

SANDWELL METROPOLITAN BOROUGH COUNCIL

LICENSING ACT 2003

STATEMENT OF LICENSING POLICY

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Introduction

Sandwell is one of the larger metropolitan Boroughs located at the centre of the West Midlands conurbation 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 300,000. As far as the economy is concerned, 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.

Licensing Act 2003

This Licensing Policy Statement is intended to meet the Licensing Authority's obligations under Section 5 of the Licensing Act 2003 (referred to as "the Act").

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The Licensing Authority (referred to as "the Authority") will carry out the licensing function with a view to promoting the four licensing objectives contained in the Act. These are –

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

In carrying out its functions the Authority will not only have regard to this policy but also any guidance issued from time to time by the Secretary of State under Section 182 of the Act.

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The policy relates to all 'licensable activities' as defined by the Act, namely:-

- Retail sale of alcohol
- Supply of alcohol to club members
- Provision of 'regulated entertainment' – to the public, to club members or with a view to profit
- A performance of a play
- An exhibition of a film
- An indoor sporting event
- Boxing or wrestling entertainment
- A performance of live music
- Any playing of recorded music
- A performance of dance
- Provision of facilities for making music
- Provision of facilities for dancing
- The supply of hot food and/or drink from any premises between 11pm and 5am.

Licensing is only one means of achieving the licensing objectives, and although it can make a substantial contribution should not be seen as a panacea for solving all problems within the community. Emphasis will be on the control of licensable activities which take place on licensed premises or qualifying clubs and at temporary events.

Conditions will focus on matters which are within the control of individual licensees and which also relate to the premises or places being used for licensable activities and the impact of those activities in the vicinity.

Concern will focus on the direct impact of any licensable activities taking place on those who reside or is involved in business in the vicinity of the premises concerned. The Authority has not chosen to define vicinity as a fixed distance from a premises. It will rely upon The Secretary of State's Guidance under Section 182 of the Act (referred to as "the Guidance") which makes it clear that in making a decision on the question of vicinity, authorities should consider whether the individual's residence or business is likely to be directly affected by disorder and disturbance occurring or potentially occurring on those premises or immediately outside the premises.

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The Guidance also makes it clear that licensing should not be seen as the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and therefore beyond the direct control of those with responsibility for managing and controlling licensed premises.

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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.

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

The 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.

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Cumulative Impact

The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Authority can take into account. This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is therefore a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.

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Where there is a significant number of licensed premises concentrated in one area, the cumulative impact of those premises on the promotion of the licensing objectives is something the Authority may take into account.

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The Authority will not operate a quota of any kind which would pre-determine an application, nor will it seek to impose general limitations on trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be given to those differences and the differing impact they are likely to have on the promotion of the licensing objectives.

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The Authority itself will not initiate any specific policy relating to the cumulative impact of premises in a particular area. Such a policy would only be considered after considering the available evidence, either from responsible authorities or interested parties and consulting those individuals and organisations listed in Section 5(3) of the Act., ie :

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- the police
- the fire authority
- those representing businesses and residents in the area
- representatives of premises licence holders
- representatives of personal licence holders
- representatives of club premises certificate holders

It is accepted that there will always be a minority who, once away from premises will behave badly or unlawfully. The Authority is therefore keen to stress the wide range of mechanisms available for addressing issues of unruly

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or disorderly behaviour both within and outside the licensing regime. The following list is not exhaustive but measures could include -

- encouraging membership of and participation in 'Pub Watch' and other crime prevention schemes.
- ongoing measures to provide a safer and cleaner environment in partnership with local businesses and others
- enforcement of the current Designated Places Public Order to provide the police with enhanced powers to deal with drinking in public places
- confiscation of alcohol from adults and others in designated areas
- police enforcement of the general law with regard to disorder and anti-social behaviour including the issue of fixed penalties
- police and local authority powers to close some premises instantly for up to 24 hours in extreme cases of disorder or excessive noise
- the power of police, responsible authorities, local businesses or residents to seek a review of the licence or [club premises](#) certificate
- enforcement action against those selling alcohol to people who are already drunk or who are under age.
- encouraging use of CCTV in 'problem' areas.
- enforcement and use of planning controls

