



Rutland County Council

STATEMENT OF LICENSING POLICY

LICENSING ACT 2003

November 2014

RUTLAND COUNTY COUNCIL
STATEMENT OF LICENSING POLICY

LICENSING ACT 2003

1 INTRODUCTION

1.1 This Statement of Licensing Policy has been produced as a requirement of the Licensing Act 2003, and has been prepared in accordance with official guidance issued to local authorities under section 182 of the Act by the Home Office. This licensing policy (the policy) explains how Rutland County Council as the Licensing Authority will carry out its role under the Act. The policy will be re-published every five years. It will be kept under review and may be subject to revision following consultation with the bodies outlined below.

1.2 It will also:

- Be used as a guide by members of the of the Licensing Authority in their decision making
- Inform applicants about how applications will be viewed and how a licensed premises is likely to be able to operate within the area of the Licensing Authority, albeit that each application will be examined and considered on an individual basis
- Inform residents and businesses about how applications will be viewed and how their needs will be addressed
- Be used to support decisions made by the Licensing Authority when these decisions are challenged in a court of law

Disclaimer

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

2 CONSULTATION

2.1 In developing this licensing policy the Licensing Authority consults with the groups set out below:

- the Police
- the Fire Authority
- bodies representing local holders of premises licences
- bodies representing local holders of club premises certificates
- bodies representing local holders of personal licences
- bodies representing businesses and residents in its area
- the Leicestershire and Rutland Safeguarding Children Board
- other bodies and groups that the Licensing Authority consider appropriate

3 LICENSABLE ACTIVITIES

3.1 Licensing is about the control of licensable activities on licensed premises, qualifying clubs and temporary events within the terms of the Licensing Act 2003. Activities which require a licence under the Licensing Act 2003, and are covered by this policy include:

- the retail sale of alcohol
- the supply of alcohol by or on behalf of a club, or to the order of a member of the club
- the provision of late night refreshment.
- the provision of regulated entertainment, to the public, to club members or with a view to profit, and includes the following:-
 - a performance of a play
 - an exhibition of a film
 - an indoor sporting event
 - a boxing or wrestling entertainment
 - a performance of live music (not incidental music, e.g. a piano in restaurant)
 - any playing of recorded music (not incidental recorded music) a
 - performance of dance

3.2 Live music ceases to be classed as regulated entertainment if the criteria below are satisfied.

- There is a premises licence or club premises certificate in place permitting 'on sales'
- The premises are open for the sale or supply of alcohol for consumption on the premises
- Live music is taking place between 8am and 11pm
- If the live music is amplified, the audience consists of no more than 200 people

3.3 "Live Music" includes vocal and instrumental music and also karaoke singing. Any recorded music accompanying this live music (backing tracks or sampled music for bands, or music from a karaoke machine) is, in most cases, likely to be considered part of the live music and not therefore requiring separate authorisation. Pre-recorded videos played on karaoke machines are likely to require authorisation for "Films" but if only the words to the song are displayed then no authorisation is required.

3.4 There is also a general exemption that live unamplified music provided anywhere shall not be regarded as the provision of regulated entertainment if it takes place between 8am and 11pm, regardless of the number of people in the audience.

4 SCOPE OF THE POLICY

4.1 The scope of the policy covers new licence and certificate applications, renewals, transfers and variation of conditions for annual and where applicable occasional licences. This also includes the consideration of representations and appeals.

4.2 In carrying out its licensing functions under the Act the Licensing Authority will promote the four licensing objectives which are:

- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance; and
 - the protection of children from harm.
- 4.3 To achieve these objectives the Licensing Authority will enter partnership arrangements in a number of areas, working closely with the police, the fire authority, local businesses, community representatives and local people in meeting these objectives.

