

Licensing and Gambling Acts Committee



Members of the Licensing and Gambling Acts Committee:

Cllr Richard Elliott (Chairman)
Cllr William Kemp (Vice Chairman)
Cllr Dan Burrill
Cllr Fleur Curson
Cllr James Easter
Cllr Libby Glover
Cllr Julian Halls
Cllr Phil Hardy
Cllr Tony Holden
Cllr Jack Hornby
Cllr Nigel Legg
Cllr Jeremy Rowe
Cllr Jeremy Savage
Cllr Trevor Spruce
Cllr Jenny Wilby

PUBLIC ATTENDANCE

This meeting will be live streamed for public viewing via the following link:

<https://www.youtube.com/channel/UCZciRgwo84-iPyRImsTCIng>

If a member of the public would like to attend to speak on an agenda item, please email your request to democracy@s-norfolk.gov.uk, no later than 5.00pm on Thursday 19 November 2020

Agenda

Date

Tuesday 24 November 2020

Time

10.00 am

Place

To be hosted remotely at:

South Norfolk House
Cygnet Court
Long Stratton
Norwich
NR15 2XE

Contact

Leah Arthurton
tel (01508) 533610
Email: democracy@s-norfolk.gov.uk

Large print version can be made available



A G E N D A

- 1. To report apologies for absence and to identify substitute members**
- 2. Any items of business which the Chairman decides should be considered as a matter of urgency pursuant to Section 100B(4)(b) of the Local Government Act, 1972. Urgent business may only be taken if, "by reason of special circumstances" (which will be recorded in the minutes), the Chairman of the meeting is of the opinion that the item should be considered as a matter of urgency**
- 3. To Receive Declarations of Interest from Members**
(Please see guidance form and flow chart attached – page 3)
- 4. Licensing Act 2003 Review of Licensing Policy**
(attached – page 5)

DECLARATIONS OF INTEREST AT MEETINGS

When declaring an interest at a meeting Members are asked to indicate whether their interest in the matter is pecuniary, or if the matter relates to, or affects a pecuniary interest they have, or if it is another type of interest. Members are required to identify the nature of the interest and the agenda item to which it relates. In the case of other interests, the member may speak and vote. If it is a pecuniary interest, the member must withdraw from the meeting when it is discussed. If it affects or relates to a pecuniary interest the member has, they have the right to make representations to the meeting as a member of the public but must then withdraw from the meeting. Members are also requested when appropriate to make any declarations under the Code of Practice on Planning and Judicial matters.

Have you declared the interest in the register of interests as a pecuniary interest? If Yes, you will need to withdraw from the room when it is discussed.

Does the interest directly:

1. affect yours, or your spouse / partner's financial position?
2. relate to the determining of any approval, consent, licence, permission or registration in relation to you or your spouse / partner?
3. Relate to a contract you, or your spouse / partner have with the Council
4. Affect land you or your spouse / partner own
5. Affect a company that you or your partner own, or have a shareholding in

If the answer is "yes" to any of the above, it is likely to be pecuniary.

Please refer to the guidance given on declaring pecuniary interests in the register of interest forms. If you have a pecuniary interest, you will need to inform the meeting and then withdraw from the room when it is discussed. If it has not been previously declared, you will also need to notify the Monitoring Officer within 28 days.

Does the interest indirectly affect or relate any pecuniary interest you have already declared, or an interest you have identified at 1-5 above?

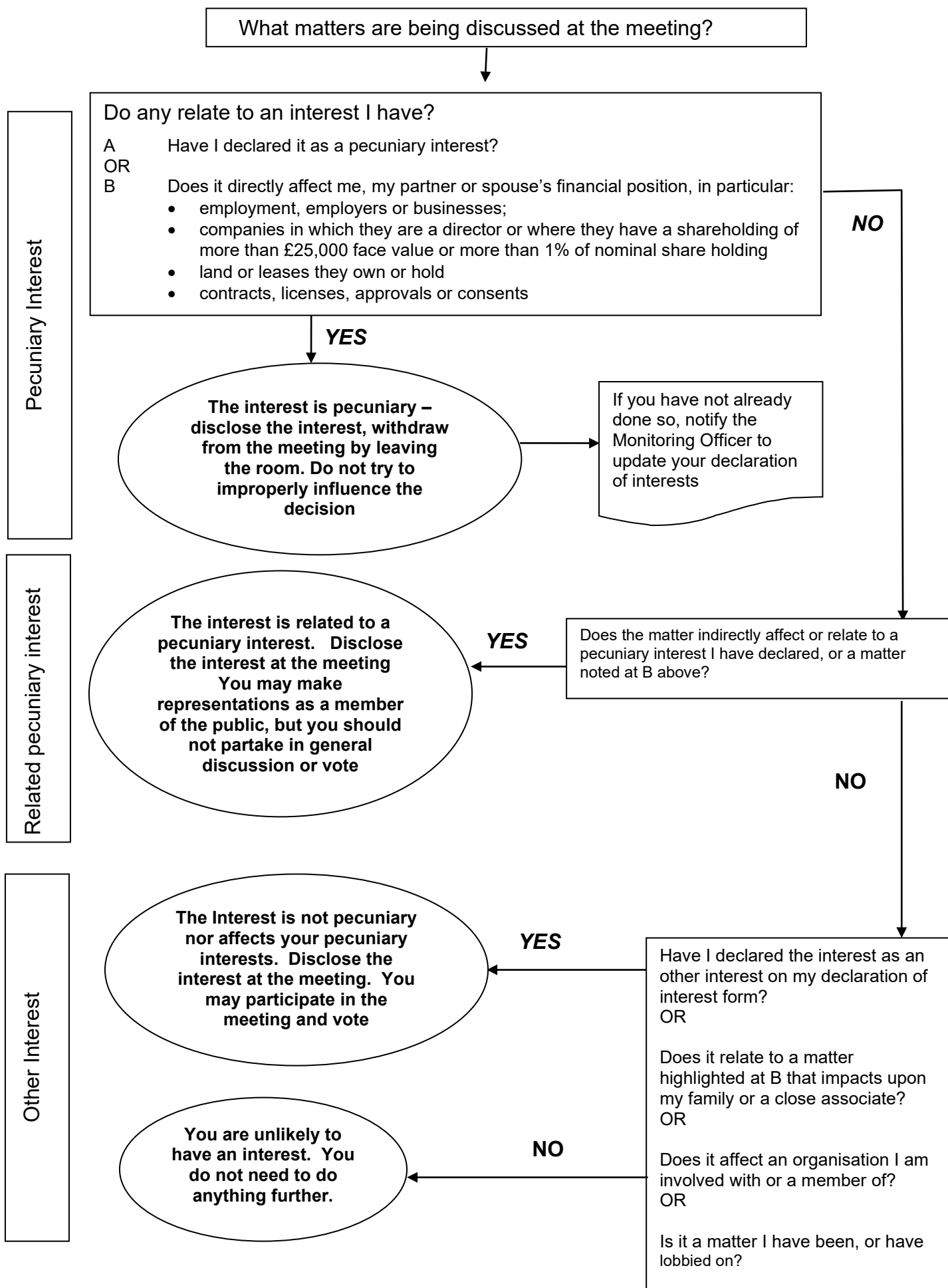
If yes, you need to inform the meeting. When it is discussed, you will have the right to make representations to the meeting as a member of the public, but you should not partake in general discussion or vote.

Is the interest not related to any of the above? If so, it is likely to be an other interest. You will need to declare the interest, but may participate in discussion and voting on the item.

Have you made any statements or undertaken any actions that would indicate that you have a closed mind on a matter under discussion? If so, you may be predetermined on the issue; you will need to inform the meeting, and when it is discussed, you will have the right to make representations to the meeting as a member of the public, but must then withdraw from the meeting.

**FOR GUIDANCE REFER TO THE FLOWCHART OVERLEAF.
PLEASE REFER ANY QUERIES TO THE MONITORING OFFICER IN THE FIRST INSTANCE**

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



Licensing Act 2003

Review of Licensing Policy

Report Author(s): Rosie Setford
Licensing and Enforcement Officer
01508 533602
rsetford@s-norfolk.gov.uk

Portfolio: Michael Edney, Stronger Communities

Ward(s) Affected: All

Purpose of the Report:

To present the draft revised Licensing Policy for consideration together with details of the review and subsequent formal consultation.

Recommendations:

The Committee is RECOMMENDED to:

- (a) Consider the amended Licensing Policy, the proposed amendments which are highlighted, and the schedule of responses received as a result of the consultation in respect of the review of the Licensing Policy and make any necessary decisions.
- (b) Refer the amended Licensing Policy together with any recommendations to Council for its formal adoption.

1 SUMMARY

- 1.1 This report details the outcome of the consultation process in respect of the review of the Licensing Policy and makes recommendations.

2 BACKGROUND

- 2.1 The Licensing Act 2003 requires each authority to carry out its various licensing functions so as to promote the following four licensing objectives:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 2.2 To achieve these objectives, the Authority is required to publish a Statement of Licensing Policy which sets out the policies the Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The Policy should be agreed by Full Council.
- 2.3 The Act requires the Licensing Policy to be reviewed every five years. The Authority's current Licensing Policy expires on 6 January 2021 and the new Policy must therefore take effect from 7 January 2021 for a further period of five years.

3 THE ISSUES

- 3.1 The Policy document (see Appendix One) has been circulated widely to stakeholders throughout the South Norfolk district, as well as to numerous national, regional and local representative bodies and organisations, with a closing date for comments of 21 September 2020. 496 individuals and organisations were contacted in writing to advise them of the Policy review. Copies of the Policy were available at local libraries and hard copies could be requested by contacting the Licensing Office. The document was also posted on the Council's website for the full consultation period.
- 3.2 Central Government published a Consultation Code of Practice in July 2008. The Code recommends that responses to consultation exercises should be analysed carefully. The focus should be on the evidence given by consultees to back up their arguments. Analysing consultation responses is primarily a qualitative rather than a quantitative exercise. Following a consultation exercise, a summary of who responded to the consultation exercise should be provided, along with a summary of the views expressed to each question. A summary of any other significant comments should also be provided.
- 3.3 The purpose is in the event that an authority's policy is challenged, the authority could demonstrate to a court how it arrived at its policy and that due weight and consideration had been given to all representations including, where appropriate, why some had been disregarded.
- 3.4 Given the relatively small number of responses received to the consultation, the responses have been set out in the following format (see Appendix Two):
- A reference number for each representation
 - Name of the respondent

- A summary of the respondent's comments
 - The authority's appraisal of the comments
 - Authority's response
- 3.5 Further guidance recommends that any amendments made to the Licensing Policy during the course of the Committee meeting should be carefully and accurately recorded with well-articulated and reasoned details.
- 3.6 Appendix Three details the main amendments to the policy document. Those amendments which were proposed at the start of the consultation period are highlighted in yellow. The section highlighted in blue at 4.4 of the draft Licensing Policy in Appendix 1 is an amendment proposed as a result of a response received during the consultation process.
- 3.7 Considerable partnership working and liaison with all Norfolk Authorities and statutory bodies has taken place in respect of the enforcement of the Licensing Act 2003 essentially to provide for consistency of approach. As a result, a joint enforcement guide was produced (see Appendix Four). It is recommended that this document forms an annex to the Licensing Policy.

