

DRAFT

**NORTHAMPTONSHIRE
Licensing Act 2003
Statement of Licensing Policy
for
Regulated Entertainment, Late Night Refreshment and
the Sale of Alcohol**

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1. Executive Summary

- 1.1 The Licensing Act 2003 introduced a new licensing system for alcohol, entertainment and late night refreshment.
- 1.2 Section 5 of the Licensing Act 2003 has imposed a statutory duty on the Licensing Authority to produce a statement of licensing policy for a three year period, beginning with such day as the Secretary of State may by order appoint and each subsequent period of 3 years. The next subsequent period of 3 years will commence on 7th January 2011.
- 1.3 This document sets out the Licensing Authorities policy, which will guide the Council when considering applications under the Act. The policy provides guidance on the general approach the Council, as the Licensing Authority within the meaning of the Act, will take in terms of licensing. However, each license application will be considered separately on its individual merits.
- 1.4 The aim of this policy is to set out how the Licensing Objectives will be achieved and to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural industry. The Licensing Authority in adopting this policy recognises both the needs of residents for a safe and healthy environment to live and work and the importance of safe and well run entertainment premises to the local economy and vibrancy of the Borough. However, the Council also recognises that balancing these interests will not always be straightforward and it will be guided by the four licensing objectives as set out in this policy.
- 1.5 This policy does not seek to undermine the right of any individual to apply under the Act for a variety of permissions and as stated above each application will be considered on its individual merits. Nor does the Policy seek to override the right of a person to make representations on an application or seek a review of a licence or certificate. However, the Council in adopting this policy is indicating that a wide range of considerations will be taken into account.
- 1.6 The Council will use its powers to promote best practice in relation to the operation of licensed premises and is committed to partnership working with police, fire, local businesses, licensed trade, residents and others to ensure that they have a clear understanding of the legislation.
- 1.7 The Licensing Authority has had regard to the guidance issued by the Secretary of State under Section 182 of the Act when developing this statement of Licensing Policy. The Council may deviate from the guidance but would need good reasons to do so.
- 1.8 The Act covers the licensing of individuals for the retail sale of alcohol (personal licences) the licensing of premises for the retail sale of alcohol, provision of regulated entertainment or late night refreshment (premises licence), the supply of alcohol or the provision of regulated entertainment to certain clubs (club premises certificates) and the holding of certain licensable activities on a temporary basis (temporary event notices).
- 1.9 The scope of this policy covers new applications, renewal of personal licences, transfers and variations of licences and certificates including temporary event licences. This includes the review of licences and certificates which could lead to a range of sanctions including the revocation of a licence or a certificate.

2. Licensing Objectives

- 2.1 The Licensing Act 2003 makes it a duty for the local authority to carry out its functions under the Act with a view to promoting the four licensing objectives:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance, and
 - The protection of children from harm

- 2.2 The purpose of this Policy is to detail how this Authority will comply with that duty.
- 2.3 In determining its statement of licensing policy, this Authority will have regard to the Guidance issued by central government and other regulatory bodies to ensure that its actions are consistent with those nationally. To further ensure consistency the licensing authorities of Northamptonshire will meet as necessary to ensure that a consistent approach is being achieved.
- 2.4 Licensing decisions will be made in accordance with the current legislation, case law, relevant guidance and in accordance with this policy.
- 2.5 No decision will be made which undermines the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.
- 2.6 Authorised persons, interested parties and responsible authorities, as defined in the Act, will have the right to make representations to the Licensing Authority on any application or seek a review of a licence or certificate where provision has been made for them to do so in the Act. This Authority recognises that under the current licensing regime there is no provision for a Licensing Authority to make representations and in the absence of relevant representations will grant licenses on the terms sought.
- 2.7 Licensing is about regulating the provision of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Licensing Act 2003. The terms and conditions attached to various permissions will be focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.
- 2.8 This authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. It must however be recognised that licensing legislation 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.
- 2.9 The Licensing Act 2003 is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and, therefore, beyond the control of the licence holder. Nonetheless, it is a key aspect of such control and licensing laws will always be part of the holistic approach to the management of the evening and night-time economy in town centres.
- 2.10 In undertaking its licensing function, this Licensing Authority is also bound by or must have regard to other legislation, strategies and policies, guidance and case law including:-

(i) Legislation

- Policing and Crime Act 2009
- The Crime and Disorder Act 1998
- Crime and Security Act 2010
- Human Rights Act 1998
- Criminal Justice and Police Act 2001
- Private Security Industry Act 2001
- Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000
- The Anti-Social Behaviour Act 2003
- Violent Crime Reduction Act 2006
- The Health Act 2006
- The Clean Neighbourhoods and Environment Act 2005
- Regulatory Reform (Fire Safety) Order 2005
- Local Government (Miscellaneous Provisions) Act 1982.

