Licensing Authority.
- 16.2 At least 70% of the net levy revenue must be passed to the Police and any revenue must be used to tackle alcohol-related crime and disorder and services connected to the management of the night-time economy.
- 16.3 Any consultation in relation to a possible late night levy or decision to implement a levy will be undertaken separate to this policy document.
- 16.4 A decision on whether to introduce a levy, and its design, is a decision for the full council.

## **17 Nudity and Striptease**

- 17.1 The Licensing Authority does not make a moral stand in adopting this policy. The Authority recognises that Parliament has made it lawful to operate establishments providing adult entertainment, such as striptease, and such businesses are a legitimate part of the retail and leisure industries. It is our role as a Licensing Authority to administer the licensing regime in accordance with the law.
- 17.2 This Authority has adopted the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009) so that it can licence sexual entertainment venues in the Borough.
- 17.3 Premises Licensed under the Local Government (Miscellaneous Provisions) Act 1982 as a sexual entertainment venue are governed by the relevant policy for that purpose, however the Licensing Authority recognises that some premises providing sexual entertainment may not be providing the entertainment at a frequency which requires the premises to be licensed as a sexual entertainment venue. Where such premises are providing (or intending to provide) striptease or any other kind of nudity (for example, pole or lap dancing or topless waitresses) the Licensing Authority, subject to receiving a relevant representation, will take into consideration the increased risk to the promotion of the licensing objectives. In particular, the Licensing Authority encourages applicants to give additional thought in their operating schedule to the promotion of the licensing objectives
- 17.4 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, 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 or outside the town centre.

17.5 In order to promote the licensing objectives, where the Licensing Authority grants a premises licence that includes striptease or any kind of nudity it will generally, following receipt of relevant representations, impose conditions relating to the following issues:

- The location within the premises where the activity takes place.
- The absence of advertising the activities outside the premises
- The measures taken to ensure no person under 18 years of age enters the premises whilst adult entertainment is taking place.
- The measures taken to ensure that the activities inside the premises cannot be seen from outside the premises.
- The position of the performers' dressing rooms in relation to the area in which they perform.
- Absence of physical contact between performers and customers.
- Absence of private booths or private performance areas.
- Means by which potential customers will be made aware of the nature of the performance.
- Stewarding arrangements.

17.6 Applicants are advised that a 'no adult entertainment' condition will be attached to licences when a licence application indicates that there will be no such entertainment on the premises.

## **General Matters**

### **18 Outdoor Furniture and Street Café Licences**

18.1 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.

### **19 Smoke Free Legislation**

19.1 The Licensing Authority is aware there are a small number of licensed premises in the Borough that are unable to provide external smoking areas due to the layout and constraints of the particular licensed establishment. The Licensing Authority is aware that the congregation of large numbers of patrons on the public highway outside the premise, who have temporarily vacated the premise in order to smoke, may in certain



circumstances, lead to public nuisance issues. This is particularly the case where customers remain outside for a considerable period of time and consume alcohol immediately outside the premise as well as smoking. Licence holders should therefore ensure that appropriate measures are in place, where necessary, to minimise public nuisance as a result of customers congregating outside the premise. Licence holders are also reminded that the Borough has a Public Space Protection Order (PSPO) in place within the area, of which licence holders are strongly advised to prohibit the removal of drinks from the licensed area. Where applications for review are received the Licensing Authority may consider measures to negate public nuisance in the immediate vicinity of the premise.

## **20 Councillors as other persons**

- 20.1 When acting as other persons members will be aware of the role of the elected members in relation to licensing committee hearings and the Model Code of Conduct.

## **21 Drinking Up Time / Chill Out Period**

- 21.1 It is recommended the hours during which premises are licensed to sell or supply alcohol and the opening hours of a premise are not the same and therefore, applicants for premises licensed for the sale of alcohol for consumption on the premises are advised 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.
- 21.2 The Licensing Authority will consider imposing a condition on drinking up time in individual cases where relevant representation(s) are made and it is considered that such a condition is necessary in order to promote the licensing objectives in any individual case.
- 21.3 Applicants and licence holders are reminded that the provision of late night refreshment between the hours of 2300 and 0500 (with certain exceptions) is a licensable activity. As such the provision of late night refreshment must only take place by way of authorisation under the Licensing Act 2003.

## **22 Staff Training**

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

## **23 Petrol Stations, Garages and similar premises**

23.1 Section 176 of the Act states that any authorisation for the supply of alcohol in relation to a garage will have no effect if the premise is used primarily as a garage. It is for the Licensing Authority to decide in the light of the facts whether or not any premises is used primarily as a garage. 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. Premises are used as a garage if they are used for one or more of the following:

- The retailing of petrol;
- The retailing of derv;
- The sale of motor vehicles;
- The maintenance of motor vehicles.