4 PROPOSED ACTION

- 4.1 The Committee is requested to thoroughly review and consider Appendix Two which details the responses to the consultation process.

5 ISSUES AND RISKS

- 5.1 **Resource implications** – There are no specific resource implications in respect of the review of the Licensing Policy other than those already identified and funded to enable the Authority to comply with the overall requirements of the legislation. The level of income generated by and arising from the implementation and enforcement of the Licensing Act 2003 will be kept under close review.
- 5.2 **Legal implications** – The Licensing Act 2003 requires the Authority to produce a Statement of Licensing Policy, to consult in respect of the Policy and to have discussed and formally adopted the Policy by the 7 January 2021.
- 5.3 **Equality implications** – An Equality Impact Assessment has been completed with no issues or concerns highlighted. There are no human rights issues specific to the Licensing Policy providing the Authority can demonstrate best practice and compliance with national guidance in the production of the Policy.
- 5.4 **Environmental impact** – In making their determination Committee is requested to ensure that the principles of the prevention of public nuisance licensing objective are upheld.
- 5.5 **Crime and disorder** – In making their determination Committee is requested to ensure that the principles of the prevention of crime and disorder licensing objective are upheld.

6 RECOMMENDATIONS

6.1 The Committee is **RECOMMENDED** to:

- (a) Consider the amended Licensing Policy, the proposed amendments which are highlighted, and the schedule of responses received as a result of the consultation in respect of the review of the Licensing Policy and make any necessary decisions.
- (b) Refer the amended Licensing Policy together with any recommendations to Council for its formal adoption.

Appendices:

Appendix One	Licensing Policy
Appendix Two	Schedule of responses received as a result of the consultation in respect of the Licensing Policy
Appendix Three	Summary of proposed amendments
Appendix Four	Joint Enforcement Guide

Draft Licensing Policy

Licensing Act 2003



Definitions

Note: In this policy, the following definitions are included to provide an explanation of certain terms included in the Licensing Act and therefore in the policy. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, please refer to the Licensing Act 2003.

‘the Act’ refers to the Licensing Act 2003

‘the Council’ refers to South Norfolk Council


‘the Guidance’ refers to the revised guidance issued by the Home Office under s.182 of the Act

‘licensed premises’ includes premises, club premises and events unless the context otherwise requires

‘the Licensing Authority’ refers to South Norfolk Council

‘the Licensing Committee’ refers to Licensing Committee

1 Executive Summary

- 1.1 South Norfolk Council is the licensing authority under the Licensing Act 2003 and are responsible for granting premises licences, club premises certificates, temporary event notices and personal licences in the South Norfolk district in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.
- 1.2 This policy sets out the manner in which applications for licences, which are required by the Licensing Act 2003, will be considered by South Norfolk Council.
- 1.3 The policy will not seek to introduce 'zones' where specific activities are concentrated.
- 1.4 The policy will not be used to fix the hours during which alcohol can be sold or to set quotas for particular closing times and, in general, shops will be permitted to sell alcohol during the hours which they are normally open for trade. 
- 1.5 This policy statement will not seek to regulate matters which are provided for in any other legislation e.g. planning, health and safety, employment rights, fire safety, etc.
- 1.6 The licensing authority wishes to encourage licensees to provide a wide range of entertainment activities within the district throughout their opening hours and to promote live music, dance, theatre, etc. for the wider cultural benefit of the community.

Who is affected?

- 1.7 The activities which require a licence under the provisions of the Licensing Act 2003 and which this policy statement covers include:
 - Retail sale of alcohol
 - Supply of alcohol to club members
 - Provision of 'regulated entertainment':
 - A performance of a play
 - An exhibition of a film
 - An indoor sporting event
 - Boxing or wrestling entertainment (indoor or outdoor)
 - A performance of live music
 - Any playing of recorded music
 - A performance of dance
 - The supply of hot food and/or drink from any premises between 11pm and 5am.
- 1.8 Deregulation exempted certain activities from the scope of licensing. The Live Music Act 2013, the Legislative Reform (Entertainment Licensing) Order 2014 and the Deregulation Act 2015 have exempted entertainment from needing to be authorised under the Act in certain instances. Therefore reference should be made to current legislation and Home Office Revised Guidance issued under section 182 of the Act. (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf to confirm which activities require a licence.)
- 1.9 Please also see <https://www.gov.uk/alcohol-licensing#overview> for details of licensable activities.

2 Purpose and Scope of the Policy

- 2.1 South Norfolk Council is also situated in the County of Norfolk. South Norfolk is a rural district covering approximately 90,765 hectares and with a population of over 129,000 (2014 ONS). The area is an attractive rural area of market towns and villages with approximately 57,880 dwellings and 6,000 businesses within the District. The main urban areas are the towns of Wymondham, Diss, Harleston, Loddon, Costessey and Hingham as well as the parish of Cringleford on the Norwich fringe and large villages including Hethersett, Long Stratton, Poringland and Mulbarton.
- 2.2 In accordance with the legislation the licensing authority will prepare and publish a statement of licensing policy every five years. During the five year period the policy will be kept under review and the licensing authority may make such revisions as considered appropriate.
- 2.3 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and the Guidance issued under Section 182 of the Act.
- 2.4 This licensing authority must seek to promote the four licensing objectives contained in the Licensing Act 2003 when carrying out its licensing functions. These objectives are:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm
- 2.5 When determining applications for licences the licensing authority must also have regard to this policy statement, to the Guidance and to the secondary legislation.
- 2.6 Each application will be considered on its individual merits in the context of the four licensing objectives stated above.
- 2.7 Conditions may be imposed on a licence following relevant representations received from responsible authorities.
- 2.8 There is a provision for the licensing authority itself to make representations in its role as a responsible authority.
- 2.9 Before publishing this policy statement the licensing authority will consult with the following:
- the chief officer of police for the area;
 - the fire and rescue authority for the area;
 - the Director of Public Health for any area or any part of which is in the South Norfolk area
 - persons/bodies representative of local premises licence holders;
 - persons/bodies representative of local club premises certificate holders;
 - persons/bodies representative of local personal licence holders; and
 - persons/bodies representative of businesses and residents in the area.
- 2.10 A Licensing Authority is not precluded from consulting with other persons or bodies in addition to those it is required to consult with.

- 2.11 For the purposes of the Licensing Act 2003, the relevant Responsible Authorities are:
- the relevant licensing authority and any other licensing authority in whose area part of the premises is situated;
 - the chief officer of police;
 - the local fire and rescue authority;
 - the relevant enforcing authority under the Health and Safety at Work etc Act 1974;
 - the local authority with responsibility for environmental health;
 - the local planning authority;
 - a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm;
 - each local authority's Director of Public Health (DPH); and
 - the local weights and measures authority (Trading Standards).
- 2.12 In cases where a licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the Licensing Committee or sub-committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.

Main Principles of the Policy

- 2.13 Nothing in the 'Statement of Policy' will:
- undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits; and/or
 - override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- 2.14 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and conditions may be attached to licences, certificates and permissions that will cover matters which are within the control of individual licensees.
- 2.15 When considering these conditions, the licensing authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned but will also have regard to the impact of persons attending licensed premises on the local community and environment. To this end, Town/Parish Councils will be notified of all applications for new or full variations of Premises Licence and Club Premises Certificates. The licensing authority recognises that only conditions strictly appropriate to promote the licensing objectives should be attached to licences.

- 2.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. Conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.
- 2.17 The licensing authority acknowledges that the licensing function cannot be used for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned.
- 2.18 In this respect, the licensing authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:
- planning controls;
 - positive measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other departments of the Local Authority;
 - the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
 - designation of parts of the District as places where alcohol may not be consumed publicly;
 - the confiscation of alcohol from adults and children in designated areas;
 - regular liaison with Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those

- selling alcohol to people who are drunk, confiscation of alcohol from adults and children in designated areas and closing down licensed premises or temporary events on the grounds of disorder, or likelihood of disorder, or excessive noise from the premises;
- the power of the Police, other responsible authorities, or any other person to seek a review of the licence or certificate.
- Raising a contribution to policing the late night economy through the Late Night Levy;
- Early Morning Alcohol Restriction Orders;
- Investigation of statutory nuisance complaints under the Environmental Protection Act 1990.

- 2.19 Any petitions made in respect of an application must meet the following minimum requirements:
- It must be clear to which premises/application the petition relates;
 - The petition must relate to one or more of the licensing objectives;
 - Each page must include information as to the purpose of the petition (so it is clear signatories were aware what they were signing);
 - Full names and addresses must be supplied, in a legible manner;
 - It should be made clear to all signatories that a copy of the petition, containing their details will be passed to the applicant and contained within the committee papers, which, in the event of a hearing become public documents;
 - The first named respondent is taken to be in the instigator of the petition, and will be used as the point of contact in terms of any queries about the petition;

- The first named respondent will be expected to represent the signatories at a hearing and to communicate any information to other signatories as appropriate – the Licensing Authority will not contact each signatory as if they were making individual representations;
- The licensing authority reserves the right to make such checks as to the validity of the petition signatories as it feels appropriate.

Petitions not received by the licensing authority in this format are unlikely to be classed as a relevant representation.

2.20 In the absence of any relevant representations or where representations have been made and subsequently withdrawn in respect of an application, the licensing authority is obliged to grant the licence and replicate the proposals contained in the operating schedule to promote the licensing objectives in the form of clear and enforceable conditions.

3 Duplication

3.1 There are many stakeholders in the leisure industry, covering a wide range of disciplines. Many are involved, directly or indirectly, in the promotion of the licensing objectives, particularly those relating to the prevention of crime and disorder and public nuisance.

~~3.2 Arrangements will be made for the Licensing Committee to receive reports on the following matters, as required, to ensure these are reflected in their decisions:~~

- ~~• the needs of the Greater Norwich Growth Board in so far as they relate to the South Norfolk district; and~~
- ~~• the employment situation in the South Norfolk district and the need for investment and employment where appropriate.~~



3.3 The licensing authority will arrange for protocols with Norfolk Constabulary to enable reporting to the authority responsible for transport matters on the need for the swift and safe dispersal of people from the town centres within the district to avoid concentrations of people, which can produce disorder and disturbance.


3.4 The licensing authority recognises the need to avoid, so far as possible, duplication with other regulatory regimes. Whilst having regard to the planning regime the licensing authority recognises that there should be a clear separation of the planning and licensing regimes. The licensing authority will endeavour to minimise the burden of legislation on small businesses.

3.5 However, some regulations do not cover the unique circumstances of some entertainment. Where relevant representations are received the licensing authority will consider attaching conditions to premises licences and club premises certificates where these are necessary for the promotion of the licensing objectives and are not already provided for in any other legislation.

3.6 This policy recognises that:

The Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between those who share a protected characteristic and those who do not.