Deleted: <#>Encourage participation in 'PASS' ID card Scheme in an attempt to prevent under age sales¶¶

Licensing Hours

The [Authority](#) wishes to emphasise that consideration will always be given to the individual merits of any application. At the same time, it is clear that in some circumstances more flexible licensing hours with regard to the sale of alcohol may be an important factor in avoiding a concentration of customers leaving premises simultaneously and generally lead to a slower dispersal of people from licensed premises. This can help to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.

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¶¶ In addition, we aim to provide regular opportunities for communities to express how well they feel the licensing objectives are being met.¶¶

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The [Authority](#) agrees that providing consumers with greater choice and flexibility is an important consideration when it comes to developing thriving night time local economies which are equally important for local investment and employment. This should always be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents.

Applicants should note, however, when preparing operating schedules that stricter measures for controlling noise [may](#) be sought, either through operating schedules or by imposing conditions in the case of premises situated in largely residential areas, especially where there has [already](#) been a history of problems associated with a particular premises.

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Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual premises which are known to be a focus of disorder and disturbance then, subject to representations [being](#) received, some limitation on licensing hours may be appropriate.

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Children and Licensed Premises

The Authority recognises the great variety of premises for which licences and certificates may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-aways, community halls, church halls and schools. However, in the case of premises which are used exclusively or primarily for the supply of alcohol to be consumed on those premises it is an offence to allow anyone under the age of 16, unaccompanied by an adult, to be present on such premises.

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Where the consumption of alcohol takes place but is not the exclusive or primary activity at a particular venue, such as a hotel or cinema for example, it is an offence for, those under 16 to be unaccompanied between 12 midnight and 5am.

Other than these two restrictions there is no presumption in favour of giving access to children under 18 generally, or indeed, preventing their access. Each application and the circumstances prevailing at each individual premises must be considered on its own merits and admission will always be at the discretion of those managing the premises.

The Authority, in its own right, will not seek to limit the access of children to any premises unless it receives representations to that effect based on the prevention of physical, moral or psychological harm to children. Applicants seeking premises licences and club premises certificates, should include in their operating schedule any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

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Examples of areas which may give rise to concern in respect of children include premises –

- where nudity or entertainment of an adult or sexual nature is provided
- where there is a strong element of gambling taking place
- with a known association with drug taking or dealing
- where there have been convictions for serving alcohol to those under 18
- with a reputation for underage drinking

In the case of premises which are used for film exhibitions applicants, should include in their operating schedule any specific arrangements for restricting access to children to ensure they meet the required age limit in line with any certification granted by the British Board of Film Classification.

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Where a large number of children are likely to be present on any licensed premises, for example, at a children's show or pantomime, then applicants will need to demonstrate that measures are in place to ensure an appropriate number of adults are present in order to satisfy the licensing objectives.

In cases where it is considered necessary, options available for limiting access by children could 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 being limited to parts of the premises only
- an age limitation (for under 18s)

For premises where the sale or supply of alcohol takes place as a licensable activity the **Authority** recommends that applicants adopt The Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years of age or over.

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The **Authority** also recognises the Guide to Responsible Alcohol Retailing jointly produced by The Association of Convenience Stores, The British Retail Consortium and The Wine and Spirits Trade Association which covers key areas of under age sales, proof of age cards, staff training and alcohol promotions.

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The Local Safeguarding Children Board **is the body** recognised as being competent to advise on matters relating to the protection of children from harm.

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Enforcement

In line with the recognised 'Hampton' principles of inspection and enforcement any protocols agreed between the police and other enforcing authorities will provide for the targeting of agreed problem and high-risk premises, but with a lighter touch being applied to those premises which are shown to be well managed and maintained.

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It is intended that, in general, action will be taken against 'problem' premises through the review process. In cases where more formal action is considered to be appropriate, the key principles of consistency, transparency and proportionality will be maintained.

