

APPENDIX 8

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LEWES DISTRICT COUNCIL

STATEMENT OF LICENSING POLICY

1 INTRODUCTION

Lewes District Council makes this Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003, 'the Act.'

Licensing is about regulating licensable activities on licensed premises, qualifying clubs and at permitted temporary activities.

1.1 THE SCOPE OF THIS POLICY COVERS THE FOLLOWING:

- 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 regulated entertainment (as defined in Schedule 1 of the Act)
- The provision of late night refreshment.

1.2 THE AIMS OF THIS POLICY ARE TO:

- secure the safety and amenity of residential communities
- help to ensure a sustainable environment and provide regulation of the cultural/entertainment industry
- promote the Licensing Objectives as set out in the Act.

1.3 THE LICENSING OBJECTIVES ARE:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm.

1.4 IN MAKING THIS POLICY, LEWES DISTRICT COUNCIL RECOGNISES THE FOLLOWING:

- residents within the District need a safe and healthy environment to live and work in.
- safe and well run entertainment premises are important to the local economy and vibrancy of the District.

1.5 THIS STATEMENT PROVIDES GUIDANCE

to the police, applicants, objectors and residents on the general approach that the Council (acting through its Licensing Committee) will take when making licensing decisions.

The following will be taken into account when licensing decisions are being made:

- the Council as licensing authority must carry out its functions under the Act with a view to promoting the Licensing Objectives.
- each licence application will be given individual consideration on its merits.

- when making its decisions, the Council will have regard to the matters contained in this Statement and to any government guidance that is issued from time to time.
- that the Council will have regard to the provisions of the Human Rights Act 1998 and in particular, Article 6 (right to a fair and public hearing); Article 8 (right to respect for home, private and family life) and Article 1 of the First Protocol (right to peaceful enjoyment of property and possessions)
- that the Council will have due regard to its Equality Duty under the Equality Act 2010 to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age; disability; gender re-assignment; marriage and civil partnership (but only in respect of eliminating unlawful discrimination); pregnancy and maternity; race – this includes ethnic or national origins, colour or nationality; religion or belief – this includes lack of belief; sex (gender) and sexual orientation. In accordance with this Duty the Council publish equalities information annually on the Council's website.
- that when exercising a licensing function the Council will have due regard to its duty under section 17 of the Crime and Disorder Act 1998 and any local public service agreements relating to the reduction of public place violence.

1.6 This Statement takes effect on 1 November 2012 for a period of 5 years and will be kept under review and revised/amended as required, following consultation.

2 LOCAL FEATURES

2.1 Lewes District Council covers an area of 113 square miles and is home to nearly 90,000 people. Bordered by the varied landscape of the Downs to the south and the Weald to the north, it has 9 miles of coastline. From coastal strip to rural countryside, Lewes District comprises a rich mix of town and village communities. The District population is concentrated to the coast with half of all residents living in the towns of Seaford, Newhaven, Peacehaven, Telscombe Cliffs and East Saltdean, while inland Lewes is the County Town of East Sussex. There are also numerous villages and hamlets within the area, which vary in size and form, and the District has one of the fastest growing populations in the South of England.

2.2 The main focus for licensed activities is in the Town Centres where there is a varied mix of premises from clubs, pubs, café/bars, restaurants, and large stores to smaller

retail outlets for off licence sales. In the rural areas there are a great number of village pubs, which are very much part of the community and supporting leisure and local activities.

2.3 Overall, the District has approximately 320 premises licensed under the Act, evenly spread across the towns and rural area, catering for the needs of the community and with few late night venues, club culture at the moment is not highly developed or wide spread.

3 DELEGATION OF FUNCTIONS

Licensing decisions and functions may be taken or carried out by the Council's Licensing Committee or delegated to a Licensing Sub-Committee or in appropriate cases, officers of the Council. The scheme of delegation for dealing with licensing matters is set out below:

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for personal licence		If a police objection made	If no objection made
Application for personal licence with unspent convictions		All cases	
Determination of minor variation			All cases
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional settlement		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
Application 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 Council is a consultee and not the Licensing Authority		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If police objection	All cases
Determination of an objection to a temporary event notice		All cases	
Decision to make a representation on behalf of the Licensing Authority			All cases

4 GENERAL STATEMENT OF GUIDING PRINCIPLES

4.1 The following principles have been adopted by the Council as a licensing authority. These principles will serve as a general guide to the Council when it carries out its licensing functions:

PRINCIPLE 1

Issues of nuisance, noise, public safety and crime and disorder associated with the character, number and proximity of licensed premises in any one area (cumulative impact) will be addressed by the means set out in paragraph 5.1.5 of this Statement. However, if there is evidence to suggest that these means are unsuccessful in combating the issues referred to above then the council will consider reviewing its policy with a view to restricting the grant of licences to new premises in the affected areas.

