



**STATEMENT OF  
LICENSING POLICY 2011**

# STATEMENT OF LICENSING POLICY 2011

## Introduction

- 1.1 Stafford Borough Council (the Council) is the licensing authority for the administration and enforcement of the Licensing Act 2003 and associated orders and regulations within its area. The Act regulates:
  - the sale of alcohol by retail;
  - the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
  - the provision of regulated entertainment;
  - the provision of late night refreshment.
- 1.2 The Licensing Authority aims to facilitate the development of an economy in the Borough that feels both safe and offers diverse cultural activities to enable a broad range of people to enjoy themselves whilst simultaneously improving the quality of life of residents and increasing the attractiveness of the area to visitors.
- 1.3 In partnership with other agencies and interested parties, the Council as the Licensing Authority seeks to develop an environment that encourages the increase in the number of establishments, including coffee shops and restaurants, which are open in the evening. In doing so the Council wishes to both support and to encourage diversity within the area's late night economy.
- 1.4 While the Licensing Act is not in themselves a means for regulating alcohol related problems or lifestyle issues the Licensing Authority recognises the role it can play in promoting responsible drinking and an environment where non-alcoholic drinks are made available as an alternative to customers. In 2009, the Council introduced the "Best Bar None Awards" for licensed premises in Stafford and Stone. In doing so the Council recognises the value the award has in encouraging the high standard in licensed premises and encouraging responsible drinking. The effect of alcohol on individual's health and well-being widely recognised.
- 1.5 It is hoped that realisation of this goal will reduce fear of crime including alcohol related crime and anti-social behaviour, and will consequently encourage greater use of facilities throughout the district by people of all ages, all income groups, and all social groups.
- 1.6 The Act requires that the licensing authority prepares and publishes a statement of its licensing policy every three years. Before determining its policy for any three-year period, the authority is required to consult with the persons specified in the Act. These are:
  - the Chief Officer of Police for the area;
  - the fire authority;
  - bodies representing local holders of premises licences;
  - bodies representing local holders of club premises certificates;
  - bodies representing local holders of personal licences;

- bodies representing business and residents in its area.
- 1.7 The licensing authority will also consult with other bodies as it deems appropriate, and this policy will be prepared after consultation with the following additional bodies:
- bodies representing the local transport providers;
  - adjoining local authorities;
  - the local Drugs Action Team;
  - Customs and Excise.
- 1.8 The licensing authority must have regard to the guidance issued by the Secretary of State for Culture, Media and Sport in discharging their functions under the Act, and this statement of licensing policy has been prepared taking that guidance into account.
- 1.9 The licensing authority may depart from this policy in the interests of promoting the licensing objectives if the individual circumstances of any case merit such a decision,. Full reasons should be given to justify any departure from this policy.
- 1.10 The Council will keep the operation of the Policy under review and make appropriate revisions to ensure the effectiveness of the Policy.
- 1.11 This Statement of Licensing Policy is the third such statement to be adopted under the provisions of the Licensing Act 2003.

### **Aims and Objectives**

- 2.1 In exercising its duties and responsibilities under terms of the Licensing Act 2003, the Council will operate within the statements and procedures set out in this policy statement. Notwithstanding this statement, all applications will be treated on their own merits and judged accordingly.
- 2.2 The licensing authority will exercise its duties so that the licensing objectives of the Act are met. The objectives are:
- the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance;
  - the protection of children from harm.
- 2.3 The Council recognises that the entertainment industry is a major contributor to the local economy. It attracts visitors from outside the area as well as local residents, and helps to create vibrant towns and communities within the Borough.
- 2.4 The licensing authority will determine its policies and conditions to ensure that licensing premises and events operate in such a way that these objectives are met. Conditions will be targeted to control the direct impact that activities taking place at a licensed premises have on members of the public living, working or engaged in normal activity in the area. Licensing law cannot be used to control general nuisance and anti-social behaviour once those

concerned are away from the licensed premise and so beyond the direct control of the licence, certificate or authorisation holder.

