



Solihull Metropolitan Borough Council

Licensing Act 2003

Statement of Licensing Policy

Version #3

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SOLIHULL METROPOLITAN BOROUGH COUNCIL

STATEMENT OF LICENSING POLICY

This Policy Statement is prepared in accordance with the Licensing Act 2003 (the Act) and is in line with the Guidance issued to Local Authorities, by the Department of Culture, Media and Sport, under section 182.

1. Introduction

1.1 Solihull is the largest metropolitan borough in the West Midlands (in geographical terms), consisting mainly of rural areas, with a population of over 200,000, concentrated mainly in urban communities.

The mixture of urban and rural areas gives rise to the Council motto 'Urbs in Rure' (Town in the Country) and the numerous parklands, trees, fields and other open spaces, cannot be lost to residents or visitors to the borough.

The location of Solihull allows it to enjoy exceptional national and international connectivity, thanks to its high quality transport infrastructure. Within the borough is Birmingham International Airport with its many links to national and international destinations, whilst the West Coast main railway line, running through Birmingham International Railway Station, provides easy access to London and other major UK cities. The M5, M6, M40 and M42 motorways are within easy reach of Solihull, and offer rapid access to the national motorway network.

Solihull is home to over 4000 businesses, many of which are nationally and internationally recognised names, from the engineering and motor industry, to high-class retail outlets and cutting edge technology companies.

Solihull has a growing retail and leisure sector with over 16 million people visiting the shopping centres and leisure complexes annually. There are many hotels, pubs, clubs and restaurants in the borough that enhance and support the enjoyment of residents and visitors.

2. Licensing Objectives

2.1 Solihull Metropolitan Borough Council is the Licensing Authority for this district and will promote the licensing objectives set out in the Act, which are:-

- ***the prevention of crime and disorder***
- ***public safety***
- ***the prevention of public nuisance***
- ***the protection of children from harm***

Each of the licensing objectives is considered to be of equal importance for the purposes of this policy.

- 2.2 To achieve these objectives, the Licensing Authority will use its full range of powers and engage all relevant responsibilities, including its planning controls, transport controls, crime and disorder policies and powers. The Licensing Authority will work closely with the Police, the Fire Authority, Hospital Trusts, Parish Councils, local businesses, community representatives, local people and other groups or individuals, as considered appropriate in meeting these objectives. The sharing of information and intelligence may take place between the Licensing Authority and Responsible Authorities.
- 2.3 The Licensing Authority will regularly engage with local Councillors by sharing information in respect of applications received and topical issues, if appropriate. Following the amendment of the Act by virtue of section 33 of the Policing and Crime Act 2009 to include Councillors as Interested Parties, the Licensing Authority will consider representations and reviews received from Councillors in the same way as those received from other Interested Parties. The Licensing Authority recognises the importance of information sharing and will ensure transparency in doing so.

3. Scope of the Policy

- 3.1 The scope of this policy covers new applications, renewals, transfers and variation of licenses and certificates, including where applicable, temporary premises licenses. It will also include the review and possible revocation of licenses and certificates.
(Any reference to a licence will also include a Club Premises certificate).
- 3.2 Activities that require a licence under the Licensing Act 2003 and covered by this policy include:
- retail sale of alcohol
 - supply of alcohol to club members
 - provision of 'regulated entertainment', to the public **or** to club members **or** with a view to profit
 - performance of a play

- exhibition of a film
- indoor sporting event
- boxing or wrestling entertainment
- performance of live music
- playing of recorded music
- performance of dance
- provision of facilities for making music
- provision of facilities for dancing
- supply of hot food and or drink between the hours of 11 p.m. and 5 a.m.

3.3 In formulating this policy statement, the Licensing Authority has had regard to the following relevant provisions of the European Convention on Human Rights:

- Protocol 1, Article 1 - that every person is entitled to the peaceful enjoyment of his possessions.
- Article 6 – entitlement to a fair and public hearing within a reasonable time by an independent tribunal established by law.
- Article 8 – that everyone has the right to respect for his home and private life.

3.4 Regard has also been had to the provision in the Human Rights Act 1998, that makes it unlawful for a public authority to act in a way that will be incompatible with a convention right. Consequently an aim of this policy in relation to the decision making process of the Licensing Authority, is to ensure that all decisions made, are compatible with convention rights.

