



## **BROMSGROVE DISTRICT COUNCIL**

### **EXECUTIVE CABINET MEETING**

**TUESDAY, 17TH AUGUST 2004 AT 6.00PM**

**COMMITTEE ROOM, THE COUNCIL HOUSE, BROMSGROVE**

MEMBERS: Councillors D. C. Norton (Executive Leader), Mrs. M. M. T. Taylor (Deputy Executive Leader), B. L. Fuller, C.B.E., Q.F.S.M., Mrs. J. M. L. A. Griffiths, R. Hollingworth and P. J. Whittaker.

### **AGENDA**

Council Agendas and Minutes are available on our web site at  
[www.bromsgrove.gov.uk/meetings](http://www.bromsgrove.gov.uk/meetings)

1. To receive apologies for absence.
2. Declarations of Interest
3. To confirm the Minutes of the Executive Cabinet held on 21st July 2004
4. To receive the Minutes of the Tenders Committee held on 14th July 2004
5. Public Questions
6. Issues arising from Overview and Scrutiny Committees
7. Draft Statement of Licensing Policy - Consultation Process
8. Cemetery Charges Review
9. Executive Procedure Rules - Cabinet Meetings
10. Formal Cautions
11. Car Parking Service - End of Year Review 2003/04
12. Lickey Rotary Club - Street Naming

13. Subdivision of land at Peterbrook Road, Majors Green and land adjacent to the junction of Haslucks Green Road and the junction of Tilehouse Lane, Majors Green, Wythall
14. Shared Services (to follow)
15. Performance Indicator Figures 2003/04
16. To consider any other business, details of which have been notified to the Head of Administrative Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting
17. To consider, and if considered appropriate, to pass the following resolution to exclude the public from the meeting during the consideration of item(s) of business containing exempt information:-

“RESOLVED: that under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, the relevant paragraph of that part being as set out below:-

<u>Item No.</u>	<u>Paragraph</u>
18	1

18. Bromsgrove District Customer Service Centre (attached - not available to the public)

S. NIXON  
Chief Executive

The Council House,  
Burcot Lane,  
BROMSGROVE  
Worcs.  
B60 1AA

9th August 2004

# **BROMSGROVE DISTRICT COUNCIL**

## **MEETING OF THE EXECUTIVE CABINET**

Wednesday, 21st July 2004 at 6.00 p.m.

PRESENT: Councillors D. C. Norton (Executive Leader), Mrs. M. M. T. Taylor (Deputy Executive Leader), B. L. Fuller C.B.E., Q.F.S.M., Mrs. J. M. L. A. Griffiths, R. Hollingworth and P. J. Whittaker.

Observers: Councillors A. L. Deakin and N. Psirides J.P.

### 43/04 **MINUTES**

The Minutes of the Meeting of the Executive Cabinet held on 7th July 2004 were submitted.

**RESOLVED:** that the Minutes of the Meeting be approved and confirmed as a correct record.

### 44/04 **PUBLIC QUESTIONS**

In accordance with the procedure agreed by the Council for answering Public Questions, the following questions in relation to the Victoria Ground, Bromsgrove, were asked by Mr. D. Best:

- (1) (a) Have Aberdeen Harbour Investments submitted their proposals?  
(b) If not, why not?
- (2) If such a scheme has been submitted, what course of action does your Council propose to take?

The answers given were as follows:

- (1) (a) No.  
(b) The question should be addressed to Aberdeen Harbour Investments or to the Company which has now taken them over. The Council understands, however, that they are waiting for the outcome of the Council's Town Centre Study before taking the matter further.
- (2) As no scheme has been submitted, the Council cannot answer this question.

### 45/04 **ISSUES ARISING FROM OVERVIEW AND SCRUTINY COMMITTEES**

#### (1) **WHEELIE BIN PLANNING GUIDANCE**

Consideration was given to the comments of the Housing and Planning Policy Scrutiny Committee relating to the production of informal guidance on wheelie bin storage for new residential properties in the District. This would be prior to the possible incorporation of guidance on this matter through the Local Development Framework. It was,

**RESOLVED:** that informal guidance be produced on wheelie bin storage for new residential properties and that in due course the guidance be incorporated into a Residential Design Guide.

### 46/04 **REVISED CAPITAL PROGRAMME 2004/05**

Consideration was given to the Revised Capital Programme 2004/05. It was reported that the Programme which was suggested in the report could be amended in respect of the transfer of funds relating to Affordable Housing and to discretionary home repair assistance and housing renewal grants from 2004/05 to 2005/06. It was,

**RECOMMENDED:**

- (a) that the Revised Capital Programme for 2004/05 totalling £9,272,000, as shown in Appendix 1 be approved;
- (b) that the transfer of £1,504,000 from 2004/05 to 2005/06, in respect of Affordable Housing be approved;
- (c) that the transfer of £75,000 from 2004/05 to 2005/06, in respect of discretionary home repair assistance and housing renewal grants, be approved; and
- (d) that all schemes included in the Revised Capital Programme for 2004/05, be allowed to proceed subject to a detailed report on the proposals and costs involved being submitted to Executive Cabinet and any further conditions listed in paragraph 7 being met.

47/04

**GRANT APPLICATIONS**

Following consideration of the merits of each of the applications, it was

**RESOLVED:**

- (a)
  - (i) that Age Concern - Bromsgrove and District be awarded a grant of £1,000 towards the running costs of their Information and Advice Centre;
  - (ii) that the application from the Primrose Hospice and Cancer Help Centre be refused;
  - (iii) that the application from the Bromsgrove and Redditch Advocacy Group be refused;
  - (iv) that the application from Bromsgrove Rovers Football Club Limited be deferred for more detailed consideration; and
  - (v) that Age Concern be awarded a grant of £200 in respect of the cost of using the Market Hall for an exhibition.
- (b) that a review be undertaken of all revenue grants made by the Authority, including the application process and the basis on which grants are considered.

48/04

**ADDRESS FORMATS - LICKEY AREA**

Consideration was given to a request received from Lickey and Blackwell Parish Council that the Royal Mail be urged to include the word "Lickey" in the official postal address of properties in the Lickey area. It was

**RESOLVED:** that representations be made to the Royal Mail in support of the Lickey and Blackwell Parish Council's request to include the word "Lickey" in the official postal addresses of properties in the Lickey area.

49/04

**LOCAL GOVERNMENT ACT 1972**

**RESOLVED:** that, under Section 100A(4) of the Local Government Act 1972, the public be excluded from the Meeting during the consideration of the item of business the subject of the following Minute on the grounds that it involves the likely disclosure of "Exempt Information" as defined in Part I of Schedule 12A to the Act, the relevant paragraph of that part being as set out below:-

Minute No.  
50/04

Paragraph  
8

50/04

**BROMSGROVE CUSTOMER SERVICE CENTRE**

(The Chairman agreed to the consideration of this item as a matter of urgency as a decision was required thereon prior to the next Meeting of the Cabinet.)

The Corporate Director (Resources) reported on the background to the provision of a "One Stop" Shop in Bromsgrove as part of the Worcestershire Hub Programme. He referred in particular to the difficulties which had arisen in respect of the premises in the High Street originally identified as the location for the Customer Service Centre element of the project. There would be an unacceptable delay in gaining access to this site and alternative options had therefore been considered and investigated.

It was reported that the preferred option was to locate both the Service Centre and the Contact Centre at the Dolphin Centre. The necessary work could be carried out as part of a modified scheme of refurbishment at the Dolphin Centre. It was anticipated that the cost of the building works would be approximately £485,000 which was to be split equally between this Council and Worcestershire County Council. There was a sum of £350,000 included in the Capital Programme for the work. It was reported that final costings would be reported to Council and that it was anticipated that these were maximum figures and that build costs could be reduced. Following discussion it was

**RECOMMENDED:**

- (a) that the Customer Service Centre and the Contact Centre for Bromsgrove be located at the Dolphin Centre; and
- (b) that the existing Contract with Seddons in relation to the Dolphin Centre project be extended to cover the additional works, and that an exception to Contracts Procedure Rules be approved to enable this.

The Meeting closed at 6.45 p.m.

Chairman

# **BROMSGROVE DISTRICT COUNCIL**

## **MEETING OF THE TENDERS COMMITTEE**

Wednesday, 14th July 2004, at 5.30 p.m.

PRESENT: Councillors D. C. Norton (Chairman), R. Hollingworth (Vice-Chairman) and G. H. R. Hulett

06/04 **MINUTES**

The Minutes of the Meeting of the Tenders Committee held on 10th May 2004 were submitted.

**RESOLVED:** that the Minutes of the Meeting be approved and confirmed as a correct record.

07/04 **LOCAL GOVERNMENT ACT 1972**

**RESOLVED:** that under Section 100A(4) of the Local Government Act 1972, the public be excluded from the Meeting during the consideration of the item of business the subject of the following Minute on the grounds that it involves the likely disclosure of "Exempt Information" as defined in Part I of Schedule 12A to the Act, the relevant paragraphs of that part being as set out below: -

<u>Minute No.</u>	<u>Paragraphs</u>
08/04	7,8 and 9

08/04 **TENDERS FOR THE ARTS CENTRE AUDITORIUM SEATING AND DEMOUNTABLE FLOORING**

Following the opening of the tenders received, it was

**RESOLVED:** that the Director of Leisure Services evaluate the tenders and report back thereon to a future Meeting.

The Meeting closed at .46 p.m.