4 Prevention of Crime and Disorder

- 4.1 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 problems.
- 4.2 The licensing authority will expect Operating Schedules to satisfactorily address these issues, as appropriate, from the design of the premises through to the daily operation of the business.
- 4.3 Applicants are recommended to seek advice from Council Licensing Officers and the Police, as well as taking account, as appropriate, of local planning and transport policies and tourism, cultural and crime prevention strategies, when preparing their plans and Schedules.
- 4.4 The licensing authority would encourage applicants and current licence holders to consider the use of toughened or plastic glasses when serving drinks to members of the public, particularly where they are to be consumed in beer gardens, at outside events or in premises where a risk assessment may indicate the use of toughened or plastic glasses would be of benefit in complying with the public safety licensing objective. 
- The usage of single-use plastic drinking glasses should be carefully considered in accordance with the Government Initiative to tackle single-use plastic waste
- 4.5 In addition to the requirements for the licensing authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the district. The licensing authority also acknowledges powers contained within the Violent Crime Reduction Act 2006.
- 4.6 Where relevant representations are received the licensing authority will consider attaching conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises. The licensing authority may also consider attaching a condition, where relevant representations are received, requiring a 'safe dispersal policy for customers' which would address:
- Dispersing customers over an extended period;
 - Ensuring customers leave the premises in an orderly fashion and without bottles or glasses;
 - ~~Offering a Neighbours' Charter to businesses and residents;~~
 - ~~Placing marshals in high visibility jackets outside premises to promote order and speedy dispersal; and~~
 - ~~Sending out a 'Rubbish Patrol' following closure in a designated area around the premises.~~
- 4.7 The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the naming, packaging and promotion of Alcoholic Drinks. The licensing authority commends the code. Further details of the Portman Group Code of practice can be found at Annex A.
- Sale and use of new psychoactive substances (NPS) at alcohol licensed premises such as off-licences
- 4.8 New psychoactive substances (NPS) mimic the effects of illegal drugs (like cocaine, cannabis and ecstasy) while being designed to evade controls. The sale of new psychoactive substances (NPS) – so called “legal highs” –

is not regulated under the 2003 Act. However, the licensing authority will consider whether conditions are appropriate to prevent the sale of such products alongside the sale of alcohol at a licensed premises, including at off-licences, or, for example, for on-trade premises to impose a door policy. Some NPS products may contain controlled drugs, and therefore be illegal, in which case the licensing authority will involve the police and consider applying for a review of the premises licence on crime and disorder grounds. But some NPS are not illegal. There is evidence that such NPS products can cause harms, particularly if taken in combination with alcohol.

- 4.9 The licensing authority will consider whether there is evidence that it would be appropriate to impose a condition of this kind specifically in order to promote one or more of the statutory licensing objectives, including public safety and protecting children from harm. Hospital admissions data or public order or nuisance data may assist or evidence that NPS are being purchased at a premises used by those under 18. Conditions must of course be tailored to the individual type, location and characteristics of the premises and events concerned and should be proportionate, justifiable and be capable of being met.

5 Public Safety

- 5.1 The 2003 Act covers a wide range of premises that require licensing, including, cinemas, concert halls, theatres, nightclubs, public houses, village halls, cafés/restaurants and fast food outlets/takeaways.
- 5.2 Each of these types of premises present a mixture of risks, with many common to most premises and others unique to specific operations. It is essential that premises are constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.
- 5.3 The licensing authority will expect Operating Schedules to satisfactorily address these issues, as appropriate, and applicants are advised to seek advice from Council Health and Safety Officers and the County Fire Officer before preparing their plans and Schedules.
- 5.4 Where relevant representations are received the licensing authority will consider attaching conditions to licences and permissions to promote safety.
- 5.5 Public safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective or nuisance objective. There will be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition.
- 5.6 Whenever security operatives/door supervisors are employed at licensed premises to carry out any security function they must be licensed by the Security Industry Authority (SIA). Competent and professional door supervisors are key to public safety at licensed premises. If a licensee directly employs security operatives he/she will need to be licensed by the SIA as a supervisor/manager. The relevant mandatory conditions will be imposed in all such cases.

6 Prevention of Nuisance

- 6.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the premises.
- 6.2 The concerns mainly relate to noise nuisance, light pollution and noxious smells and due regard will be taken on the impact these may have. The licensing authority will expect Operating Schedules to satisfactorily address these issues, as appropriate. Applicants are advised to seek advice from the Council's Health and Safety and Community Protection Officers before preparing their plans and Schedules.
- 6.3 Where relevant representations are received the licensing authority will consider attaching conditions to licences and permissions to prevent public nuisance.

7 Protection of Children from Harm

- 7.1 The licensing authority considers the Norfolk Safeguarding Children's Board to be the competent authority for matters relating to the protection of children from harm.**

Access to Licensed Premises

- 7.2** The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment. The licensing authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm. In all other cases it will be left to the discretion of the licensee.

- 7.3** The licensing authority has a statutory obligation to ensure robust mechanisms are in place for safeguarding arrangements under Section 11 of the Children Act 2004. Therefore the licensing authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises. The following are examples of premises that will raise concern:


- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- Where there have been convictions for serving alcohol to minors or with a recorded history for underage drinking.

- With a known association with drug taking or dealing.
- Where there is a strong element of gambling on the premises.
- Where entertainment of an adult or sexual nature is commonly provided.

- 7.4** The licensing authority will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:

- Limitations on the hours when children may be present.
- Limitations on the parts of premises to which the children might be given access.
- Limitations on ages below 18.
- Limitations or exclusion when certain activities are taking place.
- Requirements for an accompanying adult.
- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

- 7.5** No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee.

- 7.6** The 2003 Act details a number of offences designed to protect children in licensed premises and the licensing authority will work closely with Norfolk Constabulary and **Trading Standards** to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children. 

- 7.7 Applicants may wish to consider including a statement within their operating schedule detailing how they will prevent underage drinking at their premises. This may be incorporated within the applicant's proof of age policy.

Access to Cinemas


- 7.8 In the case of premises which are used for film exhibitions, a mandatory condition will apply restricting access to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the licensing authority itself.
- 7.9 It may also be necessary to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment in their productions.

Children and Public Entertainment

- 7.10 Many children go to see and/or take part in an entertainment arranged especially for them, for example children's film shows and dance or drama school productions, and additional arrangements are required to safeguard them while at the premises.

~~7.11 Where entertainment requiring a licence is specially presented for children, the licensing authority will require the presence of an appropriate number of adult staff to ensure public safety and their protection from harm.~~

~~7.12 The licensing authority will expect the submitted Operating Schedules to satisfactorily address these issues.~~

~~7.13 Where relevant representations are received the licensing authority will consider attaching conditions to licences and permissions to prevent harm to children.~~ 

- 7.14 As agencies regulated under section 11 of the Children Act 2004, the licensing authority is obliged to have in place safeguarding processes. The licensing authority must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

- 7.15 The Act provides a legal responsibility to make sure that children and young people are protected from harm at licensed premises. The Guidance requires that children must be protected from "physical, psychological and moral harm", premises allowing access to persons under the age of 18 are expected to have systems in place to safeguard children and young people. For further details of the safeguarding of children in licensed premises please see the Child Sexual Exploitation Leaflet on the following webpage: https://www.safeguardingsheffieldchildren.org/assets/1/child_sexual_exploitation_leaflet_v2.pdf.

7.16 The authority recognises that vulnerable persons can also include adults.

Adult Entertainment

- 7.17 Where regulated entertainment provided on premises is commonly of an adult or sexual nature the licensing authority may, where relevant representations are received, give appropriate and additional consideration as to whether to grant a premises licence when the premises are in the vicinity of:
- residential housing
 - schools
 - play areas
 - children's nurseries or preschool facilities
 - places of religious worship or education
 - historic buildings
 - tourist attractions
 - predominantly family shopping areas
 - community facilities or public buildings e.g. youth clubs, libraries & sports centres.
- 7.18 In so far as it relates to the licensing objectives, and taking into account location, the licensing authority may determine the nature of any external signage for premises providing adult entertainment. The licensing authority will also expect that the entertainment occurring on the premises should only be visible to those who have chosen to enter, regardless of the location.
- 7.19 The licensing authority is especially concerned that premises providing adult entertainment promote the protection of children from harm objective and will expect operating schedules to address this by adopting strict entrance policies, security measures and staff training and management policies to ensure that this and the other licensing objectives are promoted.

8 Cultural Strategies

- 8.1 The Council recognises the need to encourage the provision of a broad range of events in South Norfolk to promote live music, dance, theatre and other entertainments for enjoyment by a wide-cross section of the public.
- 8.2 When considering applications for regulated entertainment events, the Council will be conscious of the need for there to be a balance between the promotion of the entertainment, and concerns that are relevant to licensing objectives.
- 8.3 The Council is aware of the need to avoid where possible attaching conditions to a premises licence, or club certificate, that may inadvertently deter live entertainment by imposing indirect costs of a disproportionate nature. For example, a blanket requirement that any pub providing live music entertainment must have door supervisors.
- 8.4 The Live Music Act 2012, the Legislative Reform (Entertainment Licensing) Order 2014 and the Deregulation Act 2015 have exempted entertainment in certain instances.

9 Live Music, Dancing and Theatre

- 9.1 In its role of implementing local authority cultural strategies, the licensing authority recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community generally. The introduction of the Live Music Act in 2012, the Legislative Reform (Entertainment Licensing) Order 2014 and the Deregulation Act 2015 have exempted a range of performances under certain circumstances that may have previously required a licence.
- 9.2 When considering applications for such events and the imposition of conditions on licences or certificates, the licensing authority will take account of the cultural needs whilst noting the necessity of promoting the licensing objectives.
- 9.3 The licensing authority is aware of the need to avoid unnecessary or disproportionate measures that could deter live music, dancing and theatre by imposing indirect costs of a substantial nature, save as necessary to promote the licensing objectives.

10 Planning

- 10.1 Planning and licensing regimes will be properly separated to avoid duplication and inefficiency.
- 10.2 Licensing applications will not enable a “re-hearing” of the Planning application and licensing decisions will not override decisions taken by the Planning Committee or permissions granted on appeal. There is no legal basis for the licensing authority to refuse a licence application because it does not have Planning permission.
- 10.3 There are circumstances when as a condition of planning permission a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

11 Temporary Event Notices

- 11.1 Certain temporary events are not required to be licensed but must be notified to the licensing authority by way of a temporary event notice. These can potentially have serious crime and disorder and public nuisance implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable Norfolk Constabulary, community protection and the licensing authority to work with them to identify any risks.
- 11.2 Notifications should include a clear description of the location, particularly where an event is to be held in an open space, and when adjacent plots are to be authorised for licensable activities. In these situations the notice giver should also provide detail as to how the maximum number of persons in each area will not be exceeded.
- 11.3 Applications for Temporary Event Notices must be received a minimum of ten clear working days before the event. The ten clear days does not include the date the Notice was received by the Licensing Authority or the date of the event. Therefore, it is advisable to submit Temporary Event Notices in advance of this date wherever possible. In particular circumstances, late Temporary Event Notices can be submitted with at least 5 clear working days' notice.