Note: These and other relevant pieces of legislation can be found at www.opsi.gov.uk

(ii) Strategies and Policies

- Alcohol Harm Reduction Strategy
- Best Bar None
- British Beer and Pub Association Partnerships Initiative
- Council's own Enforcement Policy
- Compliance Code
- Community Safety Strategy
- Crime & Disorder Reduction Strategy
- Cultural and Tourism Strategies including promotion of live music and community events
- Drugs and Alcohol Strategy
- Home Office: Selling Alcohol Responsibly: Good Practice Examples from the Alcohol Retail and Hospitality Industries
- Local Transport Plan
- National and local PubWatch schemes
- [Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks](#).
- Purple Flag (ATCM)
- Safer Socialising

(iii) Guidance Documents

- [Home Office 'Practical Guide for Preventing and Dealing with Alcohol Related Problems](#)
- [Home Office Safer Clubbing Guide](#)
- [Home Office Alcohol Disorder Zone Guidance](#)
- [Home Office Designated Public Place Order \(DPPO\) Guidance](#)
- [DCMS s182 Guidance](#)
- [LACORS/TSI Code of Practice on Test Purchasing](#)
- [The Event Safety Guide](#) (to be updated in 2011)
- [Licensing large scale events \(music festivals etc\)](#)
- [Managing Crowds Safely](#)
- [5 Steps to Risk Assessment](#)
- [The Guide to Safety at Sports Grounds](#)
- [Safety Guidance for Street Arts, Carnivals, Processions and Large-scale Performances](#)
- [UK BIDS: Business Improvement Districts](#) (national BIDS advisory service)
- [BIS Code of Practice on Consultation](#)
- [The Plain English Campaign](#)

(iv) Relevant case law regarding policy statements

- Limits of licensing policy:
[BBPA & Others v Canterbury City Council \[2005\] EWHC 1318 \(Admin\)](#)
- "Strict" licensing policies and exceptions to policy:
[R \(Westminster City Council\) v Middlesex Crown Court and Chorion plc \[2002\] LLR 538](#)
- Cumulative impact policies and hours
[R \(JD Wetherspoon plc\) v Guildford Borough Council \[2006\] EWHC 815 \(Admin\)](#)
- Duplication and conditions:
[R \(on the application of Bristol Council\) v Bristol Magistrates' Court \[2009\] EWHC 625 \(Admin\)](#)
- Extra-statutory notification by the licensing authority:
[R \(on the application of Albert Court Residents Association and others\) v Westminster City Council \[2010\] EWHC 393 \(Admin\)](#)

- The prevention of crime and disorder: ambit of the objective
[Blackpool Council, R \(on the application of\) v Howitt \[2008\]](#)
- Crime and disorder: sanctions on review: deterrence
[Bassetlaw District Council, R \(on the application of\) v Workshop Magistrates Court \[2008\]](#)

Note: This list is not exhaustive

- 2.11 The objective of the licensing process is to allow for the carrying on of retail sales of alcohol and the prevention of public nuisance, prevention of crime and disorder, public safety and protection of children from harm. It is the Licensing Authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 2.12 This Licensing Authority recognises that the provision of entertainment is a major contributor to the economy of the District attracting tourists and visitors, and is a source of employment.
- 2.13 This Licensing Authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering, fouling, noise and street crime.
- 2.14 In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. Only mandatory conditions and conditions relevant to the operating plan will be imposed except where relevant representations against an application are received. Where relevant representations are received then further additional conditions to meet the licensing objectives may be added provided they are necessary, proportionate and reasonable and deal with the issues raised. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public e.g. Health and Safety at Work and Fire Safety legislation.
- 2.15 In considering licensing hours this Licensing Authority will place significant emphasis on the individual merits of an application. This authority recognises the Government's view that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided so as to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which may lead to disorder and disturbance. The views of the Police and other agencies will be important in this consideration.
- 2.16 Licensing hours will not inhibit the development of a thriving and safe evening and night-time local economy which is important for investment and employment locally and attractive to domestic and international tourists without compromising the ability to resource local services associated with the night-time economy. Providing consumers with greater choice and flexibility is an important consideration. The legislation does not provide for standard closing times.
- 2.17 Shops and public houses will generally be permitted to sell alcohol during the hours they intend to open. Entertainment providers will be encouraged to provide a range of entertainment during their operating hours and to promote live music, dancing and theatre for the wider cultural benefit of the community. It will be a matter for individual applicants to address the licensing objectives in their operating schedule within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community.
- 2.18 The purpose of this policy document is to assist the Licensing Authority in reaching a decision on a particular application, setting out those matters which will normally be taken into account. In addition, this policy document seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move to, remain or invest in the area with some measure of certainty.

3. Consultation

3.1 Before determining its policy for any three-year period, this Authority will consult the persons listed in section 5(3) of the 2003 Act. These are:

- the chief officer of police for the area
- 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
- Other bodies will be consulted as considered appropriate to the area

3.2 The views of all these bodies listed will be given proper weight when the policy is determined together with those of any other persons or bodies which the Authority considers appropriate to consult with. When undertaking consultation exercises, this Authority will also have regard to cost and time.

4. Consideration of Cumulative Impact and Special Policies

4.1 Commercial demand for additional licensed premises is not a matter for this Licensing Authority or its statement of policy but a matter for planning committees and for the market. On the other hand, the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Licensing Committee.