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Conditions of Licence

The **Authority** will only be able to attach conditions to a premises licence or club premises certificate if they are part of an applicant's operating schedule (including any conditions which may be subsequently volunteered by an applicant as a result of mediation following a representation), or by a decision of a Licensing Panel at a formal Hearing.

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As a general rule, any conditions which are attached to licences, certificates and other authorisations will be tailored to the individual style and characteristics of the premises and events concerned and will reflect, as far as possible, local crime prevention strategies.

The **Authority** will not attempt to impose any 'blanket' conditions which apply to all premises but the applicant's operating schedule, which forms part of the application process, **should** include sufficient information to enable a

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responsible authority or interested party to assess whether the steps being taken to promote the licensing objectives are satisfactory or not.

When submitting operating schedules applicants are required by the Act to outline the measures which are being taken in order to meet the licensing objectives. These measures are likely to form the basis of conditions which will be attached to the grant of a premises licence or club premises certificate. However, only those conditions which are considered necessary for the promotion of the licensing objectives will be enforceable and any breaches of conditions will, in most cases, be dealt with primarily through the review process

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The responsible authorities identified in this statement may also propose conditions of their own by making representations to a grant or variation application. However, these cannot be over burdensome or disproportionate and will only be imposed by the Authority in cases where it is considered necessary to meet the licensing objectives. Any conditions proposed by a responsible authority and agreed by an applicant in such cases can be attached to the premises licence without the need for a formal Hearing by the applicant agreeing to amend their operating schedule to include any condition(s) agreed between the parties.

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The pool of model conditions contained in annex D of the Guidance may also be referred to and/or attached as appendix. It must be stressed that the Authority will use the pool to select appropriate conditions to suit the specific needs of an individual operation. Any conditions not listed in the pool may be specifically worded by the Authority and attached to licences and certificates as appropriate.

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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.

New Mandatory Conditions Relating to Irresponsible Drinks Promotions and Age Verification

New mandatory conditions commenced in April 2010, which impose a duty on those who manage licensed premises and clubs to prohibit irresponsible promotions and prohibit one person from dispensing alcohol directly into the mouth of another; they also require those who manage licensed premises and clubs to provide free tap water to customers on request.

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Further mandatory conditions commenced in October 2010, which relate to age verification and smaller measures.

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Interested Parties

An interested party means any of the following:

- A person living in the vicinity of the premises
- A body representing persons who live in that vicinity
- A person involved in a business in that vicinity
- A body representing persons involved in such a business

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Since January 2010 all elected members are interested parties and this is not dependent upon vicinity.

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Interested parties are entitled to make representations on applications for the grant variation or review of premises licences. In addition, they may themselves seek a review of a premises licence.

All interested parties must ensure that there is evidence to support their case.

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Responsible Authorities

Trading Standards

Both the Police and Trading Standards are jointly responsible for monitoring the sale of alcohol to ensure that it is not sold to anyone below the age of 18. Applicants should therefore include in their operating schedule the steps it is intended should be taken to prevent under age sales.

An application for review of a premises licence or club premises certificate will be considered in all cases where a sale of alcohol to a person under the age of 18 has occurred contrary to the Act.

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Prior to any test purchasing exercises licence holders will normally have received an advisory visit from Trading Standards giving information and advice regarding the steps to be taken in order to avoid selling alcohol to children. Licence holders will also be advised that, in the case of an under age sale taking place the premises licence will be reviewed.

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In such cases the Authority will have regard to the 'Red Card, Yellow Card' approach to reviews, following an underage sale, recommended by the Secretary of State in September 2008. This approach is attached as Appendix 1.

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At the first review hearing, subject to whatever steps the Licensing Panel considers necessary in the circumstances of the individual case. Licensees who are found to be selling alcohol to children will be effectively given a 'yellow card' in the form of a warning that any further offences could lead to revocation of the premises licence.

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For any premises which are reviewed for a second time following an under age sale revocation of the licence will be a serious consideration for the Licensing Panel in all cases.