3.5 The Licensing Authority has also taken into account the Equality Act 2010, and the provisions of section 17 of the Crime and Disorder Act 1998. This requires Local Authorities to have regard to the likely effect of the exercise of their function on crime and disorder in their area and to do all they can to prevent such crime and disorder. The Council will as far as possible avoid duplication with other regulatory regimes and legislation.

4. The Licensing Process

4.1 The powers of the Licensing Authority under the Act may be carried out by Members of the Licensing Committee, a Sub-Committee, or by an Officer acting under delegated authority.

- 4.2 It is considered that many of the licensing functions will be largely administrative, with no perceived areas of contention. In the interests of efficiency and effectiveness, Officers will for the most part, carry out these functions.
- 4.3 A Committee of the Council will deal with any applications where there are relevant representations, or where the review of a licence is requested.
- 4.4 The Licensing Authority will normally expect individual applicants to address the licensing objectives in their Operating Plan, having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 4.5 The steps that the applicant proposes to take to promote the licensing objectives may include:-
- Evidence of risk assessments regarding health and safety.
 - Details of the proposed standard of management of the premises at all times while the premises is open.
 - Details of partnership working with agencies such as the police, regarding issues such as liaison, drugs policies etc.
 - Entry policies.
 - Age restriction policies including age verification checks.
 - CCTV provision including details of surveillance, situation and retention of images.
 - Drinks glasses and bottles, including a prevention policy regarding the carrying out of the premises, glasses and bottles by patrons.
 - Transport issues, for example, the availability of buses, taxis and private hire vehicles.
 - Provision for training of staff.
 - Physical security measures at the premises.
 - Responsible pricing promotions (i.e. the adherence to the Portman Group Code of Practice regarding alcohol promotions and the British Beer and Pub Association Code of Practice).
 - Music 'wind down' schemes.
 - Evidence of a first aid policy.

- Evidence of staff being aware of child protection issues.
- Details of any accredited scheme that the applicant is signed up to.

The Licensing Authority may seek further information as necessary regarding the promotion of the licensing objectives.

- 4.6 The Council recognises that it is for the applicant to comply with the statutory requirements in drafting the operating schedule, and for the applicant to demonstrate how he will promote the four licensing objectives.
- 4.7 Applicants may wish to familiarise themselves with any relevant planning and transportation policies, tourism and cultural strategies and local crime prevention strategies and to have taken these into account, when formulating the Operating Plan for their premises.
- 4.8 Applicants are not required to seek the views of the Responsible Authorities before formally submitting applications, but may find them a useful source of expert advice.
- 4.9 When determining applications the Licensing Authority will have regard to any Guidance issued under section 182 of the Act. This includes taking into account the need to encourage and promote live music, dance and theatre, for the wider cultural benefit of the community as a whole.
- 4.10 The Licensing Authority will also have regard to other local and national initiatives that appear to support the promotion and delivery of the licensing objectives, for example, the Crime & Disorder Reduction Partnership, and the Government's Alcohol Harm Reduction Strategy for England.
- 4.11 If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Licensing Authority will balance those representations against the wider benefits to the community. All applications will be considered on their own merits if relevant representations are made in respect of them. When attaching conditions considered necessary and appropriate to licensed premises, the Licensing Authority will be aware of the need to avoid measures that might deter live music, dance or theatre.
- 4.12 Any summary of the licence issued by the Licensing Authority shall be displayed in such a position that it can be easily read by members of the public.

4.13 The Licensing Authority shall in respect of each three year period, determine its policy with regard to exercising its licensing function and publish a statement of that policy before the beginning of the period. It will be necessary for the Licensing Policy to be kept under review during any three-year period and revision made to the policy as required. Such revision(s) made will be published.

4.14 Where no relevant representations are received, the steps that applicants propose to take to promote the licensing objectives, will normally translate directly into conditions that are reasonable consistent with the operating schedule. These, along with any mandatory conditions set out within the Licensing Act 2003, will be attached to the premises licence.

5. Determination of Applications

5.1 Each application for the grant, variation, or review of a licence, will be considered and determined on its individual merits, and in accordance with the licensing objectives of 'the Act'. The Licensing Authority may consider the following matters prior to granting any Premises Licence:-

5.2 Disturbance, Amenity & Environment

- steps taken or proposed to prevent noise and vibration of all kinds escaping from the premises.
- steps taken or proposed to prevent disturbance by patrons or staff when entering or leaving the premises.
- steps taken or proposed to minimise queuing and the supervision of any queues to prevent noise and disorder.
- steps taken or proposed to prevent disturbance likely to be caused by the use of any forecourt, patio or garden attached to any licensed premises.
- steps taken or proposed to prevent the impact of refuse or litter in the vicinity or area surrounding the licensed premises.

