



Statement of Licensing Policy for Licensing Act 2003

November 2015

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1. Foreword by Councillor

Frank Finlay, Cabinet Member

Prosperity, safety, and health and wellbeing are top priorities for our Borough. This policy illustrates how the Council's licensing service will put these priorities at the heart of its work.

We want to encourage businesses to come to our Borough. We want to give them clear advice and help so they know what their responsibilities are. We want to make sure that all businesses, new or established, maintain the standards required of them by law. In doing this we can help businesses flourish while protecting our residents and visitors to the Borough.

This document will inform the work of the Council for all matters related to the Licensing Act 2003. It should be considered by all those carrying out licensable activities in the Borough.

I welcome the publication of this policy and hope it will contribute to the prosperity of our communities, the success of local businesses, and improve the quality of life for local residents and visitors to our area.



Cllr F Finlay

Cabinet Member for Environment and Health

2. Introduction

Consultation

- 2.1 Before this policy came into effect the Licensing Authority carried out a statutory consultation. The Council shared the draft policy with local stakeholders / partners, including Responsible Authorities and the local trade representatives, seeking contributions, feedback and comments. The consultation lasted 8 weeks from July 2015 through to October 2015.
- 2.2 The Council introduced the policy at local working group meetings, including the Town Centre Partnership and the Pub watch meetings in Stafford and Stone.
- 2.3 The draft policy was clearly signposted on the Council's websites and an advertisement placed in the Staffordshire Newsletter inviting comments.

Commencement

- 2.4 This policy came into force on 25 November 2015.

Future Changes

- 2.5 The Council is aware that the Government may from time to time amend the Licensing Act 2003, subordinate legislation and statutory guidance. The Council does not intend to automatically revise this policy document because of any such amendments and readers of this document are advised to check on the Home Office/Gov.uk website to ensure they have the latest information.
- 2.6 The Council will continue to monitor the effectiveness of the policy in promoting the licensing objectives and will consider further reviews as and when appropriate.
- 2.7 The Council will consider changes to the policy in the light of new legislation and developments affecting the local area, and will consult with stakeholders at the time it is considering such changes.

Data Protection

- 2.8 When an individual or an organisation provides information to the Council, this data is held in accordance with the Data Protection Act 1998. Data that is provided to the Council is used for processing applications, recording successful applicants and for regulatory and enforcement purposes.

- 2.9 The Council may share data with other services and with partners of the Council where required by the licensing/registration procedure and for regulation /enforcement but data will not otherwise be passed on to any other party.
- 2.10 While certain information may be disclosed under the Freedom of Information Act, and some information will be held on a publicly available register, and may be posted onto the Council website, personal data will be protected unless it is also official business data (eg a trader whose registered business address is also his home).
- 2.11 The Council has a duty to protect the public funds it administers and, to this end, may use the information provided for the prevention and detection of fraud. It may also share information with other bodies responsible for auditing or administering public funds for these purposes, eg UK National Fraud Initiative.

Equality and Diversity

- 2.12 Through the Council's policies and service delivery the Council's main aims for equality and diversity are to:
- Eliminate unlawful discrimination
 - Promote equality of opportunity
 - Promote good relations between diverse communities
- 2.13 A link to the Council's Equalities and Diversities Policy can be found here-
<http://www.staffordbc.gov.uk/equalities-and-diversity1>

Section 17 Crime and Disorder Act

- 2.14 Under section 17 of the Crime and Disorder Act 1998 the Council is required to promote the prevention of crime and disorder within its area. The Council works closely with Responsible Authorities to ensure that the Licensing Objectives are promoted, and seeks to ensure that Council decisions are proportionate and appropriate.
- 2.15 The Council will work in partnership with licence holders, local businesses, Responsible Authorities, Councillors and local people with the aim of promoting the licensing objectives.
- 2.16 A map of Stafford Borough can be viewed at
<http://www.staffordbc.gov.uk/where-is-stafford-borough>

3. The Licensing Objectives, Responsible Authorities and Licensable Activities

The Licensing Act 2003

- 3.1 The Licensing Act 2003, its explanatory notes and any statutory instruments made under it may be viewed online at www.legislation.gov.uk. The statutory instruments include regulations setting out the content and format of application forms and notices.

