

Agenda

Licensing Act Committee

Date: **Tuesday 29 August 2023**

Time: **4.15 pm**

Place: **Council Chamber**

For any further information please contact:

Democratic Services

committees@gedling.gov.uk

0115 901 3844

Licensing Act Committee

Membership

Chair Councillor Alison Hunt

Vice-Chair Councillor Marje Paling

Councillor Boyd Elliott
Councillor Rachael Ellis
Councillor Des Gibbons
Councillor Julie Najuk
Councillor Sue Pickering
Councillor Alex Scroggie
Councillor Martin Smith
Councillor Clive Towsey-Hinton
Councillor Paul Wilkinson

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Responsibilities of committee:

- 1) Any function of a licensing authority under the Licensing Act 2003, other than the approval of the Statement of Licensing Policy.
- 2) Any function of a licensing authority under the Gambling Act 2005, other than the approval of the Licensing Authority Statement of Policy and determining policy not to permit casinos
- 3) Ensuring that the Council complies with its duty to comply with the requirement to provide information to Gambling Commission.
- 4) Functions relating to exchange of information under Section 30 of the Gambling Act 2005.
- 5) Functions relating to occasional use notices.
- 6) Resolving not to issue a casino premises licence under Section 166 of the 2005 Act.
- 7) Designating an officer of the council as an authorised person for a purpose relating to premises under Section 304 of the Gambling Act 2005.
- 8) Making an order to disapply section 279 or 282(1) of the Gambling Act 2005 in relation to specified premises.

- 9) The institution of criminal proceedings under Section 346 of the Gambling Act 2005.
- 10) Exchanging information under Section 350 of the Gambling Act 2005.
- 11) Functions relating to the determination of fees for premises licences under the Gambling (Premises Licence Fees) (England and Wales) Regulations
- 12) Functions relating to the registration and regulation of small society lotteries under Schedule 11 to the Gambling Act 2005.
- 13) In the exercise of a function specified above -
 - a) Power to impose any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted.
 - b) Power to determine any other terms to which any such approval, consent, licence, permission or registration is subject.
 - c) Power to determine whether, and in what manner, to enforce any failure to comply with an approval, consent, licence, permission or registration granted.
 - d) Power to determine whether, and in what manner, to enforce any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject.
 - e) Power to determine whether, and in what manner, to enforce any other contravention in relation to a matter with regard to which the function of determining an application for approval, consent, licence, permission or registration would not be the responsibility of an executive of the authority.
 - f) Power to amend, modify or vary such approval, consent, licence, permission or registration or any condition, limitation or term to which it is subject.
 - g) Power to revoke any such approval, consent, licence, permission or registration.
 - h) The function of determining whether a charge should be made for any approval, consent, licence, permit or registration and where a charge is made, the amount of that charge.
 - i) Responsibility for approving all strategies, protocols and procedural documents that fall within the remit of the Committee (excluding budget and policy framework items).
 - j) Power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of those functions.

AGENDA

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- 1 Apologies for absence**
- 2 To approve, as a correct record, the minutes of the meeting held on 18 January 2022** 5 - 6
- 3 Declaration of interest**
- 4 Gedling Statement of Licensing Policy** 7 - 59
Report of the Head of Environment
- 5 Any other item which the Chair considers urgent**

MINUTES LICENSING ACT COMMITTEE

Tuesday 18 January 2022

Councillor Marje Paling (Chair)

Councillor Nicki Brooks
Councillor Rachael Ellis
Councillor Des Gibbons
Councillor Julie Najuk

Councillor Alex Scroggie
Councillor Martin Smith
Councillor Clive Towsey-
Hinton
Councillor Paul Wilkinson

Absent: Councillor Pat Bosworth and Councillor Sam Smith

Officers in Attendance: L Chaplin, P Gibbs, B Hopewell, K Nealon and
R Pentlow

6 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS.

None.

7 TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETING HELD ON 5 OCTOBER 2021

RESOLVED:

That the minutes of the above meeting, having been circulated, be approved as a correct record.

8 DECLARATION OF INTEREST.

None.

9 PROPOSED GAMBLING ACT FEES 2022/23

Consideration was given to a report of the Head of Environment seeking approval for a proposed increase to gambling fees for 2022/23.

RESOLVED:

To approve the fees and charges detailed in Appendix 2 for 2022/23 to come into effect from 1 April 2022.

10 ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT.

None.

The meeting finished at 4.05 pm

Signed by Chair:
Date:



Report to the Licensing Act Committee

Subject: Gedling Statement of Licensing Policy

Date: 29 August 2023

Author: Head of Environment

Purpose

To inform Members of the requirements of Section 5(3) of the Licensing Act 2003 in relation to the review of the Gedling Statement of Licensing Policy and to seek approval to consult on proposed amendments to the existing policy.

Recommendation(s)

THAT:

- 1. Approve the proposed changes to the Gedling Statement of Licensing Policy which are attached at Appendix 1 to go out to consultation for a period of eight weeks in accordance with the Licensing Act 2003.**
- 2. Subject to there being no major amendments required to the draft policy, and following the Members approval, the draft Gedling Statement of Licensing Policy at Appendix 2 be referred to full Council for final approval before publication in January 2024.**

1 Background

- 1.1 The Licensing Act 2003 ('the Act') requires a licensing authority to prepare and publish at least every five years a statement of policy that they propose to apply when exercising their functions under the Act. The first Gedling Statement of Licensing Policy came into effect in January 2005 and the existing Policy for this Authority is due for review by the end of 2023 with a view to publishing a statement of policy in January 2024.

There are four licensing objectives under the Act. Prevention of crime

and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

- 1.2 Within Nottinghamshire all the eight local authorities, having responsibilities under the Act, have worked closely together through the Nottinghamshire Authorities Licensing Group (NALG) to produce a common basis for their statements of licensing policy to be developed from. NALG comprises officers with legal, environmental health and licensing backgrounds. In amending the existing licensing policy document regard has been had to the S182 guidance produced by the government under the Act and any relevant changes to the Act.

The production of a common document for licensing involving all the Nottinghamshire licensing authorities has received good comments from local and national businesses in the past as it creates a more practical, sensible, consistent and level playing field for operators. In Nottinghamshire each licensing authority has then taken the common document for customisation to reflect local issues prior to embarking on a period of consultation as required by the legislation.

- 1.3 The legal nature of the document reflects the future function of the policy as the basis for determining applications, including new premises licence applications and variation of existing premises licence applications, made under the Act which are subject to legal appeal to the Magistrates' Court.

- 1.4 Under the Act Licensing Authorities are required to carry out a consultation on their policy statements with:

- The Chief of police for the licensing authority's area.
- The Fire authority for that area.
- Persons considered by the Licensing Authority to be representative of holders of premises licences and club premises certificates issued for their area.
- Persons considered by the Licensing Authority to be representative of holders of personal licences issued by that authority.
- Other persons considered to be representative of businesses and residents in the area.

As part of the consultation process the draft policy will be published on the Council's website and letters or emails will be sent to the above individuals, groups and organisations stating where the draft policy can be accessed on the website. The consultation will be carried out for

eight weeks.

2 Proposal

- 2.1 Licensing authorities must have finalised their policy statement draft for consultation purposes; carried out eight to ten weeks of consultation as advocated by central Government best practice; have undertaken the necessary changes to the document arising from the consultation and informed Members of the final licensing policy statement for endorsement by full Council prior to coming into effect in January 2024.
- 2.2 At Appendix 1 is a list of the proposed changes to the licensing policy including the amendment of the paragraphs relating to public health and reviews, an addition of a link to the Portman Code of Practice under the section relating the Safeguarding of Children and Vulnerable Adults. In addition there are the inclusion of a paragraphs relating to: entitlement to work in the UK, the Home Office online right to work checking service, spiking, protection of women and girls, counter terrorism, closure notices, alcohol delivery services and pavement licences. At Appendix 2 is a copy of the proposed draft Gedling Statement of Licensing Policy.
- 2.3 It is recommended that members approve the proposed changes to the Authority's Statement of Licensing Policy to go out to consultation for a period of eight weeks as detailed in the report and in accordance with the Act. Provided that no major amendments are required to the draft policy following the consultation period it is also proposed that the policy be referred to full Council to be approved and come into effect on 7th January 2024. Officers will consult with the Chair of the Licensing Committee if any responses to the consultation are received.