PRINCIPLE 2

The Council acknowledges that longer opening hours can help to ensure that the number of people leaving licensed premises at the same time is reduced.

PRINCIPLE 3

The Council will limit the access of children to licensed premises where this is appropriate to protect them from harm.

5 THE PRINCIPLES IN DETAIL

5.1 PRINCIPLE 1

Issues of nuisance, noise, public safety and crime and disorder associated with the character, number and proximity of licensed premises in any one area (cumulative impact) will be addressed by the means set out in paragraph 5.1.5 of this Statement. However, if there is evidence to suggest that these means are unsuccessful in combating the issues referred to above then the council will consider reviewing its policy with a view to restricting the grant of licences to new premises in the affected areas.

5.1.1 This is intended to:

- Promote the prevention of crime and disorder
- Promote public safety
- Address the issue of cumulative impact

5.1.2 The matter of need for an additional licensed facility whether pub, club etc is not covered by this policy but will be a matter for planning policies and strategies and for the area/district as a whole.

5.1.3 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment (for large numbers of people) can be a source of crime and disorder and applicants are recommended to seek advice from the Council's Licensing Officer and the Police as well as taking into account local planning and transport policies, tourism, cultural and crime prevention strategies and local social demographic characteristics when preparing applications and operating schedules which will be of benefit to the Licensing Authority when determining the application. Guidance regarding these policies and other specific local matters can be obtained from the Council's Licensing Officer – see Contact Details, paragraph 9.

5.1.4 The Council will support:

- diversity of premises to ensure a mix of a different type of licensed premises, particularly in areas where there is a high density of such premises
- care and control of premises by effective management and supervision both within and outside the premises. This is a key factor in reducing crime and disorder and applicants for premises licences in particular should address these issues within their respective operating schedules
- good quality training for staff employed within the licensing trade and the obtaining of the accredited licensing qualification for bar staff and personal licence holders. The Council believes that proper staff training plays an important role in the promotion of the licensing objectives
- café bar conditions where the sale of alcohol and other beverages are by a waiter/waitress service for consumption by persons seated at tables or equivalent and substantial refreshments are available during operating hours.

5.1.5 Licensing law is not the primary mechanism for the general control of nuisance and anti social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the licence holder, certificate or authorisation concerned. If there are problems in a particular area with nuisance, crime and disorder and those problems are associated with the character, number or proximity of licensed premises in the area, the Council will seek to address those problems by the following means:

- Planning Controls
- The use of relevant and appropriate licence conditions. (However, see paragraph 6.5)

- Positive measures to create a safe and clean environment in partnership with local businesses, transport operations and other Council departments
- Application of the powers of the Council to designate parts of the district as places where alcohol may not be consumed in public and the confiscation of alcohol from adults and children in such designated places.
- Application of the powers of the Council to designate parts of the district as places where alcohol may not be consumed in public and the confiscation of alcohol from adults and children in such designated areas
- Police enforcement of disorder and anti-social behaviour, including the issue of fixed penalty notices
- The seeking of anti-social behaviour orders by the Council in appropriate cases
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk or under age
- The application of closure powers under the Act
- The review, suspension and revocation of licences granted under the Act

This list is not exhaustive of the measures that the Council may consider or take.

5.1.6 Any objection to a licence application or variation on the grounds of negative cumulative impact must be relevant and impact on one or more of the licensing objectives.

5.2 PRINCIPLE 2

The Council acknowledges that longer opening hours can help to ensure that the number of people leaving licensed premises at the same time is reduced.

5.2.1 This is intended to:

- promote the prevention of crime and disorder
- promote public safety
- promote the prevention of public nuisance

5.2.2 It is recognised by the Council that longer licensing hours (with regard to the sale of alcohol) may help to ensure that the number of customers leaving premises simultaneously is avoided. Fixed and artificially early closing times can encourage, in the case of sales of alcohol, rapid binge drinking close to closing times and are a key cause of disorder and disturbance when large numbers of customers are required to leave premises at the same time.

5.2.3 However, there is no general presumption in favour of lengthening licensing hours. The four licensing

objectives will be paramount considerations at all times and each case judged on its individual merits.

5.2.4 Any person has a right to make representations concerning applications for premises licences and club certificates and hours of trading and to have those representations given equal weight regardless of where they live.

5.2.5 In each case that arises following objections/representations the Council will:

- consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and activities of the business involved and the rights of residents to peace and quiet.
- examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder and/or danger to public safety, particularly in areas of dense residential accommodation.
- consider restricting the hours of trading in cases where there are good grounds for believing that the licensing objectives will be or are being undermined.

5.3 PRINCIPLE 3

5.3.1 The Council will limit the access of children to licensed premises where this is necessary to protect them from harm.

This is intended to:

- promote the protection of children from harm
- address the issue of children in licensed premises, including cinemas and other public entertainment.

5.3.2 No policy can anticipate every issue of concern that could arise in respect of children with regard to individual premises. Consideration of the individual merits of each application are therefore the best mechanism for judging such matters.

5.3.3 The Council will take particular account when:

- there have been convictions for serving alcohol to minors
- there is evidence of underage drinking
- there is evidence of drug taking or dealing
- there is a strong element of gambling
- entertainment of an adult or sexual nature is commonly provided.
- the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at those premises

5.3.4 Complete bans will be rare, but the options for limiting the access of children, where appropriate, to prevent harm include:

- limitations on the hours when children may be present
- age limitations (below 18 years)
- limitations or exclusions when certain activities are taking place
- requirements for an accompanying adult
- full exclusion of people under 18 years from the premises when any licensable activities are taking place.

5.3.5 The Council will not impose conditions that require licensed premises to admit children. Where it is not appropriate for a licensing restriction the decision to admit children will be a matter for the discretion of the individual licensee or club.

5.3.6 CHILDREN AND CINEMAS

In the case of premises giving film exhibitions, the Council expects licensees to impose conditions that children will be restricted from viewing age-restricted films classified in accordance with the recommendations of the British Board of Film Classifications.

5.3.7 CHILDREN AND PUBLIC ENTERTAINMENTS

Where such entertainments are due to take place, the Council will expect an adequate number of adults to be present for health and safety reasons. The number of adults required should be calculated on the basis of a risk assessment. The Council will also take into account considerations such as the size of the venue, the number and ages of the children present and the type of activity involved.

6 OTHER CONSIDERATIONS

6.1 LIVE MUSIC, DANCING & THEATRE

The Council recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefits of the community. The Council will seek to obtain a balance between the potential for limited neighbourhood disturbance and the benefits of cultural activities, particularly for children, and will not allow the views of vocal minorities to predominate over the general interests of the community.

The Council will only attach licence conditions that are reasonable, proportionate and appropriate for the promotion of the licensing objectives. The Council is aware of the need to avoid measures as far as possible that deter live music, dancing and theatre for example by imposing indirect costs of a disproportionate nature.

The Council is aware of the value to the community of a broad range of cultural entertainments, particularly live music, dancing and theatre. The Council wishes to encourage them for the benefit of all.

6.2 SHOPS, STORES AND SUPERMARKETS

6.2.1 Shops, stores and supermarkets should be free to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open.

6.2.2 The Council will generally permit the sale of alcohol when the retail outlet is open for shopping.

6.2.3 In certain circumstances, however, it may be appropriate to impose a limitation, for example, following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.

6.2.4 When determining an application for a premises licence the Council has no obligation to consider the rights of workers employed. These are covered by separate legislation.

6.2.5 The impact on workers of extended hours permitted by a premises licence is a contractual matter to be resolved between the employer and employee, and the Council will not seek to intervene in these matters.