- 11.4 One copy of the Temporary Event Notice must be served on the licensing authority at the Council Office, one copy of the Notice must be served on the Police and a further copy served on Environmental Health. Please contact the Licensing Section using the details at section 19 to request addresses for Environmental Health and the Police.
- 11.5 Temporary Event Notices can be submitted online through the gov.uk website or by going to <https://forms.south-norfolk.gov.uk/pub/TemporaryEventNotice.ofml>. Where an application is submitted using the online facility the applicant is not required to serve the notice on the Police or Environmental Health. Where possible applicants are encouraged to use the online facility.

12 Personal Licences

- 12.1 The sale or supply of alcohol under a premises licence may not be made unless there is Designated Premises Supervisor (DPS) in respect of the premises who holds a personal licence, and every sale must be made or authorised by a personal licence holder. The only exception for this is for community premises that have successfully applied to have to remove the DPS requirement.
- 12.2 If the Police object to the grant of a personal licence, the matter will be referred to a Licensing Sub-Committee for determination.
- 12.3 The Policing and Crime Act 2017 gives licensing authorities a discretionary power to revoke or suspend personal licences. The process which must be undertaken by the licensing authority is set out in section 132A of the 2003 Act. The decision to revoke or suspend a personal licence will be made by the Licensing Committee or Licensing Sub-Committee, but the actions required before making a final decision will be made by an officer.

13 Cumulative Impact of a Concentration of Licensed Premises

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


13.2 Section 5A of the 2003 Act sets out what a licensing authority needs to do in order to publish a CIA and review it, including the requirement to consult with the persons listed in section 5(3) of the 2003 Act. 

13.3 The licensing authority will not take 'need' into account when considering an application, as this is a matter for planning control and the market. However, the authority recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder outside and some distance from the premises.

13.4 Representations may be received following consultation or subsequently from a responsible authority/interested

party, that an area has become saturated with premises, making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves. Consequently, creating exceptional problems of disorder and nuisance over and above the impact from the individual premises.

13.5 In these circumstances, the licensing authority may consider that the imposition of conditions is unlikely to address these problems and may consider the adoption of a special policy on cumulative impact of refusing new premises licences or club premises certificates or the variation of the same because the area is saturated with licensed premises and the granting of any more would undermine one or more of the licensing objectives.

13.6 In the event of an application within an area defined in 13.1 above, the licensing authority will follow the procedures set out in the Home Office Guidance and the Licensing Act 2003 to determine whether a special policy covering cumulative impact should be incorporated in this Statement of Licensing Policy. take the following steps when 
~~considering whether to adopt a cumulative impact policy:~~

- ~~Identify concern about crime and disorder or public nuisance~~

- Consider whether there is good evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises, or that the risk of cumulative impact is imminent.
- Consult with those specified in section 5(3) of the 2003 Act and those who are subject to the outcome of the consultation.
- Include and publish details of cumulative impact policy in the licensing policy statement.

13.7 The licensing authority will consider representations based on the impact on the promotion of the licensing objectives in the district generally of the grant of the particular application before them.

13.8 However, the onus would be on those making representations to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics.

13.9 The licensing authority will review any cumulative impact policies every five years to see whether they have had the effect intended and whether they are still needed.

13.10 The licensing authority will not use such policies solely:

- 1) as the grounds for removing a licence when representations are received about problems with existing licensed premises; or,
- 2) to refuse modifications to a licence, except where the modifications are directly relevant to the policy. For example where the application is for a significant increase in the capacity limits.

13.11 The licensing authority recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community.

13.12 It therefore also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation and will consider the circumstances of each individual application.

13.13 The licensing authority will only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area is resulting in unacceptable levels of crime and disorder or public nuisance. The Licensing Authority, having regard to the evidence currently available, and being aware of other measures that are available to the Local Authority and Police to address such issues, considers that there is no particular part of the District causing a cumulative impact on any of the licensing objectives, at the time of writing this policy.

13.14 However, the cumulative impact of licensed premises in a particular area may, at a future time, on representation from residents, businesses or responsible authorities, trigger the consideration of whether any additional licences or substantial variations to existing licences, to increase such aspects as capacity or operating hours, would lead to an unacceptable saturation in an area. In such cases, the licensing authority will follow the procedure set out in the Secretary of State's Guidance to determine whether a special policy covering cumulative impact should be incorporated in this Statement of Licensing Policy.

Late Night Refreshment

13.15 The power to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment has been provided at Paragraph 2A of Schedule 2 of the 2003 Act (as inserted by the Deregulation Act 2015). This enables licensing authorities to choose to apply an exemption specifically where the supply of late night refreshment takes place if it is:

- a) on or from premises which are wholly situated in a designated area;
- b) on or from premises which are of a designated description; or
- c) during a designated period (beginning no earlier than 11pm, and ending no later than 5am)

13.16 Any decision to implement late night refreshment exemptions would be subject to a separate full consultation process.

Early Morning Restriction Orders

13.17 The ability to implement an Early Morning Restriction Order or 'EMRO' is a power conferred on licensing authorities by the Police Reform and Social Responsibility Act 2011 ("the 2011 Act"), which enables licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between midnight and 6am on all or some days. Licensing authorities are able to make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives. It should be noted that the restriction would only relate to alcohol and will have no effect on regulated entertainment.

13.18 The licensing authority does not have any plans to implement an EMRO at the time of writing this policy.

Late night levy

13.19 The power to implement a late night levy is also within the 2011 Act. This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy. Any levy would have to apply to the entire Local Authority area.

13.20 The licensing authority does not have any plans to implement a Late Night Levy at the time of writing this policy. Any decision to implement a late night levy would require consultation with the Police and Crime Commissioner and Chief Officer of Police, as well as much broader consultation. Such a decision would be made by the Full Council.

14 Licensing Hours

- 14.1 The licensing authority recognises that in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided. This in turn could reduce the friction at late night fast food outlets, taxi ranks, minicab offices and other sources of transport, which can lead to disorder and disturbance.
- 14.2 Fixed trading hours within designated areas will not be set as this could lead to significant movements of people across boundaries at particular times seeking premises opening later, with the attendant concentration of disturbance and noise.
- 14.3 This would treat residents in one area less favourably than those in another, as well as causing the peaks of disorder and disturbance the Act is trying to avoid.
- 14.4 The licensing authority will generally deal with the issue of licensing hours having due regard to the individual merits of each application. However, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated in mainly residential areas, where relevant representations have been received.

Shops, Stores and Supermarkets

- 14.5 The licensing authority will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping.
- 14.6 However, this may be reconsidered where objections to those hours are raised by responsible authorities or interested parties on the basis of the licensing objectives.

15 Conditions

- 15.1 Conditions (other than statutory mandatory conditions) may only be attached to a licence or club premises certificate if relevant representations are received (except for conditions drawn from the applicant's operating schedule since these are voluntary propositions).
- 15.2 Conditions attached to licences or certificates will be tailored to the individual style and characteristics of the particular premises and events concerned. The licensing authority cannot impose blanket standard conditions.
- 15.3 However, where considered appropriate, for the promotion of the Licensing Objectives, the licensing authority will consider attaching conditions to licences as appropriate.

16 Licence Reviews

- 16.1 At any stage, following the grant of a premises licence, a responsible authority to also include the licensing authority or an interested party, may request that the licensing authority reviews the licence because of a matter arising at the premises in connection with any of the four licensing objectives. In addition, Norfolk Constabulary may make an application for a summary review on the basis that premises are associated with serious crime and/or disorder.
- 16.2 Responsible authorities will aim to give licensees early warning of any concerns identified at a premises. The licensing authority can only initiate the review process when acting in its capacity as a Responsible Authority. The authority's role will be to administrate the process and determine its outcome at a hearing where an evidential basis for the allegations made will need to be submitted.
- 16.3 It is expected Responsible Authorities shall intervene where the basis of the intervention falls within the remit of that authority. For example, the appropriate authorities should take appropriate steps where the basis of the review is crime and disorder or the sexual exploitation of children.
- 16.4 A number of reviews may arise in connection with crime that is not directly linked to licensable activities. For example, reviews may arise because of drug problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms and the sexual exploitation of children or vulnerable adults.
- 16.5 In cases where the crime prevention objective is being undermined it is expected that revocation of the licence – even in the first instance – will be seriously considered.

17 Enforcement

- 17.1 Once licensed, it is essential premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the 2003 Act. The licensing authority will make arrangements to monitor premises and take appropriate enforcement action to ensure this.
- 17.2 The licensing authority works closely with the Police and other enforcing authorities to ensure compliance with the Licensing Act 2003. This provides for the targeting of agreed problem and high-risk premises but with a lighter touch being applied to those premises which are shown to be well managed and maintained.
- 17.3 All enforcement actions taken by the licensing authority will comply with the Council's Enforcement Policy (published on the Council's website), the Better Regulation Delivery Office Regulator's Code and Primary Authority Partnership Scheme. To this end the key principles of consistency, transparency and proportionality will be maintained.
- 17.4 A closure power is provided for in the Anti-social Behaviour, Crime and Policing Act 2014 which replaces section 161 of the Act. This new closure power can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder. Further guidance on this power can be found on the gov.uk website, under the Anti-social Behaviour, Crime and Policing Act: anti-social behaviour guidance.

Licence Fees

- 17.5 The licensing authority will suspend a premises licence or club premises certificate if the annual fee is not paid when it is due. However, this does not apply immediately if the payment was not made before or at the time of the due date because of an administrative error, or because the holder disputed liability for the fee before or at the time of the due date. In either of these cases, there is a grace period of 21 days. This period is intended to allow the licensing authority and the licence or certificate holder an opportunity to resolve the dispute or error. If the dispute or error is not resolved during this 21 day period, the licence or certificate will be suspended.
- 17.6 Should a licence or certificate be suspended, the licensing authority will notify the holder in writing specifying the date on which the suspension will take effect; this date will be at least five clear working days after the day the authority gives the notice.
- 17.7 A suspension will cease to have effect on the day on which the licensing authority receives payment of the annual fee from the licence or certificate holder.
- 17.8 Norfolk Constabulary Licensing Team will be informed of the suspension and removal of suspension.

18 Administration, Exercise and Delegation of Functions

- 18.1 The licensing authority will be involved in a wide range of licensing decisions and functions and have established a Licensing Committee to administer them.
- 18.2 Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub-Committees to deal with them.
- 18.3 Further, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications, including for example, those licences and certificates where no representations have been made, has been delegated to Authorised Officers within the Licensing Section of the Council. Relevant matters dealt with by Officers will be reported for information and comment only to the next Committee meeting.
- 18.4 The Table on the following page sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and Officers.
- 18.5 This form of delegations is without prejudice to Officers referring an application to a Sub-Committee, or a Sub-Committee referring an application to Full Committee, if considered appropriate in the circumstances of any particular case.

19 Entitlement to Work in the UK

- 19.1 Following an amendment to the 2003 Act by the Immigration Act 2016, individuals applying for a personal licence, a premises licence for the sale of alcohol or late night refreshment, must be entitled to work in the UK. However, this requirement does not apply to a premises licence for entertainment only, or a club premises certificate, or a TEN.
- 19.2 The Council in its role as the licensing authority will require applicants for the relevant licences to provide appropriate documented proof that they have permission to be in the UK and to undertake work in a licensable activity.

