



# LICENSING ACT 2003

## STATEMENT OF LICENSING POLICY

TBC

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# **1 PURPOSE OF THE LICENSING POLICY**

The Licensing Authority must seek to promote the four licensing objectives contained in the Licensing Act 2003 when carrying out its licensing functions. These objectives are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

Licensing is about regulating how licensable activities are performed on licensed premises and by qualifying clubs and at temporary events within the terms of the Licensing Act 2003.

The legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work.

They include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- Giving the police and licensing authorities the powers, they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our local communities, and minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them.

Section 5 of the Act requires a licensing authority to prepare and publish a statement of its licensing policy at least every five years. During the five-year period the Licensing Authority will keep this policy under review and may make any amendments to it as it considers necessary.

# **2 THE PICTURE IN SANDWELL**

Sandwell is one of the larger metropolitan borough Council's located in the West Midlands and is predominantly urban in character. The Borough is composed principally

of six towns rather than a single, dominant centre and these form the basis of the Council's community focus. The towns are Oldbury, Rowley Regis, Smethwick, Tipton, Wednesbury and West Bromwich. At the last count, the population of the Borough was just under 320,000.

The economy of Sandwell is still heavily reliant on manufacturing, although service industries now form almost 60% of total employment within the Borough. Sandwell is also a densely-populated area and has the highest number of residents per unit of residential land in the West Midlands. In contrast, the Borough also has the highest proportion of parks and open spaces amongst the seven metropolitan districts in the area.

Sandwell has high levels of deprivation and is ranked the 8<sup>th</sup> most deprived local authority area out of 326 (Indices of Multiple Deprivation 2019). Deprivation in Sandwell is not concentrated in pockets, but more widespread across the borough than in other areas, with the worst areas of deprivation following Sandwell's industrial belt, running from the northwest to the southeast of the Borough. 26.3% of children in Sandwell are classed as living in poverty with relatively high volumes of adults experiencing income and employment deprivation.

Against this backdrop of deprivation, there is evidence which shows deprived communities suffer much greater harm from alcohol in comparison to less deprived communities (despite drinking similar amounts). This ultimately impacts on the healthy life expectancy of Sandwell residents: Healthy life expectancy is the average number of years that a person can expect to live in "full health". In other words, the length of their life they can expect to live, not hampered by disabling illnesses or injuries. Healthy life expectancy for men living in Sandwell is 4.7 years lower than the national average and for Sandwell women it is 5.6 years lower than the national average. This means that, on average, a woman in Sandwell can expect to live with illness and disability following diagnosis or injury for 22.9 years, for men 18.3 years.

Licensed entertainment provides a vital boost to the local economy of the area through tourism and cultural development. However, it is also recognised that such entertainment can lead to increased noise, nuisance and crime and disorder if not properly controlled.

The Licensing Authority wishes to minimise any negative impact from licensed premises on residential households whilst encouraging the economic diversity and prosperity such premises can encourage.

This policy aims to integrate its objectives with other initiatives, including the Authority's 2030 vision, policies and strategies that will:

- Encourage young people and culture
- Encourage arts and entertainment activities
- Reduce crime and disorder
- Reduce alcohol misuse

- Encourage employment
- Encourage tourism
- Encourage an early evening and night time economy which is both viable and sustainable
- Encourage the self-sufficiency of local communities
- To find a balance between securing the safety and amenity of the residential and business communities, whilst responsibly maintaining and developing entertainment and cultural facilities in the Borough.
- Create environments where families choose to move to and stay and be proud of.

We want the Borough to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment that is valued by those who live, work and come to visit. We also want to ensure that businesses operate responsibly and safely so that our residents live in decent neighbourhoods and have a good quality of life.

The Council's aim is to position Sandwell as a place where people call home and are proud to belong - where people choose to bring up their families, where they feel safe and cared for, enjoying good health, rewarding work, feeling connected and valued in the neighborhoods and communities, confident in the future, and benefiting fully from a revitalised West Midlands.

### **3 PROFILE OF LICENSED PREMISES IN SANDWELL**

Sandwell has licensed a large number of premises and as of December 2019, there were 1108 licensed premises, this figure is broken down as follows:

Type of Licensed Premises	Number of Premises
Shops/Supermarkets	405
Clubs	49
Food Establishments	231
Miscellaneous (including Town Halls, hotels, leisure centres, schools etc)	141
Public Houses/Nightclubs	282
Total	1108

## 4 THE IMPACT OF ALCOHOL ON SANDWELL

Sandwell Council has identified alcohol related harm as a key priority, particularly about increasing levels of ill health and local emergency service usage. It is essential that alcohol related harms are taken into consideration when addressing the promotion of the four licensing objectives.

Licensing is the mechanism by which the availability of alcohol is regulated in the UK. Despite efforts to ensure responsible retail and well managed access to alcohol, harm among Sandwell residents caused by alcohol are demonstrable and measurable. Sandwell currently experiences significant levels of alcohol- related problems:

- A total of 1965 crimes involving alcohol during 2019 (an average of 164 crimes per month due to alcohol misuse alone).
- A total of 924 domestic violence incidents involving alcohol during 2019.
- A higher rate of assault related attendances at Sandwell Emergency Department (ED) compared to the West Midlands. Every month there is on average just over 100 assault related attendances at Sandwell ED. The Crime Survey for England and Wales showed that alcohol played a part in nearly half (47%) of all violent crimes committed.
- The What About Youth Survey shows that almost half (46%) of 15 year olds residing in Sandwell reported they had previously had a whole alcoholic drink (not just a sip); 4.4% were classed as regular drinkers (at least weekly); 4% were drinking fortnightly and 5% were drinking once a month. Young people accessing alcohol are more likely to be involved in unsafe sex, antisocial behaviour & more vulnerable to child sexual exploitation (CSE).
- Residents have identified that 'young people being drunk, rowdy, or a nuisance' is a priority to be addressed, and alcohol related anti-social behavior carried out by adults and young people is a real issue of concern for certain parts the Borough.
- During 2018/19 a total of 30 undercover visits were made to local shops, resulting in 4 sales (13%) sold to an underage volunteer.
- 7,138 alcohol related hospital admission episodes during 2017/18 - of which 1977 were for health problems wholly attributable to alcohol.
- Alcohol specific mortality rates for Sandwell are 20.7, statistically significantly worse than the national average of 10.8 per 100,000 population. This puts Sandwell 4<sup>th</sup> highest for alcohol specific mortality out of 152 LA areas in England.
- The cost of alcohol-related healthcare costs for Sandwell (A&E attendances, inpatient admissions and outpatient attendances) are estimated to cost £18.1m per annum.

## 5 LICENSING OBJECTIVES

The matters to be considered by the Licensing Authority in relation to each of the four licensing objectives are not prescribed. Applicants should be aware that in addition to the requirement for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of granting licences and to do all it reasonably can to prevent crime and disorder in the Borough.

To comply with the Licensing Act objectives, the Licensing Authority recommends the applicant or licence holder reads the Home Office, 'Selling Alcohol Responsibly – The New Mandatory Licensing Conditions' document dated April 2010.