3 Alternative Options

- 3.1 The Authority are required by the Act to review the Statement of Licensing Policy every 5 years, the Authority are also required to consult on any changes to the policy statement. An alternative option would be not to authorise the changes to go out to consultation, which would be contrary to the Act and best practice, or to suggest alternative amendments to the policy to go out to consultation. The proposed changes however, have been made following extensive work with NALG and are deemed appropriate.
- 3.2 Members could choose not to approve the policy to be referred to full Council following the consultation. However this will mean that the draft policy will need to be brought back to the Committee following the consultation which could delay its implementation which is required for 7 January 2024 when the current policy expires.

4. Financial Implications

4.1 There are no financial implications.

5 Legal Implications

5.1 As set out in the report the Council are required to review the licensing policy every 5 years under Section 5 of the Licensing Act 2003. Through collaborative working as part of NALG the Licensing Service have identified some required amendments to the policy. The Council are required by Section 5 to consult on these changes and cannot impose the changes until the consultation has been carried out and any responses considered.

6 Equalities Implications

6.1 There are no equalities implications arising from this report.

7 Carbon Reduction/Environmental Sustainability Implications

7.1 There are no carbon reduction/sustainability implications arising from this report.

8 Appendices

8.1 Appendix 1 – A table of the proposed changes to the licensing policy

8.2 Appendix 2 – The proposed draft Gedling Statement of Licensing Policy

9 Background Papers

9.1 None

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer

Page	Section/Paragraph	Proposed amendment
4-8	1. Introduction 1.9-1.17	<p>Amend the Public Health paragraphs as follows:</p> <p>The four statutory licensing objectives aim to reduce crime and disorder and increase public safety. Licensing policies are not currently required to address Public Health concerns; however, there is strong evidence that alcohol outlet density is associated with increased alcohol-related hospital admissions and alcohol-related mortality. Alcohol contributes to more than 60 diseases and health conditions and represents 10% of the burden of disease and death in the UK, placing it in the top three lifestyle risk factors after smoking and obesity.</p> <p>Whilst the exact relationship between alcohol and ill-health is often complex and affected by other factors such as the socio-economic make-up of the neighbourhood, studies have found that local authorities' greater use of licensing powers leads to reductions in alcohol-related hospital admissions in England (Institute of Alcohol Studies, 2017). In light of this, public health indicators both at District level from the Local Alcohol Profiles for England and at sub-district level have been reviewed.</p> <p>Public Health in Gedling</p> <p>Across Gedling, public health analysts have mapped a number of alcohol related measures that are considered to have a negative impact on health and well-being to show how alcohol-related harms vary across Nottinghamshire County Districts and Boroughs.</p> <p>Measures used were selected for their relevance to licensing and public health and their availability at sub-district level and include:</p> <ul style="list-style-type: none"> • alcohol-related hospital admissions • anti-social behaviour

		<ul style="list-style-type: none">• crimes against the person including domestic violence• rate of persons in treatment for substance use• an estimate of the percentage of the population drinking at least once a day and• deprivation. <p>These measures have been used to create a matrix which ranks small area within Gedling in relation to overall levels of harm associated with alcohol. The matrix can be used to support responsible Authorities to make representations where required based on the rank, and therefore the levels of overall harm, for the area in which a licensing application has been made.</p> <p>This data analysis has identified some areas with relatively higher levels of harm and for Gedling these are:</p> <ul style="list-style-type: none">• Parts of Calverton• Daybrook• Parts of Redhill, Ernehale, Coppice• Parts of Carlton Hill, Cavendish• Colwick. Netherfield <p>Applications within these areas or surrounding areas should be aware of, and consider, their contribution to the burden of alcohol-related harms to the health and wellbeing within the community. All applicants are encouraged to provide details of any mitigating measures they plan to put in place to reduce alcohol-related harms within their application. Further information can be found at: www.nottinghamshireinsight.org.uk/d/205455</p> <p>The Director of Public Health is responsible for making representations and observations on applications on behalf of health bodies. Public health is not a licensing objective, but Public Health is a responsible authority under the Licensing Act, and the licensing authority believes that Public Health has much to add to licensing in relation to the local populations' alcohol related health</p>
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		<p>needs. Health bodies such as Public Health have unique access to data which has been used to create a matrix to highlight areas within districts and boroughs with relatively higher levels of alcohol-related harm. This matrix can be used by other responsible authorities to inform licensing decisions. Public Health is useful in providing evidence of alcohol related health harms particularly in relation to cumulative impact policies.</p>
14-33	<p>6. Applications, Notifications and their Considerations 6.8 – 6.9</p>	<p>To add the following paragraphs:</p> <p>Entitlement to work in the UK</p> <p>All individual applicants applying for a “Premises Licence”, or a “Personal Licence” with this Licensing Authority must submit further documentation to demonstrate their entitlement to live and work in the United Kingdom (UK).</p> <p>A licence may not be issued to an individual or an individual in a partnership which is not a limited liability partnership who is resident in the UK who:</p> <ul style="list-style-type: none"> • does not have the right to live and work in the UK • is subject to a condition preventing them from doing work relating to the carrying on of a licensable activity <p>Any licence issued in respect of an application made on or after 6th April 2017, will become invalid if the holder ceases to be entitled to work in the UK.</p> <p>Applicants must demonstrate that they have the right to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.</p>

	6.10	<p>They do this in one of two ways:</p> <ol style="list-style-type: none"> 1. by providing, with this application, copies or scanned copies of the documents* which an applicant has provided, to demonstrate their entitlement to work in the UK (which do not need to be certified) as per information published on gov.uk and in guidance 2. by providing their nine (9) digit 'share code' to enable the Licensing Authority to carry out a check using the Home Office online right to work checking service (see below) <p>*Applicants are required to submit one (1) of the documents listed at Annex A of the Home Office's Employer right to work checks supporting guidance published on: Right to work checks: an employer's guide (GOV.UK) to show they have permission to be in the UK and are permitted to undertake work in a licensable activity.</p> <p>Home Office online right to work checking service</p> <p>To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in their application a nine (9) digit share code (provided to them upon accessing the service at Prove your right to work to an employer: get a share code (GOV.UK)) which, along with the applicant's date of birth, will allow the Licensing Authority to carry out the check.</p>
14-33 cont'd	6.14 Policy 2 6.21	<p>Include the following paragraphs:</p> <p>Spiking</p> <p>Licensees should also consider what action will be taken to prevent the spiking of drinks at the premises, ie. where drugs or alcohol are added to someone's</p>