Statutory Guidance Published Under Section 182 Licensing Act 2003

- 3.2 The Home Office publishes statutory guidance for the Licensing Act 2003, which is regularly updated and can be found by searching for “section 182 guidance” at <https://www.gov.uk/government/organisations/home-office>

Licensing Objectives

- 3.3 Whenever the Council acts as Licensing Authority it must ensure it promotes the four licensing objectives of the Act. These objectives are:-
- Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm
- 3.4 The Act makes it clear that none of these objectives are to be given priority over the others. All four objectives should be considered to have equal importance.
- 3.5 Further details on the Licensing Objectives can be found in the statutory guidance for the Licensing Act - here –

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/363262/GuidanceS182web.pdf

Responsible Authorities

- 3.6 The following organisations are Responsible Authorities, and may make representations where appropriate in cases where licensable activities may impact on the promotion of the licensing objectives -

- This Council
- Staffordshire Police
- Staffordshire Fire and Rescue Service
- Staffordshire County Council Trading Standards
- The Council as Local Planning Authority
- The Council's Environmental Health Service
- Staffordshire County Council Children Services
- Health Authority

3.7 Contact details for all of the authorities can be found at <http://www.staffordbc.gov.uk/responsible-authorities>

Licensable Activities

3.8 The definition of the “licensable activities” is set out in the Act. The Council is required to regulate all licensable activities, and such activities will require the benefit of an appropriate authorisation obtained from the Council - either a Premises Licence, a Club Premises Certificate or a Temporary Event Notice.

3.9 Licensable activities are defined by the Act as:-

- the sale by retail of alcohol;
- 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 late night refreshment between 11pm and 5am.
- the provision of regulated entertainment

3.10 A further explanation of licensable activities is available at-

<https://www.gov.uk/alcohol-licensing>

4. How to Use This Policy Statement

Licensing Act 2003

- 4.1 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act. The Licensing Act 2003 and the statutory guidance issued under section 182 of the Act provide for fundamental principles of licensing. The Council's Statement of Licensing Policy is intended to add to these fundamental principles and to give general guidance as to how it will approach issues arising under the Act. No part of the Council's Statement of Licensing Policy is intended to be inconsistent with or to undermine the provisions of the Licensing Act 2003.

Decision Making

- 4.2 This policy is to be taken into account when the Council makes decisions relating to the Act, although the Council will also have regard to the Act and the guidance issued by the Secretary of State under Section 182 of the Act. The Policy is intended to show how decision making will be approached, and how the Council will work with others to promote the Licensing Objectives. The Policy is taken into account when decisions are made by the Licensing Committee, the Licensing Sub Committee and authorised officers.

Applications and Representations

- 4.3 Applicants, Responsible Authorities and other parties should refer to this policy when making applications or representations under the Act.

Contents of This Policy

- 4.4 The first part of this policy details the Council's vision, and explains some of the matters that have to be considered when applications are made under the Licensing Act 2003. The policy then goes on to explain how to make applications and how people can raise concerns. The later part of the Policy explains how certain issues are to be considered, including the admission of children to premises, the licensing of petrol stations and the licensing of premises that provide adult entertainment. The last two parts of the Policy address some wider licensing considerations and explain how the Council delegates responsibility for the functions it has to carry out under the Act.

5. Our Vision

The Licensing Authority

- 5.1 Under the Licensing Act 2003 the Council is called the “Licensing Authority”. As Licensing Authority the Council is responsible for the licensing of restaurants, pubs, cafes, and takeaways. Throughout this document, all references to Licensing Authority mean the Council.

Responsibilities for Functions

- 5.2 The Licensing Authority’s functions are carried out by the Licensing Committee, the Licensing Sub Committee and authorised officers of the Council. Some of the most important functions and details of the persons with responsibility for the functions and decision making are set out in Section 9.

Training of Members

- 5.3 Before sitting as members of the Licensing Sub Committee Council members will need to attend a Licensing Act 2003 training session with officers from Legal Services and Licensing. Members will need to attend refresher training every year that they remain as a member of the Licensing Committee.