4.2 Conditions may only relate to matters that the licensee can be expected to control. These are likely to relate to the premises themselves and the immediate vicinity. Where the number, type and density of premises selling alcohol are unusual, serious problems of nuisance and disorder can sometimes arise or begin to arise outside or some distance from the licensed premises. This has been described as the cumulative effect of the increasing capacity of all premises taken together and is outside of the control of licence conditions. There may be circumstances where this Licensing Authority receives relevant representations from a responsible authority or interested party that the cumulative effect of new licences is leading to an area becoming saturated with premises, making it a focal point for large groups of people to gather and circulate, away from the licensed premises themselves. This might be creating exceptional problems of disorder and nuisance over and above the impact from the individual premises. In such circumstances this Licensing Authority may consider the question of whether the granting of any further premises licences or club premises certificates would undermine one of the licensing objectives. The Licensing Act 2003 allows for this, so long as cumulative impact is addressed in the context of the individual merits of any application.

4.3 However this Licensing Authority will not impose quotas that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas, either formally or informally.

4.4 However, it may be necessary for this Licensing Authority to adopt a special policy of refusing new licences because the area is already saturated with certain types of licensed premises. In such circumstances this policy is not absolute and will still allow for the circumstances of each application to be considered properly and for licences which are unlikely to add significantly to saturation to be approved provided all other requirements are met.

4.5 In deciding whether to adopt such a policy, the licensing authority will have regard to:

- a) Identification of serious and chronic concern about crime and disorder or public nuisance;
- b) Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises and if

so identify the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;

- c) Consultation with those persons and bodies identified in Section 5(3) of the 2003 Act.

- 4.6 Where this process identifies such a need, this Licensing Authority will consider adoption of a special policy relating to future licence applications from that area. Reference to any such special policy will be made in the Licensing Policy Statement and the special policy will be published as part of the statement of licensing policy.
- 4.7 A special policy cannot be used to set a terminal hour for premises in the identified area.
- 4.8 This Licensing Authority has duties under Section 17 of the Crime and Disorder Act 1998 to do all that it can to prevent crime and disorder in its locality and to promote the licensing objectives in the Licensing Act 2003.
- 4.9 In considering representations relating to a particular application, this Licensing Authority will have regard to the impact on the promotion of the licensing objectives in the area. In any representations, the onus will be on the objector to lay an evidentiary base for the assertion that the addition of the premises in question would produce the cumulative impact claimed. The impact can be expected to be different for premises with different styles and characteristics.
- 4.10 Any special policy adopted by this Licensing Authority will be reviewed regularly to assess whether it has had the effect intended, whether it is needed any longer or whether it needs extending.
- 4.11 A special policy on cumulative impact will not be used as grounds for removing a licence when representations are received about problems with an existing licensed premises. Nor can it justify rejecting variations to a licence except where those variations are directly relevant to the policy (as would be the case with an amendment significantly to increase the capacity limits of a premises).
- 4.12 This authority will not adopt quotas which pre-determine the individual merits of any application – even in respect of premises selling alcohol for consumption on those premises – as they have no regard to the individual characteristics of the premises concerned. Public houses, nightclubs, restaurants, hotels, theatres, concert halls and cinemas all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be given to those differences and the differing impact they will have on the local community.
- 4.13 This authority recognises that once away from these premises, only a minority of consumers will behave badly and unlawfully. The licensing policy is part of a much wider strategy for addressing these problems. Other mechanisms which may be used to deal with such issues which fall outside of the scope of this licensing policy include:
 - a) planning controls;
 - b) 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;
 - c) the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
 - d) powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
 - e) police enforcement of the general law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices;
 - f) the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
 - g) the confiscation of alcohol from adults and children in designated areas;

- h) Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises causing a nuisance;
- i) the power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.

4.14 This Licensing Authority and Northamptonshire Police will continue to work closely together to ensure that these other mechanisms are used appropriately to deal with the issues of concern and where possible will supplement these with other local initiatives that similarly address these problems.

5. Licensing hours

5.1 Consideration will always be given to the individual merits of an application in line with the four licensing objectives and any relevant representations. This Authority recognises that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport, which may lead to disorder and disturbance.

5.2 However, when issuing a licence with hours beyond 23.00 hours, higher standards may be expected to be included in Operating Schedules to address the Licensing Objectives especially premises which are situated near to residential properties.

5.3 In considering licence applications, where relevant representations are made, this Licensing Authority will consider the adequacy of measures proposed to deal with the potential for public nuisance and/or public disorder having regard to all the circumstances of the case.

5.4 Where relevant representations are made, this authority will demand stricter conditions with regard to noise control in areas that have denser residential accommodation, but this will not limit opening hours without regard for the individual merits of any application. This authority will consider each application and work with the parties concerned to ensure that adequate noise control measures are in place.

5.5 In general terms, this Authority supports the view that, with regard to shops, stores and supermarkets, they should be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are very good reasons for restricting those hours. For example, a limitation may be appropriate following police representations in the case of isolated shops known to be a focus of disorder and disturbance.

6. Children

6.1 This Authority recognises that there will be a considerable variety of premises for which licences may be sought. These include theatres, cinemas, restaurants, concert halls, cafes, take-away food businesses and fast food outlets as well as public houses and nightclubs. In addition, subject to the licensee's discretion and any conditions included in a premises licence or club premises certificate, the Licensing Act 2003 does not prohibit children having free access to licensed premises of all kinds, including those selling alcohol for consumption on those premises.