## **24 Karaoke**

24.1 Applicants wishing to provide karaoke should ensure that the live music section of the application form is completed with an explanation that karaoke is to be provided

## **25 Excessive Consumption of Alcohol / Binge Drinking / Irresponsible Drinks Promotions**

25.1 The Licensing Authority is acutely aware of the link between the supply of excessively discounted alcohol or 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 Council as Licensing Authority will use the powers contained within the Licensing Act to ensure operators' promotional activities do not undermine the licensing objectives.

25.2 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. The Authority will give appropriate weight to the Home Office document in its decision making process.

25.3 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.

25.4 Any premises found to be promoting irresponsible drinks promotions (likely to have a negative effect on the licensing objectives) will be liable for prosecution. The Responsible Authorities have stated that where evidence shows that premises' alcohol drinks promotions are undermining one or more of the licensing objectives, then they may instigate a review of the licence.

25.5 Where relevant representations are made or reviews are requested on any individual case, the responsible person 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.

25.6 On receipt of relevant representations, or review applications, 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.

## **26 Community Premises and Applications for the Removal of the Requirement for a Designated Premises Supervisor**

- 26.1 The Licensing Authority recognises that community premises may apply for the removal of the requirement for a Designated Premises Supervisor (DPS).
- 26.2 On receipt of an application requesting the removal of the two mandatory conditions relating to the need for a Designated Premises Supervisor, and sales of alcohol being authorised by a personal licence holder, the Licensing Authority will consider replacing those conditions with the following alternative condition:
- Every supply of alcohol under the premises licence must be made or authorised by the management committee.
- 26.3 Such applications shall only be granted to 'community premises'. A Community Premises is defined as premises that are or form part of;
- a church hall, chapel hall or other similar building, or
  - a village hall, parish hall, community hall or similar building.
- 26.4 When considering whether a premise is a community premises the Licensing Authority will consider each application on its own merits. The main consideration for the Licensing Authority will be how the premises are predominately used. If they are genuinely made available and accessible by a broad range of persons and sectors of the local community, for purposes beneficial to the community as a whole, then the premises is likely to meet the definition. However, if there is an aspect of private gain in relation to the operation of the premises then it is unlikely to be viewed as a community premises.
- 26.5 Before granting the dispensation from the requirement for a DPS, the Licensing Authority will need to be satisfied that suitable arrangements are in place at the community premises in order to manage the supply of alcohol. Officers acting under delegated powers will undertake the initial scrutiny of applications. If Officers or the Police are not happy with the arrangements (and the applicant still wishes to proceed with the application) then the application will be considered by a Licensing Sub-Committee hearing.
- 26.6 All applications must be copied to the Police for comment and consultation. The Licensing Authority will allow the Police 28 days to make any representations.
- 26.7 The Licensing Authority will consider the management arrangements of the premises when considering applications for the removal of the requirement for a DPS. The management should be by a formal Management or Executive Committee, and the premises licence must be in the name of that committee. 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. Any arrangements should normally include:
- The contact details of a responsible person or nominated contact to take any necessary action should issues arise.
  - A written policy on how children and underage sales of alcohol will be managed. The policy should identify the offences under Sections 145 to 153 inclusive of Licensing Act 2003 in respect of children and alcohol.

- An effective hiring agreement when the premises are hired for private events.
- Provision of a Refusals Register.
- Provision of Staff Training.

26.8 Community premises should note that the Licensing Authority supports the Challenge 25 Scheme in order to combat the underage sales of alcohol and endorses the Action with Communities in Rural England (ACRE) model in relation to community premises hiring agreements.

26.9 The Licensing Authority would normally expect any hiring agreement to contain the following:

- The conditions of the premises licence;
- The policy on underage sales;
- A signed declaration that the hirer has read and understands his responsibilities in leasing the premises

26.10 The management board or committee, as premises licence holder, will collectively be responsible for ensuring compliance with the law.

26.11 If a representation is received from the Police requesting the imposition of the same mandatory conditions applicable to non-community premises, then the Licensing Authority will consider whether those conditions are necessary to promote the crime prevention objective before granting or varying the licence. Where a review application is made in respect of a premises licence that includes the 'alternative condition', the Licensing Authority may determine that normal mandatory conditions should apply, and a Designated Premises Supervisor is required.

## **27 New Year's Eve and New Year's Day and British Summertime**

27.1 The Licensing Authority recognises that licensed premises are likely to wish to have extended operating hours over the period of New Year's Eve into New Year's Day. With this in mind, applicants are encouraged to make provision for this period in their licence applications rather than perhaps relying on a Temporary Event Notice (TEN). If representations are made concerning the potential for noise disturbance during this limited period, the Licensing Authority's consideration will be balanced against the special nature of this particular time of the year.

27.2 The Licensing Authority recognises that the change in time to British Summertime will only affect those premises operating to the early hours on the night the clocks change. However, for those premises it can be confusing as to the closing hour on the night in question as well as being confusing for applicants completing a new application. For this reason the Licensing Authority will assume that applicants applying for the licensing hours to the early hours wish an additional hour to the standard time on the night when British Summertime commences.