Decision Making

- 5.4 In carrying out its functions under the Act the Licensing Authority will seek to ensure that any decision it makes is evidence based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 5.5 It should be noted that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 5.6 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 town and city centres.
- 5.7 The Council will take account of the statutory guidance when it makes decisions under the Act. The Council will also seek to take decisions that help to advance the following issues:–

- Improving the quality of life for local residents through a reduction of crime and disorder
- The protection of children from sexual exploitation
- Reducing anti-social behaviour in and around licensed premises
- Encouraging more family-friendly premises
- Improving quality of life by bringing greater choice to residents, consumers, tourists and businesses about where, when and how they spend their leisure time;
- Developing a culture of live music, theatre and sport;
- Encouraging a diverse range of premises for both the day time and night time economy
- Giving licence holders greater flexibility to meet their customers' needs and expectations
- Encouraging responsible retailing and consumption of alcohol by preventing underage sales and alcohol related health issues.

5.8 The Council recognises that its decisions can have significant effects on local businesses, local communities and individuals. The Council will often have to assess competing interests and will have to try to make a decision that is balanced and fair to all parties involved.

5.9 The Council is therefore keen to encourage a dialogue not only with local licence holders and Responsible Authorities, but also with community groups and individuals. The Council supports local partnership working and is keen to encourage regular liaison between the licensed trade, local communities and Responsible Authorities. If there is a regular forum for discussion between these groups of people then it is more likely that people will have their voices heard.

Licensed Venues and Local Communities

5.10 The Licensing Authority will seek to encourage the provision of a wide range of high quality and well-managed venues in the Borough of Stafford. The Licensing Authority will seek to ensure that premises are safe, vibrant meeting places for people who live, work and visit the area.

5.11 The Council recognises that a thriving well managed night time economy can bring many benefits.

5.12 The Council wishes to create a vibrant prosperous economy that encourages growth as well providing a safe and healthy environment that people want to be a part of.

5.13 Whilst it is important to support a vibrant economy the balance has to be struck between an uncontrolled expansion of licensed premises and what follows, and the need to ensure public safety and quality of life for local people

5.14 The Licensing Policy will respect the individual characteristics of all premises

and recognise that pubs, nightclubs, restaurants, hotels, theatres, and other clubs may all wish to sell alcohol and serve food with contrasting types of patrons, styles of entertainment and characteristics. Proper regard will be given to those differences and the differing impact they are likely to have on the promotion of the licensing objectives.

Links with Other Policies

- 5.15 This Licensing Policy is intended to help ensure the proper integration of the licensing policy with local crime prevention, planning, transport, tourism, equality schemes, cultural strategies and any other plans introduced for the management of town centres and the night-time economy.
- 5.16 The Council will ensure that from time to time it is kept informed on issues relating to all these matters in order that they can be reflected within their considerations.
- 5.17 The Council's Evening and Night Time Economy Plan is being developed and when agreed will be available on the Council's website.

6. How to Make an Application

Applications

- 6.1 Applicants cannot assume that their applications will be successful as applications under the Licensing Act 2003 have to be considered in terms of whether the Licensing Objectives are promoted. In many cases the suitability of an applicant and the suitability of premises are part of such considerations.

On Line Applications

- 6.2 Applications can be made using the forms on the Home Office website.
<https://www.gov.uk/alcohol-licensing>
- 6.3 Online applications can also be made via the government website
www.gov.uk.
- 6.4 The Council's web site has links to these government web sites
www.staffordbc.gov.uk

On Line Payments

- 6.5 In order to fulfil its obligations under the Provision of Services Regulations 2009 (and the EU Services Directive) the Council will support and encourage applications and payments made online.

Minor variations

- 6.6 Licence holders can apply to make small changes to premises licences or club premises certificates through the minor variation process, which is cheaper, easier and quicker than the full variation process.
- 6.7 A minor variation is defined as one that could not impact adversely on any of the four licensing objectives. (These are: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.)
- 6.8 The Minor Variations process cannot be used to add the retail or supply of alcohol to a licence.
- 6.9 The minor variation application form and further guidance on minor variations can be found on the Home Office website at:-

Temporary Event Notices

- 6.10 The Licensing Act 2003 provides that Temporary Event Notices (TENs) can temporarily authorise licensable activities upon premises, such as the sale or supply of alcohol, the provision of regulated entertainment or the supply of late night refreshments which are not already authorised by either a premises licence or a club premises certificate. The TEN process is one of notification to the licensing authority and the police by the giver of the notice.
- 6.11 Temporary Event Notices (TEN's) do not seek permission to carry on licensable activity and do not make application for it. TEN's are a system of notification which the s182 guidance confirms is a light touch process.
- 6.12 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; and a late notice is given not before nine and not later than five working days before the event.
www.gov.uk/government/collections/alcohol-licensing-temporary-events-notices

Standard temporary event notices

- 6.13 "Ten working days" (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event. A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year, will be returned as void and the activities described in it will not be authorised.
- 6.14 The Police and the Council's Environmental Health Service are the only bodies that can make representations regarding standard temporary event notices.
- 6.15 The Police and Environmental Health Service have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives. At any time before a hearing is held or dispensed with, the Police or Environmental Health Service may, with the agreement of the premises user, modify the temporary event notice by making changes to it.