5 LICENCE APPLICATION AND CONDITIONS

- 5.1 In determining a licence application the principle adopted by the Licensing Authority will be that each application will be determined on its merits. Licence conditions will be focused on matters within the control of individual licensees and others in possession of relevant authorisations. The Licensing Authority may therefore only attach to premises licences and club premises certificates, those conditions that are tailored to the individual style and characteristics of the premises and the events concerned.
- 5.2 The Licensing Authority may act as a responsible authority as a means of early intervention; to do so where it is considered appropriate without having to wait for representations from other responsible authorities. For example, the licensing authority may (in a case where it has applied a cumulative impact policy) consider that granting a new licence application will add to the cumulative impact of licensed premises in its area and therefore decide to make representations to that effect, without waiting for any other person to do so.
- 5.3 In cases when the licensing authority acts as responsible authority in relation to the same process, there will be a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest.
- 5.4 Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public for example, health and safety at work, and fire safety legislation. The Licensing Authority cannot simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.
- 5.5 Conditions attached to premises licences and club premises certificates, will so far as possible, reflect local crime prevention strategies.

6 LICENSING HOURS

- 6.1 The Licensing Authority will not adopt fixed trading hours as a matter of policy. It recognises that flexible licensing hours with regard to the sale of alcohol is important to ensure that the concentrations of customers leaving premises simultaneously are avoided.
- 6.2 The Licensing Authority recognises that providing consumers with greater choice and flexibility is important to a thriving evening and night-time economy however, this will be balanced carefully against the duty to promote

the four licensing objectives and the rights of local residents to peace and quiet.

- 6.3 There is no general presumption in favour of lengthening licensing hours and accordingly the Licensing Authority may when issuing new licences or following reviews of existing licences reject a proposal or grant it with appropriate conditions and/or different hours from those requested.
- 6.4 Shops, stores and supermarkets will normally be permitted to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are good reasons based on the four licensing objectives for restricting those hours. For example, a limitation on licensing hours may be appropriate following Police representations in the case of premises known to be a focus of disorder and disturbance because youths gather there.
- 6.5 In taking its decisions the Licensing Authority will take into account the fact that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned.

7 CUMULATIVE IMPACT

- 7.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter, which the Council can consider within this licensing policy statement. This should not, however, be confused with 'need' which concerns the commercial demand for a particular type of premises. The issue of 'need' is therefore primarily a matter for the market to decide and does not form part of this licensing policy statement.
- 7.2 Information which the licensing authority may be able to draw on to evidence the cumulative impact of licensed premises on the promotion of the licensing objectives includes:
1. Local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
 2. Statistics on local anti-social behaviour offences;
 3. Health-related statistics such as alcohol-related emergency attendances and hospital admissions;
 4. Environmental health complaints, particularly in relation to litter and noise;
 5. Complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
 6. Residents' questionnaires
 7. Evidence from local councillors
 8. Evidence obtained through local consultation
- 7.3 Where, after considering the available evidence and consulting with relevant individuals and organisations listed within the Act, the Council is satisfied that it is appropriate to address the problems caused by an accumulation impact, the Council may adopt a 'special policy'.
- 7.4 If the Council adopts a special policy, it will define the areas affected and there will be a presumption that new applications will be refused whenever it

receives relevant representations by responsible authorities and interested parties, unless the applicant can demonstrate that the operation of the premises involved will not add to the cumulative impact already being experienced.

- 7.5 A special policy will never be absolute. Each application will be considered on its own merits. Licences that are unlikely to add to the cumulative impact on the licensing objectives will be granted, subject to meeting the remaining criteria.

8 RANGE OF ALTERNATIVES TO PREVENT HARM TO CHILDREN

- 8.1 The Licensing Authority recognises that there will be a considerable variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, cafes, village halls, take-aways and fast food outlets, as well as public houses and clubs. Subject to the licensee's discretion and any conditions included in a premises licence or club premises certificate, the Act does not prohibit children (under 18) having access to licensed premises of all kinds, including those selling alcohol for consumption on those premises.

- 8.2 The Licensing Authority will not limit the access of children to such premises unless it is necessary for the prevention of harm to children. No statement of Licensing Policy can properly anticipate every issue of concern that could arise in respect of children with regard to individual premises and so general rules have not been included in this policy. Consideration of the individual merits of each application remains the best mechanism for judging such matters.