Furthermore, the Licensing Authority requests that applicants address the following points when making an application:

### 5.1 PREVENTION OF CRIME AND DISORDER

- Any premises application must consider the installation of CCTV covering both inside and outside of the premises with images retained for a minimum of 31 days or detail why they do not think this is appropriate in their application
- That staff are trained to operate the CCTV equipment and able to provide recordings within 24 hours to any of the responsible authorities on request.
- All premise applications must consider the use of registered door supervisors. The application should state either way if they propose the use registered door supervisors which should be supported by the completion of a risk assessment. Where it is felt registered door supervisors are not required the reasons for this should be provided in the application and again supported by the completed risk assessment.
- Premises that have a history of problems or that are offering regulated entertainment after 23.00 must consider the employment of registered door supervisors to control entry at the following ratio or detail the reasons why they feel it is not appropriate for them to be employed
- A minimum of 1 supervisor for every entrance door and one supervisor for every 100 persons, or part thereof or more where a risk assessment deems it appropriate
- Where door supervisors are employed, a register to be kept detailing the names of the door supervisors on duty, their registration number with the Security Industry Authority, the time they started work, started and finished any breaks and the time they finished work and any incidents they were involved in. The requirement that door supervisor badges are worn conspicuously when they are on duty.
- A requirement that security staff holding the appropriate Security Industry Authority licence or exemption are present to control entry for the purpose of compliance with any capacity limits that have been set at a premise and to deny entry to individuals who appear drunk or disorderly or both
- Staff training on the licensing laws and records kept of training undertaken



- Consideration be given to the use of plastic drinking receptacles in outside drinking areas that are situated in town centres
- That when plastic “glasses” are to be used, these plastic drinking receptacles must be compliant with applicable weights and measures requirements, e.g. beer must be served in a stamped measure (usually in multiples of ½ pint) – plastic ones are available as well as glass
- That illegal (illicit, counterfeit or non-duty paid) tobacco or alcohol, found upon inspection or sold from a licensed premise is likely to result in a license review to include: of sales premises to provide staff training on the laws relating to illegal tobacco/alcohol

## **5.2 PUBLIC SAFETY**

- The Designated Premises Supervisor/licence holder needs to consider initiatives to protect vulnerable persons at their premises including the provision of CCTV and measures that will enhance the safe and quiet departure of customers from their premises
- Specific types of training for a DESIGNATED PREMISES SUPERVISOR or security staff, including awareness of first aid or initiatives to protect women and vulnerable customers
- Provision and storage of CCTV footage
- Ensure the safe departure of those using the premises

## **5.3 PREVENTION OF PUBLIC NUISANCE**

- Consideration on how they will manage noise, light pollution and any litter generated by their premises. For example, to help manage noise pollution, all windows and doors to be closed (except for the purpose of customers entering and exiting the premises) whilst regulated entertainment is taking place.
- For takeaway premises to consider how they are going to manage litter created by their premises and consider clearing the area directly in front of their property at the end of each evening.
- Installation of a smoking litter bin outside a premise for use by customers
- The prevention of irresponsible promotions

## **5.4 PROTECTION OF CHILDREN FROM HARM**

- Where age-restricted products are available for sale or supply: -
  - The introduction of a Challenge 25 Policy linked with effective ID challenges and proof of age
  - The use of a “Challenge Log” recording all restricted sales challenges
  - The type of prompt or reminder that may be appropriate for staff at the point of sale
  - The system that ought to be in place to ensure that the circumstances in which a customer may or may not be served is understood and consistently applied
  - The mechanism that will be used to inform customers of the law and policies/procedures that are in operation at the premises

- How staff will be trained to ensure the law and policies/procedures are understood, up-to-date and applied consistently, including how staff's knowledge and understanding will be tested.

The points listed above are the Licensing Authority's expectations regarding management standards for licensed premises. We wish to encourage operators to address these key issues within their operating schedules on the basis that applications that do so are less likely to attract representations from responsible authorities.

## **6 LICENSING CONDITIONS**

The Licensing Authority is aware that conditions (other than the statutory mandatory conditions) may only be attached to a licence or club premises certificate if relevant representations are received (except for conditions drawn from the applicant's operating schedule since these are voluntary propositions). Any such conditions should be tailored to the individual style and characteristics of the premises and events concerned.

Proposed conditions should be:

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

The licensing authority cannot impose blanket standard conditions.

The responsible authorities identified in this Policy may also propose conditions by making their own representations to the grant or variation of an application. These cannot be burdensome or disproportionate and will only be imposed by the Authority in cases where it is considered appropriate to meet the licensing objectives. Any conditions proposed by a responsible authority and agreed by the applicant can be attached to the premises licence without the need for a formal Hearing if all parties agree to both the attachment of the conditions and that they consider a Hearing to be unnecessary. If agreement cannot be reached, then the application will be determined at a hearing.

Any conditions attached to a licence or authorisation will be focused on matters which are within the control of individual licence holders and others with relevant authorisations – i.e. the premises and its vicinity.

Duplication with other statutory or regulatory regimes will be avoided as far as possible. In circumstances where existing legislation already effectively promotes the licensing

objectives, it is likely that no additional conditions will be necessary. For this purpose, each case will need to be assessed on its own individual merits.

Community and village halls who wish to take advantage of the provision for community premises to apply for the removal of the mandatory condition relating to the requirement for a Designated Premises Supervisor (Designated Premises Supervisor) and personal licence, should first contact the Licensing Authority for advice and should submit a new application for the premise licence together with the application to disapply the requirement to have a Designated Premises Supervisor.

## **7 LICENSING HOURS**

When the licensing authority's discretion is engaged, 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 responsible authorities or interested parties on the basis of the licensing objectives. Further advice can also be found on the Gov.UK website <https://www.gov.uk/guidance/alcohol-licensing>.

In respect of applications for shops, stores and supermarkets, such premises will 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, or the application states otherwise.

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.

Whilst it is possible for a licensing policy to presume against longer licensing hours when longer hours would have had a material impact on the licensing objectives, the Licensing Authority will consider all applications on their merits. In other words, a licensing authority can depart from the Secretary of State (SoS) Guidance if it has good reason to do so and will take case law into account.

## **8 PROMOTION OF EQUALITY**

The Licensing Authority recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity and to foster good relations between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

The Local Authority has a Statement of Intent for Equality and Diversity which requires that services are provided that embrace diversity, promote equality of opportunity and access. Our statement of commitment is as follows:

“Sandwell is committed to ensuring that services are provided that embrace diversity, promote equality of opportunity and access. As an employer we are also committed to equality and valuing diversity within our workforce. Our goal is to ensure that this commitment is embedded in our day to day working practices with all our customers, colleagues and partners.”

We will provide equality of opportunity and will not tolerate discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

As a council, we will consider equality and diversity in everything we do, and to play an important part in working towards the life chances and opportunities for all local people.

Sandwell Council has identified three key equality objectives that demonstrate our commitment to eliminating unlawful harassment and discrimination, and to promote equality of opportunity, and these underpin the Sandwell Scorecard.

Our three equality objectives are:

- **We will** build strong and prosperous communities by talking to people and involving them in what we do;
- **We will** ensure that people can use our buildings, service and information;
- **We will** ensure that we meet individuals' needs in the range of service we secure;

The equality objectives will be reviewed on a regular basis informed both by changes within the council, and through engagement and feedback from customers, key partner organisations and voluntary groups in Sandwell. This will ensure they remain relevant and are fit for purpose as the council moves forward towards achieving excellence.

All members of staff working for the council have a personal responsibility for implementing the equality duty in their day-to-day dealings with customers, with each other and with partners. This includes the need to provide services which have been planned and delivered around people's needs and to represent value for money on behalf of people of Sandwell.

## **9 IMMIGRATION REQUIREMENTS/RIGHT TO WORK**

During 2016, Section 36 and Schedule 4 to the Immigration Act 2016 were changed and the changes came into effect on 6<sup>th</sup> April 2017 and the impact on the Licensing Act is now as follows:

- Premises licences to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity
- Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end
- Immigration offences, including civil penalties, become 'relevant offences' as defined by the Licensing Act 2003
- The Home Secretary (Home Office (Immigration Enforcement)) is now a responsible authority so requires a copy of any new and full variations of premises licence applications (except regulated entertainment only licences) and in some limited circumstances, personal licence applications and permits the Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence
- Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment to investigate whether immigration offences are being committed in connection with the licensable activity.

## **10 CHILDREN**

The Licensing Authority will not seek to limit the access of children to any premises unless it is appropriate for the prevention of physical, moral or psychological harm. In all other cases, it will be left to the discretion of the licensee. If children are to be permitted on the premises, consideration must be given to CSE (child sexual exploitation) training for staff who regularly come into contact with children.

This policy does not attempt to anticipate every issue that may arise in respect of children and each application will be considered on its merits. However, there are particular areas that will give rise to concern in respect of children.

The Licensing Authority acknowledges that in certain instances children's access to premises should be limited. Suggested alternatives/conditions in such instances are as follows:

- 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;
- 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 of people under 18 from the premises when any licensable activities are taking place.

In relation to the exhibition of film, a mandatory condition will apply, requiring access to be restricted to those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification.