5.3 Transport and Pedestrians

- steps taken or proposed to reduce the impact of vehicles parking on residents or businesses in the area.
- steps taken or proposed to ensure that customers and staff can be transported away from the premises without delay.

5.4 Crime and Disorder

- steps taken or proposed, to fully utilise C.C.T.V. technology where appropriate, both inside and outside the premises and to implement agreed procedures for managing recorded images.
- steps taken or proposed, to risk assess the 'sale of alcohol promotions' and 'happy hours', for potential impact on crime and disorder and the plans to minimise such risk, should it exist.
- steps taken or proposed, to prevent the use, sale or supply of illegal substances or offensive weapons on the premises.
- steps taken or proposed, to risk assess the number of licensed Door Supervisors required to be on duty at the premises, at any time.
- steps taken or proposed, to manage 'drinking up time', after the sale of alcohol has ceased.
- steps taken or proposed, to include a rapid communication system, with other licensed premises in the area and / or the Police.
- steps taken or proposed, to be involved in any 'Pub Watch' scheme, or similar arrangement, directed towards achieving the licensing objectives.
- steps taken or proposed, to reduce the impact on residents or businesses in the area, of vehicles parking.
- steps taken or proposed, to risk assess the potential of glasses and bottles being used as weapons.

5.5 Public Safety and Fire Safety

- steps taken or proposed, to minimise the risk of injury by any means, including fire, to those persons visiting or working on the premises.
- steps taken or proposed, to produce an appropriate emergency evacuation plan for the premises and train members of staff in the implementation of that plan.
- steps taken or proposed, to calculate the maximum occupancy figure of the premises and the proper management of that limit.

6. Personal Licenses

6.1 The Licensing Authority has little discretion regarding the granting of a Personal Licence. In general, provided that the applicant has a qualification determined by the Department of Culture, Media and Sport and does not have a recent relevant conviction, the application will be granted.

If an applicant has a recent relevant conviction, the Police may object to the application, following which a hearing must be held. At that hearing the Licensing Authority will consider whether the grant of a licence will be in the interest of the crime prevention objectives. If it is not so satisfied, the application will be rejected.

7. Premises Licenses

- 7.1 The Licensing Authority will normally expect individual applicants for a Premises Licence, to detail in their Operational Plan, the steps they will take to promote the licensing objectives, within the context of the location of the premises, the type of premises, the licensable activity to be provided, the operational procedures and the needs of the local community. Reference should be made in the Operational Plan, to any individual, who for the time being is designated as 'Premises Supervisor'.
- 7.2 It will be necessary that all those likely to be affected by an application, are made aware of it and afforded an opportunity to make any relevant representation. To ensure that this is achieved, the Licensing Authority will undertake not only the statutory consultation required by the Act, but also any other consultation required in respect of any relevant circumstances.
- 7.3 If the Licensing Authority receives any relevant representations, then there will be a hearing before the Licensing Committee or any Sub-Committee to which that authority has been delegated, unless all interested parties concerned, agree that such a hearing is unnecessary.

8. Club Premises Certificates

- 8.1 Applications made to the Licensing Authority for a Club Premises Certificate will only be considered from those premises occupied by and habitually used for the purposes of a club and which can be considered a 'qualifying club', as laid down in the Act. The same principles will apply to club premises, as to any other licensed premises.

9. Minor Variations

- 9.1 On receipt of an application for a minor variation to a Premises Licence or Club Premises Certificate, the Licensing Authority will consider whether it may adversely impact on the licensing objectives. If appropriate, the Licensing Authority will consult with any relevant Responsible Authorities in order to obtain specialist advice, and may take this into account when making a decision about whether or not to grant the application. The Licensing Authority will also take into account any relevant representation received from any Interested Party before arriving at their decision.

10. Conditions

- 10.1 The Licensing Authority will require those applicants seeking a Premises Licence to have considered the Core Model Conditions, as contained within Annex D of the Guidance and indicate within their Operating Schedule, which of the Core Model Conditions they consider appropriate, for the premises to meet the licensing objectives.
- 10.2 Licensing conditions, where necessary and appropriate, will be tailored to the individual application and only those conditions necessary to meet the licensing objectives will be imposed. Where appropriate, the Council may draw upon the model pool of conditions contained within the Guidance and attach those conditions to a licence, given the prevailing circumstances.
- 10.3 It is the policy of the Licensing Authority, that when considering conditions, there should be openness, transparency and reasonableness and to this end, Officers of the Council may wish to discuss proposed conditions, in advance, with the applicant and/or their representatives, with a view to obtaining a mutually agreeable level of protection for the public and fulfilment of the licensing objectives.