- 2.5 The licensing authority recognises the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the local community generally. In determining such applications, the Council will balance this requirement against the promotion of the licensing objectives and the potential costs which may be imposed on the production of such events.
- 2.6 The Licensing Law is not the primary mechanism for the general control of nuisance and anti social behaviour by individuals once they are away from licensed premises and, therefore, beyond the direct control of the individual club or business. Nonetheless, it is a key aspect of such control and Licensing Law will always be part of a holistic approach to the management of the evening and night time economy in the town centres
- 2.7 Applications for premises licences and club premises certificates will not be regulated by artificially fixed quotas for a given area or by the zoning of specific areas in terms of closing hours or activity.
- 2.8 The licensing authority will ensure its licensing function promotes the licensing objectives through its decision making process and by appropriate use of its powers.
- 2.9 The licensing authority will secure proper integration with the Local Plan, late night economy, local crime prevention, planning, community safety, transport, tourism and cultural strategies and plans in carrying out its licensing functions. Applicants will be expected to have taken into account the Council's strategies when making applications and determining their operating schedules.
- 2.10 Arrangements will be made for the Licensing Committee to receive reports on the following to ensure these are reflected in their considerations:
  - the needs of the local tourist economy and cultural strategy for the Borough;
  - the employment situation in the Borough and the need for investment and employment where appropriate.

### **Local Operational Liaison Meetings**

- 3 The licensing authority will, in conjunction with the police, county council and other interested parties establish arrangements to hold regular liaison meetings to oversee the operation on the Licensing Act and to address local operational issues

### **Promotion of Racial Equality**

- 4.1 The Licensing Authority is committed to eliminating unlawful discrimination and to the promotion of equality of opportunity and good relations between persons of different racial groups
- 4.2 The Licensing Authority recognises that the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places an obligation on all public authorities to have regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and good relations between persons of different racial groups.

## Human Rights Act 1998

- 5 The Licensing Authority will implement the 2003 Act in a manner consistent with the Human Rights Act 1998.

## The Application Process

- 6.1 The Council requires that all applications for the grant, variation or transfer of any licence, permit or certificate detailed in the Act, are made in accordance with the statutory requirements and any guidance issued from time to time by the Council. In particular, all such applications must be accompanied by the appropriate fee, where applicable. Where an application has to be advertised, or notified to other specified persons, the application must confirm that such advertising or notification has been properly made.
- 6.2 In order to assist applicants in the formulation of their operational plans, the Licensing Authority, in conjunction with the responsible authorities has produced a guidance document. It is recommended that applicants take this guidance into account when formulating their applications.

## Administration, Exercise and Delegation of Functions

- 7 The powers and duties of the Licensing Authority with regard to licensing may be carried out by the Licensing Committee, by a Sub-Committee or by officers acting under delegated authority. Since many of the licensing functions are administrative in nature, in the interest of speed, efficiency, and cost-effectiveness, the Licensing Authority supports the principle of delegating routine matters to officers.

<b>Matter to be dealt with</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence	If a representation is made	If no representation is made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a representation is made	If no representation is made
Application for a minor variation to a premises licence/club premises certificate		If no representation is made
Application for provisional statement	If a representation is made	If no representation is made
Application to vary premises licence/club premises certificate	If a representation is made	If no representation is made

<b>Matter to be dealt with</b>	<b>Sub Committee</b>	<b>Officers</b>
Application to vary designated premises supervisor	If a Police is representation	All other cases
Request to be removed as designated personal licence holder		All cases
Application for transfer of premises licence	If a Police is representation	All other cases
Applications for Interim Authorities	If a Police is representation	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous or vexatious.		All cases
Decision to object when local authority is a consultee and not the lead authority	All cases	
Determination of a police representation to a temporary event notice	All cases	

**THE DELEGATION OF FUNCTIONS AND DECISIONS WILL BE APPLIED TO ALL APPLICATIONS**

**Conditions**

- 8.1 Unless there are relevant representations, the Licensing Authority must grant applications subject only to conditions consistent with the applicant's operating schedule and to any mandatory conditions prescribed in the Licensing Act 2003.
- 8.2 Conditions (other than the statutory mandatory conditions) will only be imposed where relevant representations are made showing that there is a need to promote the licensing objectives, and following a Licensing Sub-Committee hearing.
- 8.3 The licensing authority will not impose "blanket" standard conditions, but it may draw from the pools of conditions contained in annex D of the

Department of Culture, Media and Sport (DCMS) Guidance under section 182 of the Act.