Late Temporary Event Notices

- 6.16 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified are not exceeded. There is no

right of appeal in respect of Police or Environmental Health Service objections relating to late TENs.

7. How to Raise Concerns

Contact the Council

- 7.1 Anyone with concerns about premises or a particular event can contact the Council. It may also be advisable to speak to their local Councillor if they have such concerns.
- 7.2 If you have concerns regarding premises, or a new application for a specific event or premises you should contact the Council's Licensing section, which will be able to advise you.

Advice for Residents

- 7.3 The Home Office and the Institute of Licensing have published a Factsheet for local residents concerned about problem premises. The Factsheet can be found at www.gov.uk/government/uploads/system/uploads/attachment_data/file/118372/advice-local-residents.pdf

Child Sexual Exploitation

- 7.4 Licensing authorities must consider the need to protect children from sexual exploitation when undertaking licensing functions. If members of the public have concerns about child sexual exploitation in connection with premises licensed under the Act then they should contact the Police in the first instance also notifying First Response, Staffordshire County Council's child protection service. The local Safeguarding Board also provide advice on how to prevent child sexual exploitation. The Staffordshire Safeguarding Children Board web site provides safeguarding information for the public, parents and carers and is at <http://www.staffsscb.org.uk/Home.aspx>

Problem Premises

- 7.5 The expectation of the Council is that licensed premises shall be well run and well managed. The emphasis of the policy is on ensuring the promotion of the licensing objectives and proper management and control of licensable activities.
- 7.6 The focus of the policy is:-
- to ensure that the licensing objectives are met;
 - to ensure individual licensees have proper control over the premises;
 - on the suitability of premises or places being used for licensable activities;

- on the direct impact of licensable activities on those living, working or otherwise engaged in the area concerned; and,
- on the impact of those activities on the amenity of the immediate residential area and the wider community.

Enforcement

7.7 It is the intention of the Licensing Authority to work proactively with all Responsible Authorities and Licence holders. The Licensing Authority will try to ensure proportionate targeting of agreed problem premises and focus on high-risk licensed activities. There will be a corresponding lighter touch for well run, lower risk premises.

7.8 The Council's Enforcement Policy can be found at

<http://www.staffordbc.gov.uk/live/Documents/Policy%20and%20Plans/Environmental-Health---Enforcement-Policy.pdf>

7.9 The Council will engage with the licensed trade in tackling under age sales ensuring that there are stringent age verification schemes in place at venues that sell alcohol, tobacco or provide adult entertainment. The Council will discourage irresponsible advertising and drinks promotions, in a way that is consistent with the mandatory conditions referred to in Chapter 10 of the statutory guidance.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf

Risk Based Inspections

7.10 Although the Act does not require premises inspections to be undertaken, they will take place at the discretion of the Licensing Officers charged with this role and will take place as judged necessary on a risk based approach.

7.11 This will ensure that the Licensing Authority manages its resources efficiently and that 'effective enforcement' is directed at 'problem premises'.

Reviews

7.12 The availability of a review of licences or certificates provides a key protection for the community where the Licensing Objectives are being undermined. The review system should allow the Licensing Authority to apply a light touch bureaucracy to the grant or variation of a licence or certificate. The Licensing Authority may then take a more robust approach when problems relating to the Licensing Objectives arise later in respect of any premises.

7.13 At any stage following the grant of a premises licence or a club premises certificate, a Responsible Authority or any other person, may ask the Licensing Authority to review the licence or certificate because

of a matter arising at the premises in connection with any of the four licensing objectives.

- 7.14 The Licensing Authority will accept initial email applications for reviews from Responsible Authorities. This does not however, negate the requirement to serve paper copies on all parties, including the Licensing Authority.