11. Enforcement

- 11.1 The Council will establish protocols with the Police, Fire Service and other enforcing authorities, with a view to scrutinising the needs of problematic and high-risk premises. Less rigorous activity will be undertaken in respect of those premises that are shown to be well managed and maintained, thus ensuring compliance with the Licensing Objectives.
- 11.2 In general, action will normally only be taken in accordance with agreed enforcement policies and to this end, the key principles of consistency, transparency and proportionality will be maintained.

12. Cumulative Impact

- 12.1 In determining an application for a Premises Licence, the Licensing Authority will take into account, the cumulative impact of granting such a licence. Cumulative Impact should not be confused with need, which relates to commercial demand for a particular type of premises. Need therefore, is a matter for planning consideration or market forces and does not form part of this licensing policy.
- 12.2 Where the Licensing Authority receives written relevant representations from a responsible authority or an interested party (as defined in 'the Act'), that the cumulative

effect of many licensed premises in a particular area gives rise to problems impacting on any of the four licensing objectives, over and above the impact from the individual premises themselves, those facts can be taken into account when considering the individual merits of any application.

12.3 The Licensing Authority will not operate a quota system that would pre-determine an application, nor will it seek to impose general limitations on trading hours. However, regard will be given to the characteristics of the particular premises concerned, their specific location and the likely impact on the community.

12.4 There are a number of mechanisms available to the Licensing Authority, for addressing incidents of crime disorder and general misbehaviour, which occurs away from licensed premises. These include:-

- planning controls
- positive measure to create a safer and cleaner environment in partnership with local businesses and others
- powers to designate areas of the Borough, where alcohol may not be consumed publicly
- confiscation of alcohol from persons in designated areas
- confiscation of alcohol from persons under eighteen years of age
- police enforcement of the law, with regard to disorder and anti-social behaviour
- enforcement action against those selling or supplying alcohol to drunken persons
- police powers to close premise for up to 24 hours on grounds of disorder
- the power of the police, other responsible authority, businesses or local residents, to seek a review of the licence or certificate

12.5 The Licensing Authority will address a number of these issues in line with the strategic objectives for the reduction of crime and disorder in the Borough.

13. Licensing Hours

13.1 The view of the Government is that longer licensing hours should be encouraged in the interest of avoiding a concentration of disturbance and minimising nuisance to local residents. Entertainment providers are encouraged to provide a range of entertainment during their operating hours and to promote live music, dance and theatre, for the wider cultural benefit of the community.

13.2 The Licensing Authority recognises that in some circumstances, flexible licensing hours for the sale of alcohol can help ensure that the concentrations of customers leaving

premises simultaneously are avoided. This can help to reduce friction at late night food outlets, taxi ranks and other sources of transport, which lead to disorder and disturbance.

- 13.3 Shops, stores and supermarkets will normally be free to provide sales of alcohol for consumption off the premises during their normal trading hours, unless the Licensing Authority has good reasons for restricting those hours, such as where there have been **representations received from Responsible Authorities or Interested Parties. In the case of shops known** to be a focus of crime, disorder, and/or disturbance, the Licensing Authority may consider any other matter that it considers relevant to the promotion of the licensing objectives.
- 13.4 When issuing a licence in respect of premises situated in a largely residential area, the Licensing Authority may, where necessary and appropriate, consider the imposition of stricter conditions.

14. Children and Licensed Premises

- 14.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take away food outlets, community halls and schools. Access by children to all types of premises will not be limited in any way unless it is considered necessary to do so, in order to protect them from harm and provided that such access is in accordance with the Act and / or any guidance issued by the Secretary of State.
- 14.2 When deciding whether to limit access to children or not, the Licensing Authority will judge each application on its individual merits. Examples that may give rise to concern in respect of children would include premises:-
- where entertainment of an adult or sexual nature is provided
 - where there is a strong element of gambling taking place
 - where there is a known association with drug taking or drug dealing
 - where there have been convictions for serving alcohol to those under 18
 - where there is a reputation or other evidence of underage drinking
 - where there is a history of violence or disorder
 - where Fixed Penalty Notices have been issued in respect of underage sales