Any theatres which are incorporating adult entertainment in their productions should consider limiting access to children during these performances. In the case of theatrical entertainment specifically for children, applicants should consider what steps they will take and outline them in their operating schedule to ensure the wellbeing of children during an emergency.

Applicants must consider 'Challenge 25' provisions and the type of proof they will accept with regard to proof of age. The Licensing Authority strongly recommends all licensed premises accept PASS accredited proof of age cards in addition to other appropriate photographic proof of age.

## **11 CHILD PROTECTION/CHILD SEXUAL EXPLOITATION**

Under the Licensing Act 2003, premises licence holders and Designated Premises Supervisors have a legal responsibility to make sure that children and young people are protected from harm at their premises. The guidance issued under Section 182 of the Licensing Act requires that children must be protected from 'moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment).'

One of the risks at licensed premises is that of sexual exploitation and this is also recognised in the guidance document.

To minimise the risk to children and young people, premises need to have preventative systems in place. There may also be financial and reputational risk, particularly if legal action is taken against premises, which can result in the suspension or revocation of the licence. So, it is important that the risk of child exploitation is managed at premises to both protect children and young people from harm and to protect the business.

Child sexual exploitation (CSE) is defined as "Sexual exploitation of children and young people under 18 and involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive something e.g. food,

accommodation, drugs, alcohol, cigarettes, affection, gifts, money etc. as a result of them performing, and/or another or others performing on them sexual activities.”

Licensed premises are places where people usually go to socialise, have a drink, relax and enjoy themselves and as such they provide an ideal environment for the grooming and sexual exploitation of children and young people. As part of the grooming process, adults may meet young people or take them to licensed premises to develop a relationship of trust and make them feel special by giving them ‘treats’ such as meals or alcohol, or by involving them in adult parties. A premise could be misused for this kind of activity by the people who are socialising or working there.

For example:

- Adult venues (such as night clubs/sexual entertainment venues) may attract groomers if the premises are frequented by children or young people.
- Where underage drinking takes place, children and young people are at risk as their judgement is impaired.
- Premises providing goods and services that can be offered to children as gifts in exchange for sexual favours, for example free food, drinks or cigarettes or free transport or free access to a venue in exchange for sexual favours present risk if a groomer is employed there, or works voluntarily, and has regular or private contact with children.
- Children and young people are vulnerable in areas of premises that are not supervised, or security checked, for example toilets, beer gardens and play zones.
- Risk may be present at premises where information technology equipment is used, for example internet access and mobile phones as social media can be used to groom vulnerable people and cameras may be used to record or distribute indecent images of children.
- Premises providing facilities for private parties, private dancing/entertainment booths or overnight accommodation, particularly where there is no controlled access, as children can be taken to rooms without staff knowledge and may be vulnerable to the risk of child sexual exploitation.

Under the Licensing Act 2003, you can protect yourself and your business, if you can demonstrate that all reasonable steps have been taken to manage risk.

Below are some suggested safeguarding measures to help evidence ‘due diligence’ and keep children safe:

- Undertake a written children and young person’s risk assessment and use it to inform/compliment your staff training and premises operating policy.
- Staff should be trained to recognise indicators of child sexual exploitation and know how to report concerns.
- Staff should be trained to operate an age verification scheme, know what types of identification can be accepted and to recognise signs of proxy purchase of

alcohol.

- Staff training records should be maintained.
- Activity at the premises should be monitored (for example using CCTV or by regular patrols. If patrols are carried out, a record should be kept of who made the patrol, where they patrolled and the time it was carried out together with the date.
- Suspicious activity should be reported to the police, including details of vehicle registration numbers and description of any individuals involved and all incidents of this nature should be recorded in the premise's incident log.
- If the Designated Premises Supervisor/Licence Holder or staff are in a situation involving the supervision of a vulnerable person at the premises, it is important to follow a consistent and auditable protocol. For further advice on this, contact the Sandwell Safeguarding Children Board - <http://www.sandwellscb.org.uk/>
- If you have a delivery service (for example hot food) enforce a Code of Conduct to promote good safeguarding when deliveries are made to unaccompanied children.

The above are suggestions and the primary responsibility lies with the license holder to ensure the safety of the child.

## **12 APPLICATION PROCESS**

All applications should be made online by visiting the Council website where applicants will find relevant guidance and information to consider before making an application. Once the applicant has familiarised themselves with all off the guidance available they can proceed with making an application by following the link for 'application forms for alcohol licensing, on the Sandwell website.

The Licensing Authority will consider each application received on its own merits, taking into account the four licensing objectives, and unless relevant representations are received from responsible authorities, or interested parties, the licence will be issued with the conditions volunteered by the applicant in their operating schedule, together with all mandatory conditions as dictated by the Licensing Act 2003.

When conditions are attached to licences and permissions, they will focus on matters falling within the control of individual licence holders and those in possession of relevant authorisations. Conditions will not be attached unless they are volunteered by the applicant or determined by the Licensing Authority following representations being upheld from responsible authorities or interested parties.

When considering these conditions, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Licensing Authority will not take into account nuisance and anti-social behaviour by individuals once they are away from the licensed premises and beyond the control of the licence/permit holder.



The Police Reform and Social Responsibility Act 2011 provides for a Licensing Authority to make representations to applications under the Licensing Act 2003. This Licensing Authority will not make representations that ought to be made by another responsible authority. Examples of where the Licensing Authority may wish to make representations on its own account will include:

- Bringing together a number of minor unconnected complaints that in themselves do not require another responsible authority to make a representation, but when taken together may constitute a public nuisance or represent breaches of licence conditions only observed by licensing authority officers or which undermine the licensing objectives
- Where insufficient measures have been put forward to meet the four licensing objectives

As part of the application process applicants will be expected to address each of the licensing objectives in their operational schedules 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.

Applicants are also encouraged to make themselves aware of and be able to demonstrate when setting out the steps they propose to take to promote the licensing objectives, that they understand the layout of the local area and physical environment and any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies which may help to mitigate potential risks.

This policy offers some practical advice on the effective management of licences premises, together with several suggested conditions/measures that applicants may wish to consider. See the information detailing the licensing objectives and management of licensed premises later in the policy. Further guidance can also be found on the GOV.UK website <https://www.gov.uk/guidance/alcohol-licensing>.

When making decisions on all types of application, the Licensing Authority will take this Licensing Policy into account, together with the guidance issued under Section 182 of the Licensing Act 2003 and any other guidance that is deemed relevant.

## **13 DECISION MAKING PROCESS**

Each application will be treated on its individual merit. The Licensing Authority will consider the impact of any application as it is relevant to the specific neighbourhood. Members can use local knowledge to judge the likelihood of noise, crime and disorder issues as a matter of common sense in appropriate circumstances.

Where there are relevant representations from a responsible authority or other person in relation to an application, the application will be dealt with by the Licensing Committee or one of its Panels, as will any application for the review of a licence.

Per the guidance, a representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives.

The outcome of any hearing before the Licensing Committee or one of its Panels will be relayed to all parties verbally at the hearing and in writing as soon as practicable.

Applicants are advised to seek advice from the licensing authority and other responsible authorities if necessary prior to applying.

Failure to comply with the statutory requirements may result in an application or notice being invalid.

## 14 TABLE OF DELEGATION OF LICENSING FUNCTIONS

Matter to be Dealt With	Full Committee	Sub-Committee	Officers
Application for a personal licence		If Police objection received	If no objection made
Application for a 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 Police objection received	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application to transfer premises licence		If Police objection received	All other cases
Application for interim authorities		If Police objection received	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 (in consultation with the Service Manager if deemed appropriate)

Decision to object when Licensing Authority is a consultee and not the relevant authority considering the application		All cases	
Determination of objections to a Temporary Event Notice		All cases	
Determination of objections to a late Temporary Event Notice			All cases
Determination of application to vary premise licence at community premises to include alternative licence condition		If Police objection received	All other cases
Decision whether to consult other responsible authorities on minor variation applications			All cases
Determination of minor variation application			All cases
Acknowledgement of notices, applications and other documents			All cases
Revocation of Personal Licence under Section 124 of the Licensing Act 2003		All cases	
Review of Premise Licence following closure under Section 167 of the Licensing Act 2003		All cases	
Issue of counter notice to temporary event under Section 107 of the Licensing Act 2003			All cases
Review of Premise Licence		All cases	
Nothing prevents the full committee or subcommittee determining applications in any case, irrespective of the delegation to officers laid out in the table above.			