	6.22	<p>drink without them knowing. Alcohol is the common substance used to spike drinks. Safety measures could include encouraging customers to ensure their drinks are not left unattended, and the use of publicity material to ensure customers remain vigilant.</p> <ul style="list-style-type: none"> • The use of toilet attendants or regular documented toilet checks and searches of the premises • Training of staff in drug awareness to identify and prevent the supply and use of illegal drugs and new psychoactive substances • Physical measures to deter drug use on the premises. • Make customers aware of the risk of drink-spiking. • Train staff in drug awareness issues and ensure sufficient staffing and managerial support to make identification and handling of incidents practicable. • Ask for Angela' - this initiative advises customers through posters in venue toilets that, if they 'ask for Angela' at the bar, staff will be alerted to the fact that the person feels unsafe or threatened. Staff will know that the individual needs support to leave their situation, and can call them a taxi, escort them to their car or call the police, for example. <p>Protection of women and girls</p> <p>Employers have a duty of care for employees and should adopt a risk based assessment approach to ensuring the safety of all staff working late or unsocial hours to facilitate a safe and affordable journey home</p> <p>Public Safety is of paramount importance for the licensing authority and a safe night is a priority. The authority supports a number of initiatives to improve safety in the night time economy.</p> <p>Vulnerability training for staff working in the night time economy Ask for Angela https://askforangela.co.uk/ Street Pastors https://www.streetpastors.org/</p>
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	6.28	<p>Best Bar None https://bestbarnone.com/ Pubwatch https://www.nationalpubwatch.org.uk/ Nights of action</p> <p>Violence against women and girls' covers a range of unacceptable and deeply distressing crimes, including rape and other sexual offences, stalking, domestic abuse, 'honour'-based abuse (including female genital mutilation, forced marriage and 'honour' killings), 'revenge porn' and 'upskirting', as well as many others. These crimes disproportionately affect women and girls.</p> <p>The licensing authority supports the Nottinghamshire Police and Crime Commissioners Violence Against Women and Girls Strategy https://www.nottinghamshire.pcc.police.uk/Public-Information/Publications-and-Leaflets.aspx and positively promotes and supports initiatives driven by this agenda.</p> <p>Counter terrorism</p> <p>The licensing authority expects that:</p> <ul style="list-style-type: none"> • The venue has robust procedures and relevant training in place and staff are knowledgeable of those procedures to be taken and the necessity of following them in the event of a terrorist incident, such as firearms or weapons attack, including: <ul style="list-style-type: none"> • Evacuation/Invacuation/Lockdown • RUN/HIDE/TELL principles • How customers will be safeguarded. • Steps are taken to ensure all people employed at the premises whose job includes being alert to the terrorist threat are aware of:
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	6.30-6.32	<ul style="list-style-type: none"> • the current terrorist threat level • what that level means in relation to the possibility of an attack. • Have undertaken the Action Counters Terrorism (ACT) e.learning course within the last 12 months. See note below. <ul style="list-style-type: none"> • Risk assessments for public entertainment venues include consideration of the risk of a terrorist attack and the different types of attack. • Staff must be clear about what to do if the public report suspicious activity or unusual behaviour to them. • All suspicious behaviour by customers or members of the public close to the venue must be noted and be reported promptly to the police so that investigations can be made, and action taken, if appropriate. • Measures to alert staff and visitors of any immediate threat or incident. <p>Action Counters Terrorism (ACT) training:</p> <p>Further details, updates and to register for the ACT e-learning training course please visit: https://www.protectuk.police.uk/</p> <p>Closure Notices</p> <p>Section 19 of the Criminal Justice and Police Act 2001 (the Act) gives licensing authorities, police and local authorities the power to serve a closure notice where any premises are being used (or have been used within the last 24 hours), for the sale of alcohol for consumption on or in the vicinity of the premises; and the activity was not authorised (premises licence, club premises certificate or temporary event notice) or not in accordance with the conditions of authorisation.</p> <p>The notice informs the person with control of, or responsibility for, the activities</p>
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		<p>carried on at the premises (normally the licence holder or the designated premises supervisor) that if unauthorised alcohol sales continue, an application may be made to a court under section 20 for an order to close the premises under section 21 of the Act. Such an application cannot be made less than seven days or more than six months after the service of the closure notice under section 19.</p> <p>Further power to close premises are contained in Anti-Social Behaviour Crime and Policing Act 2014. Closure Notices can be issued if the use of the premises has, or is likely to result in, nuisance and disorder. Under a Closure Notice a premises can be closed for up to 48 hours. A subsequent application can then be made to Magistrates Court for a Closure Order if there is evidence that there is serious nuisance to members of the public or there is disorderly, offensive or criminal behaviour on, or likely to be on, the premises. A Closure Order can be made for up to 3 months and a subsequent application can extend for up to a further 3 months.</p>
14-33 cont'd	<p>6.14 Policy 2 /cont'd</p> <p>6.43 – 6.44</p>	<p>To amend the section 'Reviews' to state:</p> <p>Reviews & Expedited Reviews</p> <p>At any stage following the grant of a premises licence or club premises certificate a Responsible Authority or any person may ask for a review.</p> <p>Evidence will however be required to show that a specific concern exists relating to one or more of the licensing objectives.</p> <p>Where a review Hearing is held the Licensing Authority has a variety of options that it may take ranging from taking no action at all, to varying conditions or suspending or revoking the licence. The Guidance reminds the Authority that the powers of review are to be used in the interests of the wider community and</p>

	6.48	<p>not that of the individual licence/certificate holder. Whilst the financial circumstances of the licence/certificate holder will be a consideration for the Licensing Authority the promotion of the licensing objectives will be the Authority's primary concern. In some circumstances e.g. the use of premises for the purchase and consumption of alcohol by minors, revocation may be considered an appropriate course of action even in the first instance.</p> <p>Alcohol Delivery Services</p> <p>An applicant seeking a licence that will enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures that they intend to operate to ensure that:</p> <ul style="list-style-type: none">• That the person they are selling alcohol to is over the age of 18• That alcohol is only delivered to a person over the age of 18• There is a clear document trail of the order process from order, despatch from the licensed premises and delivery to the customer is maintained (with times and signatures) and available for inspection by an authorised officer.• A refusals log will be maintained for deliveries and available for inspection on request• The time that alcohol is sold on the website/over the phone and the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol• Alcohol shall only be delivered to a residential or business address and may not be delivered to a public place• Any delivery driver or third party courier will be required to have appropriate age verification training, and in particular they will be required to have undergone training in refusal of supply where age verification is not provided, or the recipient is clearly intoxicated• Operators to have systems in place to ensure alcohol is not delivered to problematic house parties or to people who appear drunk and, in such instances, alcohol should be refused and that refusal recorded.
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	<p>6.49-6.50</p>	<p>Pavement Licences</p> <p>A pavement licence is a licence granted by the local authority which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes. It is important to note the grant of a pavement licence only permits the placing of furniture on the highway.</p> <p>A pavement licence does not negate the need to obtain approvals under other regulatory frameworks, such as the need for a licence to sell alcohol, and the need to comply with registration requirements for food businesses.</p> <p>It is important that any pavement licence granted promotes the four licensing objectives.</p> <p>For further information on pavement licences please use the link below: https://www.gedling.gov.uk/business/licences/pavementcafelicenceduringcovid-19/</p>
<p>34-36</p>	<p>7. Safeguarding Children & Vulnerable Persons</p> <p>7.10</p>	<p>To Include the following under the section:</p> <p>It is recommended that all alcohol licensed premises follow the Portman Group Code of Practice, in particular that relating to particular appeal to under-18s. www.portmangroup.org.uk</p>

STATEMENT OF LICENSING POLICY

Effective from 7th January 2024 until 6th January
2029

DRAFT

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DRAFT

1 INTRODUCTION

- 1.1 Gedling Borough Council is a Licensing Authority for the purpose of the Licensing Act 2003. Section 5 of the Act requires all licensing authorities to prepare and publish a Statement of Policy that they propose to apply in exercising their functions under the Act during the five-year period to which the policy applies. The Statement of Policy will last for a maximum of five years, but can be reviewed and revised by the authority at any time.
- 1.2 The Borough of Gedling covers 11998 hectares to the north and east of the City of Nottingham, which is the regional centre for the night-time economy. The Borough includes the commutable suburbs to the City Centre of Arnold, Mapperley, Carlton, Gedling and Netherfield, together with ten rural villages, the largest of which are Ravenshead in the north, Burton Joyce to the east, and the former colliery village of Calverton. The Borough of Gedling also shares boundaries with three other local authorities namely Rushcliffe Borough Council, Newark and Sherwood District Council and Ashfield District Council. Around 117,000 people live in the Borough in total.
- 1.3 Gedling Borough Council welcomes the diversity of leisure and entertainment opportunities available locally and recognises that the licensed leisure and entertainment industry brings cultural and financial benefits to the area and the additional businesses operating in both the daytime and nighttime economy support that industry which contributes to local retail and tourism. However, the Authority also recognises the problems that can be caused if licensed activities are not properly managed and premises well run. Gedling Borough Council believes that good management of the entertainment, alcohol and late night refreshment industries (and of the street environment within which it operates) is essential to the continued success of the Borough and to attracting the wide range of people who want to come here to work, to visit and to live. Gedling Borough Council will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music in the area. Arrangements are in place for the Licensing Act Committee to receive reports on the needs of the local tourist economy, the local employment situation, and the need for new

investment and employment where appropriate.