- 8.3 However notwithstanding the above, the Licensing Authority considers that the following premises give rise to particular concern in respect of children:

- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or the premises has 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 machines);
- where entertainment or services of an adult or sexual nature are commonly provided;
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided;

- 8.4 In these circumstances the Licensing Authority will consider the appropriate option(s) for the prevention of harm to children. Whilst complete bans on access to children are likely to be rare, there may be circumstances when this is the only option considered appropriate. However in the majority of cases where limiting the access of children to licensed premises is considered necessary the following options will be considered:

- Limiting the hours when children may be present;
- Age limitations (below 18);
- Requirements for an accompanying adult;

- Full exclusion of people under the age of 18 from the premises when any licensable activities are taking place;
- 8.5 The Licensing Authority will not impose conditions requiring that children must be admitted to any premises. Where the above restrictions are not considered necessary, access to licensed premises will remain a matter for the discretion of the individual licence holder or club. Where the licence holder volunteers prohibitions and restrictions, and no relevant representations are made, the volunteered prohibitions and restrictions will be made into conditions. Where these conditions are considered adequate for the prevention of harm to children no other conditions in relation to the presence of children will be applied.
- 8.6 The Licensing Authority will expect adult staff to be present at places of public entertainment to control the access and egress of children and to assure their safety and be responsible for children who are performers. The ratio of adults to children will be in accordance with Annex H, of the Guidance issued under section 182 of the Licensing Act 2003, or such other ratios that a Responsible Authority may recommend.
- 8.7 The list of Responsible Authorities who must be notified about applications for licences and certificates must include a body recognised by the Council for being competent to advise it in relation to matters relating to the protection of children from harm. The Licensing Authority recognises the:
- Leicestershire & Rutland Local Safeguarding Children Board as the Responsible Authority. The Responsible Authority must be notified about applications for premises licences or club premises certificates or major variations of the same and are entitled to lodge representations or request reviews of premises licences and club premises certificates.
- 8.8 **The Portman Group:** The Licensing Authority commends the Portman Group Code of Practice on the naming, packaging and promotion of alcoholic drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older.
- 8.9 **Proof of Age Schemes:** The Licensing Authority commends proof of age cards accredited under the Proof of Age Standards Scheme (PASS).
- 8.10 **Children and Cinemas:** In the case of premises which are used for film exhibitions conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Licensing Authority itself.
- 8.11 **Children in Entertainment:** in the case of premises where children are used in entertainment specific legislation exists in order to prevent children from harm. It is the responsibility of the person responsible for the production of the performance to ensure that all relevant legislation is considered and the necessary measures and permissions are in place. Any reference to legislation is not exhaustive and intended to include any future amendments or additional legislation. Where children are used in entertainment the holder of a Premises Licence or Club Certificate must give regards to guidance issued by Rutland County Council; Performance Licences / Stage Licences

for School Aged Children. Legislation governing Children in Entertainment 2013.

9 TEMPORARY EVENT NOTICES

- 9.1 Part 5 of the Licensing Act allows licensing activities to be carried out in specified circumstances on a temporary basis, subject to a temporary event notice being served on the Licensing Authority, with a copy to the chief officer of police and the local authority exercising environmental health functions (relevant persons).
- 9.2 The Licensing Authority considers that it is important that the police have sufficient time to properly evaluate the likely impact of a temporary event. Where insufficient notice of the event is given this may lead to objections being made that may have been unnecessary if a fuller evaluation had been possible. Equally, if notice of an event is given too far in advance it may be difficult to evaluate because of future uncertainty.
- 9.3 The Licensing Authority would therefore suggest as best practice that a temporary event notice is served between one and two months ahead of the event taking place.
- 9.4 If there are over 500 persons attending the event then this will fall outside the provisions of a temporary event notice and a premises licence will be required.
- 9.5 Applicants are reminded that an authorisation made under a TEN does not remove their obligations under any other legislation including not committing a statutory nuisance. Where necessary, permissions should be sought from the appropriate body. The Council strongly recommends that applicants familiarise themselves with these responsibilities which amongst others may include:-
- Planning permission
 - Health and Safety
 - Noise Pollution
 - Erection of temporary structures
 - Road closures
 - Use of pyrotechnics
 - Anti-social behaviour
- 9.6 As well as the limit on the number of persons permitted under a TEN the following conditions and limitations apply:-
- Event duration must not exceed 168 hours (seven days).
 - There must be a minimum of 24 hours between event periods in relation to the same premises (not including any withdrawn TEN) by the same premises user.
 - Any associate, relative or business partner of the premises user is considered to be the same premises user in relation to this restriction.
- 9.7 The police and local authority exercising environmental health functions (relevant persons) have three working days to give an objection to a TEN where they consider that the proposed activities will undermine a licensing