- 8.4 Where an application is approved, it will be issued subject to appropriate conditions. The conditions will relate to the specific premises or activity permitted.
- 8.5 In exceptional situations, it may be necessary to impose specific conditions to regulate unusual circumstances to permit an activity which would otherwise be refused. However such exceptional conditions will be discussed with applicants and objectors before being specified.
- 8.6 Conditions can only be imposed to regulate matters which can be controlled by the licence holder. Such measures may be used to control the impact of the licensed activity on members of the public living, working or engaged in normal activities in the immediate vicinity of the licensed premises. General anti-social behaviour of patrons in the vicinity of the licensed premises may not be able to be controlled by the licence holder. Such matters may be more properly controlled by other agencies working in conjunction with licence holders and other groupings.
- 8.7 Conditions will not generally be imposed where to do so would duplicate other regulatory regimes and will only be attached to licences or certificates where they are necessary for the promotion of that licensing objective.

### **Cumulative Impact and Special Policy**

- 9.1 The Council will not refuse applications simply because there are already a number of other licensed premises in the vicinity. Such regulatory action is not a matter for the Licensing Authority. However, the cumulative effect of the impact of licensed premises on an area is a matter for consideration by the licensing authority.
- 9.2 In deciding if the appropriate action to be taken is the adoption of such a special policy, the licensing authority will take the following steps:
  - (a) the identification of serious and sustained concerns from a responsible authority or representatives of residents about crime and disorder or nuisance;
  - (b) an assessment of the causes;
  - (c) consideration of whether it can be demonstrated that crime and disorder and nuisance is caused by customers of a licensed premises, and if so identifying the area from which the problems are arising and the boundaries of that area;
  - (d) the adoption of a policy about future licence applications from that area within the terms of the Guidance issued by the Secretary of State.
- 9.3 Notwithstanding the adoption of a special saturation policy, all applications for a premises license or a club premises certificate within the designated area will be considered on merit and judged on their effect on the cumulative impact of premises in the area.
- 9.4 Before being able to consider whether individual new applications relating to a saturated area should not be approved on grounds that they will adversely

impact on the relevant licensing objectives, the Council is obliged to adopt a Special Policy.

- 9.5 In considering whether or not to adopt a special policy, the Council will take into account its responsibilities and duties under Section 17 of the Crime and Disorder Act 1998 and the licensing objectives of the Licensing Act 2003.
- 9.6 If adopted a Special Policy would not prevent the Licensing Authority considering further applications in a particular area, as these would need to be assessed on their individual merits, taking into account the foreseeable impact on the saturated area. It would be incumbent on the applicant to provide the proportionate level of detail to address these special circumstances.

## **Planning**

- 10.1 In considering an application for a premises licence or a club premises certificate, the Licensing Authority will normally require that the premises hold the appropriate planning consent for the proposed activity. The existence of such consent will be accepted as a question of fact and no objections which seek to challenge the validity of that consent can be considered as part of the licensing process.

## **Licensing**

- 11.1 The Council will judge the imposition of licensing hours on the individual merits of the application. The Council will take into account the overall impact the licensed premise has on the local amenity and any proposals the applicant might submit to mitigate such impact. However, the Council will consider the imposition of appropriate conditions to require the holders of premises licences and club premises certificates to ensure the orderly departure of their customers particularly in noise sensitive areas.
- 11.2 In relation to premises selling alcohol for consumption off the premises, there will be a presumption that that activity will be licensed to operate at all the times that the premises are open for their normal business. However, the Council will consider the imposition of more restrictive hours for the sale of alcohol at those premises where, for example, that activity creates a focus for disorder and disturbance by persons congregating in isolated areas.