20 Advice

- 18.1 Information and advice on all aspects of licensing can be obtained by:

South Norfolk Council

Website: www.south-norfolk.gov.uk

Telephone: 01508 533621

Email: licensingteam@s-norfolk.gov.uk

South Norfolk Council
Cygnet Court
Long Stratton
Norwich
NR15 2XE

The Licensing Act 2003 and Statutory Guidance can be viewed on the Gov.uk website.

Table of delegations of licensing functions

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		If a Police objection made	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for a minor variation			All cases but with discretion to refer to the sub-committee
Application to vary designated premises supervisor		If a Police representation	All other cases
Request to be removed as designated premises supervisor			All cases

Application for mandatory alcohol condition to be disapplied in respect of community premises		If a Police representation	
Application for transfer of premises licence		If a Police representation	All other cases
Application for Interim Authority Notice		If a Police representation	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 but with discretion to refer to the sub-committee
Decision to object when local authority is a consultee and not the lead authority		All cases	
Determination of a police representation to a temporary event notice		All cases	
Consideration of Licensing Policy before Full Council	All cases		

Annex A to

South Norfolk District Council's Statement of Licensing Policy

The Portman Group Code of Practice

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the naming, packaging and promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or over. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published. 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. The District Council commends the Code.

Annex B to

South Norfolk District Council's Statement of Licensing Policy

The Joint Enforcement Guide

Please see https://www.south-norfolk.gov.uk/sites/default/files/Compliance_and_Enforcement__Policy_14_September_2015%20v1.pdf for a copy of the South Norfolk enforcement policy.

South Norfolk Council



Facebook
[@SouthNorfolkCouncil](#)



Instagram
[southnorfolkc](#)



Twitter
[twitter.com/SNorfolkCouncil](#)



LinkedIn
[linkedin.com/company/south-norfolk-council](#)

Appendix 2

Licensing Policy Review 2021 Consultation Responses

Consultee	Comments
1. Hayley Goldson, Chedgrave Parish Clerk	<p>Thank you for sending the consultation documents. This matter was considered by Chedgrave Parish Council at it meeting of 3rd September 2020.</p> <p>In relation to para 4.4, councillors would specifically like to exlcude single use plastics from the general encouragement of using plastic glasses.</p>
2. Councillor Julian Halls, South Norfolk Council	<p>Thank you for this. All in favour of reducing the size of this document and obviously combine the policy for SDC and DBC.</p> <p>Not sure whether it is relevant but do we have within the policy the power to object, following Police representations for say a small shop where the owner who has been barred because of previous issues, 'who simply passes in theory at least, the running of the business to a near relative with a clean record.</p> <p>I totally accept an unfair question and perhaps a flaw in the main Act but if we could somehow include this it would be a good move.</p>
3. David Saer, Policy and Communications Manager, Portman Group	<p>Thank you for sending through your draft licensing policies for comment.</p> <p>We are pleased that the policies include specific reference to the Portman Group and commends the Code of Practice, encouraging premises to abide by the Code as well as the decisions of the Independent Complaints Panel.</p>

As the policies recognise, the Code is an important weapon in protecting children, as well as other vulnerable consumers, from harm – as stated in the latest edition of the Code of Practice which was published last year.

Response to Comments	Proposed Amendments to Policy
<p>The comments made have been noted and any necessary amendments will be made to the Policy document. Analysis: para. 4.4. encourages the use of toughened or plastic glasses on grounds of public safety. A prohibition of single use plastic glasses, as proposed by the consultee, would be environmentally favourable but would not fall within the remit of the statutory licensing objectives and it could fetter the options of licensees to maximise public safety. However it may be helpful for the Policy to offer informal encouragement and a suggested wording has been provided accordingly.</p>	<p>Members of the committee consider the proposed amendment to the Licensing Policy.</p>
<p>The comments made have been noted.</p>	<p>No amendment required. The consultation process is already defined within the legislation.</p>
<p>The comments made have been noted and any necessary amendments will be made to the Policy document.</p>	<p>To note the updated contact details for the Portman Group.</p>

--	--	--

Appendix Three

The main amendments to this Policy document have been made in order to incorporate recent legislative changes. These being:

1. The Policing and Crime Act 2017 gave licensing authorities a discretionary power to revoke or suspend Personal Licences (these licences allow someone to be named on a Premises Licence as the Designated Premises Supervisor, i.e. the person responsible for authorising alcohol sales). Previously only the courts could revoke a personal licence in limited circumstances. This is covered at section 12 of the draft policy.
2. Cumulative Impact Assessments (CIA) have been added to the Licensing Act, also under the Policing and Crime Act. Previously these were not provided for within the legislation but were just referenced in the Statutory Guidance. They allow Licensing Authorities with built-up areas of licensed premises to potentially restrict applications for new premises. This is covered at section 13 of the draft policy.
3. Following on from this, it is proposed to remove some paragraphs at section 13 in relation to Cumulative Impact. The procedural information is clearly set out in the guidance and there does not seem to be a need to replicate this.
4. Finally, at section 19 there is a new section in relation to entitlement to work. This is following an amendment to the Licensing Act by the Immigration Act 2016 which requires the Authority to check an individual's right to work in the UK when they apply for a premises licence in certain circumstances.

The table of delegations at the end of the policy document remains unchanged.

Any other amendments are minor, to include updating web links and guidance references.

Norfolk Responsible Authority Liaison and Joint Enforcement Guide

Licensing Act 2003

Partners

1. Norwich City Council
2. Kings Lynn and West Norfolk Borough Council
3. Great Yarmouth Borough Council
4. South Norfolk District Council
5. North Norfolk District Council
6. Broadland District Council
7. Breckland District Council
8. Crown Prosecution Service (CPS)
9. Her Majesty's Revenue and Customs (HMRC)
10. Norfolk Constabulary
11. Norfolk Fire and Rescue Service
12. Norfolk County Council Trading Standards Service
13. Maritime and Coastguard Agency
14. Broads Authority
15. Norfolk PCT

Acknowledgement to Leeds City Council

Contents

Part 1 Background Information

- 1.1 The Licensing Act 2003
- 1.2 Licensing Objectives
- 1.3 Licensing Authorities
- 1.4 Responsible Authorities
- 1.5 Purpose of this document
- 1.6 County Community Safety Partnership Priorities
- 1.7 Implementation, monitoring and review

Part 2 General work practices and liaison

- 2.1 Communication
- 2.2 Information transfer (including Data Protection issues)
- 2.3 Policies and procedures
 - 2.3a Quality standards
 - 2.3b Pre application discussions
 - 2.3c The application process
 - 2.3d Representations
 - 2.3e Hearings
- 2.4 Roles and responsibility
 - 2.4a Local Authority Licensing Section
 - 2.4b Responsible Authorities

Part 3 Enforcement Guide

- 3.1 Purpose of the Enforcement Guide
- 3.2 Enforcement Guide Mission Statement
- 3.3 Signatories undertakings
- 3.4 Overview of items to be enforced
- 3.5 Enforcement activity
 - 3.5a General enforcement principles
 - 3.5b Responsibility for enforcement activity
 - 3.5c Operational meetings
 - 3.5d Safety Advisory Group meetings
 - 3.5e Licensing visits
 - 3.5f Pubwatch
- 3.6 Enforcement options
 - 3.6a Informal Action
 - 3.6b Fixed Penalty Notices
 - 3.6c Cautions
 - 3.6d Prosecutions
 - 3.6e Reviews
- 3.7 Temporary Event Notices
- 3.8 Areas of special concern
 - 3.8a Underage sales of alcohol
 - 3.8b Unlicensed activity
 - 3.8c Unlicensed Music Events
 - 3.8d Sale of alcohol to persons who are drunk

Appendices

Appendix 1 – Licensing Authority and Responsible Authority contact details

Appendix 2 – Summary of offences under the Licensing Act 2003

Appendix 3 – Signatories to the Enforcement Guide

Part 1 Background Information

1.1 The Licensing Act 2003

The Licensing Act 2003 (the Act) brought the control of alcohol, regulated entertainment and late night refreshment under one central body, the licensing authority. For Norfolk this authority rests with the local District or Borough Council (see Appendix 1). Licensing functions are also delegated to the relevant Licensing Committee, licensing sub-committees, or officers, with the day to day administration of the Act resting with local Licensing Teams.

The original intention of the Act was to provide greater freedom and flexibility for the leisure and hospitality industry so that the public can be offered greater choices, with the removal of terminal hours for the sale of alcohol. The counter balance to this greater freedom is through the powers provided for the police, courts and licensing authority to deal with those who breach the licensing objectives.

More recently the Act has been amended to introduce measures to deal with the problems of late-night drinking; early morning restriction orders and the late night levy. Individual Licensing Authorities will decide on the need to adopt these additional measures.

1.2 Licensing Objectives

The following objectives have equal importance and form the fundamental basis of the Act:

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

1.3 Licensing Authorities

By virtue of Section 3 of the Act the local district or Borough Council is appointed as the licensing authority in respect of:

- The sale and supply of alcohol
- The provision of regulated entertainment
- The sale of hot food and drink between 23:00 and 05:00 hours

1.4 Responsible Authorities

Section 13 of Part 3 of the Act also authorises certain agencies to act as 'responsible authorities' for any premises situated in an area under their jurisdiction and located in Norfolk. Table 1 below lists the relevant agencies for Norfolk and the licensing objective(s) which the agencies will focus on.

The Act and accompanying guidance expects all parties to work in partnership to promote the four licensing objectives and to carry out other duties as defined in the Act and accompanying guidance. This document sets out the form of this working relationship.

Table 1 - Responsible Authorities

Responsible Authority	Licensing Objectives
Norfolk Police	1) Prevention of crime and disorder 2) Prevention of public nuisance 3) Protection of children from harm
Norfolk Fire and Rescue Service	Public safety
The Health and Safety Executive	Public safety
Norfolk Trading Standards Service	Protection of children from harm
Local Authority Environmental Health Departments	1) Public safety 2) Prevention of public nuisance
NCC Safeguarding Children Board (to be confirmed SN)	Protection of children from harm
The Licensing Authority	All
Norfolk PCT	1) Prevention of crime and disorder 2) Public Safety

1.5 Purpose of this document

This document forms a signed memorandum of understanding (see Appendix 3) and joint enforcement guide between each Norfolk licensing authority (see Appendix 1) and:

- Norfolk Constabulary
- Norfolk Fire and Rescue Service
- Norfolk County Council Trading Standards Service
- Norfolk Safeguarding Children Board?
- HM Revenue & Customs
- Maritime and Coastguard Agency
- Broads Authority

This document is not intended to create legal relations between the signatories; rather it provides the framework in which this working relationship should operate when exercising functions under the Licensing Act 2003. In addition to the Licensing Act 2003, it also makes reference to other legislation, but is not, nor is it intended to be, an authoritative interpretation of statute, and all parties should seek their own legal advice, where appropriate.

Furthermore it does not replace each authority's Enforcement Policy. Where enforcement action is considered the Licensing Enforcement Guide should be considered in conjunction with the relevant authority's Enforcement Policy.

1.6 County Community Safety Partnership Priorities (CCSP)

It is intended that this guide will assist in meeting the relevant CCSP priorities for Norfolk in relation to alcohol related crime and disorder, in particular:

Reduce the harm caused by the misuse of drugs & alcohol within the Night-time Economy

- Violent crime within the Night-time Economy ('Priority Violence')
 - 1.5% reduction on previous year
- Alcohol related crime & disorder in the 3 main police public order patrol zones (Norwich, GY & KL centres)
 - 1.5% reduction on previous year
- Average impact score calculated for licensed premises
 - Reduce score of the top 10 licensed premises targeted for attention during 2011/12 by 25%

1.7 Implementation, monitoring and review

This document will be reviewed regularly. All parties are encouraged to monitor how the guide works in practice and to make any comments or suggestions which could be beneficial. These should be communicated to the Chair of the Norfolk Licensing Forum.

Part 2 General Work Practices and Liaison

2.1 Communication

Good communication between agencies is vital to ensure that information of mutual interest is shared effectively and to ensure that statutory periods for determination of applications can be met. It is important that each organisation has a reliable contact point and will identify nominated officers and their deputies. There must be a clear understanding about when, where and how contact shall be made, including for emergencies.

2.2 Information transfer (including data protection issues)

The transfer of information between the licensing authority and the responsible authorities is crucial to this guide. The information which needs to be transferred will often be of a sensitive nature and governed by data protection law. The timely and secure transfer of information to people who are authorised to view it in accordance with data protection principles needs to be maintained at all times. The points below, list the legislative framework for this transfer of information.

Section 29 of the Data Protection Act 1998 allows for the exchange of information for the purposes of the prevention or detection of crime or the apprehension or prosecution of offenders.

Section 115 of the Crime and Disorder Act 1998 allows for information to be specifically exchanged between the police and the licensing authority.

Section 185 of the Licensing Act 2003 allows information to be exchanged between the licensing authority and responsible authorities to facilitate and exercise functions defined in the Act.

Parties to this guide may disclose information to other parties for these purposes providing that the local protocols applicable to each organisation for data protection are observed. Depending on the nature of the information request, agencies may ask for a request to be made in writing giving reasons why disclosure is necessary.

Information supplied must only be used for the purpose for which it was obtained, must be securely retained whilst in the possession of the responsible authority that has requested it, and must be securely disposed of when no longer required. It must not be further transmitted to a third party without the consent of the original authority that supplied the information.

This part of the guide may be supplemented by any memorandum of understanding on data exchange agreed either at a local or national level.

2.3 Policies and procedures

2.3a Quality standards

Partners to this guide will:

- Ensure that their work meets all reasonable aspects of best practice in accordance with the legislation and government guidance;
- Ensure that all correspondence between partners is written in plain English;
- Ensure that service is delivered in a non-discriminatory manner;
- Deal with the public, trade and businesses in a fair and honest way;
- Provide information to customers in a timely manner and advise recipients of their legal rights of appeal in such matters.

2.3b Pre-application discussions

The licensing authority encourages all applicants for premises licences and club premises certificates to consult with responsible authorities prior to submitting their applications. Responsible authorities will use these discussions to offer the applicant advice on how to prepare their operating schedule in a way which meets the licensing objectives. All parties will be helpful and courteous during pre application discussions and will offer accurate, detailed and unbiased advice on a consistent basis to all applicants.

2.3c The application process

New applications, variations to existing licences or certificates, and provisional statements must be sent to the relevant licensing authority and the applicant must then copy his/her application to each of the responsible authorities. Upon receiving such applications the licensing authority will notify responsible authorities of all applications received. The licensing authority will only accept applications if they are fully complete and contain the necessary forms, consents, plans and fee. If applications are not complete the licensing authority may return them to the applicant.

Responsible authorities will endeavour to, where possible, assess all applications sent to them. Responsible authorities will consider the contents of operating schedules to evaluate whether, based on the scale and nature of the activities the applicant is proposing, they have demonstrated sufficient safeguards to promote the relevant licensing objectives. This process will also check to see if any recommendations made during pre application discussions are reflected in the application.

Under the European Services directive applicants may also apply for licences under the Act on-line. Under this procedure it is the licensing authority's responsibility to serve a copy of the application to the responsible authorities. On-line applications will be sent by the licensing authority to the responsible authority's nominated email address

2.3d Representations

Responsible authorities will assess applications in accordance with the statutory time scales and, if necessary, provide the licensing authority with relevant representations. The licensing authority will acknowledge receipt of representations within two working days.

2.3e Hearings

If representations are received and negotiations between parties prove unsuccessful a hearing will be arranged by the licensing authority before a licensing sub-committee comprising three councillors. Unless the regulations prescribe a different time scale the licensing authority will send a notice of hearing document to relevant responsible authorities, applicants and other interested parties no later than ten working days before the first day of the hearing. Parties to the hearing will be asked to advise whether they will be attending, if they plan to send a deputy, if they will be calling witnesses and if they plan to serve any documents on the committee. Responsible authorities that have made a representation are encouraged to send an officer to present their representation at the hearing.

During a hearing responsible authorities should confirm the details of their representation which was submitted to the licensing authority during the consultation period and also served on the applicant. They may not add further representations to those originally submitted but may expand on their initial representation.

In the event that a representation is upheld and the applicant subsequently registers an appeal, responsible authorities shall agree to attend an appeal hearing at the Magistrates' Court to clarify the representation and the reasoning behind it.

2.4 Roles and responsibilities

2.4a Local Authority Licensing Teams

Local Licensing Authorities will maintain the day-to-day administration of the Act. They will:

- Issue application packs to applicants including guidance material and up to date contact details for responsible authorities;
- Using delegated powers, grant licences where no relevant representations are received, subject to any control measures which are consistent with an applicant's operating schedule, plus any other mandatory conditions imposed by the Act;
- Administer the system for temporary event notices (TENs);
- Receive representations from responsible authorities and interested parties and, if required, arrange hearings and/or reviews within the set time scales and notify parties involved about such hearings by issuing a notice of hearing document;
- Will issue licence to reflect the Committee Hearing decision, and up date all relevant parties of such conditions;
- Maintain a register of licences for public inspection;
- Carry out enforcement activities under the Act as detailed in Appendix 2 and work in partnership with other agencies such as the police to share intelligence information;
- Maintain a 'Statement of Licensing Policy' and review this policy at least once in every five year period in consultation with responsible authorities and other persons such as members of the public and businesses and organisations which represent the public and businesses.

2.4b Responsible Authorities

To a greater or lesser degree, depending on the particular agency, each responsible authority will undertake the following:

- Offer advice to those applicants who request it in respect of compliance with the licensing objectives;
- Provide the licensing authority with a copy of any relevant correspondence and keep the licensing authority updated in respect of any mediation including the likelihood that a hearing may be dispensed with;
- If necessary, appear at licensing sub committee hearings to support any representations made;
- Attend multi agency licensing enforcement meetings to discuss enforcement activity, as necessary;
- If necessary, attend pubwatch or equivalent meetings to address any issues in a given area and inform licence holders about any new schemes or initiatives that are being undertaken;
- Where necessary, undertake joint multi-agency licensing visits;
- If necessary, provide advice to licence holders on compliance with the licence and issue warnings. Also to inform the licensing authority of any such warnings given, by providing copies of any correspondence with licence holders to the licensing authority.
- Liaise with the licensing authority in cases where they are considering requesting a review of a licence;

- Liaise with the licensing authority in respect of the licensing authority undertaking a prosecution on their behalf and/or appearing as an expert witness if required at the Magistrates' Court;
- If required, undertake final inspections before the premises is opened in the case of premises which have recently been built or altered for the purpose of licensable activities where specialist equipment or structural features need to be assessed for their functionality.

Part 3 Enforcement Guide

3.1 Purpose of the Enforcement Guide

The aim of this part of the document is to set out the framework for the risk-based enforcement of the Act following the principles of better regulation advocated by the Department for Business, Innovation and Skills.

Enforcement activity carried out in accordance with this guide will cover premises which have a licence/certificate and unlicensed premises carrying out licensable activities. Reference is also included to police powers to object to Temporary Event Notices (TEN) on the grounds of the prevention of crime (this will be extended to include the Council's Environmental Health (Pollution Control) Section and with the commencement of the relevant sections of the Police Reform and Social Responsibility Act 2011) representations in respect of TENs may relate to any of the four licensing objectives,

3.2 Enforcement Guide Mission Statement

This guide seeks to facilitate the implementation of the Licensing Act 2003; to ensure the licensing objectives are upheld; and to seek to balance the aspirations of businesses with the protection of the public, interested parties and the environment. It is a joint framework to ensure a consistent approach from the relevant agencies and Licensing Authorities across Norfolk.

3.3 Signatories undertakings

All signatories to this document will approach their enforcement duties in a fair, transparent, proportionate, consistent, targeted and accountable way. Enforcement activity will focus on promoting compliance and best practice but will be firm and fair with those parties who consistently or wilfully undermine the licensing objectives.

3.4 Overview of items to be enforced

Relevant items are those listed in Appendix 2 and to include:

- Defined offences under the Act (various sections plus Part 7 of the Act)
- Mandatory conditions imposed by the Licensing Act 2003
- Conditions consistent with operating schedule; and
- Conditions attached after a hearing.

3.5 Enforcement activity

3.5a General enforcement principles

The general approach to enforcement activity is that the relevant agency will investigate each individual case as it arises in accordance with the agency's own enforcement policy and procedures, having regard to this enforcement guide.

3.5b Responsibility for enforcement activity

On receipt of a complaint or concerns relating to licensed premises, club premises certificates or a personal licence holder, the receiving agency will:

- take action, as appropriate, if the matter is within that agency's remit;
- if not within the agency's remit pass to the relevant agency, in accordance with the liaison arrangements detailed in this document, supplying all relevant evidence;
- liaise with the other agencies to establish lead responsibility and to then undertake the appropriate enforcement activity.

Subject to the bullet points above, this guide suggests each responsible authority should take on a lead role to promote and enforce the specific licensing objective that they have responsibility for.

3.5c Operational meetings

Each licensing authority will arrange and chair (unless where otherwise agreed) multi-agency enforcement meetings as required for all responsible authorities plus their invited guests.

The purpose of these meetings will be to discuss developing issues such as problem premises, problem areas and to share information about any new initiatives or schemes. The minutes from these meetings will be kept on file and will be used to inform any reviews or amendments of the Authority's 'Statement of Licensing Policy', in addition to responsible authority comments provided to the licensing authorities.

Each responsible authority will be able to bring to the meeting a list of premises which they have significant concerns with and which require a joint enforcement partnership approach. At the outcome of the meeting a list of target premises will be circulated to each of the agencies identifying those premises which will be targeted for joint/multi-agency licensing visits, or any other action deemed appropriate.

Responsible authorities should liaise with the relevant agencies in the interim if premises are identified which warrant immediate action.