objective. Whatever the decision, the licensing authority must give notice of the decision (and any conditions imposed) to the relevant persons and the premises user at least 24 hours before the beginning of the event.

10 PERSONAL LICENCES

- 10.1 The Licensing Authority recognises the important role that personal licence holders have to play in the promotion of the licensing objectives at premises selling alcohol.
- 10.2 Every sale of alcohol at a licensed premises is required to be authorised by a personal licence holder. Because of the importance of their role, the Licensing Authority considers it to be good practice for personal licence holders to have significant operational involvement in the sale of alcohol rather than to undertake a remote, periodic authorisation of other staff. In practical terms this would mean authorisation on at least a daily basis, and to be available on the premises throughout most of the day to deal with circumstances requiring their expertise and authority.
- 10.3 In accordance with advice by the Secretary of State the Licensing Authority will normally refuse applications where the police have issued an objection notice, unless there are, in the opinion of the Licensing Authority, exceptional and compelling reasons which justify granting the application.

11 INTEGRATING STRATEGIES

Promotion of Racial Equality

- 11.1 Rutland County Council is committed to its obligations and statutory duties under the Race Relations Act 1976, as amended by the Race relations (Amendment) Act 2000. The Council as the Licensing Authority will therefore, in carrying out its functions under the licensing legislation eliminate unlawful discrimination and promote equality of opportunity and good relations between persons of different racial groups.

Cultural Strategies

- 11.2 The Licensing Authority will monitor regulated entertainment, consideration will be given to the likely impact on the local communities.

Tourism and Employment

- 11.3 The Local Authority will ensure that information on the local tourist economy needs is available to the Licensing Committee as part of their considerations.
- 11.4 Similarly they will arrange that information on the employment situation in the area and the need for new investment and employment is available for consideration.

Planning

- 11.5 There must be a proper separation of the planning and licensing regimes to avoid duplication and inefficiency. Licensing applications should not be a re-run of the planning application and should not cut across planning decisions

taken by the Rutland County Council's Development Control and Licensing Committee (DCLC) or following appeals against decisions taken by that Committee. Reports will be made to the DCLC on the situation regarding licensed premises in the area to ensure proper integration, including the general impact of alcohol related crime and disorder, and to provide background information to any planning applications for potential licensed premises under consideration. The DCLC has a duty to consider matters of crime and disorder at this stage. This will enable the DCLC to have regard to such matters when taking its decisions and avoid unnecessary overlap.

- 11.6 The Local Authority reminds applicants that the granting of a Premises Licence does not override any planning constraints that may exist on the premises, for example the hours that the business premises may open. Planning consent is obtained separately to licensing authorisation.
- 11.7 If an application relates to premises which have not previously been used for the activity proposed, planning consent may be required. Obtaining Planning consent before applying for a Premises Licence, whilst not legally required, is strongly recommended.

Building Control

- 11.8 The Licensing Committee recognises the need to ensure proper separation of decisions made by Rutland County Council's Building Control section to ensure the proper function of the Building Control and Licensing activities.