Chairman

**BROMSGROVE DISTRICT COUNCIL**

**EXECUTIVE CABINET**

**17TH AUGUST 2004**

**DRAFT STATEMENT OF LICENSING POLICY – CONSULTATION**

Responsible Head of Service	Head of Administrative Services
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**1. PURPOSE OF REPORT**

- 1.1 To seek approval to carry out a public consultation on the Council's draft Statement of Licensing Policy, with all interested parties, in accordance with the Licensing Act 2003.

**2. RECOMMENDATION**

- 2.1 That Members approve the attached draft statement of licensing policy; and that the Head of Administrative Services be authorised to carry out the necessary consultation in accordance with the Licensing Act 2003.

**3. BACKGROUND**

- 3.1 As Members are aware the Licensing Bill obtained Royal Assent on 10<sup>th</sup> July 2003 and is now the Licensing Act 2003, which will introduce significant changes to Licensing Laws in England and Wales.
- 3.2 As a result of this new legislation, it is hoped that people will have better opportunities to enjoy their leisure time safely without the fear of violence, intimidation or disorder while on, or arriving at or leaving a licensed premises. In addition, provision has been made for the protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting licensed premises.
- 3.3 There will be a period of transition from current practices and current communication from central government estimates that transition to the new licensing arrangements will commence from 7<sup>th</sup> February 2005 with the end of the transition period likely to be sometime in November 2005 (the date is yet to be announced), which will bring an end to old licensing regimes.
- 3.4 Section 5 of the Act requires the Council to prepare and publish a statement of its licensing policy, which will be used to determine all applications made under the terms of the Act. Such a policy must be published before any functions under the Act are carried out, i.e. the processing of applications for conversions to premises licences, club premises certificates, simultaneous variations, and new licences/certificates. The policy must be reviewed every three years and a further public consultation must take place; however, there is provision in the Act to keep the policy under review during each three year period and that the Council may make such revisions to it as it considers appropriate.

- 3.5 However, in view that this is the first statement of policy, the Council must consult a number of responsible bodies, including bodies representative of current licence holders. Consultees will therefore include:
- The Divisional Chief Superintendent of West Mercia Police Authority;
  - The Assistant Divisional Officer of Hereford and Worcester Combined Fire Authority;
  - Persons/bodies representative of local holders of premises licences, such as current licensees, entertainment licence holders, premises holding alcohol off-licence, major pub companies and local breweries, any local late night refreshment outlets, and appropriate Trade Unions;
  - Persons/bodies representative of local holders of club premises certificates, e.g. sports clubs, social clubs;
  - Persons/bodies representative of businesses and residents in the District.
- 3.6 Any comments received during the consultation period must be given proper consideration when the policy is determined before it is published.
- 3.7 The timetable for the consultation process will be as follows:
- The Policy document will be distributed to all consultees week commencing 6<sup>th</sup> September 2004.
  - The consultation period will end on 22nd October 2004.
  - The final Policy document will be presented to Council on 23rd November for ratification, following approval by Executive Cabinet on 10<sup>th</sup> November 2004.
- 3.8 Appended at Appendix 'A' is the Council's draft statement of licensing policy, which has been compiled, based on the Guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Act.
- 3.9 Members are therefore asked to approve the attached draft statement of licensing policy; and that the Head of Administrative Services be authorised to carry out the necessary consultation in accordance with the Licensing Act 2003.
- 3.10 A further report will be submitted to Members following the closure of the consultation exercise in November 2004.

#### **4. FINANCIAL IMPLICATIONS**

Provision has been made in this year's budget to cover the cost of implementing the Licensing Act 2003. Gross expenditure totals £85,700, with income budgeted at £20,500. It is also anticipated that the Council will receive approximately £45,000 from licence fees during the transition period. However, it is not possible to determine the exact level of income at this present time as the Government has not yet published the licence fee structure.

#### **5. LEGAL IMPLICATIONS**

- 5.1 The Statement of Licensing Policy must be published in accordance with the Licensing Act 2003.

#### **Background Papers:**

None.

#### **Contact Officer**

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Email: [Sharon.smith@bromsgrove.gov.uk](mailto:Sharon.smith@bromsgrove.gov.uk)

Tel: 01527 881626





**Consultation Paper**

**Licensing Act 2003**

**Statement of Licensing Policy**

Please note that it is likely that the new legislation will evolve over the coming months and the information contained within this draft document may be subject to change.

**August 2004**

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## **1.0 Introduction**

Bromsgrove District is one of three Local Authorities in the north of Worcestershire and has population of approximately 88,000 and is mainly rural in character (90% of the area is classed as Green Belt), and a total area of 21,714 hectares.

The principal town is Bromsgrove, which is then surrounded by numerous villages, each with their own individual character.

There are two major concentrations of premises in the District providing regulated entertainment, the retail sale of alcohol, and/or late night refreshment, namely Bromsgrove Town Centre and the sub-urban district of Rubery. There are approximately 49 registered clubs; a small number premises that currently have a late licence on a Friday and Saturday night, including one nightclub and one small football ground.

There are no cinemas or theatres. Local venues such as village, community and school halls provide many venues for cultural and local activities.

There are six Council owned parks, which could be utilised for open-air concerts for the larger cultural events, together with a new purpose built Arts Centre, which will host a wide range of public events and the performing arts.

There are also many public houses in the District outside of Bromsgrove Town, many of these in the small rural villages, which provide the focal point for the community.

Because of the rural nature of the District, premises and events that will be licensed under the Act will provide an essential contribution to the local economy of the District.

## **2.0 Purpose and Scope of the Licensing Policy**

2.1 This Licensing Policy Statement is based upon the Licensing Act 2003, hereinafter referred to as 'the Act', and is in accordance with the Guidance issued by the Department of Culture Media and Sport (DCMS) under Section 182 of the Act. The Licensing Authority is Bromsgrove District Council.

2.2 The aims of the legislation are to modernise and integrate the various licensing systems and replace them with a simpler, transparent and accountable system, and to help build a fair and prosperous society, which properly balances the rights of people and their communities. The Act together with other Government initiatives will:

- Reduce crime and disorder;
- Encourage tourism;
- Reduce alcohol misuse;
- Encourage the self sufficiency of local communities; and
- Reduce the burden of unnecessary regulation on business.

2.3 Section 5 of the Act requires the Council to prepare and publish a statement of its licensing policy every three years. Such a policy must be published before the Council carries out any function in respect of any applications made under the terms of the Act.

2.4 However, in view that this is the first statement of policy, the Licensing Authority must consult bodies representative of current licence holders. Consultees will also include:

- The Divisional Chief Superintendent of West Mercia Police Authority;
- The Assistant Divisional Officer of Hereford and Worcester Combined Fire Authority;
- Persons/bodies representative of local holders of premises licences, such as current licensees, entertainment licence holders, premises holding alcohol off-licence, major pub companies and local breweries, and any local late night refreshment outlets;

- Persons/bodies representative of local holders of club premises certificates, e.g. sports clubs, social clubs;
  - Persons/bodies representative of local holders of personal licences, e.g. Trade Unions, Bii and LVAs;
  - Persons/bodies representative of businesses and residents in the District.
- 2.5 Any comments received during the consultation period will be given proper consideration when the policy is determined, before it takes effect on 7<sup>th</sup> February 2005. The Policy will remain in force for a period of not more than 3 years and will be subject to a further review and consultation no later than to 7<sup>th</sup> February 2008.
- 2.6 This Policy relates to all those licensing activities identified as falling within the provisions of the Act, namely: -
- The retail sale of alcohol;
  - The supply of alcohol to members of a club;
  - The provision of regulated entertainment:
    - A performance of a play
    - An exhibition of a film
    - An indoor sporting event
    - Boxing or wrestling entertainment
    - Playing of recorded music
    - Provision of facilities for making music
    - A performance of live music
    - A performance of dance and dancing facilities
  - The provision of late night refreshment during the period of 11.00pm and until 5.00a.m.
- 2.7 The Council has a duty under the Act to carry out its functions with a view to promoting the four licensing objectives, these are:
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.
- 2.8 Each licensing objective has equal importance.
- 2.9 Whilst this statement of policy will set out a general approach for the determining of licensing applications, the provisions in the Act cannot be ignored. For example, the policy must not undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits; and secondly, no statement of policy should override the right of any person to make representations on an application or seek a review of a licence or certificate in accordance with the Act.
- 2.10 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act, and the terms and conditions attached to licences, certificates and permissions will be focused on matters that are within the control of the Licensee and these are likely to relate to the premises themselves and the immediate vicinity. Whether or not incidents can be regarded as being 'in the vicinity' of licensed premises is a question of fact and will depend on the particular circumstances of the case.
- 2.11 When considering these terms and conditions, the Council 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. It must be noted that the Act is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the Licensee.