The steps taken by the Licensing Panel at any review Hearing will be proportionate and necessary in order to promote the licensing objectives. The

Authority regards selling alcohol to children as a serious matter and, if conditions have been imposed at the first review Hearing revocation would be considered at a second or subsequent Hearing should there have been a breach of those conditions or a failure on the part of the management to properly challenge the age of the person intending to purchase the alcohol.

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Clearly, each case will still be determined on its own individual merits but revocation of the premises licence at a second Hearing will be a serious consideration and should be seen as a 'red' card to the premises concerned.

West Midlands Police

Applicants will be expected to include in their operating schedules any steps being 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 existing 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 necessary and proportionate to do so in order to promote public safety or prevent crime and disorder.

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Any incidents of crime or disorder which occur at, or can be linked to a 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 licence or club premises certificate being reviewed.

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Where an application for a grant, variation or review of a premises licence or club premises certificate is to be determined by the Licensing Panel and representations have been made relating to under age sales one of the conditions that may be considered by the Licensing Panel is the requirement to have all alcohol sold from the premises bar-coded or have a means of readily identifying the premises where the item of alcohol was sold (bar codes or address labels on each item).

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 Drugs and Alcohol Action Team, the Safeguarding Children’s Board and other key partners to ensure the protection of children from harm.

West Midlands Fire and Rescue Authority

From the 1st October 2006 the Regulatory Reform (Fire Safety) Order 2005 (“The Fire Safety Order”) replaced previous fire safety legislation. As such any fire certificate issued under the Fire Precautions Act 1971 will have ceased to have effect. 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.

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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 rest with the “responsible person”, which may be the employer, 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 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 and guidance about the order and fire safety legislation is available from the Communities Local Government website www.communities.gov.uk/fire

In accordance with the Guidance “safe capacities” should only be imposed where necessary for the promotion of public safety or the prevention of disorder on the relevant premises. If a capacity has been imposed through other legislation, it would be unnecessary to reproduce it in a premises licence. However, if no safe capacity has been imposed through other legislation, the responsible authority may consider it necessary for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. A capacity limit should not be imposed as a condition of the licence on fire safety grounds (unless the Authority and the enforcing authority

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for fire safety purposes are the same) since, and Article 43 of the Fire Safety Order, it would have no effect and so would be not enforceable.

The special provisions made for dancing, amplified and un-amplified music in Section 177 of the Act apply only to premises with a “permitted capacity” of not more than 200 persons. In this context, the capacity must be where the Fire and Rescue Authority has made a recommendation on the capacity of the premises under the Fire Safety Order. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in Section 177 of the Act, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the Fire and Rescue Authority who will consider it and then decide what the “permitted capacity” at those premises should be.

Health and Safety

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 necessary 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 general 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.

Environmental Protection

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 within the vicinity of a premises. 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 late in the evening or into the early hours of the following day.

If licence conditions are imposed they will be specific to the premises in question and will relate to the type of licensable activity proposed. The Guidance gives examples of conditions which may be used in order to prevent public nuisance. However, these should be regarded as examples only and not as a definitive list of conditions.

As far as licensing hours is 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 particular premises from those living within the vicinity.

An application for review may be considered where a complaint has been substantiated by investigating officers, a breach of licence conditions has been identified or, in appropriate cases, where action is being considered under the Environmental Protection Act 1990, the Noise Act 1996 or Section 40 of the Anti Social Behaviour Act 2003 and it is considered necessary in order to meet the licensing objectives that the premises licence be reviewed.

Planning

In many cases a planning 'restriction' may well be in place with regard to opening hours of certain premises, such as 'late night' restaurants and takeaways for example.

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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 these 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.

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In such cases application must be made at the same time to the planning authority for the removal or variation of the restriction. This applies equally to applications to vary a premises licence to extend drinking areas to include beer gardens or perhaps smoking shelters. Similarly, a change to the main business activity, for example a restaurant changing in character to a 'full' premises licence. In each case, enquiries should first be made to the planning authority to see whether planning permission or a change of use may be required.