6.2 This 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 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. Consideration of the individual merits of each application remains the best mechanism for judging such matters.

6.3 However, notwithstanding the above, this authority considers that the following premises give rise to particular concern in respect of children:

- a) 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;

- b) with a known association with drug taking or dealing;
- c) where there is a strong element of gambling on the premises;
- d) where entertainment or services of an adult or sexual nature are commonly provided;
- e) where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

6.4 In these circumstances the Authority will consider the appropriate option for the prevention of harm to children where relevant representations are made. While complete bans on access to children are likely to be rare, there may be circumstances when no other option is considered appropriate. However, in the majority of cases where limiting the access of children to licensed premises is considered necessary, the options which will be considered are:

- a) Limitations on the hours when children may be present;
- b) Age limitations (below 18);
- c) Limitations on the exclusion of the presence of children under a certain age when particular specified activities are taking place;
- d) Requirements for an accompanying adult;
- e) Full exclusion of people under 18 from the premises when any licensable activities are taking place

6.5 This 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 by children will remain a matter for the discretion of the individual licence holder or club. Where the licence holder volunteers prohibitions and restrictions and no other relevant representations are made, the volunteered prohibitions and restrictions will be made into conditions and no other conditions in relation to the presence of children will be applied.

6.6 Northamptonshire Police and Northamptonshire County Council Trading Standards Service are jointly responsible for the enforcement of ss146, 147, 147(a) and 147(b) of the Licensing Act 2003 (The sale of, and allowing the sale of alcohol to children). Trading Standards are mainly responsible for 'off licence' premises and the Police have the main responsibility for 'on licence' premises.

6.7 With regard to children in premises giving film exhibitions, this authority will impose conditions requiring that arrangements must be in place for restricting children from viewing age-restricted films or videos classified according to the recommendations of the British Board of Film Classification or the local authority itself.

6.8 In Northamptonshire it has been agreed that this Authority responsible for the protection of children will be Head of Service, Safeguarding Children, Children & Families Service, Northamptonshire County Council, County Hall, Guildhall Rd, Northampton, NN1 1AN Tel: 01604 236236.

This responsible authority will 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.

The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

6.9 The Portman Group operates a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks on behalf of the alcohol industry. 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. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important weapon in protecting children from harm

because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors. A copy of the Code can be found at www.portman-group.org.uk.

Children and Cinemas

- 6.10 In the case of premises giving film exhibitions, this Licensing Authority will expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the licensing authority itself. The 2003 Act also provides that it is mandatory for a condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to be restricted in accordance with the recommendations given to films either by a body designated under section 4 of the Video Recordings Act 1984 (the British Board of Film Classification is the only body which has been so designated) or by the licensing authority itself. This Licensing Authority will expect Licensees to demonstrate the controls they have in place for the showing of recordings which have no age classification.

7. Integrating strategies

Crime prevention

- 7.1 Where relevant representations are received, this Licensing Authority will attach conditions to premises licences and club premises certificates where appropriate to reflect local crime prevention strategies, for example, the provision of closed circuit television cameras in certain premises. The need for such conditions will be considered specifically as part of the application consultation process with Northamptonshire Police and more generally at licensing liaison groups and through Crime and Disorder Partnerships.

Cultural Strategies

- 7.2 The Licensing Committee will be advised of any relevant information received either reactively or proactively indicating that this policy is having a detrimental impact on live music and dancing and other regulated activities, to ensure that broader cultural activities and entertainment are not being affected. Where indications are that there is a negative effect on such events then this policy will be reviewed in order to identify how the issues may be remedied. Advice will be sought from other relevant bodies as appropriate where such issues are identified. Every care will be taken to ensure that only necessary, proportionate and reasonable licensing conditions are applied.

Transport

- 7.3 When necessary or appropriate the local police and other licensing enforcement officers will make representations to the relevant committee or forum of the Local Authority so that those committees may have regard to the transport issues which may be identified surrounding the need to disperse people from the town centres swiftly and safely to avoid concentrations which produce disorder and disturbance. Such representations may be instigated by either party.

Tourism, Employment, Planning and Building Control

- 7.4 The Licensing Committee will receive reports on the needs of the local tourist economy and the cultural strategy for the area to ensure that these are reflected in their considerations as appropriate. The licensing Committee will also be advised as necessary of the employment situation in the area and the need for new investment and employment where appropriate.
- 7.5 This Licensing Authority acknowledges that there must be 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 decisions taken by the local authority Planning Committee or following appeals against decisions taken by that committee. The Licensing Committee will provide reports to the Planning Committee on the situation regarding licensed premises in the area to ensure proper integration, including the general impact of alcohol related crime and disorder, to provide background information to any planning applications for potential licensed premises under consideration. The planning

authority also has a duty to consider matters of crime and disorder at this stage. This will enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.