### **3.0 Cumulative Impact**

- 3.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter, which the Council 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.
- 3.2 In some instances where serious problems of nuisance and disorder arise, whether in the immediate vicinity or some distance from the licensed premises, as a result of the number, type and density of premises selling alcohol, this can be described as the cumulative effect of the increasing capacity of all licensed premises taken together. In these circumstances the Council may accept representations from a 'responsible authority' or an 'interested party' that the cumulative effect of the granting of new licences are leading to an area becoming saturated with licensed premises, in turn making it a focal point for large groups of people to gather and circulate away from the licensed premises, creating problems of disorder and nuisance over and above the impact from individual premises.
- 3.3 In such cases the issue of cumulative impact can be taken into account when considering the individual merits of any application, if it might lead to undermining one of the licensing objectives.
- 3.4 It must be stressed that the onus would be on the objector to gather the necessary evidence that the addition of the premises in question would produce the cumulative impact claimed.
- 3.5 In determining whether to adopt a 'saturation' policy for a particular area, the Council may, among other things:
- Gather evidence or identification of serious and chronic concern from a responsible authority; the local Crime and Disorder Reduction Partnership; or local residents about nuisance and disorder;
  - Make an assessment of the causes;
  - Identify the area from which problems are arising and the boundaries of that area; and
  - Adopt a policy about future licence applications for that area.
- 3.6 Saturation policies should be reviewed every three years to assess whether they have had the effect intended and whether they are needed any longer. They should never be used as grounds for removing a licence when representations are received about problems with an existing licensed premises. Nor can they justify rejecting modifications to a licence except where those modifications are directly relevant to the policy, such as increasing the capacity limits of a premises. After a licence or certificate has been granted or varied, a complaint relating to a general situation in an area would generally not be regarded as a relevant representation if it cannot be positively tied or linked by a causal connection to a particular premises that would allow for a proper review of its licence or certificate by the Council's Licensing Committee or Sub-Committee.
- 3.7 The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 3.8 Should unruly behaviour occur away from licensed premises, there are a number of other mechanisms that can be used to address such issues. See Chapter 7.0 - Integrating Strategies.

#### **4.0 Licensing Hours**

- 4.1 It can be said that fixed and artificially early closing times in certain areas of the district could lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Consequently, longer licensing hours are considered as an important factor in reducing friction at late night food outlets, taxi ranks and other sources of transport in areas where there have already been incidents of disorder and disturbance, such as Bromsgrove Town Centre.
- 4.2 The Licensing Authority must ensure that licensing hours do not inhibit the development of thriving, safe and night-time local economies which are important for investment and employment and attractive to all consumers without compromising the ability to resource local services associated with the night-time economy.
- 4.3 It is not envisaged that any form of zoning in respect of licensing hours will be introduced, as this may lead to the significant movement of people across the district in search of premises opening later.
- 4.4 It is however, acceptable to impose stricter conditions with regard to noise control in areas that are residential, in order to satisfy the licensing objectives, but this should not limit the licensing hours without regard for the individual merits of the application.
- 4.5 The licensing hours for each premises will therefore be examined on individual merits, having regard to the nature of activities taking place in the premises, the amount of disturbance likely to occur, the location of the premises and the day of the week. It is recognised that later opening hours may be acceptable where people leaving the premises or the activities taking place within the premises are not likely to disturb local residents, but that earlier closing times may have to be imposed on premises where such disturbance could occur. It is also recognised that, in certain cases, later closing times may be more acceptable on certain days of the week, particularly Thursdays, Fridays and Saturdays.
- 4.6 With regard to shops, stores and supermarkets, it is recommended that they should be free to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there are very good reasons for restricting those hours. For example, a limitation may be appropriate following police representations in the case of isolated shops known to be a focus of disorder and disturbance because youths gather there.

#### **5.0 Children and Licensed Premises**

- 5.1 In accordance with the Act, it is an offence to permit children under the age of 16 who are not accompanied by an adult to be present on a premises being used exclusively or primarily for the supply of alcohol for consumption on those premises and between the hours of midnight and 5am at other premises. However, the Act does not prohibit children having free access to licensed premises of all kinds, unless it is necessary for the prevention of harm to children. For example, these might include:
- Where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
  - The premises has a known association with drug taking or dealing;
  - Where there is a strong element of gambling on the premises;
  - Where entertainment of an adult or sexual nature is commonly provided;
  - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 5.2 The options available for limiting the access of children to licensed premises include:
- Limitations on the hours or parts of the premises when children may be present;
  - Age limitations (below 18);
  - Limitations on the exclusion of the presence of children under certain ages when particular activities are taking place;

- Requirements for accompanying adult;
- Full exclusion of people under 18 from the premises when licensed activities are taking place.

5.3 The Licensing Authority may wish to impose a condition concerning the presence of adult staff at places of public entertainment to control the access and egress of children and to assure their safety. The Licensing Authority may wish to impose the following ratio in relation to adult carers to children, as recommended by Ofsted:

Children under 18 months old	1 adult to every 3 children
Children under 5 years	1 adult to every 5 children
Children under 16 years	1 adult to every 8 children

5.4 The licensing authority may also wish to impose conditions aimed at preventing the playing of certain Amusements with Prizes Machines by persons aged under 18.

5.5 It must be noted that a condition requiring the admission of children to any premises cannot be attached to a licence or certificate. Where no licensing restriction is necessary, this should remain a matter for the discretion of the individual Licensee.

5.6 The Licensing Authority recommends that Licensees seek guidance from the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. Where appropriate and necessary, consideration can be given to attaching conditions to premises licences and certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

5.7 A further way in which the Licensing Authority may wish to protect children is to include a condition on a licence, to insist that the Licensee seeks proof of age and supports the Proof of Age Standards Scheme (PASS). This helps to ensure that goods of various descriptions, in particular alcohol, are not sold to young people who are below the legal age limit for making such purchases or taking part in age restricted 'regulated entertainment'. It can thus provide reassurance to responsible retailers/licensees that they are not breaking the law. Further advice is also contained in a guidance document published by LACORS/TSI entitled 'Code of Practice on Test Purchasing'.

5.8 Further advice on matters relating to the protection of children from harm can be sought from Mr. Alan Ferguson – Unit Manager for Child Protection at Worcestershire County Council. He can be contacted on telephone: 01905 752829 or email [aferguson@worcestershire.gov.uk](mailto:aferguson@worcestershire.gov.uk)

## **6.0 Children and Cinemas**

6.1 Where a licence is granted for the exhibition of films it will be granted subject to the inclusion of a mandatory condition, which requires the licensee to take reasonable steps to prevent children gaining access to age-restricted films, which they are not old enough to view according to the British Board of Film Classification.

## **7.0 Integrating strategies**

7.1 This Policy is not intended to duplicate existing legislation and regulatory regimes that already places obligations on employers and operators, for example, the Health and Safety at Work Act 1974, the Environmental Protection Act 1990, the Disability Discrimination Act 2000, and the new Fire Safety Regulatory Reform Order (when it comes into force), the Anti Social Behaviour Act 2003, the Race Relations (Amendment) Act 2000 and the Criminal Justice and Police Act 2001. Therefore conditions will generally be considered unnecessary if they are already adequately covered by other legislation. Conditions in respect of public safety should only be attached to premises licences that are 'necessary' for the promotion of that licensing objective and if it is already provided for in other legislation, they cannot be considered necessary in the context of licensing law.

7.2 Other methods of control can include:

- Planning controls;
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council;
- Maintaining CCTV surveillance in busy areas, the provision of sufficient taxi ranks, public conveniences; more street cleaning and litter patrols;
- Further designations of parts of the district as places where alcohol may not be consumed in public;
- The confiscation of alcohol from adults and children in designated areas of the district;
- Police enforcement of the normal law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices;
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, or excessive noise emanating from the premises;
- The power of the police, responsible authority or local resident or business to seek a review of the licence in question.

7.3 The above-mentioned examples will also be supplemented by other Council and Government policies, strategies and guidance documents, such as the Council's District Local Plan, the Council's Community Plan, Crime and Disorder Reduction, Drugs and Alcohol, and Cultural and Tourism, etc. A method of bringing all of these considerations together, is by way of setting up a Local Licensing Forum, which will be made up from responsible authorities, other Council departments and representatives from the licensed trade.

7.4 The County-wide Community Safety Strategy 2002-2005, which has been adopted by the Council, tackles crime and disorder in partnership with the Police, other local agencies and the community of Bromsgrove, will also be used to compliment this Licensing Policy, as will any subsequent strategies produced within the life of this Licensing Policy.

7.5 By consulting widely prior to this policy statement being published, the Council will endeavour to secure proper integration with local crime prevention, planning, transportation, tourism and cultural strategies. For example, the provision of CCTV at premises and/or areas within the district; or to encourage and promote a wide range of licensable activities for the wider cultural benefit of the community etc. Further examples can be found in the Model Pool of Conditions at Appendix 'A'.

7.6 To ensure that cultural diversity thrives, the Licensing Authority will recommend that premises licences are sought for a number of the Council's own public open spaces and the Arts Centre, and for Parks. Performers and entertainers would then have no need to obtain a licence to enable them to give a performance in these places. They would however, still require the permission of the Council to use the licensed premises and/or land.

7.7 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Council's Licensing Committee may, in certain cases, receive and take account of reports on the

- Needs of the local tourist economy;
- Cultural strategy for the area;
- Employment situation in the area and the need for new investment and employment where appropriate;
- Planning considerations, which might affect licensed premises; and
- Transport links.