12 REVIEWS

- 12.1 Reviews of premise licences represent a key protection for the community where matters arise at the premise in connection with any of the four licensing objectives.
- 12.2 At any stage following the grant of a Premise Licence a responsible authority or an interested party may request a review. Evidence would be required based on one or more of the licensing objectives.
- 12.3 If relevant representations are made about a current licence, the Council will hold a hearing to consider them, unless the Council, the applicant and those making representations agree that the hearing is not necessary.
- 12.4 Additionally a review of the licence will normally follow any action by the Police or Local Authority to close down the premise for up to 24 hours on grounds of disorder or public nuisance.
- 12.5 No more than one review will normally be permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances or where it arises following a Closure Order.
- 12.6 A summary review (or expedited) is appropriate for premises experiencing serious crime or disorder. It is a fast track licence review where the Council can attach interim conditions (where appropriate) to a premises licence where the responsible authority consider that the premises concerned is associated with serious crime or disorder or both.

13 GENERAL

- 13.1 Applicants for licences will be expected to have taken the local crime prevention strategy, planning and transportation policies and the cultural strategy into account in determining their operating plans. Where the employment of door supervisors is identified as necessary for the safety and security of visitors to a licensed premises, only security staff who are licensed by the Security Industry Authority shall be used.

14 ENFORCEMENT

- 14.1 All decisions and enforcement action taken by the Council will have regard to the relevant provisions of the Act, national guidance and the enforcement policy of the Council. To this end, the key principles of consistency, targeting, transparency and proportionality will be maintained.

15 USE OF COUNCIL'S OWN PREMISES

- 15.1 There is a provision whereby a Local Authority can licence itself in respect of public spaces within their community. Under these circumstances performers and entertainers have no need to apply for a licence and merely require the permission of the Local Authority. Such an arrangement would help the Local Authority to promote cultural diversity. This Council will pursue such a policy. They will make the necessary arrangements to ensure the officers or committee will make decisions from a strictly neutral and objective standpoint in the event of representations.

16 CONTACT POINTS

- 16.1 In order that members of the public can obtain advice about licensing issues, officer contact points are attached at Appendix B. This information will be updated from time to time.

17 RECOMMENDED AUTHORISATIONS

- 17.1 Many of the decisions involved in licensing are administrative in nature and will be delegated to the Head of Places Directorate. In broad terms, where representations, (i.e. objections), are made to an application, these will be referred to the Licensing Act Committee. The table in Appendix B sets out the Licensing Authority's policy on this.

Appendix A: DELEGATION OF FUNCTIONS

Matters to be dealt with	Full Licensing Committee	Licensing Sub-Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/ club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/ club premises certificate		If a relevant representation	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/ club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases
Adoption of Licensing Policy	All cases		

Appendix B: Contact Points

Org/Dept.	Contact	Tel No	E-Mail
Licensing Authority	Licensing Officer Rutland County Council Catmose Oakham Rutland LE15 6HP	01572 722577	licensing@rutland.gov.uk
Public Protection	Rutland County Council Catmose Oakham Rutland LE15 6HP	01572 722577	environmentalhealth@rutland.gov.uk
Planning	Head of Planning & Development Control Rutland County Council Catmose Oakham Rutland LE15 6HP	01572 722577	planning@rutland.gov.uk
Crime and Disorder	Community Safety Officer Rutland County Council Catmose Oakham Rutland LE15 6HP	01572 722577	communitysafety@rutland.gov.uk
Protection of Children	Leicestershire & Rutland Safeguarding Children Board Leicestershire County Council Room 600 County Hall Glenfield LE3 8RA	0116 3057130	sbbo@leics.gov.uk
Police	Licensing Department Leicestershire Constabulary Mansfield House 74 Belgrave Gate Leicester LE1 3GG	0116 2484330	licensing@leicestershire.pnn.police.uk
Fire Authority	LFRS Headquarters 12 Geoff Monk Way Birstall Leicester LE4 3BU	0116 2872241	rist@lfrs.org
Public Health	Public Health Department Leicestershire County Council County Hall Glenfield Leicester LE3 8RA		PHlicensing@leics.gov.uk