## 15 PARTNERSHIP WORKING AND INTERGRATING STRATEGIES

Licensing will be one of the key factors in managing the evening and night time economy particularly in town centres and any other places identified as 'high risk' areas in partnership with the police and other responsible authorities.

The Local Authority recognises its duty under Section 17 of the Crime and Disorder Act 1998 with regard to the prevention of crime and disorder in its area and will continue to

work in partnership with the police, responsible authorities as defined by the Act, local businesses, local people and others towards the promotion of all the licensing objectives.

The Authority acknowledges the importance of securing proper integration with local crime prevention strategies as well as public health, planning, transport, tourism, equality schemes and cultural strategies.

Many strategies are not directly related to the promotion of the licensing objectives, but, they may impact upon them and therefore such strategies are important to the Authority.

As part of an agreed enforcement protocol, where the police have identified a particular need to disperse people from a town centre or other area swiftly and safely so as to avoid situations which could lead to disorder and disturbance, the Authority will inform those responsible for providing local transportation so that arrangements can be made to reduce the potential for problems to occur.

There are a number of wider issues which may need to be given due consideration when carrying out the licensing function.

Information on licensing issues will be shared with appropriate responsible authorities and made available to multi-agency groups, community safety partnerships and any pub/shop watch groups if required.

## **16 PREMISE LICENCES, PLANNING PERMISSION, BUILDING CONTROL AND OTHER SIMILAR ISSUES**

Licensing and planning regimes involve consideration of different legislation and each operates independently. Licensing Committees are not bound by decisions of the planning committee and vice-versa. This means that licensing applications are not seen as a re-run of the planning application process.

There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where the hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law and operating in breach of their permitted premises licence hours would be liable to prosecution under licensing law.

The Planning Committee and Licensing Committee are two separate Committees that consider different matters. As a matter of law, the Council cannot dictate the timing of Planning and Licensing Applications in relation to one another for the same premises.

However, the Section 182 guidance expects the Council to adopt a “separate but integrated” approach. Therefore, the Council would prefer to determine the Planning

Application before the Licensing Application as this would make the Licensing Application smoother. The Licensing Committee can then deal with a Premise Licence application in the knowledge the planning permission is already in place for the use sought. This will also mean that the Planning Authority as a responsible authority is less likely to raise objection to the Licensing Application.

If Planning Permission is refused or is given on a too restrictive basis the applicant can consider their position generally before proceeding with the Licensing Act Application.

This is not to say the Council would refuse to deal with an application made in reverse order or where both applications were submitted at the same time.

The onus is on the applicant to consider seeking whether they need to take professional advice on all relevant disciplines before proceeding with an application for a Premises Licence. This might include for example planning advice, licensing advice in law and practice, property law and the services of surveyors or architects.

## **17 REPRESENTATIONS TO APPLICATIONS**

All representations made in respect of licensing applications must relate to one of the four licensing objectives. The representation must be relevant and should not be frivolous or vexatious. Representations can be both in support and in opposition of an application and can be made by any individual, body or business that has grounds to do so. Representations relating to commercial damage/competition from new licensed premises will not be accepted. If a representation is rejected, the person or organisation submitting the representation will be notified of the Licensing Authority's decision in writing or by email. Should you wish to make a representation, information on how this can be done can be found on the Council's website [www.sandwell.gov.uk](http://www.sandwell.gov.uk) or by emailing the licensing team on [licensing\\_team@sandwell.gov.uk](mailto:licensing_team@sandwell.gov.uk)

Individuals or groups making a representation should be aware that the Licensing Authority has a duty to provide copies of relevant representations to the applicant. In exceptional circumstances, if the person making the representation believes they may be subject to intimidation or threats of violence we will consider other approaches. However, withholding such details will only be considered where the circumstances justify such action.

The licensing process can only seek to control those measures within the control of the licensee. It is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and beyond the direct control of the licence holder. However, licensees should take all reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden or in a smoking shelter to the extent that these matters are within their control.

## **18 MINOR VARIATIONS**

The Licensing Authority will send copies of applications for minor variations to the most appropriate responsible authority in all cases. Decisions on minor variation applications are delegated to officers in all cases and in the event of an objection/representation, the application will be refused, and the applicant will be advised to submit a full variation application should they wish to continue with the change.

## **19 DUPLICATION**

The Licensing Authority will avoid duplication with other regulatory regimes and the control measures contained in any conditions sought will not duplicate those already provided for in other legislation. It is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators, e.g. legislation controlling health and safety, fire safety, environmental protection, consumer protection, planning etc.

## **20 ANNUAL FEES/LICENCE SUSPENSIONS**

Annual fees are payable each year on the anniversary of the grant of the licence, and the only premises exempt from payment are community premises which do not include alcohol sales as an activity. The Licensing Act requires the Licensing Authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due. The Act provides for a grace period of 21 days in cases of an administrative error or where there is a dispute over liability for the fee, after which the licence/certificate will be suspended.

The Authority has to give a minimum 2 days' notice of the licence/certificate being suspended if payment is not made. The Authority, in this case, considers that 7 days' notice is more appropriate.

The licence will remain suspended until such time as payment is received and in respect of cheques, when they have cleared. All parties will be notified in either writing or by email once the payment has cleared and confirming that the suspension has been lifted. If you make payment by either credit/debit card, you are advised to send the details of the payment directly to the licensing team by email – [licensing\\_team@sandwell.gov.uk](mailto:licensing_team@sandwell.gov.uk) This will ensure that any suspensions are quickly lifted with a response being sent back by email.

## **21 LICENCE REVIEWS**

The Licensing Authority will work in partnership with responsible authorities to achieve the promotion of the licensing objectives and when possible the responsible authorities will aim to give licensees early warning of any concerns identified at premises. Details of

the review process and application forms to call for a review can be obtained from the Licensing Team – [licensing\\_team@sandwell.gov.uk](mailto:licensing_team@sandwell.gov.uk) .

In cases when the crime prevention objective is being undermined it is expected that revocation of the licence – even in the first instance – will be seriously considered, as per paragraph 11.28 of the Secretary of State (SoS) Section 182 Guidance.

## **22 PERSONAL LICENCES**

All applicants for personal licences will need to prove their right to work in the UK. Any licences that are issued will become invalid if the holder ceases to be entitled to work in the UK. Only the Police can object to an application for a personal licence and in the event of an objection being received, the application will be referred to the Licensing Sub Committee for determination. Personal licences are not time limited and will be issued for an indefinite period.

All applications submitted must include the following or they will be rejected and returned to the applicant:

- The fee
- The application form
- Disclosure of foreign convictions form
- Disclosure of Convictions issued by the Disclosure and Barring Service
- Proof of the right to work in the United Kingdom
- 2 photographs – passport size, meeting passport requirements, one of which to be certified as a true likeness of the applicant
- Original Licence qualification certificate

## **23 TEMPORARY EVENT NOTICES**

There are two types of TENs:

- A standard TEN, which is given no later than 10 working days before the event to which it relates (working days excludes the day on which the application was received and also the day of the event)
- A late TEN, which is not given before 9 working days and not later than 5 working days before the event. Again, the day that the application is received, and the day of the event are excluded from the calculation.

Organisers should be aware that late TENs are limited in number and can be prevented by a single objection to the proposed event from a responsible authority. There is no right of appeal if an objection to a late TEN is received and this authority will refuse applications in these circumstances.

The definition of a TEN is a temporary event that is a relatively small-scale event attracting fewer than 500 people. The event must last no more than 168 hours and can be held either outdoors or indoors. Any premises can only be used for up to 12 events per calendar year, up to a total maximum of 21 days. Events that go beyond midnight will be counted as two (2) days.