- 7.8 The Council recognises that licensing applications should not be seen as a re-run of the planning application process, and that licensing decisions will not cut across decisions taken by the Council's Planning Committee or permissions granted on appeal. There is no legal basis for the Licensing Authority to refuse a licence application because it does not have planning permission, however, the applicant would have to show compelling reasons why a premises, which did not have planning permission should be granted a licence.
- 7.9 In addition, there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. Where appropriate, regular reports will be provided to Planning Committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder.
- 7.10 The Council will monitor the impact of the Licensing Policy on regulated entertainment, and where there is any indication that such events are being deterred, there may be a need to review the Policy; only necessary, proportionate and reasonable licensing conditions should impose any restrictions on such events.
- 8.0 Standardised conditions**
- 8.1 The Licensing Authority cannot impose standard conditions and it may be unlawful where the conditions cannot be shown to be necessary for the promotion of the licensing objectives. Any condition that is imposed will therefore be related to one or more of those objectives and will be tailored to the specific needs of the premises to which they relate and linked to one of the licensing objectives. The Council will also have to avoid measures, which might deter live music, dancing or theatre by imposing indirect costs of a substantial nature, unless that imposition can be justified by reference to the licensing objectives.
- 8.2 A pool of model conditions is attached at Appendix 'A'. These conditions are a pool from which the Licensing Authority and/or the applicant may choose as appropriate to suit the specific needs of an individual premises; conditions not listed in the pool may be specifically tailored by the Licensing Authority and attached to the licences as appropriate.
- 8.3 Despite there being no provision for standardised conditions, there are a few mandatory conditions that must be applied, where appropriate. The Act provides that, where a premises licence authorises the supply of alcohol, the Licensing Authority must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence, or at a time when the designated premises supervisor does not hold a personal licence or his or her licence has been suspended. Secondly, where the provision of door supervision is a condition of the licence, anyone carrying out such a function must be licensed by the Security Industry Authority. Thirdly, where a licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted as in accordance to the Act.
- 9.0 Door Supervisors**
- 9.1 Whenever any persons are employed at licensed premises to carry out any security activity, there will be a requirement that, from the date on which the Security Industry Authority (SIA) becomes operative in the district, namely 18<sup>th</sup> October 2004, all such persons must be registered with the SIA. The Licensing Authority may consider that certain premises require strict supervision for the purpose of promoting the reduction of crime and disorder. In such cases, the Licensing Authority may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out. The Licensing Authority may also specify the number of security staff to be employed, the positions in which they will need to be deployed, the duties they will be required to fulfil, and any records that they may be required to keep.

## **10.0 The Club Environment and the Control of Drugs**

10.1 The Licensing Authority recognises that drug use in a club environment is not something that is relevant to all licensed premises. However, it is recognised that special conditions will need to be imposed for certain types of venues to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. The key areas relating to safety at clubs, include:

- Prevention of overcrowding;
- Air conditioning and ventilation;
- Availability of drinking water;
- Further measures to combat overheating; and
- Overall safety

10.2 These areas can easily be addressed in a variety of ways:

- Setting an overall capacity limit;
- Controlling temperatures and humidity in the venue with the use of air conditioning, industrial fans or allowing customers to cool off outside etc.
- Provision of cold water in easy to access areas; availability of a large range of appropriately priced bottled water and soft drinks; or staff circulating the venue offering chilled water to those who may need it.
- Provision of a 'chill-out' area and breaks in fast music;
- Drinks to be provided in plastic or toughened glasses, or glasses of a specified size or design;
- Ensuring that fixtures and fittings are safe and secure;
- Informing customers of the intended use of special effects;
- The maximum volume on sound systems is set to prevent causing hearing damage; preventing floors from becoming slippery; and
- Ensuring that emergency evacuation procedures take into account the fact that many customers may be intoxicated from drink or drugs.

10.3 These suggested conditions take into account the "Safer Clubbing" guide issued by the Home Office. Some of them have other reasons for being considered – e.g. Fire Safety, prevention of crime and disorder.

## **11.0 Outside the Premises**

11.1 It is recognised that the existence of a licensed premises can create public order and/or nuisance issues immediately outside the area in which licensed activities take place. The Licensing Authority recognises that Licensees cannot be expected to control the behaviour of customers who have recently departed from their premises but will, in appropriate cases, seek to impose conditions requiring control over the behaviour of customers who are still within the curtilage of the licensed premises (but outside the licensed area), e.g. in a car park attached to the premises.

11.2 The Licensing Authority also recognises that one form of public nuisance can be generated by litter and will seek to reduce this by use of appropriate conditions, e.g. the provision of signs and/or litter bins and requirements to keep the curtilage of the premises and any areas immediately beyond the curtilage in a tidy condition.

11.3 The Licensing Authority further recognises that public nuisance can occur when people are making their way home, to reduce the number of people walking home after a night out would be to provide details of local taxi companies on a notice board in the vicinity a licensed premises.

## **12.0 Open Air/Temporary Events**

12.1 Licensing Authorities may not seek to attach any conditions on open air or temporary events, other than those set down in the Act. It is however expected for the Council to provide advice about proper respect for the concerns of local residents; of the other

legislative requirements regarding health and safety, noise pollution or the building of temporary structures; or other necessary permissions, for example, with regard to road closures or the use of pyrotechnics in public places; with regard to local bye laws; and the need to prevent anti-social behaviour by those attending. Applicants should also be reminded of the relevant offences under licensing law including the laws governing sales of alcohol to minors or to any person who is drunk, and of the Police powers to close down events with no notice on the grounds of disorder, the likelihood of disorder because of public nuisance, including noise emanating from the premises. The Licensing Authority may only ever intervene itself if the limits on the number of notices that may be given in various circumstances would be exceeded (50 times per year for a personal licence holder; 5 times per year for other people; and 5 times a year for a premises).

- 12.2 With reference to the statutory period of 10 working days for the submission of an application under the temporary event notification system, the licensing authority would prefer if applications were submitted at least 15 working days prior to the date of the event; this would allow sufficient time to process the application and to receive responses back from responsible authorities.

### **13.0 Enforcement**

- 13.1 An enforcement protocol has been established with West Mercia Police Authority and all Licensing Authorities within the area, which is attached at Appendix 'D'. One aim will be to target problem and high-risk premises, which require greater attention, while providing a lighter touch in respect of low risk, well managed premises.
- 13.2 The Act does not require annual inspections to take place, it is at the discretion of the responsible authorities. This should ensure that resources are more effectively concentrated on problem premises.

### **14.0 Publicity and neighbour consultations**

- 14.1 A short summary of the application setting out the location of the premises, the proposed licensable activity, the proposed access for children and the proposed hours of opening must be displayed on an A3 size notice immediately on or outside the premises for a specified period, together with details of where the full details of the application may be viewed; there may also be a requirement for details to be published in a local newspaper.
- 14.2 As well as submitting the application to the Licensing Authority, copies also have to be submitted to each responsible authority for their comments. They are, Police Authority; Fire Authority; Environmental Health; Local Planning Authority; and the Area Child Protection Committee. Their contact details can be found at Appendix 'C'.
- 14.3 The Licensing Authority may wish to include details of each application on their website at [www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk) and arrangements will be in place for interested parties to view a copy of all applications in the Licensing Register, which will be held at The Council House, Burcot Lane, Bromsgrove, Worcs., B60 1AA and can be viewed during normal office opening hours.

### **15.0 Administration**

- 15.1 The Licensing Authority must establish a Licensing Committee consisting of least ten, but not more than fifteen, members of the authority. The Licensing Committee may in turn establish one or more sub-committees consisting of three members of the Licensing Committee. It must be noted that any Councillor who is also a member of the Licensing Committee or Sub-Committee making representations on behalf of an interested party must disqualify themselves from any involvement in the decision-making process affecting the premises licence in question. The powers of the Licensing Authority under the Act shall be either carried out by the Licensing Committee, the Licensing Sub-Committee, or by an Officer acting under delegated authority. Any

- decisions made under delegated authority must be submitted to the Licensing Committee for information; there will be no opportunity to overturn an Officers' decision.
- 15.2 It is considered that many of the functions will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness these will, for the most part be carried out by Officers.
- 15.3 The Licensing Committee or a Sub-Committee will deal with applications where there are relevant representations made, in particular from the Police Authority.
- 15.4 If relevant representations are made about an application the licensing authority will hold a hearing to consider them unless the licensing authority, the applicant and everyone who has made representations agreed that the hearing is not necessary.
- 15.5 Relevant representations are:
- About the likely effect of the premises licence on the promotion of the licensing objectives;
  - Are made by an interested party or a responsible authority, have not been withdrawn and, in the case of representations made by an interested party they are not in licensing authority's opinion frivolous, vexatious or repetitious.
- 15.6 '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; or
  - A body representing persons involved in such a business.
- 15.7 Reviews of premises licences represent a key protection for the community where problems associated with disorder, public safety or disturbance are occurring. If relevant representations are made about a current licence the licensing authority will hold a hearing to consider them unless it is considered not necessary.
- 15.8 Additionally a review of the licence will normally follow any action by the Police Authority to close down the premises for up to 24 hours on the grounds of disorder or public nuisance.
- 15.9 The Licensing Authority will have little discretion regarding the granting of Personal Licences, provided that the application has a relevant approved qualification and does not have a recent relevant conviction as set out in the Act, the application will be granted.
- 15.10 If an applicant has a relevant conviction and/or the police object to the granting of the licence in the interests of crime prevention, a hearing will be held and the Licensing Committee will determine the application.
- 15.11 The scheme of delegation of licensing functions is attached at Appendix 'B'.
- 15.12 The Licensing Authority will expect individual applicants to address the licensing objectives in their Operating Plan having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and needs of the local community.
- 15.13 Applicants will be 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. It might be advisable for applicants to have informal discussions with responsible authorities prior to the submission of their application, in order to resolve potential problems and avoid unnecessary hearings and appeals.

- 15.14 When determining applications, the Council will have regard to the Act and the Guidance issued by the DCMS. A copy of the Act and the Guidance can be found on the DCMS website at [www.culture.gov.uk](http://www.culture.gov.uk)
- 15.15 When determining applications, the Council will have regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups in accordance with the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000.

**16.0 Contact details for further advice**

- 16.1 Further details about licensing and the application process, including application forms can be obtained from:

Sharon Smith - Principal Licensing Officer,  
Administrative Services,  
Bromsgrove District Council,  
The Council House,  
Burcot Lane,  
Bromsgrove,  
Worcs., B60 1AA.