1.4 This Policy Statement seeks to establish sensible controls and appropriate guidance to encourage and further the efforts that are being made by the Council and its partners together with the licensed trade to help the Authority deal with issues that arise from licensable activities.

This will be achieved by:-

- Establishing and building upon best practice within the industry;
- Recognising and facilitating the role of partners and stakeholders;
- Encouraging self-regulation by licensees and managers;
- Providing a clear basis for the determination of licence applications; and
- Supporting related policies and strategies of the District Council.
- An inspection and enforcement regime targeted at premises that present a high risk.

1.5 The Authority is committed to working with its licensing partners and stakeholders in delivering the licensing function. This Policy Statement therefore seeks to provide information on the general approach that the Authority will take in carrying out its licensing functions.

1.6 In preparing and publishing this Policy Statement due regard has been given to the guidance issued by the Secretary of State under section 182 of the Act, and to good practice advice issued by approved government advisory bodies. In particular the Authority has consulted those persons and bodies as required by the guidance and given proper weight to their views. Partnership working between licensing authorities in Nottinghamshire has enhanced the production of this Policy Statement and will help ensure consistency in terms of both policy and enforcement where licensing boundaries meet.

1.7 This Policy Statement should not be regarded or interpreted as indicating that any requirement of law may be overridden; each application will be considered and treated on its own merits. No restrictive controls will be introduced or

imposed unless they are felt to be necessary and appropriate.

- 1.8 There are certain matters which the Authority is prevented from taking into account or from dealing with in a specified way. For example the Authority is not entitled to take the issue of the “need” for further licensed premises into account when determining licence applications. On the other hand the cumulative impact of licensed premises on the promotion of the Licensing Objectives is a matter that can be properly considered by the Authority if required.
- 1.9 The four statutory licensing objectives aim to reduce crime and disorder and increase public safety. Licensing policies are not currently required to address Public Health concerns; however, there is strong evidence that alcohol outlet density is associated with increased alcohol-related hospital admissions and alcohol-related mortality. Alcohol contributes to more than 60 diseases and health conditions and represents 10% of the burden of disease and death in the UK, placing it in the top three lifestyle risk factors after smoking and obesity.

Public Health

- 1.10 Whilst the exact relationship between alcohol and ill-health is often complex and affected by other factors such as the socio-economic make-up of the neighbourhood, studies have found that local authorities’ greater use of licensing powers leads to reductions in alcohol-related hospital admissions in England (Institute of Alcohol Studies, 2017). In light of this, public health indicators both at District level from the Local Alcohol Profiles for England and at sub-district level have been reviewed.

Public Health in Gedling

- 1.12 Across Gedling, public health analysts have mapped a number of alcohol related measures that are considered to have a negative impact on health and well-being to show how alcohol-related harms vary across Nottinghamshire County Districts and Boroughs.
- 1.13 Measures used were selected for their relevance to licensing and public health

and their availability at sub-district level and include:

- alcohol-related hospital admissions
- anti-social behaviour
- crimes against the person including domestic violence
- rate of persons in treatment for substance use
- an estimate of the percentage of the population drinking at least once a day
- deprivation.

1.14 These measures have been used to create a matrix which ranks small area within Gedling in relation to overall levels of harm associated with alcohol. The matrix can be used to support responsible Authorities to make representations where required based on the rank, and therefore the levels of overall harm, for the area in which a licensing application has been made.

1.15 This data analysis has identified some areas with relatively higher levels of harm and for Gedling these are:

- Parts of Calverton
- Daybrook
- Parts of Redhill, Ernehale, Coppice
- Parts of Carlton Hill, Cavendish
- Colwick. Netherfield

1.16 Applications within these areas or surrounding areas should be aware of, and consider, their contribution to the burden of alcohol-related harms to the health and wellbeing within the community. All applicants are encouraged to provide details of any mitigating measures they plan to put in place to reduce alcohol-related harms within their application. Further information can be found at: www.nottinghamshireinsight.org.uk/d/205455

1.17 The Director of Public Health is responsible for making representations and observations on applications on behalf of health bodies. Public health is not a licensing objective, but Public Health is a responsible authority under the Licensing Act, and the licensing authority believes that Public Health has much to add to licensing in relation to the local populations' alcohol related health

needs. Health bodies such as Public Health have unique access to data which has been used to create a matrix to highlight areas within districts and boroughs with relatively higher levels of alcohol-related harm. This matrix can be used by other responsible authorities to inform licensing decisions. Public Health is useful in providing evidence of alcohol related health harms particularly in relation to cumulative impact policies.

DRAFT

2. LICENSING OBJECTIVES AND LICENSABLE ACTIVITIES

2.1 In exercising their functions under the Licensing Act 2003, licensing authorities must have regard to the licensing objectives as set out in section 4 of the Act. The licensing objectives are:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

2.2 Guidance on the Licensing Objectives is available on the Government's website at: <http://www.homeoffice.gov.uk/drugs/alcohol/>

2.3 Licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual club, or business holding the licence, certificate or permission concerned. Licensing is about the management of licensed premises and activities within the terms of the Act

The Act only covers certain "licensable activities" namely:-

- (a) the sale by retail of alcohol
- (b) the supply of alcohol by or on behalf of a club to a member
- (c) the provision of "regulated entertainment" and
- (d) the provision of late night refreshment

The definition of what constitutes "regulated entertainment" is complex and has been (and remains) the subject of Government deregulation. Whilst "regulated entertainment" potentially covers live or recorded music, dancing, plays, films, and certain types of sporting activity the Act itself provides various exemptions and restrictions on the types of activities which are subject to Licensing. Other legislation such as the Live Music Act 2012 has removed the ability of the Licensing Authority to regulate live music at certain times and in certain circumstances., Deregulation of certain other forms of regulated entertainment

has also taken place, primarily between 8am and 11pm and where that entertainment takes place before an audience of a prescribed size. It cannot be assumed therefore that a licence is required for all forms of entertainment or, even if a licence is required, that the Licensing Authority will necessarily have the power to impose restrictions or conditions on such entertainment.

- 2.4 Where an activity is licensable the promotion of the Licensing Objectives is the paramount consideration for the Authority. In the absence of valid representations from responsible authorities, other persons or businesses, all applications must be granted subject only to any prescribed mandatory conditions and such other conditions which are consistent with the operating schedule provided by the applicant. Where valid representations are received and maintained the application will normally be determined at a hearing before the Licensing Committee or one of its Panels. The Committee or Panel will then assess whether the application would result in the licensing objectives being undermined to such an extent that the application should be refused or, whether it would be possible to grant the licence subject to such conditions as are felt appropriate by the Authority. Conditions will be tailored to the size, style, characteristics and activities taking place at the premises concerned. Conditions will be focused on matters that are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not incidents can be regarded as being “in the vicinity” of licensed premises or places, is ultimately a matter of fact to be decided by the courts in cases of dispute. In addressing such matters consideration will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The imposition of standardised conditions is prohibited as being disproportionate and burdensome. It should be noted, however, that the Authority is permitted to establish pools of conditions from which appropriate and proportionate conditions may be drawn. Further details regarding such conditions can be obtained from the Licensing Team.

3. HOW THIS STATEMENT OF POLICY WORKS

3.1 The purpose of the Statement of Policy is to:

- provide a clear basis for determining licence applications;
- provide a clear framework for licensing strategies,
- support wider strategies and policies of the Council.

3.2 The text of this Statement of Policy **in bold type** indicates the **Policies** with *the reason* for each policy shown immediately after *in bold italics*.

3.3 This Policy sets out the Authority's expectations in relation to certain matters. Whilst applicants are not obliged to meet these expectations in their Operating Schedules they may find that responsible authorities, other persons and businesses are more likely to raise representations if they do not. This can lead to a delay with the application having to be considered by a Committee/Panel which may then either refuse the application or impose conditions if the application is not found to sufficiently promote the licensing objectives and meet this Policy. On appeal the Court is also obliged to have regard to the terms and requirements of this Policy and can only depart from it if it has good reason.