- where automated tobacco sales are made, they should be properly controlled and only take place in the view of a member of staff
- 14.3 In the case of premises which are used for film exhibitions, conditions will be imposed restricting access, only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification, or in specific cases, a certificate given to the film by the Council itself.
- 14.4 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, then conditions will normally be imposed requiring the presence of an appropriate number of adult staff (*ratio may be specified*) to ensure safety and protection from harm.
- 14.5 The options available for limiting access by children would include -
- a limit on the hours when children may be present
 - a limitation or exclusion when certain activities are taking place
 - the requirement to be accompanied by an adult
 - access may be limited to parts of the premises but not the whole
 - an age limitation (for under 18s)
- 14.6 The Licensing Authority will not normally impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed, the issue of access will remain a matter for the discretion of the individual licensee or club.
- 14.7 The applicant may wish to consider adopting the 'Challenge 21' or 'Think 21' policy as an effective way of preventing the sale of alcohol to children, as well as displaying prominent signage informing customers that it is an offence to sell or allow the sale of alcohol to children, to purchase alcohol on behalf of a child, or for a child to buy or attempt to buy alcohol for themselves.

15. Temporary Events

- 15.1 An individual who wishes to use premises for one or more licensable activities in a period not exceeding 72 hours, must deliver to the Licensing Authority a 'temporary events' notice (in duplicate), in the prescribed form. The form will detail the proposed activities, the times that the activities will take place and whether or not there will be any sale of alcohol on or off the premises. The notice shall also state the maximum number of persons permitted on the premises, which must be less than 500.
- 15.2 A copy of any temporary event notice must be delivered to the Chief Officer of Police, no less than 10 working days before the event period begins. The Chief Officer of Police may object to the event taking place (within two working days of being notified), on the grounds that such an event would undermine the crime prevention objective. In such circumstances a hearing will be held, unless all parties agree that a hearing is unnecessary.

15. Integrating Strategies and the Avoidance of Duplication

- 16.1 There are a number of issues that may need to be considered when dealing with applications. The Licensing Committee will therefore have due regard to:-
- the needs of the local tourist economy
 - the needs of visitors to local exhibitions and conferences
 - cultural strategy for the area
 - employment situation in the area and the need for new investment and employment where appropriate
 - planning considerations which might affect licensed premises
 - any other general provision that is appropriate to fulfil the Licensing objectives
- 16.2 Through consultation, the Licensing Authority will endeavour to secure proper integration with crime prevention, planning, transport, tourism and cultural strategies.
- 16.3 Where any protocols agreed with West Midlands Police, identify a particular need to disperse people from town centres and / or other areas, swiftly and safely, to avoid concentrations which could lead to disorder and disturbance, the Council will initiate liaison with those responsible for providing local transportation, so that arrangements can be made to reduce the potential for disorder and disturbance. The Council may also implement any other measures considered appropriate.

- 16.4 The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes, to avoid duplicity and inefficiency.
- 16.5 In order to avoid duplication with other statutory regimes as far as possible, the Licensing Authority will not attach conditions of licence, unless they are considered necessary and appropriate for the promotion of the licensing objectives. Conditions will not normally be considered necessary, if specific matters are already subject to existing legislation.

Appendix A

Scheme of Delegations

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If police objection	If no objection made
Application for premises licence/club premises certificate		If relevant representation made	If no relevant representation made
Application for provisional statement		If relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If 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
Application for interim authority		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	

Appendix B

List of Consultees

All Solihull Councillors

All Parish Councils

West Midlands Police

West Midlands Fire Service

Trading Standards

Environmental Health

Safeguarding Children Board

Planning

Balsall Common Residents Association

Castle Bromwich Residents Association

Cheswick Green Residents Association

Dorridge & District Residents Association

Hockley Heath Residents Association

Marston Green Residents Association

Olton Residents Association

Winkworth Sherwood Solicitors

Kenneth Curtis & Co Solicitors

Harris Cooper Walsh Solicitors

Evans Derry Binnion Solicitors

John Gaunt Solicitors

Poppleston Allen Solicitors

Hammonds Solicitors

Wright Hassall Solicitors

Wallace Robinson & Morgan Solicitors

NEC Group

JD Wetherspoon plc

Marstons plc

Punch Taverns

Spirit Group

Sainsbury's

Tesco

Birmingham International Airport Authority

British Legion

Solihull Chamber of Commerce

British Beer and Pub Association

British Institute of Innkeepers

Solihull Pubwatch

Association of Convenience Stores