- 7.6 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.
- 7.7 The Council's Planning Policies are set out in its Local Plan. National planning policy in the form of Planning Policy Statements (PPS) and Planning Policy Guidance Notes (PPG) along with Regional Planning Policy Guidance Notes (RPG) are also relevant.
- 7.8 The strength of these policies is that there is an obligation both on the council, as local planning authority, and the decision maker on any appeal to give considerable weight to them. This helps ensure consistency in the decision making process.
- 7.9 All applications for premises or club premises licences will normally only be considered where:
- The activity to be authorised by the licence is a lawful planning use, and
 - The hours sought do not exceed those authorised by any planning permission

Promotion of Equality

- 7.10 Over the last four decades, discrimination legislation has played an important role in helping to make Britain a more equal society. However, the legislation was complex and, despite the progress that has been made, inequality and discrimination persist and progress on some issues has been stubbornly slow.
- 7.11 [The Equality Act 2010](#) provides a new cross-cutting legislative framework to protect the rights of individuals and advance equality of opportunity for all; to update, simplify and strengthen the previous legislation; and to deliver a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.
- 7.12 In implementing the Licensing Act 2003, associated legislation and guidance, this Licensing Authority is committed to ensuring that the obligations and duties within this legislation are met.

8. Duplication of Enforcement

- 8.1 The enforcement of licensing legislation will at all times be distinct from other regulatory regimes such as fire safety and health and safety so far as is possible.
- 8.2 Conditions will only be attached to premises licences and club premises certificates that are necessary for the promotion of the licensing objectives detailed in the introduction to this policy, be they mandatory conditions, conditions made against the operating plan and/or following relevant representations. Under normal circumstances where matters are already provided for in other legislation they cannot be considered necessary in the context of licensing law.
- 8.3 To ensure clarity of enforcement roles appropriate liaison with other enforcing authorities will take place and, where considered appropriate, joint inspections by enforcement agencies will be arranged.

9. Licence and Certificate Conditions

- 9.1 A key concept underscoring the Licensing Act 2003 is for conditions to be attached to licences and certificates that are tailored to the individual style and characteristics of the premises and events concerned. Conditions may only be applied following the receipt of relevant representations where they have been agreed by all parties concerned or have

been applied by the Licensing Committee. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions.

9.2 This authority will therefore avoid the general application of standardised conditions to licences and certificates.

9.3 However to ensure consistency, when it is necessary to apply conditions, this authority will draw from pools of model conditions where available, from which appropriate and proportionate conditions may be drawn in particular circumstances to suit individual cases. The model conditions will cover the following:-

- **Crime and disorder**
- **Public safety (including fire safety)**
- **Public nuisance**
- **Protection of children from harm**

10. Enforcement

10.1 This Licensing Authority will establish protocols and have regular liaison with the local police, fire & rescue service, trading standards, other County local authorities and other agencies on enforcement issues. This will provide for a more efficient deployment of local authority staff and police officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises. There will also be regular liaison with other enforcement authorities.

10.2 In particular, these protocols will provide for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run. The limited validity of public entertainment, theatre, cinema and late night refreshment house licences has in the past led to a culture of annual inspections regardless of whether such inspections are necessary. The Licensing Act 2003 does not require inspections to take place save at the discretion of those charged with this role. The principle of risk assessment and targeting will prevail and inspections will not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are more effectively concentrated on problem premises.

11. Live music, dancing and theatre

11.1 The impact of this policy on regulated entertainment, particularly live music and dancing will be monitored. Where there is an indication that such events are being deterred by licensing requirements the policy will be revisited with a view to investigating how the situation might be reversed. As part of implementing the local authority's cultural strategy, proper account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will always be carefully balanced with these wider benefits, particularly for children. In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives, the Licensing Authority will be aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a substantial nature. This Licensing Authority is aware that the views of vocal minorities should not be allowed to predominate over the general interests of the community that the committee represents.

11.2 Live performance is central to the development of cultural diversity and vibrant, exciting communities, particularly traditional entertainment such as circus and street arts. This Council subscribes to the view expressed in the Guidance to the Act that the absence of cultural provision in any area can lead in itself to a loss of community awareness and can expose young people to anti-social activities that damage local communities.

11.3 Proper account will be taken of the need to encourage and promote a broad range of entertainment particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays, for the wider benefit of communities. A natural

concern to prevent disturbance should always be balanced with these wider cultural benefits, particularly those for children.

- 11.4 The Council will also seek Premises Licenses for public spaces in the community in its own name. This could include, for example, open spaces, town centre squares, community halls and similar public spaces. With regard to those places, performers and entertainers will not need to obtain a license or give a temporary event notice themselves in order to perform. Instead they would require permission from the Council as the Premises License holder. Any charges related to this permission will be reasonable and proportionate. The Council will also monitor the impact of licensing on regulated entertainment to ensure that only necessary, proportionate and reasonable licensing conditions impose restrictions on such events. Where there is an indication that licensing requirements are deterring such events, the Council will re-visit the Licensing Policy and endeavour to reverse these effects.

12. Legislation

- 12.1 Other Statutory requirements may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder.
- 12.2 In reaching a decision on whether or not to grant or review a licence, the Licensing Authority may take account of any non-compliance with other statutory requirements brought to its attention, if these undermine the licensing objectives. This is because any non-compliance with other 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 and nuisance.
- At a meeting on 25th May 2010 Northampton Borough Council's Licensing Committee passed a resolution as authorised under Section 2 of the Local Government (Miscellaneous Provisions) Act 1982, to adopt Schedule 3 (as amended by Section 27 of the Police and Crime Act 2009) of the Local Government (Miscellaneous Provisions) Act 1982.
- This came into force on 1st July 2010 and any premises within the Borough of Northampton, wishing to offer entertainment of a sexual nature will be required to apply for a Sex Entertainment Venue Licence.
- 12.3 The grant of a Licence does not imply the approval of other legislative requirements.