Tel: 01527 881626 (Direct Dial)  
Fax: 01527 881414  
Email: [sharon.smith@bromsgrove.gov.uk](mailto:sharon.smith@bromsgrove.gov.uk)

If you require this document to be made available in other languages, or on audiotape, please do not hesitate to contact the person named above.

Other useful contacts can be found at Appendix 'C'.

## **MODEL POOL OF CONDITIONS**

### **Conditions relating to the prevention of crime and disorder**

*It should be noted in particular that it is unlawful under the 2003 Act:*

- *to knowingly sell or supply alcohol to a person who is drunk;*
- *to knowingly allow disorderly conduct on licensed premises;*
- *for the holder of a premises licence or a designated premises supervisor to knowingly keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported;*
- *to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.*

*Conditions enforcing these arrangements are therefore unnecessary.*

#### **General**

Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of conditions drawn from experience relating to differing situations and to offer guidance.

Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

#### **Text pagers**

Text pagers connecting premises licence holders, or designated premises supervisors to the local police station can provide for rapid response by the police to situations of disorder which may be endangering the customers and/or staff on the premises.

Such pagers provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn other licence holders of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

It is recommended that a condition requiring the text/radio pager links to the police should include the following elements:

- a requirement that the text/pager equipment is kept in working order at all times;
- a requirement that the pager link be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- a requirement that any police instructions/directions are complied with whenever given; and
- a requirement that all instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

#### **Door supervisors**

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- Preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;

- Keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- Searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons;
- Maintaining orderly queues outside the premises.

Should the provision of door supervisors become a condition of a licence, they would have to be registered with the Security Industry Authority, and further conditions may also be needed to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches).

Door supervisors also have a role in ensuring public safety (see model condition relating to public safety).

### **Bottle bans**

Bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in their bottles for consumption on the premises. However, it should be noted that many women consider that drinking from bottles to be safer as it is easier for them to prevent the spiking of drinks with drugs in bottles the openings of which may be readily covered. These issues therefore need to be carefully balanced.

### **Plastic containers and toughened glass**

Glasses may be used as weapons during incidents of disorder and can cause very serious injuries. Consideration should therefore be given to conditions requiring either the use of plastic containers or toughened glasses. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of outdoor sports grounds may obviously be of concern, but similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, could also be of concern.

It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures to promote public safety (see model conditions relating to public safety).

### **CCTV**

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise location of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals with advice on the use of CCTV to prevent crime.

### **Open containers not to be taken from the premises**

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises that would be entirely lawful. However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

### **Restrictions on Drinking Areas**

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the

police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but also indicate the circumstances in which the ban would apply and times at which it should be enforced.

### **Capacity limits**

Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions, which set capacity limits for licensed premises, or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled, by using an approved method for counting people in and out of the premises.

### **Proof of Age cards**

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require certain licensed premises to require the production of "proof of age" before such sales are made. This should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences, student cards and passports. It is recommended that licensees support the PASS accredited system, which aims to approve and accredit various proof of age schemes that are in existence.

### **Crime prevention notices**

It may be necessary at some premises for notices to be displayed, which warn customers of the prevalence of crime which may target them. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed that advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

### **Drinks promotions**

Standardised conditions should not be attached to premises licences or club premises certificates that promote fixed prices for alcoholic drinks. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind. This can risk creating cartels. Using conditions to control the prices of alcoholic drinks in an area may also breach competition laws. Conditions tailored to the individual circumstances of particular premises that address **irresponsible** drinks promotions may be permissible provided they are necessary for the promotion of the licensing objectives.

### **Signage**

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

### **Large capacity venues used exclusively or primarily for the "vertical" consumption of alcohol (HVVDs)**

Large capacity "vertical drinking" premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, used



primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons.

Where necessary and appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations on such grounds) which require adherence to:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

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## **Conditions relating to the protection of children from harm**

It should be noted that it is unlawful under the 2003 Act:

- To permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore, unnecessary.

### **Access for children to licensed premises - in general**

Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the licensing authority considers it necessary to protect children from harm.

Whilst applications in relation to premises licences and club premises certificates must be judged by licensing authorities on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- For any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
  - Explain their reasons; and
  - Outline in detail the steps that they intend to take to protect children from harm on such premises.
- For any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
  - Explain their reasons; and
  - Outline in detail the steps that they intend to take to protect children from harm on such premises.
- In any other case, subject to the premises licence holder or club's discretion, the expectation would be for unrestricted access for children of any age to premises. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there was no need to include in the schedule steps the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

### **Age Restrictions – specific**

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place licensing authorities following relevant representations are made by responsible authorities and interested

parties will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary. Licensing authorities are expected to consider:

- The hours of day during when age restrictions should and should not apply. For example, the fact that adult entertainment may take place after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day.
- Types of event or activity in respect of which no age restrictions may be needed, for example: family entertainment; or Non-alcohol events for young age groups such as under 18s dances;
- Similarly, types of event or activity, which give rise to a more acute need for age restrictions than normal, for example: during “Happy Hours” or on drinks promotion nights.

### **Age Restrictions – cinemas**

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of section 20, requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984, conditions restricting the admission of children to film exhibitions should include:

- A condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:
  - U Universal – suitable for audiences aged four years and over
  - PG – Parental Guidance. Some scenes may be unsuitable for young children.
  - 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
  - 15 – Passed only for viewing by persons aged 15 years and over.
  - 18 – Passed only for viewing by persons aged 18 years and over.
- That conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film.

### **Theatres**

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is normally left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

Licensing authorities are also expected to consider whether a condition should be attached to a premises licences which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency (See model conditions relating to Theatres and Cinemas).

### **Performances especially for children**

Where performances are presented especially for children in theatres or cinemas, the following conditions will be required:

- An attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

Licensing authorities are expected, having regard to any representations made by responsible authorities, to also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

### **Children in performances**

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. Licensing authorities should not duplicate any of these requirements.

However, further conditions may include:

- **Venue** – the backstage facilities should be large enough to safely accommodate the number of children taking part in any performance.
- **Fire safety** – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- **Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid, pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

### **The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks**

The Portman Group operates, on behalf of the alcohol industry, a 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 old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

Where appropriate and necessary, consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

### **Proof of Age cards**

A requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm. Any such requirement should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences and passports. The Secretary of State strongly supports the PASS accreditation system which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences, student cards and passports. As for conditions relating to crime and disorder, it should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the

requirement might be to ensure sight of evidence of age from any person appearing to those engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.

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## Conditions relating to the prevention of public nuisance

*It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.*

### Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003) by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder, which results from artificially early fixed closing times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

Restrictions might be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

### Noise and vibration

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises.
- Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- The use of explosives, pyrotechnics and fireworks of a similar nature, which could cause disturbance in surrounding areas, are restricted.
- The placing of refuse – such as bottles - into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

### Noxious smells

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- Noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

### Light pollution

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- Flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

## **Signage**

It may be necessary to place a condition on a premises licence asking that appropriate signage be erected at the exit of the premises, asking patrons to leave quietly. In addition, the signage could also include details of local taxi firms for those people without transport home.

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## Conditions relating to public safety (including fire safety)

*It should be noted that conditions relating to public safety should be those, which are necessary, in the particular circumstances of any individual premises or club premises, and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Fire Precautions (Workplace) Regulations 1997 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.*

### General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote public safety. It should also be recognised that special issues may arise in connection with outdoor and large-scale events.

Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

In addition, to considering the points made in this appendix, those preparing operating schedules or club operating schedules, licensing authorities and responsible authorities should consider:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications);
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 7176 2453 6;
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X;
- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804;
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2;
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through [www.streetartsnetwork.org/pages/publications](http://www.streetartsnetwork.org/pages/publications)

The following British Standards should also be considered:

- BS 5588 Part 6 (regarding places of assembly)
- BS 5588 Part 9 (regarding ventilation and air conditioning systems)
- BS 5588 Part 9 (regarding means of escape for disabled people)
- BS 5839 (fire detection, fire alarm systems and buildings)
- BS 5266 (emergency lighting systems)

However, in consulting these texts, which were prepared prior to the coming into force of the Licensing Act 2003, those creating operating schedules or club operating schedules, licensing authorities and responsible authorities should again note that under no circumstances should any conditions be regarded as standard for all premises.

Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.



## **Disabled people**

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- When disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and
- Disabled people on the premises are made aware of those arrangements.

## **Escape routes**

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- All exits doors are easily openable without the use of a key, card, code or similar means;
- Doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- Any security fastenings are removed prior to the premises being open to the public;
- All fire doors are maintained effectively self-closing and shall not be held open;
- Fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut; and
- The edges of the treads of steps and stairways are maintained so as to be conspicuous.

## **Safety checks**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Safety checks are carried out before the admission of the public; and
- Details of such checks are kept in a Log-book.

## **Curtains, hangings, decorations and upholstery**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Hangings, curtains and temporary decorations are maintained in a flame-retardant condition;
- Any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1 and crib ignition source 5 when tested in accordance with section 5 of BS 5852:1990;
- Curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire-fighting equipment; and
- Temporary decorations are not used without the consent of the licensing authority.

## **Accommodation limits**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded by using an approved method of counting people in and out of the premises; and
- The licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and details recorded in a log book. The licensee shall produce these records upon request to any authorised person on request.