Powers of Licensing Sub Committee on a Review

- 7.15 The Licensing Sub-Committee must, under section 52(4) of the Licensing Act 2003 having full regard to the representations, take such steps as it considers appropriate for the promotion of the licensing objectives namely;
- a) to modify the conditions of the licence
 - b) to exclude a licensable activity from the scope of the premises
 - c) to remove the Designated Premises Supervisor
 - d) to suspend the licence for a period not exceeding 3 months
 - e) to revoke the licence.

Adjournments of Sub Committee Hearings

- 7.16 On occasion applications are made to the Council that have particularly pressing time limits – for example temporary event notices and premises licence review applications.
- 7.17 In some cases a party will ask for additional time to consider their position and sometimes all parties make a request for an adjournment of the Licensing Sub Committee hearing.
- 7.18 In consequence the Council's Solicitor, in consultation with the Chairman of the Licensing Committee has delegated powers to make certain decisions where it is in the public interest to do so. These are:
- To adjourn hearings
 - To extend time limits
 - To dispense with the need for some hearings where all parties have agreed to this ; and
 - To take steps to address any irregularities arising from failure to comply with regulations made under the Act.

8. Premises Licences and Club Premises Certificates

Conditions

- 8.1 The licensing regime established by the Licensing Act 2003 is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events.
- 8.2 As Licensing Authority the Council wishes to emphasise that any conditions that are attached to various authorisations should be focussed on matters which are within the control of individual licence holder. The Council will seek to avoid attaching blanket conditions or conditions that duplicate other regulatory regimes.

Mandatory Conditions

- 8.3 The Licensing Act 2003 states that there are certain mandatory conditions. These have to be included in every licence and/or club premises certificate in specified circumstances. Some of the mandatory conditions relate to premises licences that authorise the sale of alcohol, while others relate to conditions for door supervisors. Details of these mandatory conditions can be found at <http://www.legislation.gov.uk/uksi/2014/2440/resources> and <http://www.legislation.gov.uk/uksi/2014/1252/schedule/made>

Licensing Hours

- 8.4 The Licensing Authority acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The Licensing Authority will consider the individual merits of any application or representation. It is clear that longer licensing hours with regard to the sale of alcohol may be an important factor in avoiding a concentration of customers leaving premises simultaneously, however, it must also be recognised that even smaller numbers of patrons leaving licensed premises over a longer period of time, may still lead to significant and persistent problems of disorder and/or public nuisance.
- 8.5 The Licensing Authority acknowledges that greater consumer choice and flexibility is an important consideration when it comes to encouraging a thriving night time economy. This is important for local investment and employment opportunities. However longer licensing hours should not be permitted if evidence demonstrates that there would have been an adverse impact upon the promotion of the Licensing Objectives.

- 8.6 In some circumstances flexible licensing hours for the sale of alcohol can help to ensure that large numbers of customers do not leave various premises simultaneously, and this can help to promote the Licensing Objectives.

Capacity within licensed premises

- 8.7 Capacity and fire safety issues are covered in a useful guide found at:

<http://www.staffordshirefire.gov.uk/764.asp>

Children in premises

- 8.8 The Council recognises the great variety of premises for which a Premises Licence may be sought and wishes to make it clear that there are a range of alternatives available for limiting the access of children where that is appropriate for the objective of the protection of children from harm.
- 8.9 Measures that may assist in the promotion of the objective relating to the protection of children from harm include:- restrictions on the hours when children may be present; restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place; restrictions on the parts of the premises to which children may have access; age restrictions (below 18); restrictions or exclusions when certain activities are taking place; 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); and full exclusion.
- 8.10 The admission of children into licensed premises will normally be at the discretion of the licence holder/management and this should be reflected in the operating schedule submitted to the Council upon application.
- 8.11 The Council will not seek to limit the access of children to any premises unless it receives representations to that effect. However, where premises give film exhibitions, the Licensing Authority will expect licence holders or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification, or the Licensing Authority itself.

Live Music

- 8.12 As a result of recent changes made to the Act no licence is required for the following activities -
- a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.

- a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
- a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
- a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
- a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

Adult entertainment

- 8.13 Adult entertainment is only authorised where the Premises Licence clearly states that such entertainment is permitted. New applicants must make clear on the application form that adult entertainment may take place at the premises.
- 8.14 Existing licence holders should be aware that if adult entertainment is not mentioned within their current Premises Licence then a variation to the licence or a Temporary Event Notice (TEN) will be required before adult entertainment can take place. The TEN form makes specific reference to the provision of adult entertainment.