Applicants will be expected to set out in their operating schedule details of any existing planning permissions, including restrictions relating to the premises.

It is accepted that licensing applications are not to 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 duplication and inefficiency.

Safeguarding Children

There is some concern at the likely increase in the number of outlets where alcohol can be made available for sale. In the case of applications where the sale of alcohol is a licensable activity applicants must, in their operating schedule, address the issue of under age sales and give details of any measures being put in place to prevent this occurring. This could include, for instance, a proof of age scheme or other measures.

Where 'adult' type entertainment is being proposed applicants will need to demonstrate that the appropriate steps are being taken to protect children from harm.

The Local Safeguarding Children's Board will receive regular reports from the police and other key partners on issues relating to licensed premises which are deemed to affect children. The Board will also continue its present partnership arrangements with the health authority and local drugs awareness teams in order to ensure the licensing objectives are being met.

Temporary Event Notices

The Act requires that anyone wishing to give a Temporary Event Notice to the Authority must do so at least 10 clear working days prior to the temporary event in question.

There have been a number of instances however, where the 10 days Notice has been given to the Authority but the Notice has been completed incorrectly or has vital information missing, in which case proper Notice has not been given and the Notice has had to be rejected meaning the event has had to be cancelled because there is no time left to give an amended Notice in order to comply with the statutory 10 day period mentioned above.

The Authority therefore recommends that anyone proposing to give a Temporary Event Notice should ideally give at least 28 days Notice if possible to avoid a situation where an event has to be cancelled because the statutory procedures have not been followed correctly.

Minor Variations

There is now a statutory process which provides for an application to be made for a 'minor' variation, rather than a full variation application.

A 'minor' variation could include:

- relatively minor changes to the structure or layout of a premises
- small adjustments to licensing hours
- the removal of out of date, irrelevant or unenforceable conditions
- the addition of live music or other licensable activities

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NB The minor variations procedure cannot be used to add the sale or supply of alcohol as a licensable activity or to authorise any increase in the amount of time on any day during which alcohol may be sold or supplied.

The new minor variations procedure does however allow applications to be made without the usual full consultation process required for a full variation application. The Authority will decide which, if any, responsible authorities to consult depending on whether there is likely to be any impact on the promotion of the licensing objectives. Applicants are, of course, required to display Notice of their application on the premises the subject of the application so that those living within the vicinity have a chance to make representations should they wish to do so.

Each application will be considered on its own individual merits. A decision on an application will be given within 15 days from the date of the application. If the application is rejected by the Authority there is no right of appeal and a full variation application would be necessary instead.

The Authority has no power to impose conditions and only those volunteered by the applicant can be added to the licence under the minor variations procedure. The determination will therefore be either to grant or refuse an application.

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Removal of DPS requirement at Community Premises

Instead of being required to appoint an individual as a designated premises supervisor, (DPS), volunteer committees managing community premises are now allowed to take joint responsibility for the sale of alcohol in community premises.

Management Committees wishing to apply for the removal of the mandatory condition requiring a DPS at community premises will need to demonstrate clearly to the Authority how they operate and that there will be appropriate supervision of all alcohol sales at different types of events.

'Community premises' will include church halls, chapels, community and village halls and similar buildings. If there is any doubt as to whether a building is a community premises or not, the Authority will deal with such matters on a case by case basis with the main consideration being how the premises are being predominantly used, for example :

- are they genuinely made available for community benefit most of the time?
- are they accessible by a broad range of persons and sectors of the local community?
- are they being used for purposes which are beneficial to the community as a whole?

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Applicants will be required to set out exactly how the premises are managed, its committee structure and how alcohol sales are to be properly supervised within the committee/management structure.

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Integrating Strategies

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

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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.

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

Live Music, Dancing and Theatre

The Authority is aware of the need to encourage and promote a broad range of entertainment, particularly live music and dancing as well as a range of traditional theatre performances for the wider cultural benefit of communities generally.