In the event of an objection to a TEN at premises where there is a premises licence in force, conditions on an existing premises licence or club premises certificate may be attached to the temporary event, but may only be imposed at a hearing, unless the authority itself, the premises user and the responsible authorities raising objections has agreed that a hearing is not needed.

The Licensing Authority recommends that applicants give as much notice as possible when submitting applications. This is because the statutory period of 10 working days gives very little time for the Licensing Authority to process the application and for the police to respond. The maximum amount of notice to be given for an event in the Sandwell area is 12 months. This is because it is difficult for the responsible authorities to make a judgement on an application received prior to this timescale.

The application can be downloaded from the Council's website [www.sandwell.gov.uk](http://www.sandwell.gov.uk) and search 'temporary events notice'. Further details of where the applications should be sent to, together with which responsible authorities require by law to be sent a copy can also be found on the Council's website. Please note that the requirements for submitting the application form to the local authority are also applicable to the responsible authorities. Failure to submit a copy of the TEN to either the Licensing Authority or the designated responsible authorities or failure to pay the required fee of £21.00 will result in the application being rejected as it has not been fully submitted.

The Licensing Authority expects all those who have given notice of a temporary event to have identified potential issues about the premises to be used and to the activity applied for and to give consideration as to how they will deal with issues such as drunkenness, crime and disorder and the use of, or sale of drugs, together with how they will mitigate any noise nuisance.

If a temporary event does not go ahead or is cancelled for any reason after it has been submitted, the application fee will not be refunded as the cost of responding/processing the application will already have been incurred.

## **24 TEMPORARY PREMISE LICENCE**

In certain circumstances a Temporary Premise Licence may be sought where an event is for a short period of time. The procedures for applying for and granting such a licence are identical to those for an unlimited duration premises licence except that it



should be stated on the application that the applicant's intention is that the period of the licence should be limited.

Where the sale of alcohol is involved a personal licence holder must also be specified as the designated premises supervisor.

An "additional fee" may be payable in respect of large scale events, where 5,000 or more people are due to attend at a venue that is not purpose-built. The fee must be paid in addition to the standard application or variation fees.

Venues that are permanent or purpose built or structurally altered for the activity are exempt from the additional fee.

The full details of where the additional fee is applicable can be found in regulations on the Government's legislation website – <https://www.gov.uk/guidance/alcohol-licensing>

## **25 SEXUAL ENTERTAINMENT**

Sandwell Council has adopted procedures in relation to sex establishments, particularly sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. Standard conditions attached to such licences form part of Sandwell Council's Sex Establishments Policy. This policy will be consulted upon shortly. Once adopted, the policy will be published on the Council's website [www.sandwell.gov.uk](http://www.sandwell.gov.uk). Licence holders should note that where there are similar conditions in the two regimes, the more onerous will apply.

There is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly. Should premises choose to use this exemption and there be related concerns, this may lead to a review of the premises licence and the imposition of conditions.

## **26 TAKEAWAY FOOD PREMISES**

The Licensing Authority considers that it will normally be inappropriate to grant a premises licence permitting the sale of alcohol at premises which are principally used for selling hot food for consumption off the premises – i.e. "takeaway premises".

It is recognised that takeaway premises open late at night and can be associated with disorder as persons under the influence of alcohol having left late night venues will often congregate there. Applicants are recommended to have written policies for dealing with disorder and nuisance and should give consideration if there are regular issues at the premises to employing Security Industry Authority registered door staff to deal with such issues.

Operators of takeaway premises (including mobile units) must have suitable arrangements in place for the containment and disposal of their waste in accordance with the Environmental Protection Act 1990 and any subsidiary regulations. Operators of premises where food or drink is provided in disposable containers for consumption elsewhere other than on the premises are expected to consider the potential for litter near their premises and to take steps to actively reduce the amount of litter generated from their premises. Applicants are also asked to consider the type of packaging container, whether it is always necessary and whether it can be sourced from sustainable materials.

Where the Licensing Authority considers it appropriate and necessary, it may impose conditions on a premises licence to require the operators of the premises serving customers with hot food or drink to provide litter bins near the premises in order to prevent the accumulation of litter from its customers. It may require the proprietor to service those litter bins as part of their own waste management arrangements also.

## **27 CUMULATIVE IMPACT AND SPECIAL POLICIES**

The Licensing Authority currently has no plans to introduce a cumulative impact policy. However, should it choose to do so during the life of this policy, full consultation will be undertaken, and the details will be published on the licensing pages of the Council's website [www.sandwell.gov.uk](http://www.sandwell.gov.uk)

## **28 EARLY MORNING RESTRICTION ORDERS (EMRO)**

The Licensing Authority currently has no plans to introduce early morning restriction orders. However, should it choose to do so during the life of this policy, full consultation will be undertaken, and the details will be published on the licensing pages of the Council's website [www.sandwell.gov.uk](http://www.sandwell.gov.uk)

## **29 LATE NIGHT LEVY**

The Licensing Authority has no plans to introduce a late-night levy; however, should it choose to do so during the life of this policy, full consultation will be undertaken, and the details published on the licensing pages of the Council's website [www.sandwell.gov.uk](http://www.sandwell.gov.uk)

## **30 ENFORCEMENT**

The Licensing Section is signed up to following the Black Country Local Authorities Enforcement Policy. This can be viewed by visiting the following link - [http://www.sandwell.gov.uk/downloads/file/25370/black\\_country\\_local\\_authorities\\_enforcement\\_policy](http://www.sandwell.gov.uk/downloads/file/25370/black_country_local_authorities_enforcement_policy)

It is intended that, in general, action will be taken against “problem” premises through the review process. In cases where more formal action such as prosecution is appropriate, this will be carried out in line with the adopted enforcement policy.

The Licensing Authority will follow the principles of risk assessment and targeted inspection in line with the recommendations of the Hampton Review to ensure that resources are used efficiently and are effectively concentrated on problem premises.

Where a premises licence has been revoked by the Licensing Committee or one of its Panels, the Authority will not normally grant an application for a new premises licence within 12 months of the date of revocation.

However, each application is to be considered on its merits and this part of the policy does not fetter the discretion of the Committee and Panels. The Authority must carry out its functions with a view to promoting the licensing objectives.

## **31 CRIMINAL ACTIVITY**

There is certain criminal activity that may arise in connection with licensed premises which will be treated seriously. These are the use of the licensed premises for the following:

- sale and distribution of illegal drugs and the laundering of the proceeds of drugs crime;
- sale and distribution of illegal firearms;
- piracy of films and music
- illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- prostitution or the sale of unlawful pornography;
- organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- organisation of racist activity or the promotion of racist attacks;
- knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person’s leave to enter;
- unlawful gambling; and
- sale of smuggled tobacco and alcohol

Where there is evidence of any such activity at a licensed premise, irrespective of any criminal investigation/action that may or may not be undertaken, the Licensing Authority will consider revocation.

## **32 UNLAWFUL AND ANTI-SOCIAL BEHAVIOUR**

The Licensing Authority recognises that there are a number of mechanisms for addressing unlawful or anti-social behaviour that occurs away from licensed premises, qualifying clubs and temporary events. These include: -

- planning controls
- enforcement of environmental protection legislation (e.g. on noise nuisance)
- positive measures to provide a safer and clean town centre
- environmental controls, in partnership with local businesses, transport operators and other departments of the Council
- powers to designate parts of the county as places where alcohol may not be consumed publicly
- police enforcement of the law with regard to disorder and anti-social behaviour including the issue of fixed penalty notices
- dispersal of people quickly and safely from town centres to avoid concentrations which may produce disorder and disturbance
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- confiscation of alcohol from adults and others in designated areas
- police powers to close down instantly for up to 24 hours any licensed premises or temporary events on the ground of disorder, the likelihood of disorder or excessive noise emanation from the premises and
- the power of the police, other responsible authorities, local residents and businesses to seek a review of the licence or certificate in question.

### **33 BUYING ALCOHOL FROM A UK WHOLESALER FOR ONWARD SALE OR SUPPLY**

From 1<sup>st</sup> April 2017, it is an offence to buy alcohol for onward sale or supply from an unapproved UK wholesaler.