13. Drugs

- 13.1 The Licensing Authority recognises that drug use is not something that is relevant to all licensed premises. However, special conditions may need to be imposed for certain types of venues to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. The conditions to be imposed in such cases are taken from the DCMS pool of conditions which take into account the report 'Safer Clubbing' issued by the Home Office. In all cases where these conditions are imposed, advice will be taken from the police and any other local drugs advisory group.

14. Control of Consumers

- 14.1 The Licensing Authority may adopt relevant powers to designate the relevant parts of its area as places where alcohol may not be consumed publicly. The Licensing Authority will keep this under review.
- 14.2 The 'Challenge 21' scheme will also be promoted across the County whereby any person seeking to purchase alcohol will be asked for PASS (Proof of Age Standards Scheme) accredited proof of age if they look younger than 21.
- 14.3 "PubWatch" and other schemes will be supported by the Licensing Authority as they are intended to promote and encourage public safety and reduce crime and disorder.
- 14.4 The Licensing Authority will continue to liaise with Northamptonshire Police, Northamptonshire Fire and Rescue Service and Northamptonshire County Council Trading Standards Service to inspect licensed premises. This joint partnership approach is intended

to maximise the potential for controlling crime, disorder and hazards at premises and to ensure compliance with the relevant conditions.

15. Noise

- 15.1 Applicants for licensable activities will be required to demonstrate the measures they have in place to prevent unnecessary noise and disturbance to local residents, as considered appropriate. This may include restrictions on the times when music or other licensable activities may take place and may include restrictions on sound levels at the premises. Measures may be imposed requiring licensees to display signs at all exits of premises reminding customers to leave premises quietly and to respect the rights of nearby residents.

16. Capacity

- 16.1 Where it is considered necessary to control the maximum number of persons attending premises for the purpose of preventing crime and disorder or for public safety the Licensing Authority may impose conditions relating to the maximum number of persons permitted to attend premises.
- 16.2 The maximum number of persons attending a premises is deemed to be the total number of people in the licensed areas of the premises at any one time and includes performers, staff, etc. This number is a maximum and may need to be reduced for certain events. It will therefore be the duty of the licence holder to carry out a risk assessment of the premises whenever events are to be held which may reduce the capacity of the premises to ensure that crime and disorder and public safety issues are not compromised.

17. Temporary Events Notices

- 17.1 The most important aspect of the system of permitted temporary activities is that no permission as such is required for these events from the Council. The system involves the notification of an event to the Licensing Authority and Northamptonshire Police, subject to fulfilling certain conditions. In general, only Northamptonshire Police may intervene on the prevention of crime and disorder licensing objective to prevent such an activity taking place or to modify the arrangements for such an event. The Licensing Authority may only intervene if the limits on the number of Temporary Event Notices (TEN'S) that may be given have been exceeded.
- 17.2 The Act imposes the following limitations in respect of TEN's:
- a) the number of times a person ("the premises user") may give a TEN - a personal licence holder is limited to 50 in one year, an ordinary person to 5 per year;
 - b) the number of times a TEN may be given in respect of any particular premises – 12 times in a calendar year;
 - c) the length a temporary event may last for these purposes - 96 hours
 - d) the maximum aggregate duration of the periods covered by TEN at any individual premises - 15 days; and
 - e) the scale of the events in terms of the maximum number of people attending at any one time - less than 500 people.
- 17.3 In any other circumstances, a full premises licence or club premises certificate would be required for the period of the event involved. The procedures for applying and granting a licence will be the same as for a premises licence. A person may also choose to apply for a premises licence or club premises certificate if they do not wish to take advantage of the TEN system.
- 17.4 As many users giving TEN's will not have commercial backgrounds or ready access to legal advice, the Licensing Authority will ensure that guidance is clear and understandable and will aim to keep arrangements manageable and user friendly for these groups.
- 17.5 Where a personal licence holder is involved, they will be able to give a TEN in relation to licensable activities (including the sale of alcohol) on up to 50 occasions per year for up to 96 hours on each occasion. This is subject to the limitations for each premises subject to informing the Council and Northamptonshire Police of relevant details.

- 17.6 These details are:
- a) the licensable activities to take place during the event;
 - b) the period during which it is proposed to use the premises for licensable activities;
 - c) the times during the event period that the premises user proposes that the licensable activities shall take place;
 - d) the maximum number of persons (being less than 500) which it is proposed should, during those times, be allowed on the premises at the same time;
 - e) where the licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises or both; and
 - f) any other matters prescribed by the Secretary of State or by regulation.
- 17.7 On each occasion at least 10 working days notice must be given, but there is nothing to prevent simultaneous notification of multiple events at a single time so long as the first event is at least ten days away. However, this would only be possible where all the events are to take place in the area.
- 17.8 Ten working days are the minimum possible notice that may be given. However, organisers of temporary events are encouraged to submit their notification as soon as it is reasonably practicable to enable the Licensing Authority and, Northamptonshire Police to work with them to identify and reduce the risk of crime and disorder.
- 17.9 Northamptonshire Licensing Authorities recommend that at least 28 days and no more than 3 months notice be given to hold such events, to allow it to help organisers plan their events safely. A longer period than this may mean that all relevant details are not available and any lesser time may mean that the planning may be rushed; this may increase the likelihood of Northamptonshire Police objecting.
- 17.10 This Licensing Authority will not seek to impose any terms, limitations or restrictions on such events covered by a TEN. However, the Licensing Authority will provide local advice about proper respect for the concerns of residents, legislative requirements regarding health and safety, noise pollution, temporary structures. It will also provide advice about other permissions e.g. road closures, pyrotechnics in public places, local byelaws and the need to prevent anti social behaviour.
- 17.11 The Licensing Authority will also remind notice givers of relevant offences under licensing law, including:
- the sale of alcohol to minors,
 - the sale of alcohol to a person who is drunk,
- 17.12 The Licensing Authority will also advise notice givers of the police powers to close down an event with no notice on grounds of disorder or because of public nuisance caused by noise emanating from the premises. Where the application is not within the parameters described above, the Licensing Authority will issue a Counter Notice to the person giving the TEN.
- 17.13 The Act provides that the Police may, in exceptional circumstances, issue an objection notice because they believe that the event would undermine the crime prevention objective set out in the Act. The Police must issue any objection notice within 2 working days of being notified, but they can subsequently withdraw their counter notice. If the Police do not intervene they will still be able to rely on their powers of closure should disorder or disturbance subsequently arise.
- 17.14 Where an objection notice is issued by Northamptonshire Police, the Licensing Authority will hold a hearing to consider the objection. The Licensing Authority will confine its consideration to the crime prevention objective and will not, for example, uphold an objection notice on the grounds of public nuisance.
- 17.15 At any such hearing the Licensing Authority may hear from Northamptonshire Police, and the premises user. A hearing would not be necessary if Northamptonshire Police withdraw the objection notice.

- 17.16 The Licensing Authority would encourage event organisers not to rely on giving the minimum amount of notice given the possibility of police intervention. Event organisers are encouraged to contact local Northamptonshire Police Licensing Officers as early as possible about their proposed event(s).
- 17.17 The Act provides that any individual aged 18 or over may give a TEN whether or not they hold a personal licence. As many events will involve combinations of licensable activities, the Act limits the number of TEN given by any non-personal licence holder to 5 per year. In every other respect, the guidance set out above applies.
- 17.18 TEN may also be given in respect of club premises covered by club premises certificates by non-personal licence holders. However, only 12 such notices may be given in respect of the same club premises in any calendar year and the maximum aggregate duration of 15 days will also apply.
- 17.19 This Licensing Authority, on receiving a TEN, will also check that other requirements of the Act are met e.g. a TEN will be void unless there is a minimum of 24 hours between events notified by the premises user in respect of the same premises. This is to prevent evasion of the 96 hour limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. A TEN is treated as being from the same premises user if an associate gives it. The Act defines associate as:
- a) the spouse of that person;
 - b) a child, parent, grandchild, grandparent, brother or sister of that person or their spouse; or;
 - c) an agent or employee of that person or their spouse;
- 17.20 A person living with another person as his or her husband or wife is treated for these purposes as a spouse.

18. Fees

- 18.1 Fees and charges will be levied in accordance with those prescribed by central government.

19. Reviews

- 19.1 The Licensing Act 2003 makes provision for the Review of premises licenses where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.
- 19.2 At any stage following the grant of a premises licence, a responsible authority or an interested party (such as a resident living in the vicinity of the premises), may request this Licensing Authority review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 19.3 A review of a premises licence will follow any action by Northamptonshire Police to close down premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a Magistrates' Courts' determination sent to the Licensing Authority.
- 19.4 This Licensing Authority understands that it does not have the power to initiate its own review. However, officers of the Council who are specified as responsible authorities under the Act such as Environmental Health Officers may request the Licensing Authority for a review on any matter which relates to the promotion of one or more of the licensing objectives. Any such representations will be treated in the same way as representations made by any other body or individual.
- 19.5 In all cases, the representation must relate to a particular premises for which a licence is in force and must be relevant to the promotion of the licensing objectives.