3.4 In this Statement of Policy any reference made to the imposition of conditions refers to conditions imposed in accordance with the requirements of the Act outlined in paragraph 2.5 above.

4. STRATEGIC LINKS AND OTHER REGULATORY REGIMES

- 4.1 There is a range of strategic influences and statutory controls which affect the licensing system in terms of policy formulation, administration and enforcement activities. Examples of these strategies can be found in the Section 182 guidance. The Authority will seek to have an active involvement in the development and review of these by ensuring an appropriate exchange of dialogue between the Licensing Authority and other relevant regimes. Such involvement may result in the imposition of conditions and formulation of policies supporting the relevant strategies where appropriate.
- 4.2 The granting of a licence, certificate or provisional statement will not override any requirement of the planning system or vice-versa. The licensing system will provide for the detailed control of operational matters, which are unlikely to be addressed through planning processes. However there will be overlapping issues of interest e.g. disturbance, which will remain material considerations for planning purposes as well as being relevant in terms of the licensing objectives. Applicants should also ensure that they have due regard to any planning restrictions on the use of premises when applying for licence/certification to avoid any possible enforcement action.

5. DELIVERING LICENSING SERVICES

- 5.1 The Authority will make available guidance and such resources as required by law to enable engagement with the licensing process. Such guidance and resources may be accessed through the Gedling Borough Council web site, (www.gedling.gov.uk), or by contacting the Authority direct.
- 5.2 The Licensing Authority will maintain an impartial role in service delivery and cannot act in favour of one party over another. The Licensing Authority may, in certain circumstances, act as a Responsible Authority. However this will only be done in exceptional circumstances and the Licensing Authority will not normally take over the role of other Responsible Authorities or parties.
- 5.3 Details of Responsible Authorities can be found on the Council's website www.gedling.gov.uk

6. APPLICATIONS, NOTIFICATIONS AND THEIR CONSIDERATION

- 6.1 The procedure and documentation required for the various applications and notices is prescribed by the Act and Regulations. Further advice on these processes is available on the Council's web site. This section of the policy gives basic guidance on how those applications and notifications will be considered. Failure to comply with the statutory requirements may result in the application or notice being invalid.

The process of applying for new premises licences and full variations of current premises licences are dealt with in same way and involve serving the application on all responsible authorities and advertising the application in the prescribed way. Applications that are made electronically will be distributed the Responsible Authorities by the Licensing Authority. In order to be a complete electronic application all relevant documents must be uploaded and the correct fee paid at the time the application is submitted. If objections are received the matter will be heard by the Licensing Committee of the Council. The fee for such applications depends on the size of the premises. The process of a minor variation to current premises licences are dealt with differently. Minor variations can be applied for to vary times of activities but not to increase the hours when alcohol can be sold. The process can also be used when making minor structural alterations to the premises and to add or remove conditions from the licence. These minor variations should not have a material effect on the way in which the premises are operated and there is one set fee. The granting of a minor variation is determined at officer level after consultation with those responsible authorities affected. If the application is refused the applicant can resort to the full variation process.

Representations

- 6.2 Guidance on making a representation is available from the Home Office and a preferred form is available on the Council's Liquor Licensing Policy web page for individuals or groups to make their representations.

- 6.3 For a representation to be relevant it should be positively tied or linked by a causal connection to particular premises. Representations received outside the statutory period for making such representations will be invalid and will not be taken into consideration when the application is determined. The Licensing Authority also has the power to reject a representation made by someone other than a Responsible Authority if it finds it to be vexatious or frivolous. An example could be where a representation was made solely on the basis that the application would provide competition to an existing trader or where no link was made to any of the licensing objectives.
- 6.4 Where a representation proceeds to a hearing the Hearings Regulations allow for further information to be put forward in support of that representation. However, that material must only relate to the initial representation and must not add new grounds of objection. It is therefore vitally important that as much detail and evidence as possible is included at the time the representation is made. Representations made without supporting detail and evidence may be viewed as frivolous or vexatious and disregarded.
- 6.5 Where representations are received the characteristics of an area and the impact that the premises may have upon that area will be a fundamental consideration in determining whether a licence should be granted and if so what conditions should be attached to it. Conditions will be focused on matters that are within the control of individual licensees and others in possession of relevant authorisations. These matters will centre on the premises being used for licensable activities and the vicinity of those premises. What amounts to the “vicinity” will be a question of fact to be determined in the light of the individual circumstances of the case. Consideration will primarily be given to the direct impact of the licensed activity on those who live, work or are engaged in business or other activities in the area concerned.

Panel/Committee Hearings

- 6.6 The Act creates a presumption that applications will be granted unless a valid representation is raised. An application will then be determined by the Licensing

Committee/Panel unless the issue that led to the representation can be negotiated to an agreed conclusion between the parties.

- 6.7 The Authority considers the effective and responsible management of the premises, the instruction, training and supervision of staff and the adoption of best practice in the leisure industry to be amongst the most important control measures for the achievement of all of the Licensing Objectives.

Entitlement to work in the UK

- 6.8 All individual applicants applying for a “Premises Licence”, or a “Personal Licence” with this Licensing Authority must submit further documentation to demonstrate their entitlement to live and work in the United Kingdom (UK). A licence may not be issued to an individual or an individual in a partnership which is not a limited liability partnership who is resident in the UK who:

- does not have the right to live and work in the UK
- is subject to a condition preventing them from doing work relating to the carrying on of a licensable activity

Any licence issued in respect of an application made on or after 6th April 2017, will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have the right to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

- 6.9 They do this in one of two ways:

1. by providing, with this application, copies or scanned copies of the documents* which an applicant has provided, to demonstrate their entitlement to work in the UK (which do not need to be certified) as per information published on gov.uk and in guidance
2. by providing their nine (9) digit 'share code' to enable the Licensing Authority to carry out a check using the Home Office online right to work checking service

(see below)

*Applicants are required to submit one (1) of the documents listed at Annex A of the Home Office's Employer right to work checks supporting guidance published on: Right to work checks: an employer's guide (GOV.UK) to show they have permission to be in the UK and are permitted to undertake work in a licensable activity.

Home Office online right to work checking service

6.10 To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in their application a nine (9) digit share code (provided to them upon accessing the service at Prove your right to work to an employer: get a share code (GOV.UK)) which, along with the applicant's date of birth, will allow the Licensing Authority to carry out the check.

6.11 Policy 1

The Authority expects to see evidence of the effective and responsible management of the licensed premises, such as examples of instruction, training and supervision of staff and the adoption of best practice used in the leisure industry, being specifically addressed within the Operating Schedule.

REASON: To ensure the promotion of the licensing objectives.

6.12 Licensing law is not the primary mechanism for the general control of the anti-social behaviour of patrons once they have left the vicinity of the licensed premises rather it is part of a holistic approach to the management of the District.

6.13 Where appropriate the Authority will seek to identify mechanisms that are available for addressing the potential impact of anti-social behaviour arising both in respect of the management and operation of licensed premises themselves and that arising once patrons leave the licensed premises. Regard will be had to

the Section 182 Guidance in this respect. The following may be employed to address such behaviour and the potential for cumulative impact:

- planning controls;
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- the confiscation of alcohol from adults and children in designated areas;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
- police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance;
- the power of the police, other responsible authorities or other persons to seek a review of a licence or certificate; and
- Early Morning Alcohol Restriction Orders (EMROs).
- Any other local initiatives that similarly address these problems.

6.14 Policy 2

When preparing or considering applications, applicants, responsible authorities, other persons, businesses and the Licensing Authority shall, where appropriate, take into account the following matters in assessing both the potential for the Licensing Objectives to be undermined and the appropriateness of any conditions which may be offered or imposed on any resulting licence, certificate or permission:

- (i) The nature of the area within which the premises are situated.
- (ii) The precise nature, type and frequency of the proposed activities.
- (iii) Any measures proposed by the applicant in the Operating Schedule.
- (iv) The nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises.
- (v) Means of access to and exit from the premises.
- (vi) Other means and resources available to mitigate any impact.
- (vii) Such other matters as may be relevant to the application.