3.5d Safety Advisory Group Meetings

Each licensing authority* will arrange Safety Advisory Group (SAG) meetings, as required, to discuss larger events in their district such as large scale sporting events, music festivals and concerts or seasonal events such as Christmas light switch-ons.

The SAG will advise on the event, venues and its immediate environs as required; advise on the exercise of the powers under the Health and Safety legislation and the Licensing

Act 2003 for the event and venues; advise on the enforcing actions and duty of care of the local authority and other partners as defined in related legislation; provide a forum within which the local authority and other partners develop a co-ordinated approach to crowd and spectator safety; receive reports in relation to matters found during inspections by group members; and receive notification of the issue of any prohibition notice and any prosecutions.

* this may be carried out by other functions of the district council but the licensing authority will attend the meetings

3.5e Licensing visits

Authorised officers of the licensing authorities will undertake risk-based licensing visits as required or when requested by a responsible authority because of a specific complaint and it is deemed appropriate.

In principle, licensing visits will often be reactive focusing on high-risk premises in line with the recommendations of the Department for Business Innovation and Skills (formerly the Better Regulation Executive) and carried out in accordance with the appropriate sections of the Act detailed previously and the Regulators' Compliance Code, where applicable.

Notwithstanding this, proactive licensing visits may be carried out at regular intervals where determined appropriate by the individual licensing authority to coincide with particular events or enforcement initiatives.

During these visits enforcement officers of the licensing authority will complete general inspections to check whether a premises is being operated in a manner which promotes the licensing objectives. If, during a licensing visit, enforcement officers suspect non-compliance with any licensing condition which is outside their area of expertise they will refer this to the relevant responsible authority for their action.

Responsible authorities may also undertake enforcement visits in line with the provisions of Section 179 of the Act. This Section empowers constables or other authorised persons to enter particular premises to investigate if licensable activities are being or are about to be carried out in accordance with an appropriate authorisation. Officers should note however that Section 179 does not apply to premises in respect of which there is a club premises certificate but no other authorisation.

Other 'rights of entry' for authorised persons and/or police constables onto certain premises are also provided for at:

- Section 59 – Inspection of premises before grant of licence
- Section 96 – Inspection of premises before grant of certificate etc.
- Section 97 – Other powers of entry and search (constables only)
- Section 108 – Right of entry where temporary event notice given
- Section 180 – Right of entry to investigate offences (constables only)

Where possible, the licensing authority will welcome the opportunity to carry out joint enforcement visits with representatives of the responsible authorities where adequate notice is given so the visits can be accommodated.

3.5f Pubwatch

A pubwatch is a forum established by a group of pubs or licensed premises in a given area that meet on a regular basis to share information on known trouble-makers in the area, any incidents of crime or anti-social behaviour that have taken place and to consider banning orders for certain individuals in the area. To work effectively pubwatch schemes must be closely supported by the local police, licensing authority and other agencies.

As appropriate, each appointed Pubwatch Coordinator for the licensing authority area will, on request, provide each responsible authority with a list of the pubwatch schemes and a list of forthcoming meetings and contact details for members. Agencies, including the local police and the licensing authority, will regularly attend these meetings especially where problems may be arising in a given area.

3.6 Enforcement options

Licensing Authorities and Responsible Authorities will conduct enforcement activities in line with their own Enforcement Policies and this Enforcement Guide. Enforcement activities may include:

3.6a Informal Action

Informal action to secure compliance with the legislation includes offering advice, giving warnings or the use of action plans. All partners to this guide should keep accurate records of any informal action levied on licence holders so, if necessary, records from other agencies can be pooled to identify any trends that highlight a particular person, premises or area that warrants additional enforcement action or investigation as a result of a significant amount of informal action.

In the following circumstances it may be appropriate to use informal action. This is not an exhaustive list and each case will be looked at on its merits.

- The act or omission is not serious enough to warrant formal action;
- From the individual/organisations past history it can be reasonably expected that informal action will achieve compliance;
- Where the original approach is from person(s) seeking advice or assistance.

When an informal approach is used to secure compliance, this may be verbal or written. However, it is important that any written documentation issued or sent to individual/businesses:

- Contains all the information necessary to understand what work is required and why it is necessary;
- Indicates the statute or regulations contravened and measures which will enable compliance to be achieved;
- Clearly differentiates between legal requirements and recommendations of good practice;
- Copied to the appropriate licensing authority for their records.

3.6b Fixed Penalty Notices

Certain agencies have the power to issue fixed penalty notices (FPNs) which constitute an 'on the spot fine' for offences such as the sale of alcohol to children, the sale of alcohol to somebody who is drunk and other public nuisance offences such as excessive noise. These fines remain a useful tool for authorised officers to quickly deal with a situation where a specified offence has clearly been committed and the penalty can be actioned straight away. Where possible, the police and any other agencies that use FPNs will compile records of all FPNs issued in the district and undertake regular analysis to identify any trends that highlight a particular person, premises or area that warrants additional enforcement action or investigation as a result of a significant number of FPNs.

3.6c Cautions (Simple Cautions)

Cautions may, under certain circumstances, be issued as an alternative to prosecution (rather than a court hearing). They should be instigated by the lead agency that is designated as having control of the specific offence being cautioned (see Appendix 2). When considering issuing a simple caution the lead agency will comply with the provisions of the Home Office Circular 016/2008 (or as amended). Simple cautions are only to be considered if there is sufficient evidence for the matter to proceed by way of prosecution. A caution may be a useful means for the licensing authority to deal with a licence holder who fails to comply with a given licence condition and where a prosecution is not the appropriate course of action.

The merits for cautioning rather than proceeding with a prosecution will be considered by the relevant enforcing authority. Cautions should be considered once the following conditions are met:

- There must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction'
- The suspected offender must admit the offence in full'
- The suspected offender must understand the significance of a formal caution then give an informed consent to being cautioned'
- It is in the public interest to offer a simple caution.

Note:

- If there is insufficient evidence to consider a prosecution then the conditions will not satisfy a caution. It would be inappropriate to use a caution if an offender does not make a clear reliable admission of the offence
- There is no legal obligation for any person/organisation to accept a caution and no pressure should be applied for the person to accept such a caution but they must be advised that invariably legal proceedings would be instigated if this acceptance was not forthcoming

All partners to this guide should keep accurate records of any cautions given so, if necessary, records from other agencies can be pooled to identify any trends that highlight a particular person, premises or area that warrants additional enforcement action or investigation as a result of a significant number of cautions. In all cases the licensing authority should be forwarded a copy of the caution.

3.6d Prosecutions

Appendix 2 of this document sets out the offences under the Act, together with the agency that has responsibility for enforcement. The decision to prosecute an individual or company for an offence under the Act should be in line with the responsible authority's or licensing authority's own enforcement policy and procedures and will be subject to a vigorous set of tests in accordance with the Code for Crown Prosecutors. In line with the provisions of the Act some responsible authorities have prosecution powers in respect of certain offences under the Act and may instigate proceedings by themselves.

3.6e Reviews

A review is a process defined in the legislation which ultimately leads to a licence being reassessed by the licensing sub-committee with the possibility that new conditions may be imposed, existing licensable activities altered or removed, or the licence may be suspended/revoked. A premises licence can be reviewed at any time and the review process forms one of the key safe-guards in the Act. The power to request a review is limited to responsible authorities and other persons, as defined by the Act. A request for a review must be made using the prescribed form. Following the request for a review and if the request is deemed relevant (the relevance test is defined at Section 51(4) of the Act) the licensing authority will then advertise the review allowing other interested parties or responsible authorities to add further representations to the review process before a hearing is arranged before a licensing sub- committee.

Before an application for review is made the licensing authority may require evidence that other avenues of enforcement activity have been exhausted. A review may be the most appropriate course of enforcement action when a premises has failed to adequately respond to an identified action plan or previous warnings have not secured compliance.

The licensing authority may seek to review a licence itself. Such a review would normally be sought when the licensing authority has received sufficient evidence of problems from more than one of the other responsible authorities, which when considered together would warrant a review.

In all instances where enforcement action is considered a case review will be required with all relevant authorities to determine the most appropriate course of action.

3.7 Temporary Event Notices

Only the Police or Local Authority Environmental Health Department can object to a Temporary Event Notice where they are satisfied that allowing the premises to be used in accordance with the notice would undermine the crime prevention or public nuisance objective. The chief officer of police or Environmental Health must give an “objection notice” stating the reasons – (a) to the relevant licensing authority and (b) to the premises user (s. 104, of the Act). Where the licensing authority receives a temporary event notice in respect of any premises, and is satisfied that permitted limits have been exceeded, the authority must give the premises user (“the relevant premises user”) a counter notice (s107, of the Act).

3.8 Areas of special concern

3.8a Underage sales of alcohol

Licensing Enforcement Groups will not tolerate underage sales of alcohol.

Where there is evidence that underage sales have taken place (which may arise as the result of a test purchase) or the relevant agency has been informed that underage sales may be taking place, enforcement action will follow. Any enforcement action will be in compliance with the Enforcement Policy of the relevant Licensing Authority or Responsible Authority.

The following factors may be taken into account:

- History of similar problems at premises?
- Was the sale made by a DPS or personal licence holder?
- Had the person committed a similar offence before?
- Does the premises in question operate a Check 21 or similar scheme?
- Was the sale as a result of a test purchase?
- Did the seller take all reasonable steps to establish the individual's age?

Members of the public and the trade should also note the provisions of Section 150 of the Act which allows individuals aged 16 or 17 years to consume beer, wine or cider where its consumption is at a table meal on relevant premises, and the individual is accompanied at the meal by an individual aged 18 years or over.

3.8b Unlicensed activity

The Responsible Authorities will investigate all cases of alleged unlicensed activity e.g. trading without the required licence, trading beyond the licensable hours authorised by a licence or carrying out a licensed activity not authorised by the licence. Members of the public and the trade should also note that the Responsible Authorities do not distinguish between licensable activities and any unauthorised activity will be investigated in the same way as any other e.g. the same approach would be taken to investigating unauthorised late night refreshment as the unauthorised sale of alcohol or the unauthorised provision of regulated entertainment.

Various approaches will be employed to deal with unlicensed activity, as appropriate,

including warnings, cautions, prosecutions or a licence review (where a licence is in force).

While every case will be assessed on its merits, in general, where unlicensed activity is detected the relevant agency will ask the appropriate person or operator to cease the unlicensed activity forthwith. If any such instruction is not heeded enforcement action may be taken in line with the relevant authority's Enforcement Policy and this Guide.

A person guilty of an offence of unauthorised licensable activity is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £20,000, or to both.

3.8c Unlicensed Music Events - Raves

The lead prosecution agency for any event may vary dependant on individual circumstances. It maybe the case that the agency with the prima facie evidence will prepare and present the prosecution file. The decision as to lead agency will be made following the guidelines in the Norfolk Rave Protocol

In general terms where the event falls within the definition of a Rave under the Criminal Justice and Public Order Act 1994, the police will take the lead for enforcement. For all other activities these will be judged on a case by case basis.

3.8d Sale of alcohol to persons who are drunk

The Responsible Authorities will ensure premises are aware that it is an offence under Section 141(1) of the Act to make sales of alcohol to persons who are drunk and will undertake enforcement action where such offences are committed.