Suspension of Licence/Certificate

- 8.15 Premises Licence or Club Premises Certificate annual fees are due to be paid to the Licensing Authority on the anniversary of the grant of the premises licence or club premises certificate.
- 8.16 When annual fees fail to be paid the Licensing Act 2003 requires licensing authorities to suspend the premises licence or club premises certificate.
- 8.17 The Premises Licence or Club Premises Certificate is to be suspended unless the holder has failed to pay the fee at the time it became due because of an administrative error, or before or at the time the fee became due, the licence holder notified the authority in writing that the licence holder disputed liability for, or the amount of, the fee.

8.18 The suspension can only take place after a 21 day period of grace is afforded to the licence holder which begins on the day after the fee became due. After that 21 day period expires a suspension notice will be served by the Licensing Authority giving at least two working days of the suspension.

8.19 The suspension will be lifted on the day that the annual fee is paid.

<http://www.legislation.gov.uk/ukpga/2011/13/section/120/enacted>

Petrol Stations s176

8.20 Where a licence application is made which may be affected by the “excluded premises” section 176 of the Act, the Council will determine the application in accordance with the information and evidence provided by the applicant.

8.21 All premises licences issued to petrol station forecourts will have the following statement included within the licence:

“This premises licence has no effect to authorise the sale by retail or supply of alcohol on or from an excluded premises under section 176 of the Licensing Act 2003. ‘Excluded premises’ means premises used primarily as a garage or which forms part of a premises which is primarily so used. Premises are used as a garage if they are used for... the retailing of petrol or retailing of derv (section 176(4) (c) (i) and (ii))”

8.22 Where the applicant provides little or no evidence that the premises is not “excluded premises” under section 176 of the Act, then the Premises Licence may be granted, issued with the above statement endorsed upon it and monitored for compliance by the Licensing Authority and / or Police.

8.23 In the event of representations being made in respect of this type of application by responsible authorities then the application will be referred for determination by the Licensing Sub Committee at a hearing.

9. Wider Licensing Considerations

Reduction of Alcohol Harm

- 9.1 Health bodies have been able to act as Responsible Authorities under the Licensing Act 2003 since April 2012. Since the health reforms in April 2013 which saw the formal transfer of public health responsibilities to Local Authorities, health bodies are Directors of Public Health (in England) and they have unique access to data not available to other Responsible Authorities which may inform licensing decisions.
- 9.2 Public Health is not currently a licensing objective and there is not a specific licensing objective related directly to health within the current legislation but 'Staffordshire Public Health' (SPH) at Staffordshire County Council has much to add in reducing health harms within the current licensing framework.
- 9.3 This Licensing Authority envisages an effective working relationship with the Director of Public Health (DPH) and SPH working together to ensure that the health impacts of alcohol licensing is considered. Although the DPH will be notified of all licence applications, it is acknowledged not every application will need a response from public health. However, any representations must be considered relevant by the Licensing Authority and relate to one or more of the licensing objectives.
- 9.4 Health bodies when making representation are most likely to relate such representations to the objectives on public safety and protecting children from harm but any health evidence will need to relate to a specific premises or group of premises in a particular area such as a cumulative impact zone ("CIZ"). SPH may be able to provide evidence of alcohol related health harms, alcohol related A&E admissions, or ambulance service data that might be directly relevant to an application under the Act.
- 9.5 The role of the DPH is to help promote the health and wellbeing of the local populations they serve and in the DPHs annual report '*Reducing alcohol-related harm: everyone's responsibility*' 3 strategic priorities were identified:
- (i) Prevention and early intervention
 - (ii) Treatment and recovery
 - (iii) Regulation and enforcement
- 9.6 The above three objectives are also underpinned by the cross cutting theme of 'taking responsibility' in that individuals, families, communities and organisations will all need to take various forms of responsibility if alcohol problems are to be reduced.

- 9.7 The health reforms along with the publication of ‘*The Governments Alcohol Strategy*’ in March 2013 and the development of local structures, lends itself to a joined up approach in taking the right action locally to tackle alcohol related harm.

The Licensing Authority as a Responsible Authority

- 9.8 Although the Licensing Authority is a Responsible Authority, it will not duplicate representations or applications made by other Responsible Authorities and other persons. However, if these parties have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as Responsible Authority.
- 9.9 The Licensing Authority may sometimes be in a better position than other RAs to “see the full picture” and connect apparently unrelated reports from different sources.
- 9.10 The Licensing Authority may also make representations where a Cumulative Impact Zone is in place and no other representations have been received. There is a section below on Cumulative Impact Zones.