6.3 INTEGRATION OF STRATEGIES

6.3.1 The Council is ensuring that this Statement of Policy integrates with crime prevention, anti-social behaviour, planning, transport, tourism and cultural strategies by:

- Liaising and consulting with the Sussex Police, with the Crime and Community Disorder Reduction Partnership and by following the guidance in community safety and crime disorder strategies
- Liaising and consulting with East Sussex Fire and Rescue Service and by following the guidance in fire safety strategies and protocols
- Liaising and consulting with the Local Strategic Partnership and Area Partnerships
- Liaising and consulting with the Planning Authority
- Liaising and consulting with the Highway Authority
- Liaising and consulting with the Local Health Authority
- Liaising and consulting with tourism, stakeholder and business groups such as the local Chamber of Commerce
- Liaising and consulting with East Sussex County Council's Trading Standards Department
- Having regard to any future guidance issued in relation to the Private Security Industry Act 2001 including any liaison or information sharing protocols
- Having regard to the Home Office "Safer Clubbing Guide".

6.3.2 Specific conditions may be attached to premises licences to reflect local crime prevention strategies (however see paragraph 6.5).

Such conditions may include:

- the use of closed circuit television cameras
- the provision and use of shatterproof drinking containers
- a drugs and weapons search policy
- the use of registered door supervisors under the Private Security Industry Act 2001
- specialised lighting requirements
- restrictions on hours of opening.

6.3.3 Certificates issued to club premises will reflect local crime prevention strategies and may include any or all of the requirements listed above. Account will also be taken of any designation orders and guidelines that regulate street drinking.

6.3.4 Club owners and promoters will be expected to have regard to safer clubbing guidance for Licensing Authorities, club managers and promoters. The Council will ensure that licensed premises are designed and run in a way that maximises the safety of customers and staff.

6.3.5 The Council will take account of the need to disperse people quickly and safely from town centres to avoid concentrations which may produce disorder and disturbance. The Council will also take into account any protocols agreed between the police and other licensing enforcement agencies.

6.3.6 The Council's planning and licensing regimes are separate, they involve consideration of different (albeit related) matters. The Licensing Committee will not consider representations that relate to planning rather than licensing issues and will not be bound by decisions that are made by the Planning Committee, and vice versa.

6.3.7 The grant of a premises licence shall not be regarded as an indication that planning permission or building regulations approval has been (or will in the future be) granted. A separate application for planning consent, change of use and/or building regulations approval must always be made. Ideally, planning consent should be obtained before a licensing application is submitted.

6.4 OTHER LEGISLATION

6.4.1 This policy shall avoid duplication with other regulatory regimes wherever possible. In this regard, reference shall be made to the following notes:

6.4.2 HEALTH AND SAFETY

The Council's Environmental Health inspection staff will normally have visited licensed premises to assess/enforce health and safety requirements.

Certain premises will fall outside the responsibility of the Environmental Health Department and will be subject to regulation/enforcement by the Health and Safety Executive (HSE).

Health and Safety regulations impose a range of general and specific duties on employees, employers, operators of venues and members of the public. Matters arising out of the Health and Safety at Work etc Act 1974 and associated regulations will not be addressed by the imposition of licensing conditions unless they are appropriate for the promotion of the licensing objectives.

6.4.3 SMOKING

The Health Act 2006 introduced the smoke free provisions that protect employees and the public from the harmful effects of second hand smoke. The Council will be responsible for enforcing these provisions law and will offer information advice and support to businesses so they can meet their legal obligations. Managers of licensed premises will have a legal responsibility to prevent smoking and to ensure that 'no smoking signs' are displayed as required by the law.

6.4.4 FIRE SAFETY

Operators of licensed premises have duties under various fire safety regulations and the same considerations as above will apply. With each application, the Council will require confirmation from the Fire Authority that there are no outstanding fire safety issues to be resolved.

6.4.5 FOOD HYGIENE

Premises selling alcohol and/or premises engaged in a food business will be registered with Lewes District Council and subject to risk-based food hygiene inspections at regular intervals.

6.4.6 NOISE

Statutory and Public nuisances are dealt with by the Environmental Health Department under the Environmental Protection Act 1990 and associated legislation. Noise from commercial premises may also be covered by this legislation.

6.4.7 WASTE

Complaints relating to the accumulation and storage of waste will be dealt with by the Council under the provisions of any appropriate legislation.