## **Fire action notices**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration.

## **Outbreaks of fire**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- The fire brigade must be called at once to any outbreak of fire, however slight, and the details recorded in a Fire Log-book.

## **Loss of water**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- The local Fire Control Centre are notified as soon as possible if the water supply to any hydrant, hose reel, sprinkler, drencher or other fire extinguishing installation is cut off or restricted.

## **Access for emergency vehicles**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Access for emergency vehicles is kept clear and free from obstruction.

## **First aid**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Adequate and appropriate supply of first aid equipment and materials is available on the premises;
- If necessary, at least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined.

## **Lighting**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- In the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present.
- Fire safety signs are adequately illuminated.
- Emergency lighting is not altered.

- Emergency lighting batteries are fully charged before the admission of the public, members or guests.
- In the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

### **Temporary electrical installations**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Temporary electrical wiring and distribution systems are not provided without notification to the licensing authority at least ten days before commencement of the work.
- Temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909.
- Where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent qualified person before they are put to use.

### **Indoor Sports Entertainments**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- If necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature.
- Where a ring is involved, it is constructed and supported to the satisfaction of the licensing authority and any material used to form the skirt around the ring is flame-retardant.
- At any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring.
- At water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming Pools issued jointly by the Health and Safety Commission and Sport England)

### **Alterations to the premises**

Premises should not be altered in such a way as to make it impossible to comply with an existing licence condition without first seeking a variation of the premises licence proposing the deletion of the condition relating to public safety in question. The applicant will need to propose in a new operating schedule reflecting the proposed alteration to the premises how he or she intends to take alternative steps to promote the public safety objective. The application for variation will enable the responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

### **Special effects**

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Specials effects which should be considered include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- explosives and highly flammable substances.
- In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] the fire authority.

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## Theatres and Cinemas (Promotion of Public Safety)

In addition to the points made above, there are particular matters in the context of public safety and fire safety, which should be considered in connection with theatres and cinemas. The principle remains that conditions must be necessary and should be established through risk assessment and standardised conditions should be avoided. The points that follow are for consideration and do not represent a mandatory list.

### Premises used for Closely Seated Audiences

#### Attendants

The number of attendants on each floor in a closely seated auditorium should be as set out on the table below:

Number of members of the audience present on a floor	Minimum number of attendants required present on that floor
1 - 100	One
101 – 250	Two
251 - 500	Three
501 - 750	Four
751 -1000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.

Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform)

The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.

No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction.

A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

#### Standing and Sitting in Gangways etc

Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.

Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.

In no circumstances shall anyone be permitted to

- sit in any gangway
- stand or sit in front of any exit; or
- stand or sit on any staircase including any landings.

#### Drinks

Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.

## Balcony Fronts

Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

## Special effects

Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Specials effects include:

- Dry ice machines and cryogenic fog
- Smoke machines and fog generators
- Pyrotechnics, including fireworks
- Real flame
- Firearms
- Motor vehicles
- Strobe lighting
- Lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products)
- Explosives and highly flammable substances

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior consent of the licensing authority.

## Scenery

Any scenery should be maintained flame-retardant.

## Safety curtain

Where a safety curtain is provided, it should be arranged so as to protect the audience from the effects of a fire or smoke on stage for sufficient time to enable the safe evacuation of the auditorium.

Where a stage with a proscenium arch is not equipped with a safety curtain, any curtains provided between the stage and the auditorium should be heavyweight and be made of non-combustible material or inherently or durably treated flame-retarded fabric.

## Ceilings

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person every five years and a certificate concerning the condition of the ceilings forwarded to the licensing authority.

## Seating

Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.

## Premises used for Film Exhibitions

### Attendants - premises without a staff alerting system

Where the premises are not equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty
1 - 250	Two
And one additional attendant for each additional 250 members of the audience present (or part thereof)	
Where there are more than 150 members of an audience in any auditorium or on any floor	At least one attendant shall be present in any auditorium or on any floor

### **Attendants – with a staff alerting system**

Where premises are equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of staff on the premises who are available to assist in the event of an emergency
1 - 500	Two	One
501 - 1000	Three	Two
1001 - 1500	Four	Four
1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises

Staff shall not be considered as being available to assist in the event of an emergency if they are:

- the holder of the premises licence or the manager on duty at the premises; or
- a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
- a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.

Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.

The staff alerting system shall be maintained in working order.

### **Minimum Lighting**

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

### **Flammable films**

No flammable films should be allowed on the premises without the consent of the licensing authority.

## Appendix 'B'

### Delegation of Licensing Functions

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a representation made	If no representation made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no representation made
Application to vary designated premises supervisor		If a police representation	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police representation	All other cases
Applications for Interim Authorities		If police representation	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when local authority is a consultee and not the lead authority			All cases
Determination of a police representation to a temporary event notice		All cases	



**Details of useful contacts**

<b>Useful Contacts</b>	<b>Name</b>	<b>Organisation</b>
Environmental Services le Noise, health & safety, food safety etc		Bromsgrove District Council The Council House Burcot Lane Bromsgrove Worcs. B60 1AA  Tel: 01527 881444
Crime & Disorder	Graham Rocke Community Safety Officer	Community Safety Bromsgrove District Council The Council House Burcot Lane Bromsgrove Worcs. B60 1AA  Tel: 01527 881486
West Mercia Police Authority	PC Licensing Officer	Redditch Police Station Grove Street Redditch Worcs  Tel: 01527 586157
Hereford & Worcester Fire Authority	Fire Safety	Hereford & Worcester Fire Authority Amphlett Court Windsor Street Bromsgrove Worcs, B60 2BN.  Tel: 01527 576633
Building Control	Martin Jones Chief Building Control Surveyor	Building Control Bromsgrove District Council The Council House Burcot Lane Bromsgrove Worcs. B60 1AA.  Tel: 01527 881347
Planning	Dave Hammond Head of Development Control	Development Control Bromsgrove District Council The Council House Burcot Lane Bromsgrove Worcs. B60 1AA.  Tel: 01527 881330

Cultural Strategy	Rosemary Clarke Marketing, Tourism & Business Development Manager	Leisure Services Bromsgrove District Council The Council House Burcot Lane Bromsgrove Worcs. B60 1AA.  Tel: 01527 881379
Town Centre Strategy	Peter Michael Economic Development Officer	Economic Development Bromsgrove District Council The Council House Burcot Lane Bromsgrove Worcs. B60 1AA  Tel: 01527 881327
Leisure Services	Rob Heard Parks Development and Recreation Manager	Leisure Services Bromsgrove District Council The Council House Burcot Lane Bromsgrove Worcs. B60 1AA.  Tel: 01527 881382
Protection of children	Mr. Alan Ferguson Unit Manager for Child Protection	Worcestershire County Council County Hall Spetchley Road Worcester. <a href="mailto:aferguson@worcestershire.gov.uk">aferguson@worcestershire.gov.uk</a>  Tel: 01905 752829.
Trading Standards		Worcestershire County Council Trading Standards, 28-30 Foregate Street Worcester WR1 1DS  Tel: 01905 765394

**Force Policy No.:**  
**Replaces Force Policy**

**Policy Owner: Superintendent**  
**Crime & Disorder HQ**

Date Policy Approved:



# **FORCE POLICY:**

## **LICENSING ACT 2003**

*This policy has been drafted in accordance with the Human Rights Act 1998, Race Relations (Amendment) Act 2000 and the principles underpinning it. It is suitable for public disclosure*



**Awarded for excellence**



**INVESTOR IN PEOPLE**

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## 1. ABOUT THIS POLICY

1.1 This policy explains how West Mercia Constabulary will approach licensing matters and related crime and disorder problems.

### 1.2 **Background to the Policy**

On the 10<sup>th</sup> July 2003 the Licensing Act 2003 received Royal Assent. The aim of the Act was to replace an outdated licensing regime with a 'more responsive and flexible system' tempered to the need 'of a modern and vibrant society'. The legislation provides a clear focus on the promotion of **four licensing objectives** that form the central purpose when licensing matters are addressed.

- **The prevention of crime and disorder**
- **Public Safety.**
- **The prevention of public nuisance and**
- **The protection of children from harm**

1.3 This policy is primarily aimed at police officers, police staff and members of the Special Constabulary involved in the administration and enforcement of licensing matters but applies to all staff who perform a role in tackling drink related crime and disorder.

1.4 It is intended to facilitate a consistent approach to decision-making, set out broad expectations and provide the policy from which procedure flows.

1.5 It will not duplicate either the legislation or statutory guidelines but may refer to such documents when appropriate.

1.6 The introduction of the Licensing Act gives West Mercia the opportunity to assess its future role and responsibilities in this area of business.

## 2. GENERAL PRINCIPLES

2.1 West Mercia is committed as part of its **strategy** to deliver Four Better Outcomes for our communities by putting service delivery first:

- Provide reassurance
- Reduce crime and increase detections
- Reduce disorder and anti social behaviour
- Reduce road casualties and increase public safety

2.2 Additionally, the National Policing Plan for the next three years reinforces the objectives of anti-social behaviour and disorder.