Planning Decisions

- 9.11 Licensing and Planning are discrete regulatory systems.
- 9.12 There are several key differences between licensing and planning control, and their respective approaches to applications. It could be said that the consideration of a planning application involves looking into how land or buildings are to be used, whereas licensing considers the behaviour of people in terms of the proposed use of the buildings or land and the impact on the licensing objectives.
- 9.13 In some cases, it is possible that the premises have different hours of operation (in particular closing times) upon its planning permission and premises licence. This is because the considerations for obtaining planning consent are different than those for obtaining an authorisation under the Licensing Act 2003.
- 9.14 The distinction between planning and licensing functions needs to be clear, but it is also important that the functions are aligned operationally to provide a joined up and customer focussed service to businesses.
- 9.15 Councils are already exploring opportunities to improve customer service for businesses in this area, for example by joining up planning, licensing and other advice at an early stage through pre-application advice services.

Cumulative Impact Zones (CIZ)

- 9.16 'Cumulative impact' refers to the potential impact on the promotion of the licensing objectives of the concentration of a significant number of licensed premises on one area.
- 9.17 The Licensing Authority will not normally refuse applications simply because there are already a number of other licensed premises in the vicinity. However, the cumulative effect of the impact of licensed premises on an area is a matter for consideration by the Licensing Authority. It may be regulated by the adoption of a CIZ special policy for determining applications for new premises licences or club premises certificates because the area is already saturated.
- 9.18 Where a special policy for a CIZ is adopted there will be a presumption against the grant of new licences and material variations unless the applicant can satisfy the Authority that the application will not adversely affect the promotion of any of the licensing objectives.
- 9.19 The Council may adopt a special policy for a CIZ if this is shown to be justified as appropriate for the promotion of the licensing objectives.
- 9.20 Chapter 13 of the statutory guidance deals with Cumulative Impact Zones. See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf

Early Morning Alcohol Restriction Orders (EMRO)

- 9.21 Under Section 172 A to E of the Act, the Licensing Authority has the power to make an EMRO prohibiting the sale of alcohol for a specified period between the hours of 24:00 and 06:00. They are designed to address recurring problems with licensed premises, serious public nuisance and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 9.22 It is acknowledged by the Licensing Authority that an EMRO may be restrictive, whilst also being a powerful tool to address recurring problems of alcohol-related crime and disorder, serious public nuisance and alcohol-related anti-social behaviour. Prior to making an EMRO the Licensing Authority will consider whether any other measures (implemented by themselves or with partners) may address the problems that have been identified.
- 9.23 In taking any decision to make an EMRO, the Licensing Authority will follow the statutory process and will invite representations. An EMRO could only be made if the evidence demonstrated that it was justified as appropriate for the promotion of the licensing objectives.

- 9.24 Chapter 16 of the statutory guidance deals with EMROs. See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdfwww.gov.uk/government/collections/alcohol-licensing-early-morning-restriction-level-forms

Late Night Levy

- 9.25 Under Section 125 of the Police Reform and Social Responsibility Act 2011 the Council can adopt a Late Night Levy, following a consultation process, outlined by the Home Office.
- 9.26 The Late Night Levy allows the Council to charge an additional fee to any licensed premises that has a licence for the sale of alcohol (on and off sales) between 24:00 and up to 06:00 in order to cover the additional costs associated with late night alcohol trading.
- 9.27 Legislation allows the prescribed time to start from midnight but it is up to the Council to decide when they wish to apply it.
- 9.28 The Council will consider implementing a Late Night Levy if this is shown to be justified as appropriate for the promotion of the licensing objectives.

Town Centres and Public Spaces

- 9.29 The Council has licensed some of its public spaces in order to encourage a wide range of licensable activities, subject to prior notification and agreement by the Council.
- 9.30 The public spaces which are currently licensed by the Council are listed below:
- Stafford Town Centre
 - Stone Town Centre
 - Westbridge Park
 - Stafford Castle
 - Victoria Park

10. Functions and Decision Making

Matters to be dealt with	Sub Committee	Officers
Application for personal licence	If a police objection	If no objection 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 representation 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 an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases