



New Forest
DISTRICT COUNCIL

LICENSING ACT 2003

STATEMENT OF POLICY

This Statement of Policy will remain in force from 7 January
2016 until 6 January 2021

CONTENTS

Item	Paragraph(s)	Page(s)
Executive Summary	1.1 – 1.5	3
Purpose & Scope of the Policy	2.1 – 2.6	4
Duplication	3.1 – 3.2	5
Crime Prevention	4.1	5
Other Controls on Anti-Social Behaviour	5.1	5
Public Nuisance	6.1 – 6.6	6
Cultural Strategies	7.1 – 7.4	7
Live Music, Dancing & Theatre	8.1 – 8.4	7
Cumulative Impact & Special Policies	9.1	7
Planning	10.1 – 10.2	8
Temporary Events Notices	11.1	8
Licensing Hours	12.1 – 12.3	8
Children	13.1 – 13.8	9
Sky Lanterns	14.1	10
Conditions	15.1	10
Licence Reviews	16.1 – 16.3	10
Enforcement	17.1	10
Administration, Exercise & Delegation of Functions	18.1 – 18.2	10
Equal Opportunities	19.1	11
Contact Details, Advice & Guidance	20.1 – 20.2	11
Review of the Policy	21.1 – 21.2	11
Schedule of Delegations	Appendix 1	12
Other Policies, Objectives & Guidance	Appendix 2	13

The contents of this document are provided as information on the policy and principles of New Forest District Council in carrying out its functions in relation to the Licensing Act 2003. The document is not a full and authoritative statement of the law or statutory guidance and does not constitute professional or legal advice.

A statement of licensing policy as determined by New Forest District Council in respect of its licensing functions for the five year period commencing 7 January 2016 is set out in this document. During the five year period the policy will be kept under regular review and, following a full consultation process the Council will make such revisions to it, at such times, as it considers appropriate.

Further licensing statements will be published every five years thereafter.

When using this document, reference should be made to:

- **The Licensing Act 2003 and associated regulations;**
- **Guidance issued under Section 182 of the LA2003;**
- **Information contained on the Councils website www.nfdc.gov.uk**

All references to the Guidance refer to the Home Office Amended Guidance issued under section 182 of the Licensing Act 2003 published March 2015.

**NEW FOREST DISTRICT COUNCIL
LICENSING ACT 2003
SECTION 5**

STATEMENT OF LICENSING POLICY

1. Executive Summary

- 1.1 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the Guidance issued under Section 182 of the Act.
- 1.2 New Forest District is situated in the County of Hampshire and has a large number of licensed premises. The Council recognises that these premises are an important part of the District and are major contributors to the local economy, attracting tourists and visitors, and making for vibrant towns and communities, whilst at the same time providing employment.
- 1.3 New Forest District Council (“the Council”) is the Licensing Authority pursuant to the Licensing Act 2003 (“the Act”) and is responsible for considering all applications for licensable activities, as defined in Section 1 of the Act. The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, by qualifying clubs and at permitted temporary activities.
- 1.4 Licensable activities, identified by the Act, include:
- Retail sale of alcohol
 - Supply of alcohol to club members
 - Supply of hot food or drink from premises between 23:00 and 05:00 hours (known as “late night refreshment”)
 - Provision of entertainment listed below (known as “regulated entertainment”) to the public or club members or with a view to profit:
 - Film exhibitions
 - Performance of a play
 - Indoor sporting events
 - Boxing or wrestling entertainment
 - Live music performance
 - Playing of recorded music
 - Dance performance
 - Anything of a similar nature (as described above)
- 1.5 There are a number of exemptions set out in Section 173 to 175 of the Act and certain exceptions as contained within; the Live Music Act 2012 and the Deregulation Act 2015.

2. Purpose and Scope of the Licensing Policy

- 2.1 There are approximately 660 venues in the District where licensable activities occur. These premises include:
- Public Houses & nightclubs
 - Off licences
 - Business offering late night refreshment
 - Hotels, guest house & restaurants
 - Private members' clubs, social & sporting clubs
 - Theatres & amateur dramatic groups
 - Cinemas
 - Community centres & village halls
 - Premises where indoor sporting events take place
 - Open spaces
- 2.2 When dealing with licensing matters the Licensing Authority will promote and have regard to the four licensing objectives 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
- 2.3 Each licence application will be considered on its own merits in the context of the four licensing objectives. Unless relevant representations are received from responsible authorities or other persons, there is no provision for a licensing authority to impose conditions on a licence other than according to the voluntary steps which the applicant proposes to undertake in their application. Furthermore, there is no provision for a licensing authority itself to make representations. If no representations are made in respect of an application, the authority is obliged to issue the licence on the terms sought.
- 2.4 Any statement in this licensing policy will be relevant to all licensed premises unless otherwise stated. This Licensing Policy will apply equally to all types of premises.
- 2.5 The Council's primary focus is the direct impact of activities taking place at licensed premises on members of the public who are living, working or engaged in normal activity in the vicinity of the premises concerned. The licensing process can only seek to control those measures within the control of the licensee and 'in the vicinity' of a premises. Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from that premises and, therefore, beyond the direct control of the premises management.
- 2.6 Accordingly, any conditions attached to the licence or certificate will centre on the premises and places being used for licensable activities and the vicinity of those premises. Whether or not an instance can be regarded as being in the vicinity of licensed premises is a question of fact and will depend on the particular circumstances of the case.

3. Duplication

3.1 This policy is not intended to duplicate existing legislation and other regulatory regimes. Furthermore, it will not seek to duplicate obligations on employers and operators i.e. The Health & Safety at Work Act 1974 and the Regulatory Reform (Fire Safety) Order 2005, or the requirement for premises to comply with all other relevant legislation, e.g.

- The Gambling Act 2005
- The Environmental Protection Act 1990
- The Noise Act 1996
- The Clean Neighbourhoods & Environmental Act 2005
- The Regulatory Reform (Fire Safety) Order 2005
- Health & Safety at Work etc. 1974
- Food Safety Act 1990 (Food Hygiene)
- The Equality Act 2010

3.2 However, if other regulations do not cover the unique circumstances that arise in connection with, for example, entertainment at specified premises then additional controls will be imposed.

4. Crime Prevention

4.1 Conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies.

5. Other Controls on Anti-Social Behaviour

5.1 Other mechanisms exist to control the anti-social behaviour of a minority of consumers who behave badly and unlawfully after leaving licensed premises etc. these controls include:

- 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;
- Power 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 persons 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) any licensed premises in respect of which a temporary events notice (TEN) has effect on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance;
- The power of the responsible authorities or other persons to seek a review of a licence or certificate;
- Power of the local authority to close down instantly for up to 24 hours any licensed premises or permitted temporary activity due to public nuisance caused by excessive noise.

6. Public Nuisance

- 6.1 Stricter conditions with regard to noise control will be expected in areas of the District, which have denser residential accommodation or low levels of background noise but this will not limit opening hours without regard to the individual merits of any application.
- 6.2 Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.
- 6.3 Restrictions might be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises are open to the public or members and their guests, regulated entertainment might not be permitted in a garden area of the premises after a certain time.
- 6.4 In certain premises where legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:
- Noise or vibration does not emanate from the premises so as to cause a nuisance to the occupants of nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, to use noise limiters on amplification equipment used at the premises and/or to undertake works of sound insulation;
 - Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
 - Prohibit certain rooms from being used for purposes that create noise;
 - The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted;
 - The placing of refuse, such as bottles, into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties;
 - Noise emanating from certain areas does not cause a nuisance for example prohibiting licensable activities or the consumption of alcohol in a beer garden at specific times;
 - Noxious smells from licensed premises do not cause a nuisance to nearby properties and the premises are properly vented. This might be achieved by the inclusion of additional filtration within the extraction system or increasing the height or direction of the final point of discharge.
- 6.5 Flashing or particularly bright lights on or outside licensed premises may cause a nuisance to nearby properties and may distract road users, especially in unlit areas. Any relevant condition needs to be balanced against the benefits to the prevention of crime and disorder, and having regard for the Lighting Policy published by Hampshire County Council where appropriate.
- 6.6 The availability of taxi ranks outside licensed premises can reduce nuisance and antisocial behaviour, and local highways authorities can designate parts of the public highway as evening taxi ranks.

7. Cultural Strategies

- 7.1 The Council will monitor the impact of licensing on regulated entertainment, particularly live music and dancing. Where there is any indication that such events are being deterred by licensing requirements, the policy will be revisited with a view to investigating how the situation might be reversed. Only necessary, proportionate and reasonable conditions should be imposed on such events.
- 7.2 The Council will take into consideration the following in so far as they are relevant to the licensing objectives:
- The need of the local tourist economy;
 - Any cultural strategy for the District;
 - The employment situation in the District, and the need for investment and employment where appropriate.
- 7.3 There are many stakeholders in the leisure industry. Many are involved, directly or indirectly, in the promotion of the licensing objectives.
- 7.4 The Council will ensure at all times that it takes into account the views of these stakeholders and ensures proper integration of local crime prevention, planning, transport, tourism and cultural strategies. The Council will work closely with the police on issues of enforcement. Whenever appropriate, neighbouring authorities and parish councils will also be consulted.

8. Live Music, Dancing and Theatre

- 8.1 This policy recognises that as part of implementing local authority cultural strategies, proper account should be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally.
- 8.2 To encourage more performance of live music, the Live Music Act 2012 has amended the Licensing Act by deregulating aspects of the performance of live music so that, in certain circumstances, it is not a licensable activity.
- 8.3 To reduce the licensing burden on other forms of entertainment the Licensing Act (Descriptions of Entertainment) (Amendment) Order 2013, Legislative Reform (Entertainment Licensing) Order 2014 and Deregulation Act 2015 amends the Licensing Act further so that, in certain circumstances, various activities which were previously regulated are no longer licensable activities.
- 8.4 Only conditions strictly necessary for the promotion of the licensing objectives should be attached to licences for activities of this nature as appropriate. The Council is aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a substantial nature.

9. Cumulative Impact and Special Policies

- 9.1 The Council will not take 'need' into account when considering an application, as this is a matter for planning development control and the market. Currently this council does not have a special policy relating to the cumulative impact of licensed premises.

10. Planning

- 10.1 Planning and licensing regimes will be properly separated to avoid duplication and inefficiency. Licensing applications will not be a re-run of the planning application and licensing decisions will not cut across decisions taken by the planning committee or permissions granted on appeal. To achieve this, close liaison will be maintained between the General Purposes & Licensing and Planning Development Control Committees (“GPLC” and “PDCC”). The GPLC, where appropriate, will provide reports to the PDCC and any appropriate review panels on the situation regarding licensed premises in the area including the general impact of alcohol related crime and disorder.
- 10.2 Prior to submitting an application to the Council the applicant should ensure that there is appropriate planning permission for the hours and activities for sought. It should be noted however that there is no legal basis for the licensing authority to refuse a licence application because it does not have the required planning permission.

11. Permitted Temporary Activities

- 11.1 A temporary event notice (“TEN”) is required to hold an event, involving less than 500 people, at which one or more licensable activities will take place that are not authorised by an existing premises licence or club premises certificate.
- 11.2 Notices should be submitted to the Licensing Authority and Police at least 10 clear working days before the proposed event, although there is provision for a limited number of late TENs to be served up to 5 working days before.
- 11.3 As the statutory time periods give very little time for the licensing authority to process an application and for the police to respond it is recommended that notices are served at least one month before the proposed event whenever possible. This preferred time frame is not stipulated by the legislation and is only an expectation of the Council.

12. Licensing Hours

- 12.1 Consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested unless there are specific objections to those hours raised by responsible authorities or other persons on the basis of the licensing objectives.
- 12.2 This policy 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.
- 12.3 With regards to shops, stores and supermarkets the normal scenario will be for such premises to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless representations raise good reasons, based on the licensing objectives, for restricting those hours.

13. Children

- 13.1 The Council 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 within the constraints of legislation.
- 13.2 This licensing authority recognises the county Safeguarding Unit as being competent to give advice on matters relating to the protection of children from harm.
- 13.3 This policy commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.
- 13.4 This policy cannot attempt to anticipate every issue that could arise in respect of children, general rules are therefore avoided and each application will be considered on its merits.
- 13.5 This policy, however, highlights particular areas that will give rise to concern in respect of children, e.g.:
- Where entertainment or services of an adult or sexual nature are commonly provided;
 - Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or where premises have a reputation for underage drinking;
 - Where there is a known association with drug taking or dealing;
 - Where there is a strong element of gambling on the premises;
 - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 13.6 The following measures may be considered for limiting access of children where necessary:
- Limitations on the hours when children may be present;
 - Limitations excluding the presence of children under certain ages when particular specified activities are taking place;
 - Limitations on the parts of premises to which children might be given access;
 - Age limitations (below 18);
 - Requirements for accompanying adults;
 - Full exclusion of under 18's from the premises when any licensable activities are taking place.
- 13.7 In relation to film exhibition premises, a mandatory condition will be applied requiring access to be restricted to those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification or, in specific cases, the Council.
- 13.8 It may be necessary to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment in their productions. It may also be necessary, in the case of theatrical entertainment specifically for children, to consider whether a condition should be attached requiring the presence of a sufficient number of adult staff to ensure the well being of children during an emergency.

14. Sky Lanterns

- 14.1 The authority recognises that sky lanterns can pose a fire risk, can be mistaken for distress flares, and can mislead aircraft. In addition debris from sky lanterns can pose a danger to livestock and cause unsightly litter. In view of these risks, the authority does not support the use or release of sky lanterns from licensed premises.

15. Conditions

- 15.1 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). Any such conditions should be tailored to the individual style and characteristic of the premises and events concerned.

16. Licence Reviews

- 16.1 This authority is committed to working in partnership with responsible authorities to achieve the promotion of licensing objectives.

- 16.2 The authority is empowered to take the following steps if it considers them appropriate to promote the licensing objectives; and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added:

- To modify the conditions of the licence;
- To exclude a licensable activity from the scope of the licence;
- To remove the designated premises supervisor;
- To suspend the licence for a period not exceeding three months;
- To revoke the licence.

- 16.3 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 The Council will establish protocols with the local police on enforcement issues. This will enable the more efficient deployment of local authority staff and Police Officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises. The aim of the protocol will be to target agreed problem and high risk premises which require greater attention while providing a lighter touch in respect of low risk premises which are well run.

18. Administration, Exercise and Delegation of Functions

- 18.1 In the interests of speed and efficiency the Council will, where possible, delegate licensing decisions and functions to officers. However, if the matter to be decided is controversial in any way or the determination of the matter under delegated powers is precluded by law then it will be decided by the GPLC or, normally, a Licensing Sub-Committee.

- # 18.2 A full list of delegated functions set out in the Act is detailed in **Appendix A**.

19. Equal Opportunities

- 19.1 This policy can be reproduced into large type, audio and foreign languages should this be required. In this way, specific needs can be dealt with on an individual basis.

20. Contact Details, Advice and Guidance

- 20.1 The licensing authority, police and fire authority will be willing to give advice and guidance to applicants. Applicants are encouraged to undertake informal discussions before the application process in order to resolve potential problems and avoid unnecessary hearings and appeals.

- # 20.2 A full list of other policies and guidance documents is detailed in **Appendix B**.

21. Review of the Policy

- 21.1 The Policy will be kept under review and where any amendments are considered necessary these will only be made after consultation has taken place in accordance with Section 5(3) of the Act. Proper weight shall be given to the views of all those consulted. Those to be consulted will include:

- The Chief Officer of Police for Hampshire;
- The Chief Officer of Hampshire Fire and Rescue Service;
- The Local Health Board for the district;
- The Local Safeguarding Unit (children welfare) for the district;
- Bodies representing local holders of premises licences;
- Bodies representing local holders of club premises certificates;
- Bodies representing local holders of personal licences;
- Bodies representing local businesses and residents;
- All other bodies the Council deems appropriate.

- 21.2 The Council welcomes all comments and observations on this policy, which should be sent to:

Licensing Services
New Forest District Council
Appletree Court
Beaulieu Road
Lyndhurst
Hampshire
SO43 7PA

Tel: 023 8028 5505
Email: licensing@nfdc.gov.uk

APPENDIX A

SCHEDULE OF DELEGATIONS

Matter to be dealt with	GPLC or Sub-Committee	Officers
Application for personal licence	If a Police objection	If no representation made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional Statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a Police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a Police objection	All other cases
Applications for interim authorities	If a Police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a Police objection to a temporary event notice	All cases	
In cases where the Magistrates Court has determined the licence on appeal	All cases	

Other Policies, Objectives and Guidance

There are a number of other policies, strategies, responsibilities, and guidance documents which should be taken into account in order to complement the authority's licensing policy.

Strategies and Policies

Alcohol Harm Reduction Strategy
Best Bar None
British Beer and Pub Association Partnerships Initiative
Compliance Code
Community Safety Strategy
Crime & Disorder Reduction Strategy
Cultural and Tourism Strategies
Drugs and Alcohol Strategy
National and Local Pub-watch schemes

Related Legislation

Crime and Disorder Act 1998
Criminal Justice and Police Act 2001
Private Security Industry Act 2001
Anti Social Behaviour Act 2003
The Clean Neighbourhoods and Environment Act 2005
The Health Act 2006
Violent Crime Reduction Act 2006
Policing and Crime Act 2009
The Equality Act 2010
Police Reform and Social Responsibility Act 2011
Live Music Act 2012
Anti Social Behaviour Crime & Policing Act 2014
The Deregulation Act 2015

Guidance Documents

Home Office - alcohol licensing policy
Health & Safety Executive – guidance on running events safely
Local Government Regulation – guidance on test purchasing