- 19.6 Representations must be made in writing and may be amplified at the subsequent review or may stand in their own right. Additional representations, which do not amount to an amplification of the original representation, may not be heard at the hearing.
- 19.7 Where the request for a review originates from an interested party e.g. a local resident or residents' association, this Licensing Authority will first to consider whether the complaint made is not relevant, vexatious, frivolous or repetitious.
- 19.8 A repetitious complaint is one that is identical or substantially similar to:
- a) a ground for review made in respect of the same premises licence which has already been determined; or
 - b) representations considered by the Licensing Authority when the premises licence was granted; or
 - c) representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and
 - d) in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of a licence.
- 19.9 This Licensing Authority recognises the need to prevent attempts to review licences, following the failure of representations on earlier occasions. The Licensing Authority will judge what is to be regarded as a reasonable interval in these circumstances. This Licensing Authority has regard to the recommendation in the guidance that more than one review originating from an interested party should not be permitted within a period of 12 months on similar grounds except in compelling circumstances or where it arises following a Closure Order.
- 19.10 This Licensing Authority also recognises that the promotion of the licensing objectives relies heavily on a partnership approach. The Council would encourage authorised persons and responsible authorities to give licence holders warning of their concerns about problems identified at premises and of the need for improvement. This Licensing Authority will advise licence holders that a failure to respond to such a warning may lead to a responsible authority requesting a Review.
- 19.11 This Licensing Authority will hold a hearing following a request for a Review from a responsible authority, interested party or after closure procedures described earlier. This Licensing Authority will make the licence holder fully aware of the representations received together with supporting evidence in order for the licence holder or his legal representatives to be able to prepare a response.
- 19.12 In determining a Review, this authority has a range of powers it may exercise where it considers them necessary for the promotion of the licensing objectives:
- a) no action necessary as no steps required to promote the licensing objectives;
 - b) issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. This Licensing Authority regards such warnings as important mechanisms for ensuring that the licensing objectives are effectively promoted and any warning issued will be in writing to the licence holder.
 - c) to modify the conditions of the premises licence (including adding new conditions, altering/omitting an existing condition);
 - d) excluding a licensable activity from the licence;
 - e) remove the designated premises supervisor,
 - f) suspend the licence for a period of three months;
 - g) to revoke the licence.
- 19.13 This Licensing Authority in determining what action to take will seek to establish the causes of concern and any action taken will be directed at these causes. Any action taken to promote the licensing objectives will be necessary and proportionate.

20. Administration, Exercise and Delegation of Functions

- 20.1 The Powers 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.
- 20.2 Many of the licensing procedures will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness officers will generally carry out these duties.
- 20.3 On applications where there are relevant representations these will be dealt with by a Committee or sub committee of the Licensing Authority, as will any application for review of a licence.
- 20.4 This Licensing Authority will expect applicants to address the licensing objectives in their Operating Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 20.5 Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate, when formulating their Operating Schedule.
- 20.6 The 2003 Act provides that decisions and functions may be taken or carried out by licensing committees or delegated to sub-committees or in appropriate cases, to officials supporting the Licensing Authority. In the interests of speed, efficiency and cost-effectiveness, as many of the decisions and functions will be purely administrative in nature, functions will be delegated to the appropriate level within the organisation where possible. See Appendix 1.
- 20.7 Where applications are non contentious, (for example, no representations to the grant of a premises licence) these applications will be delegated to officers in order to speed matters through the system. Any such matters passed in this way will then be listed for comment at the next Committee meeting. The Committee will not have the opportunity to reverse officers' decisions
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Appendix 1 - Delegation of functions

Matter to be dealt with	Full Committee	Sub Committee or Panel	Officers
Application for personal Licence	-	If a police objection made	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 made	If no relevant representation made
Application to vary designated premises supervisor	-	If a police objection	All other cases
Request to be removed as designated premises supervisor	-	-	All 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 etc	-	-	All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	-	All cases	-
Determination of a police objection to a temporary event notice	-	All cases	-

Appendix 2 – Northamptonshire Licensing Authority Contacts

<p>Bill Edwards Neighbourhoods, Licensing and Support Team Leader Northampton Community Safety Partnership 1st Floor 14 Fish St Northampton NN1 2AA</p> <p>Tel: (01604) 838986 Out of Hours: (01604) 837837 Fax: (01604) 238755 E-mail : bedwards@northampton.gov.uk</p>	<p>Julia Smith Commercial Health Manager East Northamptonshire District Council Cedar Drive, Thrapston Northants NN14 4LZ</p> <p>Tel: (01832) 742066 Out of Hours: (01933) 412000 Fax: (01832) 734839 Email: jsmith@east-northamptonshire.gov.uk</p>
<p>Amanda Wilcox Health Protection Manager Borough Council of Wellingborough Croyland Abbey Tithe Barn Road Wellingborough Northants NN8 1BJ</p> <p>Tel: (01933) 231954 Out of Hours: (01933) 222931 FAX: (01933) 231980 Email: awilcox@wellingborough.gov.uk</p>	<p>Jackie Fitzsimons Environmental Health Manager South Northamptonshire Council Environment & Implementation Division Springfields Towcester Northamptonshire NN12 6AE</p> <p>Tel: (01327) 322283 Out of Hours: (01327) 322399 FAX: (01327) 359946 Email: jackie.fitzsimons@southnorthants.gov.uk</p>
<p>Russ Howell Health Services Manager Kettering Borough Council Municipal Offices Bowling Green Road Kettering Northants NN15 7QX</p> <p>Tel: (01536) 534323 Out of Hours: (01536) 410333 FAX: (01536) 410795 Email: russhowell@kettering.gov.uk</p>	<p>Damian Wilkins Health Protection Manager Corby Borough Council Deene House New Post Office Square Corby Northants NN17 1QB</p> <p>Tel: (01536) 464299 Out of Hours: (01536) 400088 Fax: (01536) 464644 Email: damian.wilkins@corby.gov.uk</p>
<p>Ed Cooke Environmental Health Manager (Health Improvement) Daventry District Council Lodge Road Daventry Northants NN11 5AF</p> <p>Tel: (01327) 302549 FAX: (01327) 302540 Email: ecooke@daventrydc.gov.uk</p>	