In determining what conditions should be attached as a matter of necessity for the promotion of the licensing objectives care will be taken to avoid measures which might deter live music dancing and theatre by imposing indirect costs of a disproportionate nature.

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¶
<#> the needs of the local tourist economy¶
<#> the cultural strategy for the area¶
<#> the employment situation in the area and the need for new investment where appropriate¶
<#> any planning considerations which might affect licensed premises ¶
¶

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Promotion of Racial Equality

The Authority recognises that the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on the Authority to have due regard to the need to eliminate unlawful discrimination: and to promote equality of opportunity and good relations between persons of different racial groups. This will largely be superseded by The Equalities Act 2010 when it is brought into force.

Deleted: This would mean that performers or entertainers wishing to perform in such places would no longer have to apply for a licence themselves although permission would still be required from the Council as licence holder for any proposed regulated entertainment in the areas identified¶

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The Licensing Process

The Authority's licensing functions will be carried out by the Licensing Committee, supported by a number of sub-committees, known by this Licensing Authority as 'Panels' and by one or more officers acting under the delegated authority of the Committee.

Where there are no perceived areas of contention it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part be carried out by officers.

Applications where there are relevant representations will be dealt with by the Licensing Committee or one of its Panels, as will any application for the review of a licence.

Deleted: sub-committees

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 any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate, when formulating their Operating Plan.

NB Any enquiries with regard to this policy statement or for any advice on whether a particular activity requires a licence or not please write to the Licensing Team at P O Box 42, Lombard Street, West Bromwich, West Midlands, B70 8RU or by telephone to 0121 569 6537/6743/6576 or 6744

Other key contact addresses and telephone numbers for each of the responsible authorities will be given on application.

Sandwell MBC
Licensing Policy Statement

Approved by the Licensing Authority on

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This Licensing Policy Statement will take effect on 7 January 2011

LIST OF CONSULTEES

In preparing this policy, the following key organisations and agencies were consulted.

A/ West Midland Police

B/ West Midlands Fire and Rescue Authority

C/ Other 'Responsible Authorities'

Planning and Development Services
Social Services [Children Services].
Local Safeguarding Children's Board
Health and Safety Executive

Communities and Regulatory Services Division.

- * Environmental Protection
- *Trading Standards
- *Health and Safety

Deleted: Environmental Health and Trading Standards

D/ Persons/Bodies representative of:-

- *local holders of premises licences;
- *club premises certificates;
- *personal licences;
- *businesses.

Chamber of Commerce.

Licensing Solicitors

Breweries

British Beer and Pub Association

British Institute of Inn keeping

Licensed Victuallers Association

Association of Convenience Stores

Association of Licensed Multiple Retailers

Association of Town Centre Managers

British Retail Consortium

The Portma Group

National Pub Watch

NOCTIS

Equity

Musicians Union

Arts Council

Home Office

Department of Culture media and Sport

Campaign for Real Ale

British Hospitality Association

Association of Golf Secretaries

English Golf Union

Deleted: Innkeeping

Deleted: BEDA British Entertainment and Discotheque Association

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Deleted: Circus Arts¶

West Midlands Club and Institute Union Ltd
[Justices Clerks Society](#)
[Sandwell Mental Health Trust](#)
[Sandwell PCT](#)
[Health and Wellbeing Board](#)
[Child and Adolescent Mental Health Services \(CAMHS\)](#)
[Sandwell Community Information and Participation Service \(SCIPS\)](#)
[Sandwell Council of Voluntary Organisations](#)
[Accident and Emergency Unit](#)
[Victim Support](#)
[Crown Prosecution Service](#)
[Sandwell Homes](#)
[Neighbourhood Forums](#)
[Sandwell Youth Cabinet](#)
[Aquarius/Anchor](#)

E/ Persons / bodies representative of Community / Residents in the local area

Members of Parliament
All Members of the [Authority](#) [Councillors]
Safer Sandwell Executive / Crime and Disorder Reduction Panel
Members of the Public [Display/ exhibition/ questionnaire/competition];
*Sandwell show.

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E/ Other agencies/ organisations

Warley and West Bromwich Courts.
Centro
British Transport Police
Sandwell Drugs and Alcohol Team [DAAT]
Accident and Emergency unit [Sandwell DGH].

This is not a definitive list, but illustrative of the organisations/agencies consulted

APPENDIX ONE

Department for Culture, Media and Sport

“PROBLEM PREMISES ON PROBATION” – RED AND YELLOW CARDS: HOW IT WOULD WORK

The problem

1. In many cases, revocation of a premises licences effectively kills any business which is focused on retailing alcohol. This means that not only the business owner suffers, but most people working there will lose their livelihoods. Many of these workers will be entirely innocent of any wrongdoing. There is also an impact on those who rely indirectly on income from the premises – such as local food suppliers or cleaning contractors, and the closure of a premises can deprive some communities of their local shop or restrict local consumer choice. Enforcement agencies that apply for reviews and local councillors sitting on licensing committees are well aware of this potential impact and it can lead to a reluctance to use the powers in the Act to revoke the licence instantly for any failure to promote the licensing objectives. This risks patchy enforcement and uneven solutions to alcohol-related problems around the country.

2. In addition, in many cases, enforcement agencies will prefer to negotiate additional voluntary conditions with problem premises against the threat of review as an immediate, pragmatic and less bureaucratic solution. While this may be a reasonable approach in many cases, there is a risk that some premises are not being dealt with as firmly as necessary, particularly given the level of test purchase failures. Nor are voluntary agreements particularly visible, lessening the deterrent effect on other premises.

3. Government wishes to support the enforcement agencies and licensing authorities by providing clear guidance on a “yellow card / red card” system, which would ensure a firm response to problems, but which give premises an opportunity to reform. The intention is that such a system would be highly visible and send a clear message to alcohol retailers, and the public, that action will be taken against those who act contrary to the licensing objectives and the law.

4. The proposed interventions below would not prevent the giving of an instant red card in an appropriately serious case. It should be realized that a

“test purchase” failure often masks multiple offences that have gone undetected.

Supporting enforcement agencies

5. The Government will encourage enforcement agencies – mainly the police, trading standards officers and environmental health officers – to seek more reviews in the knowledge of the yellow card/red card system described below. This will mean not giving informal warnings. It will mean that on identifying problem premises, the licensing authority will be engaged faster than it might have been in the past

6. Enforcement agencies would be encouraged to seek reviews when local intelligence suggests that individual premises are selling to children or causing other crime problems or causing noise nuisance.

7. Under the law, the licensing authority must then hold a hearing so long as the application relates to one of the four licensing objectives and is made by a responsible authority or by an interested party like a local resident or another local business.

First intervention

8. Responsible authorities will be encouraged to propose a package of tough new conditions to be added to the existing conditions which are designed to combat the identified problem. The kinds of conditions that we have in mind are set out in Annex A. These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises. Such action should be supplemented where appropriate by:

- Removal of the designated premises supervisor and his/her replacement (the manager is removed);
- Suspension of the licence for between 1 day and 3 months according to the circumstances.
- Restriction on trading hours – cutting hours of trading in alcohol.
- Clear warning that a further appearance will give rise to a presumption of revocation.

9. If appropriate following review, the licensing authority should consider these packages of conditions and actions to challenge problem premises more aggressively.

10. For example, requiring a major supermarket to make all alcohol sales through a single till manned by a person aged 25 years or older in order to tackle sales to underage. Over a year, this would potentially cost such a supermarket £millions. It would also make them reflect on their levels of supervision at other stores.

11. In addition, enforcement agencies should make the premises in question a priority for test purchases and more regular inspections.

12. The aim would be to put the premises on probation. Effectively, they are given a yellow card. They are put on notice that the next offence or breach would mean an automatic second intervention – a red card.

Second intervention

13. In the absence of improvement, enforcement agencies should seek another review. The licensing authority again must grant a hearing.

14. If satisfied on the issue of the lack of improvement, the licensing authority should look to **revoke the licence**. The action should be publicised in the area as an example to other retailers.

Implementation

15. Requires:

- Development with the Home Office of a toolkit and guidance for police, trading standards and ethos;
- Initial letters to Leaders of local authorities and Chief Executives;
- Ultimately, stronger statutory Guidance to be laid in Parliament for licensing authorities themselves.

16. Central Government cannot tell licensing authorities what to do. The review powers are devolved to them. Similarly, central Government cannot direct enforcement agencies how to enforce the law. It would remain their judgement when and how to act.

ANNEX A

POSSIBLE TOUGH CONDITIONS TO BE ASSEMBLED INTO PACKAGES

n.b. These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises.

GREATER CONTROL OVER SALE

1. Designated checkout(s) for alcohol sales (supermarket). Impact on protection of children from harm, but also impact on sales and goodwill (probable loss of trade to competitors).
2. Personal licence holder/DPS to be on site at all times during sales of alcohol. Impact on protection of children from harm and new costs if additional staff have to qualify as personal licence holder.
3. Personal licence holder/DPS to supervise and authorise every individual sale of alcohol. Impact on protection of children from harm and new costs if additional staff have to qualify as personal licence holder.
4. SIA registered security staff to be present at points of sales to support staff refusing sales to u-18s and drunks.
5. Alcohol sales only to be made only by person aged not less than 25 years. Impact on protection of children from harm, but also impact on sales and goodwill (probable loss of trade to competitors).
6. CCTV installed at all points of sale and recorded. Recordings can be examined by a constable or trading standards officer to determine sales to minors or drunks.

TRAINING

7. All staff to read and sign a declaration that they understand the law every time they start a shift.
8. Train all staff engaged in selling alcohol in alcohol awareness (not just personal licence holders). All new staff to be trained within two weeks of commencing employment. Evidence of training to be retained in writing and to be available for inspection by any authorised person and training standards officers. Impact on all licensing objectives.

ALCOHOL SALE BANNED AT CERTAIN HOURS

9. No alcohol sales Mon – Fri between 4pm and 8.30pm. Impact on protection of children from harm or targeted hours reflecting times when local intelligence indicates under 18s may be purchasing alcohol.

10. No alcohol sales --- Friday to Sunday. Impact on all four licensing objectives.

ALCOHOL DISPLAYS

11. No displays of alcohol or advertising of alcohol promotions that can be seen from outside the premises.

12. No alcohol stocks promoted alongside goods likely to appeal to children (eg. confectionary, toys).

CUTTING DOWN ON SHOPLIFTING

13. SIA registered security staff to be present at alcohol aisles during opening times to prevent attempted under age sales or theft.

14. Location of alcohol stocks/displays not to be sited near the entrance/exit to deter shoplifting.

15. No direct public access to alcohol products – like tobacco, alcohol to be kept behind a dedicated kiosk.

NAMING AND SHAMING

16. Display an external sign/yellow card to state which of the licensing act objectives they have breached and what action has been taken against them.

OTHERS

17. Maintain a log of all under attempted purchases from those who appear to be under 18 or drunk.

18. Children aged under [18 years] not to be present or (not more than one child at any one time) on premises (other than children living on the premises or of the people working on the premises); or only children under 18 accompanied by an adult to be permitted on the premises during retailing hours. Impact on protection of children from harm.

19. Products to be labelled (a label stuck to the bottle or can) to show the details of the shop from which it was bought. Purpose would be to provide evidence of unlawful sales if product found commonly in possession of persons under 18.

20. Designated single items --- beer, alcopops and cider --- not to be sold to any person. Impact on protection of children from harm. Purpose would be to reduce sales to children and drunks. Alternative would be to prescribe sales of beer, alcopops and cider in quantities of less than four.

21. CCTV installed, monitored and 24 hour recordings kept for a week and made available to constables and persons authorised under the 2003 Act to help identify attempted proxy purchasing.