## **Children**

- 12.1 Premises licences are granted to a wide variety of establishments for a wide variety of activities regulated under the Act. For the majority of these activities the presence of children either on their own or accompanied by a responsible adult is not unlawful. The Council will not, therefore, impose a condition requiring that children not be admitted to licensed premises. Such a matter will generally be at the discretion of the licence holder. However, in some instances the licence holder will need to restrict the access of children to the premises or parts of the premises at certain times when specific activities are taking place. The applicant is required to detail in the operating schedule the measures they intend to take to restrict the access of children to the premises or parts of the premises when specific activities are taking place in order to meet the criteria listed in paragraph 11.2 below and to meet the licensing objective of protecting children from harm.

- 12.2 The matters on premises which will give rise to concern by the Council in relation to potential harm for children include:
- 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 with 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 (excluding a small number of cash prize gaming machines);
  - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 12.3 The Guidance issued under Section 182 of the Licensing Act 2003 includes conditions that may be attached to a licence. For this purpose they cover the following areas of concern:
- Limitations on the hours when children may be present;
  - Limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place;
  - Age limitations (below 18);
  - Requirements for an accompanying adult (including for example, a combination of requirements) which provide that children under a particular age must be accompanied by an adult;
  - Full exclusion of people under-18 from the premises when any licensable activities are taking place.
- 12.4 The Council recognises that the Corporate Director of Social Care and Health for Staffordshire County Council is the responsible authority for advising the Licensing Authority on all those matters in relation to the licensing objective to protect children from harm. Applicants are specifically required to forward copies of their operating schedule to the Corporate Director of Social Care and Health so that the Licensing Authority may be advised on the suitability and the effectiveness of the applicant's proposals to meet the licensing objective of protecting children from harm.
- 12.5 Where premises are licensed for the giving of film exhibitions, the Council will impose conditions requiring that children only be admitted to such exhibitions in accordance to the film classification as recommended by the British Board of Film Classification. The conditions will include the requirement that the licence holder complies with the requirements of the BBFC in relation to the giving of information to the public and advertising that information. Where the Council specifically determines that a specific film shall be granted a film classification different to that determined by the British Board of Film Classification, the licence holder will be required to comply with any additional conditions imposed by the Council for the exhibition of that film.

- 12.6 The Council will impose conditions relating to the presence of adult staff at premises providing regulated entertainment to control the access and egress of children and to assure their safety.

### **Licensing Hours**

- 13.1 The Licensing Authority will have a flexible approach to hours when alcohol can be sold or supplied. It will give more freedom to responsible licensees, but may impose stricter controls on particular licensed premises, such as those effecting residential properties.
- 13.2 The Licensing Authority will not generally restrict times when shops, stores or supermarkets can sell alcohol for consumption off the premises, but may do so if the Police consider individual premises to be a focus of disorder and disturbance.
- 13.3 When the Licensing Authority's discretion is applied, consideration will be given to the individual merits of an application. However the presumption will be to grant the hours requested unless there are objections to those hours raised by the responsible authorities or interested parties on the basis of the licensing objectives.
- 13.4 Shops, stores, and supermarkets will normally be able to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless representations raise reasons, based on the licensing objectives, for restricting those hours.
- 13.5 The Licensing Authority recognises that in some circumstances flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided.

### **Application Process**

- 14.1 Where an objection is received in relation to the grant or renewal of a licence for any purpose regulated by the Act, the matter will be determined in accordance with the terms of this statement of licensing policy.
- 14.2 Where the complaint or objection has been judged to be irrelevant, frivolous or vexatious, the matter will not proceed any further and the complainant will be advised in writing of this fact.
- 14.3 Where a prima facie case for an objection to the grant of a licence is made the application will be referred to the Licensing Sub-Committee to determine.