Various approaches may be employed to deal with these sales including fixed penalty notices, warnings, cautions, prosecutions or a licence review. The enforcement approach taken will depend on the particular circumstances of the case. Circumstances which will be taken into account include:

- History of similar problems at premises?
- Was the sale made by a DPS or personal licence holder?
- Had the person committed a similar offence before?
- Did the sale lead to issues of crime, disorder, public nuisance or public safety in or in the vicinity of the licensed premises?

A person guilty of this offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Appendix 1 – Licensing Authorities and Responsible Authorities Contact Details

Responsible Authority	Contact Person	Contact Address and Telephone Number
Breckland District Council		
Broadland District Council		
Great Yarmouth Borough Council		
Borough Council of King's Lynn and West Norfolk		
North Norfolk District Council		
Norwich City Council		
South Norfolk District Council		

Norfolk Police		
Norfolk Fire and Rescue Service		
The Health and Safety Executive		
Norfolk Trading Standards Service		
NCC Safeguarding Children Board		
Norfolk PCT		

Appendix 2 - Summary of Offences under the Licensing Act

The table below outlines offences under the Act together with who has principal responsibility for enforcing the offences.

Notes:

1. All offences under the Act are summary only offences. However, by S186(3) Licensing Act 2003 the time limits for laying information is extended from six months to 12 months from the date of the offence.

Note abbreviations, as follows:

LA = Licensing Authority

CPC = Club Premises Certificate

DPS = Designated Premises Supervisor

PLH = Premises Licence Holder

AO = Authorised Officer (as defined in S13 of the Act)

The level of standard fines is as follows:

Level 1: £200

Level 2: £500

Level 3: £1,000

Level 4: £2,500

Level 5: £5,000

Section	Offence	Authority	Offenders	Defences/ Exceptions	Penalty
33 (6)	Failure to notify Licensing Authority of change of name or address PLH or DPS	LA	Premises licence holder	Reasonable excuse	Level 2
40 (2)	Failure to notify existing DPS of variation to premises licence to exclude them	LA	Premises licence holder	Reasonable excuse	Level 3
41 (5)	Failure to provide premises licence to Licensing Authority upon removal of DPS	LA	Premises licence holder	Reasonable excuse	Level 3
46 (4)	Failure to notify DPS of application for transfer of premises licence	LA	Applicant for transfer of premises licence	Reasonable excuse	Level 3
49 (5)	Failure to notify DPS of grant of interim authority notice	LA	Interim Authority holder	Reasonable excuse	Level 3
56 (3)	Failure to provide premises licence at request of Licensing Authority for amendment	LA	Premises licence holder	Reasonable excuse	Level 2
57 (4)	Failure to keep or display premises licence on premises	LA	Premises licence holder	Reasonable excuse	Level 2
57 (7)	Failure to produce premises licence to an AO for examination	LA	Premises licence holder or Nominated person	Reasonable excuse	Level 2

Section	Offence	Authority	Offenders	Defences/ Exceptions	Penalty
59 (5)	Obstruction of an AO entering premises to inspect before grant of a licence, review or a statement	LA	Any person	Lack of intent	Level 2
82 (6)	Failure to notify Licensing Authority of change of name or alteration of rules of a club	LA	Secretary of club	None	Level 2
83 (6)	Failure to notify of a change of registered address of club	LA	Secretary of club	Reasonable excuse	Level 2
93 (3)	Failure to produce CPC for amendment within 14 days of Licensing Authority request	LA	Secretary of club	Reasonable excuse	Level 2
94 (5)	Failure to keep club premises certificate (or certified copy) at premises in custody or control of nominated person	LA	Secretary of club	Reasonable excuse	Level 2
94 (6)	Failure to display at premises summary of club premises certificate (or certified copy) and a notice stating position held by nominated person	LA	Nominated person	Reasonable excuse	Level 2
94 (9)	Failure to produce club premises certificate (or certified copy) to constable or authorised person for examination	LA	Nominated person	Reasonable excuse	Level 2
96 (6)	Obstruction of authorised person trying to enter premises for purposes of inspection prior to grant, variation or review of club premises certificate	LA	Any person	None, but notice must have been given prior to entry	Level 2
108 (3)	Obstruction of an AO in inspecting temporary event premises	LA or Police	Any person	Lack of intent	Level 2
109 (4)	Failure to keep or display temporary event notice on premises	LA	Premises User	Reasonable excuse	Level 2
109 (8)	Failure to produce temporary event notice to an AO	LA	Premises User/ Nominated person	Reasonable excuse	Level 2

Section	Offence	Authority	Offenders	Defences/ Exceptions	Penalty
123 (2)	Failure to notify Licensing Authority of conviction for relevant offence during application or renewal period	LA	Application for personal licence	Reasonable excuse	Level 4
127 (4)	Failure to notify Licensing Authority of change of name or address of personal licence holder	LA	Personal licence holder	Reasonable excuse	Level 2
128 (6)	Fail to notify court of personal licence or “notifiable event” when being dealt with for a relevant offence	Police or LA	Personal licence holder	Reasonable excuse	Level 2
132 (4)	Failure to notify Licensing Authority of conviction for relevant or foreign offence	LA	Personal licence holder	Reasonable excuse	Level 2
134 (5)	Failure to produce personal licence within 14 days to Licensing Authority for updating	LA	Personal licence holder	Reasonable excuse	Level 2
135 (4)	Failure to produce personal licence to an AO whilst on premises to sell or authorise sale of alcohol	LA or Police	Personal licence holder	Reasonable excuse	Level 2
136 (1)	Allowing licensable activities otherwise than in accordance with an authorisation	LA or Police	Any person (but exceptions – see s136(2))	Due diligence (see S139)	6 months imprisonment and/or £20,000 fine, and court may order forfeiture
137 (1)	Unauthorised exposure for retail sale of alcohol	LA or Police	Any person	Due diligence (see S139)	6 months imprisonment and/or £20,000 fine, and court may order forfeiture
138 (1)	Unauthorised possession of alcohol with intent to sell or supply	LA or Police	Any person	Due diligence (see S139)	Level 2 and court may order forfeiture
140 (1)	Allowing disorderly conduct on licensed premises	Police or LA	Any person authorised to prevent disorderly conduct	Lack of knowledge	Level 3
141 (1)	Sale or supply of alcohol to person who is drunk	Police or LA	Any person in capacity to prevent	Lack of knowledge	Level 3
142 (1)	Obtaining alcohol for a person who is drunk	Police or LA	Any person	Lack of knowledge	Level 3

Section	Offence	Authority	Offenders	Defences/ Exceptions	Penalty
143 (1)	Failure to leave licensed premises following a request from a PC or AO	Police	Any drunk or disorderly person	Reasonable excuse	Level 1
144 (1)	Keeping unlawfully imported goods on relevant premises	Police or Revenue & Customs	Any person authorised to prevent	Lack of knowledge	Level 3
145 (1)	Allowing unaccompanied children under 16 on relevant premises when alcohol is being supplied	LA or Police	Any person authorised to request under 16 to leave premises	1) Lack of knowledge of use of premises for supply of alcohol 2) Due diligence (if act by another person) 3) Belief that individual over 16 & reasonable steps taken to establish age or no reasonable suspicion under 16	Level 3
146 (1, 2, 3)	Sale or supply of alcohol to children under 18	LA, Police or Trading Standards	Any person or a club	1) Due diligence (if act by another person) 2) Belief that individual over 18 & reasonable steps taken to establish age or no reasonable suspicion under 18	Level 5
147 (1, 3)	Allowing sale or supply of alcohol to children under 18	LA, Police or Trading Standards	Any person authorised to prevent	Lack of knowledge	Level 5
148 (1, 2)	Sale or supply of liqueur confectionery to children under 16	LA or Police	Any person or a club	1) Due diligence (if act by another person) 2) Belief that individual over 16 & reasonable steps taken to establish age or no reasonable suspicion under 16	Level 2
149 (1,3,4)	Purchase or supply of alcohol by or on behalf of children under 18	LA or Police	Under 18 or person purchasing on behalf of	S149(1) – Exception if done as part of test purchase operations S149(4) – table meal exception S149(3) or (4) – no reason to suspect <18	Level 3 (for under 18) Level 5 in all other cases

Section	Offence	Authority	Offenders	Defences/ Exceptions	Penalty
150 (1, 2)	Consumption on relevant premises of alcohol by children under 18, or knowingly allowing it to occur	LA or Police	Under 18 or person in capacity to prevent	1) Lack of knowledge 2) Table meal exception	Level 3 (for under 18) Level 5 in all other cases
151(1)	Delivering alcohol sold or supplied on relevant premises to under 18	LA or Police	Person working on premises	1) Lack of knowledge 2) Exceptions in S151 (6)	Level 5
151 (2, 4)	Allowing anybody else to deliver alcohol sold or supplied on relevant premises to under 18	LA or Police	Person working on premises in capacity to prevent delivery	1) Lack of knowledge 2) Exceptions in 151(6)	Level 5
152 (1)	Sending a child under 18 to obtain alcohol for consumption off the premises	LA or Police	Any person	1) Lack of knowledge 2) Exception for test purchase operations 3) Under 18 works on relevant premises in capacity involving delivery of alcohol	Level 5
153 (1)	Permitting children under 18 to sell or supply alcohol children	LA or Police	Responsible person – see s150(4)	1) Lack of knowledge 2) Exception if sold or supplied as accompaniment to table meal in area set aside 3) Sale or supply specifically approved by responsible person	Level 1
156 (1)	Sale of alcohol in or from a moving vehicle	Police	Any person	Due diligence	3 mths imprisonment and/or £20,000 fine
157(5)	Sale or attempting sale or allowing sale of alcohol on train contrary to prohibition order	Police	Any person	Lack of knowledge	
158 (1)	False statement in connection with a licensing application	LA	Any person	Lack of knowledge or recklessness	Level 5
160 (4)	Keeping premises open in contravention of an area closure order	Police or LA	Manager, premises licence holder, designated premises supervisor or premises user for temporary event	Lack of knowledge	Level 3
161 (6)	Permitting premises to be open in contravention of a premises closure order	Police or LA	Any person	Reasonable excuse	3 mths imprisonment and/or £20,00 fine

Section	Offence	Authority	Offenders	Defences/ Exceptions	Penalty
165 (7)	Permitting premises to be open in contravention of a Magistrates' closure order	Police or LA	Any person	Reasonable excuse	3 mths imprisonment and/or £20,00 fine
179 (4)	Obstructing entry by a PC or an AO to premises to check on the carrying out of licensable activity	Relevant responsible authority	Any person	Lack of intention	Level 3

Appendix 3 – Signatories to the Enforcement Guide

Signed on Behalf of:	Name	Position	Date
Breckland District Council			
Broadland District Council			
Great Yarmouth Borough Council			
Borough Council of King's Lynn and West Norfolk			
North Norfolk District Council			
Norwich City Council			
South Norfolk District Council			
Norfolk Police			
Norfolk Fire and Rescue Service			
Norfolk Trading Standards Service			