2.3 **Success** is measured by:

- Performance indicators on levels of crime and detection, public satisfaction, public safety, the competencies, well being and management of our People, and our use of resources.
- These measures will be supported by own Best Value Reviews, reports

and information from The Audit Commission and Her Majesty's Inspectorate of Constabulary

- 2.4. **Intelligence led Policing** is fundamental to the way we police. It facilitates service delivery not just on crime matters but also public order and quality of life issues. The proactive approach associated with intelligence led policing requires a firm commitment to ethical standards.
- 2.5. **Partnership working** –Licensing functions ... cannot be regarded as a panacea for all community problems. Delivery should therefore involve partnership with all local authorities, the police, local businesses, agencies, local people and those involved in child protection working towards the promotion of the common objectives desired.
- 2.6. **Deregulation** inevitably brings with it a higher degree of self-regulation **by licence and** certificate holders. This shift means that the primary responsibility for controlling activities on licensed premises firmly rests on these holders and the managers of such premises. The licensing authorities, supported by the enforcement authorities, will in future keep the activities of these holders under review to ensure minimum standards are met instead of seeking to exercise control by setting prescriptive and all –encompassing licence conditions. Therefore, the ethos behind the policy is that the maintenance of a good standard of behaviour on licensed premises, where drunkenness and disorder is not tolerated by operators, will lead to persons to continue to behave in that manner once they leave licensed premises.

### **3. LEGITIMATE AIM/ HUMAN RIGHTS AND RACE RELATIONS ACT CONSIDERATIONS**

- 3.1 'The rationale for this policy is to prevent crime, ensure public safety and protect the rights and freedoms of others.'
- 3.2 Certain aspects of the legislation and therefore this policy link with the European Convention on Human Rights and Fundamental Freedoms. The right of premises licence holders to the right to a fair hearing – under, Article 6, a licence is a possession for the purposes of Article 1 of the first protocol (peaceful enjoyment of possessions), the right to respect for private and family life under article 6 are three such applications. A full explanation of the Articles can be found in the Human Rights Act 1998. Consideration has been given to the compatibility of this policy and related procedures with particular reference to the legal basis of its precept; the legitimacy of its aim; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aim; and that it defines the need to document the relevant decision making processes and outcomes of action. This policy will be applied so as to ensure that the Race Relations Act is fully complied with, and any opportunities are grasped to improve and develop good race relations.

### **4. LEGALITY**

- 4.1 Section 6 of the Human Rights Act requires that every action taken by a public authority that interferes with individuals convention rights, must have a basis in law.

- 4.2 In general terms, those rights can only be interfered with, where the action is prescribed by law, and it is 'necessary in a democratic society' and for one of the following reasons; national security, territorial integrity, public safety, preventing crime and disorder, protecting health, protecting morals and protecting the rights of others.
- 4.3 The Licensing Act 2003 is the legislation, which principally underpins the policy, but associated matters such as alcohol related crime and disorder are dealt with under the appropriate statutory or common law provision.

## 5. STATEMENT OF POLICY

5.1 The policy is intended to facilitate a consistent approach to decision-making, set out broad expectations and provide the policy from which procedure flows. It will not duplicate either the legislation or statutory guidelines but may refer to such documents when appropriate.

5.2 *The control of alcohol sales passes from licensing justices and the magistrates court to the 'new' licensing authority – the local authority. It is the role of the licensing authority to prepare and publish a statement of licensing policy, every three years, and carry out its licensing functions consistently with to that policy and Guidance issued by the Secretary of State under Section 182 of the Act. In preparing the statement of Licensing Policy, it must consult with holders of Premises, Personal and Club Premises as well as local residents and businesses or bodies representing them (interested parties) and finally the police and fire service who as responsible authorities have a statutory role to discharge. Individual licensing authorities are required to keep a register which records details of the authorisations it issues and must establish a licensing committee which will discharge all licensing functions except the determination and publishing of licensing policy. However, there remains scope for sub-delegation to sub-committees and officers. The principle remains nevertheless, that where representations or objections have been made, the committee or appropriate sub-committee must deal with the matter. There are extensive rights and appeal for all parties against a decision of a licensing authority to the magistrates' court. Licensing Authorities are bound by, amongst others, the following key principles:*

- *Licensing authorities are bound by the four key objectives and their statement of policy should begin by stating the four licensing objectives;  
**(The prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.)***
- *That their decisions must not ignore or be inconsistent with the 2003 Act;*
- *Authorisations will be focused on matters which are within control of individual licence holders;*
- *That it is recognised that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises, and which is beyond the direct control of the licence holder.*

5.3 *The Act introduces four types of authorisation:*

- I. **Premises Licence-** brings all 'licensable activities' onto one licence in any venue
- II. **Personal Licence-** save for the purposes of certain temporary events and the supply of alcohol to members of a club, a personal licence held by the designated premises supervisor allows the sale of alcohol by retail.
- III. **Club Premises Certificates-** members clubs are private: they belong to the members and are used for the members
- IV. **Permitted Temporary Activities-** a small scale event which will not go on for longer than 96 hours and at which the sale of alcohol or other licensable activity will take place.

5.4. *If the following activity takes place on any of the above premises it will need to be licensed.*

- I. **The sale of alcohol**
- II. **The supply of alcohol - clubs,**
- III. **The provision of regulated entertainment**
- IV. **The provision of late night refreshment**

*All forms of alcohol licences, public entertainment, theatre, cinema, late night refreshment houses, and café licences **will become premise licences.***

5.5 *Hitherto licensing law has generally been prescriptive, regulated by licensing justices and enforced by the Police. The principal change to the licensing mechanism is that the premise operator, as a starting point, will propose and determine operating factors. These include, times of operation, the licensable activities conducted on the premise including the sale of alcohol, the steps which the applicant proposes to take to promote the licensing objectives and so forth.*

5.6 The role of the police in the new regime is set out below but predominantly the West Mercia Constabulary identifies its role in dealing with the objective of preventing crime and disorder. Its commitment to work in partnership with the licensing authority and other agencies in line with its own four better outcomes strategy.

Section 4 of the 2003 Act makes it a mandatory requirement that licensing authority carries out its functions with a view to promoting the licensing objectives.

#### 5.7 **Prevention of Crime and Disorder**

The police in assisting the licensing authority to meet its objective will target and lead upon incidents of crime and disorder to secure the primary aim of preventing such offences.

However, West Mercia Constabulary has reduced degrees of responsibility in the areas of the three other licensing objectives. The West Mercia Constabulary embraces the opportunity to establish a protocol with licensing authorities to address the other three licensing objectives and key activities, such as enforcement issues, the visiting of licensed premises, and the sharing of information. The need to recognise ownership of key issues and provide a consistent approach and methodology is essential.



## 5.8 **Public safety**

The role of securing public safety in relation to premises and events firmly lies with the operator of the venue or the organiser of the event. Whatever public perception maybe, the police have limited responsibility to preserve public safety, except where there are imminent or likely threats to life. The police therefore support a protocol where the licensing authorities and other responsible authorities play key roles. The West Mercia Constabulary has an established safety policy regarding the Planning and Managing of Events.

## 5.9 **Prevention of Public Nuisance**

Ordinarily, the police use an intelligence led response to such problems, as there are insufficient resources available to facilitate an immediate response. This means that when there is no immediate threat to persons or property there is little guarantee of police attendance. In any case, the raised voices of persons having left a public house or the banging of doors cannot be regarded as criminal matters and local authorities both in their capacity as licensing authorities and otherwise will need themselves to decide on the most appropriate approach to these matters.

## 5.10 **Protection of children from harm**

The fourth objective is one shared by all agencies. Recent changes to strengthen the positive duty on licence holders not to sell alcohol to under 18's meant that test purchasing of alcohol could be conducted by trading standards officers as well as the police. This provision is found in the Licensing Act 2003 and demonstrates current thinking to extend enforcement to the 'police family'.

5.11 Primarily, Police Officers when visiting premises will be alert to evidence that suggests that drunkenness and disorderly conduct are being allowed on the premise and this is aggravated if children are involved or if unlawfully present. Such visits may be conducted in the context of a liaison visit i.e. a general visit intended to foster good relations between the licence holder, the customers and the police but equally maybe intelligence led, with a specific motive to investigate complaints or detect offences.

It is important to promote and recognise the professionalism and integrity expected of Police Officers involved during such visits.

5.12 The law makes it clear that anyone responsible for a building should take vigorous action to tackle any suspicion of drug use or supply on the premises. The Home Office Guidance – Safer Clubbing introduces good practice issued to ensure the health and safety of anyone who attends dance events. The West Mercia Constabulary expects close liaison and co-operation between the operators of premises and the authorities to ensure close working relationships. Local policies and protocols should address issues such as searching customers for drugs and weapons, provision of amnesty boxes, the confiscation or seizure of controlled drugs and refusing entry or arresting of persons found on customers during a search. It is recommended that each premise be assessed on its own merit. There may be occasions when a zero tolerance approach is the most desirable method to police a specific premise but this should be tempered against the factor that the complete eradication of all drug use and supply is unrealistic.

5.13 For the avoidance of doubt, the possession of cannabis in a public place remains an offence and the West Mercia Constabulary will enforce the

misuse of any drug in a such a place, including those authorised under the provisions of the Licensing Act 2003.