### **Temporary Events Notices**

- 15.1 The Licensing Authority requires an application for a temporary event to be received at least 10 clear "working" days before the day of the event. Late applications will be rejected.
- "Working day" is defined as any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales.
  - "Ten working days" notice means ten working days exclusive of the day on which the event is to start, and exclusive of the day on which the notice is given. - Section 193 of the Licensing Act 2003

## **Personal Licences**

- 16.1 All applications for a personal licence must be made in person to the Council so that the personal identification details can be verified.

## **Reviews of Licences**

- 17.1 The Licensing Authority itself cannot initiate the review process. The Authority's role is to administer the process and, through the Licensing Sub-committee, to determine its outcome at a hearing where an evidential basis for the allegations made will be submitted.
- 17.2 An application for the Review of a Premises Licence is limited to:
- Responsible Authorities,
  - Interested parties (local residents, local organisations, and Stafford Borough Council elected members).
- 17.3 It is important that responsible authorities give an early warning of any concerns they may have about a particular premises. The Licensing Authority will generally expect that attempts have been made to offer a solution to problems through:
- Informal warning/advice
  - Written warning
  - Application for Review
- 17.4 Where there is a prima facie case for the review of a premises licence or a club premises certificate to be progressed, the procedure set out in the appropriate regulations made under the Licensing Act 2003 will be followed
- 17.5 Where an application is made for the review of a premises licence or club premises certificate, the matter will be determined in accordance with the terms of this statement of licensing policy and will be referred to the Licensing Sub-Committee to determine.
- 17.6 Where the complaint has been judged to be irrelevant, frivolous, or vexatious, the matter will not proceed any further and the complainant will be advised in writing of this fact.
- 17.7 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.
- 17.8 Where an application to review a premises licence or club premises certificate has been determined in accordance with the procedures mentioned above, the licence or certificate will continue in operation unaltered, be modified and the terms and conditions changed in accordance with the Council's decision or cancelled. The Council will determine the date upon which the decision will take effect and the licence holder and applicant for review advised accordingly.
- 17.9 In relation to a modification or the cancellation of a licence or club premises certificate, the notification will detail the grounds for the modification or cancellation refusal and specify the process for the applicant to appeal against the Council's decision.

## **Minor variations**

- 18.1 The exception to the above procedure concerns applications for minor variations.
- 18.2 Where applications for variations which generally amount to:
- (a) a minor change to the structure or layout of a premises
  - (b) small adjustments to licensing hours
  - (c) the removal of out of date, irrelevant, or unenforceable conditions, or the addition of volunteered conditions
  - (d) the additional of certain licensable activities that will not impact adversely on the licensing objectives.

they are subject to a simplified 'minor variations' process. Interested Parties may still make representations and the Licensing Authority is entitled to seek the views of any of the responsible authorities when determining such applications. There is no right to a hearing and officers have delegated powers to determine applications under this process.

## **Enforcement**

- 19.1 The Council recognises that efficient and effective enforcement is of paramount importance in ensuring that the objectives of the Act are met. The Licensing Authority will act in line with the Council's Enforcement Policy, which follows the principles of consistency, transparency and proportionality. Copies of the Policy can be obtained from the Council's Environmental and Health Service.
- 19.2 The Council also recognises that there are other enforcement and regulatory agencies that have a direct involvement with the matters detailed in the Act. In order to ensure effective enforcement, the Council will continue to work with these agencies to ensure that all matters relating to the application and enforcement of the Act are dealt with effectively. Monthly meetings between the Police, Fire Service, Environmental Health, Community Safety, and Trading Standards will be held to address emerging operational issues and the co-ordination of joint enforcement.
- 19.3 Where anti-social behaviour or other public disturbance occurs in connection with or in the vicinity of licensed premises, the Council will work with other enforcement agencies and other bodies to establish the causes and identify any possible remedies. It is recognised that it is the Council's duty to promote the licensing objectives in the interests of the wider community, and to work with the Police and other law enforcement agencies to deter criminal activities.
- 19.4 All enforcement activities will be informed by the principle of risk assessment, and the available resources will be targeted where intervention will be most effective in promoting the licensing objectives.

----- End -----