## **28 Parish Councils**

28.1 The Licensing Authority recognises Parish Councils as being bodies that are democratically elected to represent the views of their area. Whilst not being Responsible Authorities, under the terms of the 2003 Act, Parish Councils are able to act as "other parties" in their own right and also represent the views of other parties when requested to do so.

## **29 Challenge 25 Scheme**

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

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

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

## **30 Licence/Club Premises Certificate Suspension – non-payment of annual fee**

30.1 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 due, unless the payment was not made due to an administrative error, or a disputed liability for the fee which has been notified to the licensing authority 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.

30.2 Where such a suspension takes place the licensing authority must give a minimum of two days notice and may inform the police or 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.

## **31 Immigration Act 2016 – Entitlement to work**

31.1 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 licence applications made 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.

31.2 It is now a requirement for the licensing authority 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.

31.3 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.

31.4 A premises or personal licence 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.

- 31.5 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 and/or late night refreshment.
- 31.6 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.

## **32 Enforcement**

- 32.1 The Licensing Authority will take appropriate enforcement action where there are breaches of the Act. Enforcement action will be in accordance with the Boston Borough Council's enforcement policy, which reflects the agreed principles which are consistent with the Better Regulation Executive. To this end, the key principles of targeting consistency, transparency and proportionality will be maintained.

## **33 Review of Policy**

- 33.1 The Policy Statement will remain in existence for a period of 5 years and will be subject to review after that period.

As with any medium term framework, parts of this document may become outdated as a result of amendments to legislation and the Section 182 Guidance. It is essential that it is kept under regular review and updated when necessary and appropriate. The Head of Service/Assistant Director with responsibility for Licensing has delegated authority to make minor and consequential changes to this Policy in consultation with the Chairman of Licensing Committee. This document is subject to version control and all changes will be recorded and communicated accordingly.

## **34 Advice and Guidance**

- 34.1 For further advice, information or guidance on the application process or to obtain advice about whether or not activities should be licensed please contact Boston Borough Council Licensing Section either:

- By telephone: 01205 314235
- Email: [licensing@boston.gov.uk](mailto:licensing@boston.gov.uk)
- Post: The Licensing Section
  - Boston Borough Council,
  - Municipal Buildings,
  - West Street,
  - Boston,
  - PE21 8QR.

This policy has been prepared having undertaken an equality impact assessment.

## **35 Delegation of functions**

- 35.1 The Licensing Authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established Sub-Committees to deal with them.
- 35.2 Further, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications including, for example, those licences and certificates where no representations have been made, has been delegated to Officers.
- 35.3 The table shown at Appendix 1 of this Policy sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committee and Officers. This form of delegation is without prejudice to Officers referring an application to a Sub-Committee, or to the Full Committee, if considered appropriate in the circumstances of any particular case.
- 35.4 These delegated powers do not form part of this Policy and may be amended without consultation or review of the Policy.

## APPENDIX 1 - Delegation of Functions

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

<u>Matter to be dealt with</u>	<u>Licensing Committee</u>	<u>Sub -Committee of the Licensing Committee</u>	<u>Assistant Director - Regulation further delegated to Licensing &amp; Land Charges Manager unless otherwise stated</u>
Application for personal licence		If a Police Objection	If no objection is made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a Police objection is made	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a Police objection is made	All other cases
Applications for Interim Authorities		If a Police objection is made	All other cases



<u>Matter to be dealt with</u>	<u>Licensing Committee</u>	<u>Sub-Committee of Licensing Committee</u>	<u>Assistant Director - Regulation further delegated to Licensing &amp; Land Charges Manager unless otherwise stated</u>
Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases unless the officer considers it appropriate to refer to the Licensing Committee
Application to review premises licence/club premises certificate		All cases	
Decision to object when Local Authority is a consultee and not the lead authority		All cases	
Acknowledgement of a Temporary Event Notice			All cases
Rejection of a Temporary Event Notice due to permitted limits being exceeded.			All cases

Determination of a Police or Environmental Health representation to a temporary event notice		All other cases	When all parties agree that conditions can be attached to a TEN and a hearing is not required.
Determination as to whether or not a premises is used primarily as a garage (Section 176 of the 2003 Act)		All other cases	Where Officers are of the opinion that the premises meet the requirements of Section 173.
Determination of an application for the minor variation of a premises licence.			All Cases

Application by a Community Premises for the disapplication from the requirement for a DPS.		All other cases	Where Officers are of the opinion that the premises meet the required standard and there have been no objections by Lincolnshire Police.
Responsible Authority submitting a representation or applying for review of a premises licence or club premises certificate.			Assistant Director responsible for the area of concern.
Decision of the Licensing Authority to agree a hearing is not necessary.			All cases
Decision of the Licensing Authority to dispense with a hearing.			All cases

The Sub-Committee of the Licensing Committee shall comprise three Members of that Committee

## Version Control

VERSION SERIALISATION	REASON:	EFFECTIVE FROM:	AMENDED BY: POSITION AND DATE	APPROVED BY: POSITION AND DATE	PUBLISHED ON:
Version 1.0	Implementation of Version 1.0	24 November 2020			24 November 2020