6.5 STANDARD CONDITIONS

If a responsible authority or any other person do not raise any representations about a licensing application made to the Council, it is the duty of the Council to grant the licence or Club Premises Certificate subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed in the 2003 Act itself.

The Council may not therefore impose any conditions unless its discretion has been engaged following the making of relevant representations. It may then only impose such conditions that are appropriate to promote the licensing objectives arising out of consideration of the representations.

The Council will tailor its own conditions to the size, type, location and characteristics and activities taking place at the premises concerned.

6.6 REVIEW AND ENFORCEMENT

6.6.1 The licensing Authority is a responsible authority under the Licensing Act and can make representations and call a review. The Licensing Authority through the Licensing Officer will always pursue partnership working between agencies and other responsible authorities to resolve problems and concerns regarding premises under the licensing objectives

6.6.2 Enforcement of the licensing law, public safety and the inspection of licensed/club premises will be undertaken by the relevant authorities in accordance with local agreements between Sussex Police, East Sussex Fire & Rescue Service, Trading Standards and the Licensing Authorities in Sussex.

6.6.3 Attention is drawn to the targeting of agreed problems and high risk premises requiring greater attention as may be identified from time to time by the relevant enforcement agencies. Inspections of premises will be on a risk assessed basis, to be undertaken when and if necessary.

6.6.4 The provisions set out in the Act for calling a review or making representations represent a key protector for the community where there are concerns about an application or problems associated with premises under crime and disorder, public safety, public nuisance and the protection of children from harm.

6.6.5 Following the grant of a premises licence or club certificate a responsible authority or any other person regardless of where they live, may ask the Council to review the licence/club certificate because of matters arising at the premises in connection with any of the four licensing objectives.

6.6.6 In every case, the application for a review must relate to particular premises for which a premises licence or club certificate is in existence and must be relevant to the promotion of the licensing objectives.

6.6.7 The Council will endeavour to give licence/certificate holders early notification of their concerns about problems identified at particular premises in partnership with the other enforcement agencies. This does not affect the right of any other person to call a review under the provisions of the Act.

6.6.8 Where concerns are raised by residents or any other person about an application or grounds to seek a review the Licensing Authority would expect those affected parties to make a relevant representation or apply for a review in their own right.

6.6.9 The Licensing Authority may chose to exercise its powers as a responsible authority and to call a review or make representations in any situation that it deems appropriate on the merits of any individual case.

7 DETAILS OF RESPONSIBLE AUTHORITIES

As well as applying to the Council in the prescribed manner, copies of each licence application must be served on the following authorities by the applicant:

The Licensing Officer
Bexhill Police Station
Terminus Road
Bexhill-on-Sea
East Sussex TN39 3NR
T 0845 6070 999

The Chief Officer, East Sussex Fire and Rescue Service
Fire Safety Department
Lewes Fire Station
North Street
Lewes
East Sussex BN7 2PE
T 01323 462132/462154

Head of Children's Safeguards and Quality Assurance PO
Box 5 East Sussex County Council
County Hall
Lewes
East Sussex BN7 1SW
T 01273 481000

Head of Environmental Health
Planning and Environmental Services
Lewes District Council
Southover House
Southover Road
Lewes
East Sussex BN7 1AB
T 01273 471600

Head of Trading Standards
St Mary's House
52 St Leonards Road
Eastbourne
East Sussex BN21 3UU
T 01323 418200

The Health & Safety Officer
Environmental Health
Southover House
Southover Road
Lewes
East Sussex BN7 1AB
T 01273 471600

Public Health Authority
Helen Foreman
Public Health Network and Business Manager
E1C County Hall
St Anne's Crescent
Lewes
East Sussex BN7 1UE.
T 0345 60 80 190

8 CONTACT DETAILS

Members of the public can obtain advice and help about this policy, the review procedures or other matters concerning whether or not activities fall to be licensed by contacting the Licensing Officer, Lewes District Council, Environmental Health, Southover House, Southover Road, Lewes, East Sussex BN7 1AB
Telephone 01273 484953 or Fax 01273 484451.

Further information can also be found on the Council's website www.lewes.gov.uk

Advice and guidance may also be sought from the Police and Fire and Rescue Service by contacting them direct.