The Alcohol Wholesale Registration Scheme (AWRS) was introduced to help HM Revenues and Customs (HMRC) tackle alcohol fraud. Any business buying alcohol from a UK wholesaler for onward sale or supply to their customers will need to check that their wholesaler has been approved by HMRC under AWRS. You can check your UK wholesaler is AWRS approved by using the alcohol wholesalers register online at [www.gov.uk/check-alcohol-wholesaler-registration](http://www.gov.uk/check-alcohol-wholesaler-registration). You will need your wholesalers unique reference number (URN), which should be displayed on their invoice. Once you find your wholesaler on the register, you will need to keep a record of your check by printing it off or saving the page to confirm they are approved. HMRC may ask you for details at a later date.

If you are unable to find your wholesaler on the register, tell them they will need to contact HMRC for approval. You should not buy alcohol from them and should notify HMRC by searching for Customs, Exercise and VAT fraud reporting on the GOV.UK website.

Any business found buying alcohol from a non-registered UK wholesaler could have their alcohol stock seized, be fined or even prosecuted and risks having their licence reviewed.

## **34 MANAGEMENT OF PREMISES**

Any premises where alcohol is sold under a premises licence must have a designated premise supervisor (Designated Premises Supervisor). The Designated Premises Supervisor will be named in the premises licence and the premises licence summary and a copy of the licence summary must be displayed at the premises. Every sale of alcohol must be made or authorised by a person who holds a personal licence (or must be made or authorised by the management committee in the case of a community premises).

The Licensing Act 2003 does not require the Designated Premises Supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold unless this has been added as a condition following the review of a licence. However, the Designated Premises Supervisor and the premises licence holder remain responsible for the premises at all times.

The Licensing Authority will normally expect the Designated Premises Supervisor to have been given the day-to-day responsibility for running the premises and as such it is expected that the Designated Premises Supervisor would usually be present at the licensed premises on a regular basis. This Licensing Authority expects that this will be in excess of 50% of a 7-day week, and at the following times:

- Between 22:00 hours and closing time when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises.
- At times when it is expected that there will be a substantial increase in customers e.g. for televised major sporting events, Christmas/New Year and other public/bank holidays or any other special events.

The premises licence holder will be expected to ensure that the Designated Premises Supervisor has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided.

Within all licensed premises, whether or not alcohol is to be sold, the Licensing Authority will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained/instructed persons at the premises to ensure the proper management of the premises and of the activities taking place, as well as adherence to all statutory duties and the terms and conditions of the premises licence.

The Licensing Authority recommends that the Designated Premises Supervisor authorise members of staff to make sales of alcohol in their absence. It is suggested that any authorisation is made in writing and available behind the bar/shop counter so that staff can produce the authorisation if challenged by a responsible authority as recommended by the guidance issued under Section 182 of the Licensing Act 2003.

The premises licence holder and the Designated Premises Supervisor remain responsible for all activities taking place on the licensed premises even when events are organised by external promoters/other organisations. The Licensing Authority will expect premises licence holders to have in place written agreements to ensure that when hiring out venues/function rooms etc., that the responsibility for the management of the premises is clear. The Promoter/Organiser and its employees or agents shall comply in all respects with all conditions, requirements and regulations of the Local Authority, the Licensing Authority, the Police Authority, the Fire Authority and any conditions and hours detailed in the premises licence for the premises.

### **35 PROXY SALES**

Adequate procedures must be in place to ensure that all members of staff working at the premises are routinely trained and regularly reminded of their responsibilities in relation to the issue of proxy sales of alcohol, and shall ensure that all reasonable steps and procedures are in place and implemented to prevent adults purchasing alcohol for those underage or those that have been refused a sale due to being drunk.

Steps must be in place to ensure that any Designated Premises Supervisors and members of staff involved with the delivery of alcohol to residential addresses are made fully aware of their responsibilities to ensure that no alcohol is sold to persons who are underage.

### **36 CHINESE LANTERNS**

Sandwell Metropolitan Borough Council does not condone the use of Chinese Lanterns in the Borough as they have been identified as being likely to have started fires in the area and are also potentially harmful to both domestic animals and livestock. There is a danger of lanterns damaging aircraft and being sucked into engines whilst aircraft are airborne. Given the proximity of Birmingham Airport, licence holders are asked to consider banning their use at their premises.

### **37 CONSULTATION**

In accordance with Section 5 of the Licensing Act 2003 and prior to the publication of this Policy, the Licensing Authority consulted with the following bodies/organisations:

- West Midlands Police

- West Midlands Fire and Rescue Services
- Responsible Authorities under the Act
- Persons/bodies representative of holders of premises licences
- Persons/bodies representative of holders of club premises certificates
- Persons/bodies representative of holders of personal licences
- Persons/bodies representative of businesses and residents in this area
- Trade Associations
- And details of anyone else who was consulted during the process to be updated

## **38 RESPONSIBLE AUTHORITIES**

### **38.1 THE LICENSING AUTHORITY AS A RESPONSIBLE AUTHORITY**

The Licensing Authority may wish to make representation to ensure that appropriate and proportionate conditions are included on a licence where this is not clear from an operating schedule.

The level at which an application will be determined is detailed later in the policy under Table of Delegations of Licensing Functions.

Where the Licensing Authority is acting as responsible body we will ensure that there is a separation of duties between the officer dealing with the application and the officer making representations on behalf of the Licensing Authority.

### **38.2 WEST MIDLANDS POLICE AS A RESPONSIBLE AUTHORITY**

West Midlands Police expect applicants to include in their operating schedules steps that will be taken to:

- prevent disorder on the premises
- prevent drunkenness in premises selling alcohol
- prevent under age sales of alcohol
- ensure customers enter and leave in an orderly manner
- exclude illegal drugs
- exclude offensive weapons

The police will consider making representations suggesting that conditions be imposed based on past history of individual premises and will also take into account decisions of the Magistrates' Courts. Depending on the location and style of a particular venue and the activities carried on there, the Police may look to licensees to use polycarbonate drinking containers in cases where it may be appropriate and proportionate to do so in order to promote public safety or prevent crime and disorder.

Any incidents of crime or disorder which occur at or can be linked to particular premises may lead to an application for review of the licence. Equally, any incidents which give cause for concern that the premises are not being properly managed; failure to comply with the operating schedule or conditions of licence; or where there are repeated complaints from the public, may also lead to a premises licence or club premises certificate being reviewed.

The police should be the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective.

Any current arrangements for the exchange of information between the police and other enforcement agencies will continue. In particular, the police will work closely with Trading Standards officers with regard to under age sales of alcohol.

The police will also work closely with the Sandwell Drug and Alcohol Partnership, (SDAP) the Safeguarding Children's Board and other key partners to ensure the protection of children from harm.

### **38.3 WEST MIDLANDS FIRE SERVICE AS A RESPONSIBLE AUTHORITY**

The Regulatory Reform (Fire Safety) Order 2005 ("The Fire Safety Order") replaced previous fire safety legislation. The Authority notes that under Article 43 of the Fire Safety Order any conditions imposed by the Authority that relate to any requirements or prohibitions that are or could be imposed by the Order automatically cease to have effect, without the need to vary the licence. This means that the Authority will not seek to impose fire safety conditions where the Order applies. The exception to this will be in cases where the Authority and the enforcing authority for the Fire Safety Order are one and the same body.

The Fire Safety Order covers "general fire precautions" and other fire safety duties which are needed to protect "relevant persons" in case of fire in and around "most premises". The Order requires fire precautions to be in place "where necessary" and to the extent that it is reasonable and practicable in the circumstances of the case. Responsibility for complying with the Order rests with the "responsible person", who may be the licence holder or the Designated Premises Supervisor, or any other person or people who may have control of the premises. Each responsible person must carry out a fire risk assessment which must focus on the safety in case of fire for all relevant persons. The fire risk assessment is intended to identify risks that can be removed or reduced and to decide the nature and extent of the general fire precautions that need to be taken including where necessary, capacity limits.

The use of special effects may require approval by the Fire Authority or Police and their advice should be sought prior to an event taking place.

The risk assessment should also determine the safe capacity of the premises. Consideration should be given to the following factors when establishing the safe



capacity:

- the design and layout of the premises
- the location, availability and size of exits including emergency exits
- the nature of the premises or event
- the nature of the licensable activity being provided
- the provision or removal of such items as temporary structures, such as stage or furniture
- the number of staff available to supervise customers both ordinarily and in the event of an emergency
- the age of customers
- the attendance by customers with disabilities, or whose first language is not English
- the availability of suitable and sufficient sanitary accommodation
- the nature and provision of facilities for ventilation
- the nature, layout, position and construction of dance floors and the segregation of dance floors from other areas
- the provision of an adequate and appropriate supply of first aid equipment and materials and personnel

The Local Fire and Rescue Authority will enforce the Order in most premises and have the power to inspect the premises to check the responsible person is complying with their duties under the Order. They will look for evidence that the responsible person has carried out a suitable fire risk assessment and acted upon the significant findings of that assessment.

Further information on carrying out risk assessments at business premises is available from <https://www.wmfs.net/your-safety/at-work/business-premises/>

### **38.4 THE DIRECTOR OF PUBLIC HEALTH AS A RESPONSIBLE AUTHORITY**

Although ‘health’ is not a licensing objective under the Act, health bodies hold certain information which other responsible authorities do not, but which would assist the Council in carrying out its licensing functions, especially in relation to the public safety or crime and disorder objectives.

It is essential that alcohol related harms are taken into consideration where they are relevant to the promotion of the licensing objectives. Sandwell Public Health will work with partners to manage local availability of alcohol, ensuring the links between density of licensed premises, alcohol availability and indicators of alcohol related harm inform

licensing decisions. Health data related to acute events such as ambulance callouts, attendances to Emergency Department (ED) and admissions to hospital caused by alcohol will be used as evidence for consideration under the current objectives.

As a responsible authority, Sandwell Public Health will:

- Provide information on the likely effects of the grant or variation of a premise license or club premises certificate
- Support or apply for a review of premises license or club premises certificates where problems associated with one or more of the licensing objectives arise
- Contribute to the development and review of the Statement of Licensing Policy and have a key role in identifying and interpreting health evidence and data

In realising its role as a Responsible Authority, Public Health have produced guidance documents for applicants designed to ensure licensed premises fully consider and take practical steps to consider the four licensing objectives.

Going forward, Public Health will utilise a risk rating tool for all new applications and reviews so that premises or potential premises in areas of highest risk are identified and relevant measures considered. The tool will combine data related to alcohol harms from a range of relevant partners.

Sandwell Council has identified alcohol related harm as a key priority, particularly with regard to increasing levels of ill health and local emergency service usage.

Approximately 55,018 Sandwell residents are thought to drink alcohol at levels that are likely to cause harm. This includes;

- 38,278 increasing risk drinkers (those who display a pattern of alcohol consumption that increases their risk of harm. Some would limit this definition to consequences on physical or mental health, others would include the social consequences)
- 12,040 higher risk drinkers (Someone who regularly consumes over 50 alcohol units per week for adult men or over 35 units per week for adult women)
- 4,700 dependent drinkers (those who due to a cluster of behavioral, cognitive and physiological factors which typically include a strong desire to drink alcohol and difficulties in controlling its use. Someone who is alcohol-dependent may persist in drinking, despite harmful consequences. They may also give alcohol a higher priority than other activities and obligations).
- 40,075 binge drinkers (Are those that participate in a heavy drinking session in which they drink a lot of alcohol in a short period of time raising their risk of harm on that occasion).

Consideration also needs to be given to the harm alcohol causes to people other than

the person who is drinking – sometimes referred to as ‘social harm’ or ‘passive drinking’. Children of parents misusing alcohol may experience severe emotional distress, physical abuse and violence as well as a general lack of care, support and protection.

The Sandwell Partnership-wide Strategy identifies key priorities for greater partnership working to prevent and combat the negative impact of alcohol.

### **38.5 TRADING STANDARDS AS A RESPONSIBLE AUTHORITY**

The sale of age restricted products, in this case alcohol, remains a priority for Trading Standards. It is imperative as a local service that applicants/licence holders recognise the priorities of the Local Authority and partners, such as Police, Licensing, Public Health and the Community Alcohol Partnership, and that they assist them in achieving their aims and objectives.

Their aim is to ensure that;

1. Owners of licensed premises, Premises Licence Holders and Designated Premises Supervisors are aware of their obligations in law and those associated with this policy.
2. That non-compliant licensed premises are helped to achieve compliance.
3. That there is restricted access to cheap alcohol by removing from sale counterfeit, illicit and non-duty paid alcohol.

In April 2014, the Better Regulation Delivery Office updated their Code of Practise for the enforcement of legislation relating to age restricted products, including test purchasing. Whilst not legally binding the document is persuasive and places some new requirements on Trading Standards. It sets out a way of working that is rooted in the statutory principles of good regulation: that regulation should be proportionate, consistent, accountable, transparent and targeted. It applies the requirements of the statutory Regulators’ Compliance Code, which promotes *‘a positive and proactive approach towards ensuring compliance by: helping and encouraging regulated entities to understand and meet regulatory requirements more easily; and, responding proportionately to regulatory breaches’*.

Trading Standards will;

- Operate a risk rating scheme for licensed premises, so that those premises of highest risk can be focussed on.
- Maximise the use of intelligence to target non-compliant premises, areas where anti-social behaviour is linked to the sale of alcohol and areas of high alcohol misuse.
- Work with businesses and partner agencies in areas where anti-social behaviour

is linked to the sale of alcohol by proxy sales, to raise awareness, increase compliance and reduce associated anti-social behaviour.

- Work with business on a voluntary basis when a first sale of alcohol takes place, to ensure future compliance by encouraging premises licence holders to seek the application of appropriate conditions agreed with Trading Standards by means of a minor variation.

These changes should be viewed positively, additional help and assistance will in the future be provided to businesses, but when compliance cannot be achieved voluntarily they will be held to account for their actions in accordance with policy guidelines and the Council's Enforcement Policy.

Concern had been raised at the percentage of underage alcohol test purchase failures for off-licensed premises in previous years. A significant increase had been seen from 9% in 2014/15, 35% in 2015/16, 28% in 2016/17 and 35% in 2017/18. However, a fall was seen in 2018/19 to 13%.

Evidence found that the majority of shops provided training to their staff with regard to age restricted products, however the training varies significantly from shop to shop. This could simply include in some cases a verbal instruction or a booklet for an employee to read and sign, signifying that they have read the law.

It is now the policy of Trading Standards that all staff who are authorised to serve age-restricted products to customers must be provided with accredited training to evidence their competency. The accredited training must be provided within 7 days of commencing work whether in a paid or unpaid capacity. The accredited training will also empower staff members with the legal knowledge for them to challenge and refuse sales of alcohol to underage people, hence the staff members themselves can avoid the risk of a fixed penalty notice (£80.00 fine) or even a criminal prosecution.

Sandwell Council provides a range of courses which will assist businesses in complying with law. The full range of courses can be viewed at <http://skills4businesssuccess.thinksandwell.com>

Licence holders should be aware that they may be subject to test purchasing by Trading Standards if there is cause for concern about the sale of alcohol to young persons. Prior to any test purchases being undertaken licence holders will receive notification that they will be test purchased in the near future. In relation to Licensing Reviews, Trading Standards will ensure that the conditions requested on review are both appropriate and proportionate.

The sale of illicit/counterfeit and non-duty paid alcohol and tobacco products are having a very serious impact on the local economy. Legitimate retailers are struggling to compete with the small minority of dishonest traders who operate within the shadow economy. These dishonest traders are making large profits by selling cheap counterfeit

products, or evading duty on genuine products and selling these at the full retail price to unsuspecting consumers. Consumption of illicitly or informally produced alcohol could have additional negative health consequences due to a higher ethanol content and potential contamination with toxic substances, such as methanol.

Licence holders found to be selling illicit alcohol and tobacco may be liable to prosecution and could have their licence to sell alcohol reviewed by the Licensing Sub Committee.

### **38.6 HEALTH AND SAFETY AS A RESPONSIBLE AUTHORITY**

The main objective is to ensure the health, safety and welfare of employers, employees and members of the public working at or attending licensed premises.

Applicants applying for a premises licence or club premises certificate should therefore be able to demonstrate a safe environment. Operating schedules should also set out what steps are being taken to ensure that electrical and gas installations are in good order, as well as being checked and maintained on a regular basis.

Although existing health and safety legislation will primarily be used it may be appropriate to apply for the review of a licence in the following circumstances: -

- serious or regular contraventions of health and safety legislation
- failure to comply with Improvement or Prohibition notices
- service of a prohibition notice where a significant risk to public safety exists
- prosecution for failure to comply with health and safety legislation

The Council and the Health and Safety Executive are jointly responsible for enforcing health and safety. As a rule, the Council is responsible for the majority of premises, but the Health and Safety Executive are responsible in the case of Council-owned premises.

### **38.7 ENVIRONMENTAL HEALTH AS A RESPONSIBLE AUTHORITY**

Operating schedules must contain sufficient information for officers to form a view as to whether noise from licensable activities is likely to cause a problem. Applicants should also provide details of any proposed noise control measures intended to be put in place, particularly for premises in largely residential areas where regulated entertainment is being applied for between the hours of 23.00 and 08.00.

If licence conditions are imposed they will be specific to the premises in question and will relate to the type of licensable activity proposed.

As far as licensing hours are concerned each application will be considered on its own individual merits but it should be recognised that restricting the hours of operation in

some cases can play an important role in preventing public nuisance, especially in residential areas where there is a history of noise complaints relating to a premise from those living within the vicinity.

### **38.8 HOME OFFICE IMMIGRATION ENFORCEMENT**

Applicants applying for a personal or premise licence are required to provide proof of their right to work. Proof will be verified by Enforcement Officers from the Home Office.

The objective is to ensure licence applicants have the right to work in the UK.

Home Office Immigration Enforcement works with partners such as the police to regulate migration in line with government policy, while supporting economic growth.

They will review personal and premise applications made in line with their vision and core objectives. More information can be found at <https://www.gov.uk/government/organisations/immigration-enforcement/about>

### **38.9 CHILD PROTECTION**

The objective is to ensure licence applications do not give rise for concern for the protection of children. The protection of children from harm is one of the four licensing objectives that underpin the Licensing Act 2003.

The Act requires that all licensed premises and clubs set out in their operating schedules the steps they propose to take to promote all of the licensing objectives, including the protection of children from harm. The operating schedules must contain sufficient information for officers to form a view as to whether there are any child protection concerns.

The licensing regime allows licensing authorities to attach conditions relating to children's access to reflect the individual nature of each establishment if relevant representations are made by a responsible authority or interested party. Where there is no risk of harm, there need be no conditions applied.

## **39 RESPONSIBLE AUTHORITIES – CONTACT DETAILS**

Licensing Team  
Sandwell Council House,  
PO Box 2372  
Oldbury  
B69 3BS  
Email: [licensing\\_team@sandwell.gov.uk](mailto:licensing_team@sandwell.gov.uk)

Trading Standards  
Sandwell Council House,

PO Box 2372

Oldbury

B69 3BS

Email: [ehs\\_enquiries@sandwell.gov.uk](mailto:ehs_enquiries@sandwell.gov.uk) and mark for the attention of trading standards

Fire Service

West Midlands Fire Service HQ

Fire Safety Department,

99 Vauxhall Road

Nechells,

Birmingham

B7 4HW

Email: [firesafety.admin@wmfs.net](mailto:firesafety.admin@wmfs.net)

Health and Safety

Court House

335 – 337 High Street

West Bromwich

B70 8LU

Email: [ehs\\_enquiries@sandwell.gov.uk](mailto:ehs_enquiries@sandwell.gov.uk) and mark for the attention of health and safety

Planning,

The Development and Regulatory Services Manager,

Council House,

PO Box 2374

Oldbury

B69 3DE

Tel: 0121 569 4016/4056

Environmental Health

Air Pollution/Noise Control Section,

Court House,

335 -337 High Street,

West Bromwich

B70 8LU

Email: [ehs\\_enquiries@sandwell.gov.uk](mailto:ehs_enquiries@sandwell.gov.uk) and mark for the attention of noise control

Child Protection

Sandwell Safeguarding Children Board,

Metsec Buildings 1<sup>st</sup> Floor,

Broadwell Road,

Oldbury B69 4HE

Email: [iscb\\_sandwell@sandwell.gov.uk](mailto:iscb_sandwell@sandwell.gov.uk)

West Midlands Police

Police Licensing Officer

c/o Administration Unit,  
LPU Headquarters  
Moor Street  
West Bromwich B70 7AQ

Email: [sw\\_licensing@west-midlands.pnn.police.uk](mailto:sw_licensing@west-midlands.pnn.police.uk)

Public Health  
Public Health Department  
Sandwell Council, Jack Judge House,  
PO Box 15888, Oldbury  
B69 9EN

Home Office Immigration Enforcement  
Alcohol Licensing Team  
Lunar House  
40 Wellesley Road  
Croydon  
CR9 2BY  
Email: [alchol@homeoffice.gsi.uk](mailto:alchol@homeoffice.gsi.uk)

## **40 OTHER POLICIES, LEGISLATION AND GUIDANCE SOURCES**

### **Safer Sandwell Partnership**

[http://www.sandwell.gov.uk/download/downloads/id/2680/safer\\_sandwell\\_partnership\\_strategic\\_plan\\_2011-15.doc](http://www.sandwell.gov.uk/download/downloads/id/2680/safer_sandwell_partnership_strategic_plan_2011-15.doc)

### **Public Transport – see the West Midlands Local Transport Plan**

[http://www.sandwell.gov.uk/info/200284/roads\\_travel\\_and\\_parking/880/public\\_transport/1](http://www.sandwell.gov.uk/info/200284/roads_travel_and_parking/880/public_transport/1)

### **Sandwell Drug and Alcohol Partnership**

[https://www.sandwell.gov.uk/site/custom\\_scripts/ip\\_directory\\_record.php?recordID=1074&categoryID=54&categoryInfoID=-1](https://www.sandwell.gov.uk/site/custom_scripts/ip_directory_record.php?recordID=1074&categoryID=54&categoryInfoID=-1)

## **USEFUL REFERENCES (ORGANISATIONS)**

### **Local Government Association:**

<http://www.local.gov.uk/regulatory-services-and-licensing>

### **Association of Convenience Stores (ACS)**

<http://www.acs.org.uk/>

### **Association of Licensed Multiple Retailers (ALMR)**

Now incorporating Bar, Entertainment and Dance Association (BEDA)



<http://www.almr.org.uk/>

**Association of Town Centre Managers (ACTM and Purple Flag)**

<http://www.atcm.org/>

**Better Regulation Delivery Office (BRDO)**

<http://www.bis.gov.uk/brdo>

**British Beer and Pub Association (BBPA)**

<http://www.beerandpub.com/>

**British Board of Film Classification (BBFC)**

<http://www.bbfc.co.uk/>

**British Institute of Inn Keeping (BII)**

<http://www.bii.org/home>

**British Retail Consortium (BRC)**

[http://www.brc.org.uk/brc\\_home.asp](http://www.brc.org.uk/brc_home.asp)

**Cinema Exhibitors' Association (CEA)**

<http://www.cinemauk.org.uk/>

**Home Office**

[www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

**Institute of Licensing (IOL)**

<http://www.instituteoflicensing.org/>

**Licensed Victuallers Associations (LVAs)**

<http://www.flva.co.uk/>

**National Association of Licensing and Enforcement Officers (NALEO)**

<http://www.naleo.org.uk/>

**The Portman Group**

<http://www.portmangroup.org.uk/>

**RELATED LEGISLATION**

Policing and Crime Act 2009

Anti-Social Behaviour Act 2003

Crime and Disorder Act 1998

Crime and Security Act 2010

Criminal Justice and Police Act 2001

Private Security Industry Act 2001

Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000

The Clean Neighbourhoods and Environment Act 2005  
The Health Act 2006  
Violent Crime Reduction Act 2000  
Immigration Act 2016