REASON: To ensure that all relevant matters are taken into consideration during the application process.

- 6.15 Levels of noise from licensed premises, which may be acceptable at certain times of day, may not be acceptable later in the evening or at night when ambient noise levels are much lower. The main impact of customers arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible. The impact of noise arising from patrons that are temporarily outside the premises (e.g. smoking), must be recognised and mitigated against.
- 6.16 Applicants should carefully consider the hours that they will wish to operate for each licensable activity and when to close their premises for the entry of customers and to require them to leave. They should consider each licensable activity separately and carefully, and reflect this in their operating schedule. Shops, stores and supermarkets will normally be permitted to sell alcohol and or late night refreshment anytime when they are open for shopping unless there are good reasons related to the promotion of the licensing objectives for restricting these hours.
- 6.17 Applicants should consider the benefits of stopping serving alcohol before other licensable activities stop and a suitable time before the premises close and customers must leave. In noise sensitive areas operators should consider ceasing the playing of dance music and switching to quieter, slower tempo music with a less pronounced beat for a period prior to the closure of the premises.

- 6.18 Applicants should also consider making arrangements with local transport operators to provide information to customers to ensure they can access public transport and leave the vicinity of the premises quickly by the most appropriate route.
- 6.19 The Authority is mindful of the responsibilities that licence holders have for preventing anti-social behaviour on and within the vicinity of their premises. The Authority must, however, also bear in mind its statutory duty under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder in the District. Where appropriate conditions will be imposed which reflect local Crime Prevention strategies.
- 6.20 Applicants are expected to have carried out the relevant assessments under other legislation (e.g. fire precautions, health and safety at work, etc) prior to submitting their applications. These assessments should be used to identify particular issues which may need to be addressed in the operating schedule in order to ensure that the objectives will not be undermined. Suggested methods of addressing Policy 2 may be outlined in more detail in any guidance issued by the Responsible Authorities but could include the matters listed below where appropriate.

Spiking

- 6.21 Licensees should also consider what action will be taken to prevent the spiking of drinks at the premises, ie. where drugs or alcohol are added to someone's drink without them knowing. Alcohol is the common substance used to spike drinks. Safety measures could include encouraging customers to ensure their drinks are not left unattended, and the use of publicity material to ensure customers remain vigilant.
- The use of toilet attendants or regular documented toilet checks and searches of the premises
 - Training of staff in drug awareness to identify and prevent the supply and use of illegal drugs and new psychoactive substances

- Physical measures to deter drug use on the premises.
- Make customers aware of the risk of drink-spiking.
- Train staff in drug awareness issues and ensure sufficient staffing and managerial support to make identification and handling of incidents practicable.
- Ask for Angela' - this initiative advises customers through posters in venue toilets that, if they 'ask for Angela' at the bar, staff will be alerted to the fact that the person feels unsafe or threatened. Staff will know that the individual needs support to leave their situation, and can call them a taxi, escort them to their car or call the police, for example.

Protection of women and girls

6.22 Employers have a duty of care for employees and should adopt a risk based assessment approach to ensuring the safety of all staff working late or unsocial hours to facilitate a safe and affordable journey home

Public Safety is of paramount importance for the licensing authority and a safe night is a priority. The authority supports a number of initiatives to improve safety in the night time economy.

Vulnerability training for staff working in the night time economy

Ask for Angela <https://askforangela.co.uk/>

Street Pastors <https://www.streetpastors.org/>

Best Bar None <https://bestbarnone.com/>

Pubwatch <https://www.nationalpubwatch.org.uk/>

Nights of action

Violence against women and girls' covers a range of unacceptable and deeply distressing crimes, including rape and other sexual offences, stalking, domestic abuse, 'honour'-based abuse (including female genital mutilation, forced marriage and 'honour' killings), 'revenge porn' and 'upskirting', as well as many others. These crimes disproportionately affect women and girls.

The licensing authority supports the Nottinghamshire Police and Crime Commissioners Violence Against Women and Girls Strategy <https://www.nottinghamshire.pcc.police.uk/Public-Information/Publications-and-Leaflets.aspx> and positively promotes and supports initiatives driven by this

agenda.

6.23 Examples of recommended management practice for the Prevention of Crime and Disorder:

- Use of CCTV both within and outside the premises.
- Metal detection and search facilities.
- Procedures for risk assessing promotions and events such as “happy hours” and plans for minimising such risk.
- Measures to prevent the use or supply of illegal drugs.
- Employment of licensed door supervisors and other appropriately trained staff.
- Participation in an appropriate Pub Watch Scheme or other such scheme aimed at achieving a safe, secure and social drinking environment e.g. bar tariffs (for all bar price lists to carry a guide of how many units of alcohol each individual drink contains) and recommendations that all licensees, managers or supervisors attend regular Pub Watch meetings or send a representative if they cannot attend.
- The licensee providing a taxi call point, waiting and concierge service for taxi marshalling at the licensed premises.
- Use of measures aimed at ensuring patrons are more relaxed and quieter when leaving the licensed premises e.g. playing quieter music and promoting non-alcoholic drinks towards the end of the event, ensuring good lighting outside the premises, staggering the closing time with regard to nearby licensed premises, etc.

6.24 Examples of recommended management practice to ensure Public Safety:

- The preparation and application of appropriate risk assessments.
- The setting and monitoring of occupancy levels for the premises.
- Reasonable facilities, access and egress for people with disabilities.
- Having glassware policies.

6.25 Examples of recommended management practice for the Protection of

Children from harm and the protection of vulnerable adults:

- Exclusion from the premises in certain circumstances.
- Implementation of a robust proof of age scheme.
- the display of prominent warning notices about the supply of alcohol to minors;
- knowledge of the offences which adults can commit by buying alcohol for minors;
- requirements for production of satisfactory proof of age;
- commitment to the promotion of age verification schemes (i.e. Challenge 21 / Challenge 25);
- Whether any high strength beers, lagers, ciders etc will be made available for sale;
- Training staff in their responsibility not to serve to a person when drunk;
- Encouraging staff to attend vulnerability training;
- Providing facilities to support vulnerable adults when assistance is required (access to phone and/or charge, cold water, safe room away from others).

6.26 Examples of recommended management practice for the Prevention of Public Nuisance:

- Keeping doors and windows of licensed premises closed to minimise noise break out.
- Sound limiting devices, or insulation to contain sound and vibration so as to address noise break out not only from music but also, for example, from air handling equipment, generators or patrons.
- With popular premises that attract queues ensuring that the direction of any queue is away from residential accommodation.
- Proper and adequate door supervision.
- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors and repeating such requests verbally.

- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down.
- Arrangements with licensed taxis or private hire vehicles to take patrons from the premises.
- In appropriate cases door supervisors or a manager patrolling nearby streets to assess for themselves whether there is a problem and how best to deal with it.
- Banning people who regularly leave in a noisy fashion and liaising with other premises on such bans.
- Where the premises have a membership scheme, including provisions in the conditions of membership concerning conduct and noise when leaving the premises.
- Adequate provisions for dealing with litter/refuse arising from the operation of premises.
- Appropriate times for and methods of dealing with bottle delivery, disposal and collection.
- The licensee providing a help line or contact number for concerned residents.

6.27 In some cases it may be helpful for applicants and/or their advisors to discuss their draft Operating Schedule with representatives of Responsible Authorities, before it is formally submitted. This will help ensure it properly addresses all relevant issues that might give rise to concern.

Any condition attached to a licence or certificate should be:

- clear
- enforceable
- evidenced
- proportionate
- relevant
- be expressed in plain language capable of being understood by those expected to comply with them.

As a general rule, the Licensing Authority will seek to avoid attaching conditions that duplicate existing legal requirements and obligations imposed by other

regimes unless such obligations and requirements fail to adequately address the specific circumstances of the case.

Counter terrorism

6.28 The licensing authority expects that:

- The venue has robust procedures and relevant training in place and staff are knowledgeable of those procedures to be taken and the necessity of following them in the event of a terrorist incident, such as firearms or weapons attack, including:
 - Evacuation/Invacuation/Lockdown
 - RUN/HIDE/TELL principles
 - How customers will be safeguarded.
- Steps are taken to ensure all people employed at the premises whose job includes being alert to the terrorist threat are aware of:
 - the current terrorist threat level
 - what that level means in relation to the possibility of an attack.
 - Have undertaken the Action Counters Terrorism (ACT) e.learning course within the last 12 months. See note below.
- Risk assessments for public entertainment venues include consideration of the risk of a terrorist attack and the different types of attack.
- Staff must be clear about what to do if the public report suspicious activity or unusual behaviour to them.
- All suspicious behaviour by customers or members of the public close to the venue must be noted and be reported promptly to the police so that investigations can be made, and action taken, if appropriate.

- Measures to alert staff and visitors of any immediate threat or incident.

Action Counters Terrorism (ACT) training

Further details, updates and to register for the ACT e-learning training course please visit: <https://www.protectuk.police.uk/>

Cumulative Impact Assessment

- 6.29 Gedling Borough Council does not have a Cumulative Impact Assessment as due to the nature and demographic of the area it is not required.

Closure Notices

- 6.30 Section 19 of the Criminal Justice and Police Act 2001 (the Act) gives licensing authorities, police and local authorities the power to serve a closure notice where any premises are being used (or have been used within the last 24 hours), for the sale of alcohol for consumption on or in the vicinity of the premises; and the activity was not authorised (premises licence, club premises certificate or temporary event notice) or not in accordance with the conditions of authorisation.
- 6.31 The notice informs the person with control of, or responsibility for, the activities carried on at the premises (normally the licence holder or the designated premises supervisor) that if unauthorised alcohol sales continue, an application may be made to a court under section 20 for an order to close the premises under section 21 of the Act. Such an application cannot be made less than seven days or more than six months after the service of the closure notice under section 19.
- 6.32 Further power to close premises are contained in Anti-Social Behaviour Crime and Policing Act 2014. Closure Notices can be issued if the use of the premises has, or is likely to result in, nuisance and disorder. Under a Closure Notice a premises can be closed for up to 48 hours. A subsequent application can then be made to Magistrates Court for a Closure Order if there is evidence that there

is serious nuisance to members of the public or there is disorderly, offensive or criminal behavior on, or likely to be on, the premises. A Closure Order can be made for up to 3 months and a subsequent application can extend for up to a further 3 months.

Provisional Statements

- 6.33 Where it is proposed to build or alter premises which may require a premises licence then the Licensing Act permits an application for a Provisional Statement. This application is dealt with in the same way as an ordinary application but does not result in the issue of a premises licence. That is applied for when the premises are complete.
- 6.34 Where a provisional statement has been issued by the Authority and the relevant works are completed satisfactorily then any subsequent application for a premises licence must be granted and any objection which could have been raised at the Provisional Statement stage must be disregarded.

Adult Entertainment

- 6.35 The potential for the provision of adult entertainment to impact on the licensing objectives is recognised in the prescribed application form and all applicants are required by the prescribed application form to indicate in their operating schedules whether they intend to provide any such entertainment which may give rise to concerns in respect of children.
- 6.36 The Policing and Crime Act 2009 potentially provides an additional licensing requirement for operators who provide “sexual entertainment venues” to licence them as sex establishments under the Local Government (Miscellaneous Provisions) Act 1982. These are essentially premises which provide live entertainment or performances to a live audience which either involve nudity (such as lap or pole dancing establishments) or which are for the purpose of sexually stimulating a member of the audience. The new licensing provisions are adoptive and do not necessarily apply in every Licensing Authority’s district. Gedling Borough Council has however adopted those provisions.

- 6.37 Where a business wishes to operate as a sexual entertainment venue it may still need to be licensed under the Licensing Act for the sale of alcohol and the provision of regulated entertainment. The provision of sexual entertainment will however be regulated solely under the terms of any sex establishment licence which may be granted under the 1982 Act. The Licensing Act licence will then continue to regulate the other licensable activities.
- 6.38 Certain forms of adult entertainment are excluded from requiring sex establishment licences under the Local Government (Miscellaneous Provisions) Act 1982, and these will still be regulated under the terms of the Licensing Act 2003.
- 6.39 The provision of adult entertainment on premises may mean that access by children will not be permitted during periods when such entertainment is taking place. Where such entertainment is to be provided under the terms of the premises licence or club premises certificate the Authority expects applicants to include arrangements for restricting children from viewing any adult entertainment in their Operating Schedule. The Authority expects licensees to ensure that any age restrictions for shows or entertainment of an adult or sexual nature are properly complied with. In addition it may be appropriate to impose age restrictions for persons working in the premises, and applicants are advised to also consider the wider crime and disorder issues which can be associated with such forms of entertainment such as issues relating to drugs and prostitution.
- 6.40 Responsible authorities are likely to continue to consider all applications involving adult entertainment very carefully with regard to the promotion of the licensing objectives within the vicinity in which the premises are located.

Licence Suspensions

- 6.41 The Licensing Act 2003 requires Licensing Authorities to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due unless an administrative error or dispute has been notified to the Licensing

Authority. In such cases there will be a grace period of 21 days to allow the matter to be resolved. If the matter is not resolved within grace period the licence must be suspended.

- 6.42 Where such a suspension takes place the Licensing Authority must give a minimum of two days notice and may inform the police and other responsible authorities of the suspension. All licensable activities must cease when the suspension takes effect. The suspension will only cease on payment of the outstanding fee irrespective of any transfer or hearing which may take place.

Reviews & Expedited Reviews

- 6.43 At any stage following the grant of a premises licence or club premises certificate a Responsible Authority or any person may ask for a review. Evidence will however be required to show that a specific concern exists relating to one or more of the licensing objectives.
- 6.44 Where a review Hearing is held the Licensing Authority has a variety of options that it may take ranging from taking no action at all, to varying conditions or suspending or revoking the licence. The Guidance reminds the Authority that the powers of review are to be used in the interests of the wider community and not that of the individual licence/certificate holder. Whilst the financial circumstances of the licence/certificate holder will be a consideration for the Licensing Authority the promotion of the licensing objectives will be the Authority's primary concern. In some circumstances e.g. the use of premises for the purchase and consumption of alcohol by minors, revocation may be considered an appropriate course of action even in the first instance.

Early Morning Alcohol Restriction Orders (EMROs)

- 6.45 The legislation gives licensing authorities discretion to restrict sales of alcohol by introducing an EMRO to restrict the sale or supply of alcohol to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of the licensing

authority area and if relevant on specific days and at specific times. The licensing authority must be satisfied that such an order would be appropriate to promote the licensing objectives.

- 6.46 The only exemptions relating to EMROs are New Years Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.
- 6.47 The decision to implement an EMRO should be evidence based and may include consideration of the potential burden imposed as well as the potential benefits.

Alcohol Delivery Services

- 6.48 An applicant seeking a licence that will enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures that they intend to operate to ensure that:
- That the person they are selling alcohol to is over the age of 18
 - That alcohol is only delivered to a person over the age of 18
 - There is a clear document trail of the order process from order, despatch from the licensed premises and delivery to the customer is maintained (with times and signatures) and available for inspection by an authorised officer.
 - A refusals log will be maintained for deliveries and available for inspection on request
 - The time that alcohol is sold on the website/over the phone and the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol
 - Alcohol shall only be delivered to a residential or business address and may not be delivered to a public place
 - Any delivery driver or third party courier will be required to have appropriate age verification training, and in particular they will be required to have undergone training in refusal of supply where age verification is not provided, or the recipient is clearly intoxicated
 - Operators to have systems in place to ensure alcohol is not delivered to

problematic house parties or to people who appear drunk and, in such instances, alcohol should be refused and that refusal recorded.

Pavement Licences

- 6.49 A pavement licence is a licence granted by the local authority which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes. It is important to note the grant of a pavement licence only permits the placing of furniture on the highway.
- 6.50 A pavement licence does not negate the need to obtain approvals under other regulatory frameworks, such as the need for a licence to sell alcohol, and the need to comply with registration requirements for food businesses.

It is important that any pavement licence granted promotes the four licensing objectives.

For further information on pavement licences please use the link below:
<https://www.gedling.gov.uk/business/licences/pavementcafelicenseduringcovid-19/>

Personal Licences

- 6.51 In most cases the Authority is under a duty to grant a Personal Licence so long as the applicant meets the criteria prescribed in section 120 of the Act. Where an applicant for a Personal Licence has certain types of conviction (for relevant or foreign offences as defined by the Act) or, has been required to pay an immigration penalty the Authority is required to notify the police, and, in the case of immigration offences and penalties, the Secretary of State. In these cases a licence will still be granted unless an objection is received within the prescribed period. Where an applicant is convicted of a relevant, foreign offence or is required to pay an immigration penalty during the application period and this only comes to light after the licence has been granted then the Authority must notify

the Chief Officer of Police/Secretary of State (as appropriate). Where objection notices are received they will be considered at a hearing of the Licensing Panel.

6.52 Policy 3

In determining initial and renewal applications for personal licences where the Chief Officer of Police has lodged an objection notice the Authority will take the following matters into consideration:

- (i) The circumstances in which the offences were committed;**
- (ii) The period that has elapsed since the offence(s) were committed;**
- (iii) Whether the offences reveal a pattern of offending or were a one off occurrence; and**
- (iv) Any mitigating circumstances.**

The Authority will reject the application unless the applicant can show that it is unnecessary to do so in order to promote the Crime Prevention Objective.

REASON: Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the crime prevention objective.

- 6.54 Where a Personal Licence holder is convicted of a relevant offence the Court may order that the licence be forfeit. If an applicant is convicted of a relevant offence during the application period and this only comes to light after the licence has been granted or renewed then the Authority must notify the Chief Officer of Police and if an objection notice is lodged within the relevant period a Hearing will be held to determine whether the licence should be revoked.

Temporary Event Notices (TEN)

6.55 There are two types of types of Temporary Event Notice,

- A Standard TEN, and
- A Late TEN

A standard TEN must be served no later than ten working days before the event to which it relates and this does not include the day it is given or the day of the event, and a late TEN is served not before nine and not less than five working days before the event to which it relates.

6.56 Whilst the Council recognises that a Temporary Event Notice may be served at least ten clear working days prior to the commencement of a Permitted Temporary Activity (the event), the current Guidance issued under the Act encourages a locally established preferred period of notice. There is a case for not serving such Notices too early as this could make it difficult for a sensible assessment to be made of the implications of such an event on the Crime and Disorder and Prevention of Public Nuisance objective's. The Council considers that a reasonable period of notice for the service of a Temporary Event Notice is 28 days.

6.57 Persons serving Temporary Event Notices must also serve a copy notice on the Police and the responsible authority for Environmental Health functions i.e. the Councils Public Protection Service except where served electronically.

6.58 Further information regarding Temporary Event Notice's is contained on the Councils web pages.

7. Safeguarding Children & Vulnerable Persons

- 7.1 Gedling Borough Council is committed to the safeguarding of children and vulnerable persons.
- 7.2 The Licensing Act 2003 places legal responsibilities on holders of Premises Licences and Club Premises Certificates, and those who work in licensed premises to ensure that children are protected from harm at all times when on licensed premises.
- 7.3 The Licensing Authority in partnership with the Police, the Nottinghamshire Safeguarding Board, and local Community Safety Partnerships works closely with licensed premises in order to build an awareness across the industry as to how those who work in such establishments may better recognise the “indicators” of children and vulnerable persons who may be subject to or at risk of abuse, exploitation, and trafficking; and to whom to report any concerns that those licence holders and their staff may have should they identify someone who is / may be at risk.
- 7.4 As part of this process the Licensing Authority carries out regular enforcement/compliance checks across all of the premises licensed in our area, in order to build good working relationships with licence holders and designated premises supervisors, and providing them with advice as to how they and their staff can help safeguard children and vulnerable persons across the Nottinghamshire region.
- 7.5 When considering applications for new licences and variations to existing licences, the Licensing Authority will seek to be assured that applicants have considered the safeguarding of children and vulnerable persons within the Operating Schedule of the application.
- 7.6 Where there are concerns over the potential for harm to children from licensable activities the Authority recognises the following body as competent to advise on matters relating to the protection of children from harm:
- The Nottinghamshire Safeguarding Children Board.

Applications should therefore be copied to this body in its capacity as a responsible authority

7.7 Examples which may give rise to concerns in respect of children include those:

- Where there have been convictions for serving alcohol to minors
- Where there is a reputation for underage drinking
- Where there is a known association for drug taking or dealing
- Where there is a strong element of gambling on the premises
- Where entertainment of an adult or sexual nature is provided

7.8 Where premises are used for film exhibitions, the Authority will impose the mandatory condition restricting access only to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or the Authority itself.

7.9 The Authority expects applicants to include any arrangements for restricting under-age children from viewing age-restricted films in their Operating Schedule. The Authority expects that licensees will ensure that any age restrictions for cinema exhibitions are properly complied with.

7.10 It is recommended that all alcohol licensed premises follow the Portman Group Code of Practice, in particular that relating to particular appeal to under-18s.
www.portmangroup.org.uk

7.11 **Policy 4**

Where representations have raised concerns in respect of individual premises and it is felt that access of children should be restricted, the Authority will consider imposing conditions which may include the following:

- (i) **Limitations on the hours when children may be present.**
- (ii) **Age limitations for persons under 18.**

- (iii) Limitations or exclusion when certain activities are taking place.
- (iv) Full exclusion of persons under 18 when certain licensable activities are taking place.
- (v) Limitations of access to certain parts of the premises for persons under 18.
- (vi) A requirement for adults to be present.

REASON: To protect children from harm.

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8. EQUALITY AND DIVERSITY

- 8.1 Gedling Borough Council recognises that the people it serves have different needs and priorities. The Council is committed to treating all of its customers and staff fairly without discrimination and prejudice and providing equal access to our services, citizen participation and employment and training opportunities. Gedling Borough Council has an Equality Improvement Plan for 2016-2020 (“Towards an Even Fairer Gedling”) aimed at providing direction to elected members and staff within the Council. The Authority will continue to work to embody the requirements of the Equality Act 2010 in its Licensing role. Equality Impact Need Assessment (EIAs) are used to ensure that policies, services and procedures do not have an adverse impact on a particular group of people due to their gender, sexuality, religion or belief, race, age, gender identity or because they are disabled people or have caring responsibilities. The EIA for this Licensing Policy is periodically reviewed and the actions arising from it are fed back into future into this organisations service plan and also help to shape the consultation over future licensing policies.
- 8.2 Gedling Borough Council is committed to implementing and upholding equality and diversity in everything it does. The Council strives to be an effective service provider, community leader and corporate body, and in doing so, recognises the importance of meeting the needs of the diverse mix of communities represented amongst its residents, service users and workforce. In meeting those needs the Council will develop and harness a safe and sustainable community inclusive to all.
- 8.3 Advice and guidance will be made available in English which is the most common language of customers and stakeholders. On request the Council will signpost customers to providers of guidance and information relating to translation services.

9. GENERAL ENFORCEMENT STATEMENT

- 9.1 All decisions, determinations, inspections and enforcement action taken by the Authority will have regard to the relevant provisions of the Licensing Act 2003, national guidance, relevant codes of practice and the enforcement policy of the Council which is produced to the principles of the Regulators Code April 2014
- 9.2 The Authority has established and maintains enforcement protocols with the local police and other relevant enforcement agencies.

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10. MONITORING AND REVIEW OF THIS STATEMENT OF POLICY

- 10.1 This Statement of Policy will be reviewed within legislative timescales and as and when appropriate. In preparing the succeeding Statement of Policy regard will be had to data and information collated over the operating period of the current policy together with trends and the outcome of related initiatives from both local sources and nationally issued data and guidance.

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