- 5.14 The police welcome the opportunity to visit premises jointly with other responsible authorities and agencies. The West Mercia Constabulary is committed to the partnership approach and will exchange information as appropriate and when requested to do so by the licensing authority or responsible authority, either in general terms or case specific. As necessary it will develop and establish an information sharing protocol. The success of the new legislation relied on partnership and co-operation between all concerned. At the same time the police and licensing authorities have independent roles and the independence of the licensing authorities when considering applications should not be tainted by collusion or the appearance of collusion.
- 5.15 The West Mercia Constabulary recognises that the vast majority of premises are operated in a manner to meet the social responsibility that they carry in the pursuit of their trade. It is legal and expected that a 'common sense' attitude will prevail when operators consider and prepare their operating schedules. Factors such as extended hours of operation and trading and in busy city centres or residential area should automatically lead to operators incorporating the majority of the crime prevention measures incorporated as appendices to this document.
- 5.16 Having highlighted both the importance and likelihood of operators meeting their responsibility, the West Mercia Constabulary, whilst committed to working in partnership with the operators of premises, are equally determined to ensure that those who fail to complement that expectation will be targeted and dealt with appropriately.
- 5.17 It is acknowledged that licensing controls cannot be the solution to tackle all crime and disorder matters and the police support the good practice that the licensing authorities' statements of policy should indicate other mechanisms that are available to deal with problems. Planning controls, situational crime prevention measures the provision of late-night transport and other positive measures will create a safe and clean town centre environment.
- 5.18 The view of the West Mercia Constabulary is that the role of the planning and transportation authority in managing the emerging night-time economy is fundamental in achieving success in the area of all four of the licensing objectives and ultimately securing the sustainability of that economy. Unrestrained growth brings into question the sustainability of the service industry to deal with consequent problems such as crime and disorder. Therefore, the recognition of the 'culminative impact' within the guidelines is a factor considered significant and crucial to the planning process. The integration of the planning function and licensing function is important to prevent bureaucracy, and to allow an informed and consistent approach.

## **6. IMPLICATIONS OF THE POLICY**

### **6.1. Financial Implications**

In terms of a direct consequence of the changes to liquor licensing, the West Mercia Constabulary has appointed dedicated liquor licensing policy advisor to undertake the work attached to the transitional period between licensing regimes. Additionally, it has invested in a computerised liquor licensing system to support the forces effort in performing its partnership and statutory role.

Indirectly Divisional Commanders will experience additionally expenditure but local conditions and local practises dictate this. However, what is common to all divisions is that it will be necessary to secure additional secretarial support to create new data bases of premises and persons, additional support to licensing officers to process licence applications over the nine month transitional period. This support may be achieved from redeployment of staff but equally it may be necessary to secure the use of additional temporary staff.

After the transitional period careful monitoring will need to be achieved to assess where under the 'new' licensing regime a greater workload is generated and is compatible to the forces 4000+ strategy.

## 6.2. **Staffing/Training**

Additional training costs will be borne by divisions and delivered by them in order to keep abstractions to a minimum. Officers will be supplied an aide memoir which will act as their essential guide to visiting licensed premises and the best practise attached.

## 6.3. **Crime and Disorder Act**

The new regime underpins and builds on previous links such as Section 17 of the Crime and Disorder Act , and the work of Crime and Disorder Reduction Partnerships.

## 6.4. **Bureaucracy**

The implementation of the policy will be conducted in such a way as to ensure that bureaucracy is reduced to a minimum, in order to maximise police officer operational time and police support staff administrative functions.

## 6.5. **Internal Policy Links**

Planning and Management of Events  
Information Sharing Protocols  
Acceptance of Gifts and Hospitality  
Public Order Policing and mobilisation of Resources

## 6.6 **Risks**

There are a number of risks associated with the policy relating to:

- Lack of commitment to legislation and policy by internal and external stakeholders.

- The legislation failing to deliver the intended purpose i.e. failing to secure the four licensing objectives

## 6.7. Consultation

Consultation on this policy has been carried out with the following

ACPO  
 Divisional Commanders  
 Force Operations Department  
 Force Solicitor/Legal Department  
 Divisional Licensing Officers  
 Training and Development  
 Professional Standards  
 Police Federation  
 Health and Safety  
 ISTD  
 ODU

## 7 DISTRIBUTION / PUBLICATION

This policy is suitable for public disclosure and will form part of the Crime and Disorder Department Policy portfolio published within the publication scheme on the Forces Intranet

## 8 MONITORING / EVALUATION

This policy will be monitored by the Force Licensing policy Advisor on an ongoing basis. An evaluation will take place at the following stages to gauge the forces progress in implementing the 'new' licensing regime;

The first appointed date when the process to convert licences will commence – 7<sup>th</sup> February 2005.

The second appointed date when the Act becomes fully operational October 2005.

Further evaluations then to take place at three months, six months and twelve months after implementation – January 2006 and April 2006 and November 2006

## 9 REVIEW

Crime and Disorder will review this policy document at the end of the transitional period in November 2005 and then on an annual basis in line with Force Policy. The next review will be November 2005

## 10. ORIGINATING DEPARTMENT

Crime and Disorder Department, Headquarters.

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# **FORCE PROCEDURE**

**Implementation of  
LICENSING ACT 2003**

**Draft Stage**

# DRAFT 1.1.

## FORCE PROCEDURE

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## 1. INTRODUCTION

This document reflects the policy of the West Mercia Constabulary. The Licensing Act 2003 gives the police a clear focus to tackle, in partnership, crime and disorder issues.

## 2. ABOUT THIS PROCEDURE

This procedure explains the processes which West Mercia Constabulary staff will utilise to ensure that the West Mercia Policy is implemented. The police remain key enforcers of licensing law. The Guidance issued under section 182 of the Licensing Act 2003 has no binding effect on police officers who, within the terms of the forces policy and procedure documents and the law, remain operationally independent.

## 3. ADMINISTRATION, DATA AND INTELLIGENCE, DATA SHARING PROTOCOL AND TRAINING

- 3.1 The importance of accurate, complete, and timely information is key to the effective management of licensing. The force is practised and proficient in corresponding with relevant authorities when dealing with applications. The transitional period between licensing regimes even with the support of additional secretarial and administrative staff will prove to be something of a testing time, but one which the Force is capable of dealing with.
- 3.2 The West Mercia Constabulary will secure computerised software to discharge its function of keeping accurate and timely records. The introduction of a computerised licensing system allows the management of information relevant to premises, their operators, operators' schedules, visits and incidents. Premises subject of frequent incidents should be readily identifiable and patterns of problems quickly identified. Each incident will be evaluated independently to establish if any blame can be attached to the premise or its operator. It is important to avoid an assumption that an incident occurring on a premise raises a black mark against that premise and risk the goodwill that the police strive to achieve between them and the 'socially responsible operator'.
- 3.3 If a premise suffers a serious incident or a pattern of minor incidents it is important to seek an explanation from the operator, and consider their proposal to achieve the prevention of crime and disorder function. If the operator acts in an irresponsible manner or there is an incident of significant magnitude consideration should be given to the appropriate response. For example, in the event of a spontaneous incident there is scope to issue a closure order for the premises (see later for guidance) and the licensing authority can be invited to review the licence owing to the matters arising at the premise in connection with any of the four licensing objectives. The advice of the Force Legal Department can be sought to ensure that representations meet the relevant criteria. In most cases, it is likely that the level of crime and disorder will be dealt with by other means such as increased dialogue with the premise operator, or increased police activity in the area. In such circumstances, ownership of the problem should be shared between the licensing officer and the officer responsible for policing activity in the area that the difficulty has been identified. To re-iterate, co-operation and partnership remain the best means of promoting the licensing objectives.

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- 3.4 It should be stressed that the great majority of disturbance is not criminal. Crowd noise and car doors slamming are not criminal offences, but may interrupt a night's sleep nevertheless. Even where illegal activity occurs, it may be that arrests will not be made because of the short-lived duration of the offence and the resources of the police available to make arrests or provide a presence in all streets and meet other demands. In the event that a simple solution can not be found to a problem of disorder, consideration should be given to the guidance model provided at 4.1 post be followed.
- 3.5 The identification of all alcohol related crime and disorder is not straightforward. Alcohol fuelled behavioural has become almost the norm at certain times and in certain geographic areas leading to a tolerance by many. It also can be difficult to be certain that alcohol is instrumental to the offence occurring and could be more closely linked to a person having taken drugs or indeed a mixture of drugs and alcohol. The recording systems available to the West Mercia Constabulary have a limited ability to capture alcohol related data and are dependent on users inputting the information. As part of the drive to improve recording, and as part of the awareness programme provided to police officers and staff to facilitate the introduction of the Licensing Act 2003 the 'need' and relevance of such information will be emphasised. The forces 'CRIMEs' system has the ability to record ALL alcohol-related crime; the main difficulty in this area is prompting officers to record the information. This is particularly pertinent in alcohol related arrests, since information relevant and importantly needed to be supplied to the divisional licensing officer, is where the detained person was supplied with drink, particularly if the detained person was drunk when they committed their offence. The past procedure of interrogating detainees whose offending has been influenced by the amount of alcohol they have drunk, to establish where they purchased or were supplied their alcohol appears to have lapsed. Whilst it is accepted there are difficulties as the word of someone drunk can be tainted, nevertheless the information is a good indicator to establish where persons who are drunk are being served and on occasion could be supported by some other means such as examining premise CCTV. Equally, similar detail is required from victims in order to achieve a complete intelligence picture.
- The majority of drink related incidents are not crimed and the ability to retrieve such information from the Forces incident recording and handling system, Operational Information System - OIS, is problematic. The OIS is principally a command and control system and is reliant on its operator in logging the information.
- A weakness of the current system remains in that it is often reliant on the licensing officer searching systems, a time consuming task and which needs to be evaluated at a local level. Good practice exists within the force where a local analyst has been tasked with looking at all aspects of anti-social behavioural particularly if this is linked to a Crime and Disorder Reduction Partner Strategy.
- 3.6 The importance and recognition of data and intelligence that can be obtained from authorities such as ambulance service, accident and emergency department etc should be remembered in seeking to identify 'hot spots' for crime and disorder.
- 3.7. The sharing of information with the licensing authority will be instrumental in an effective partnership. An information sharing protocol will be developed if necessary.

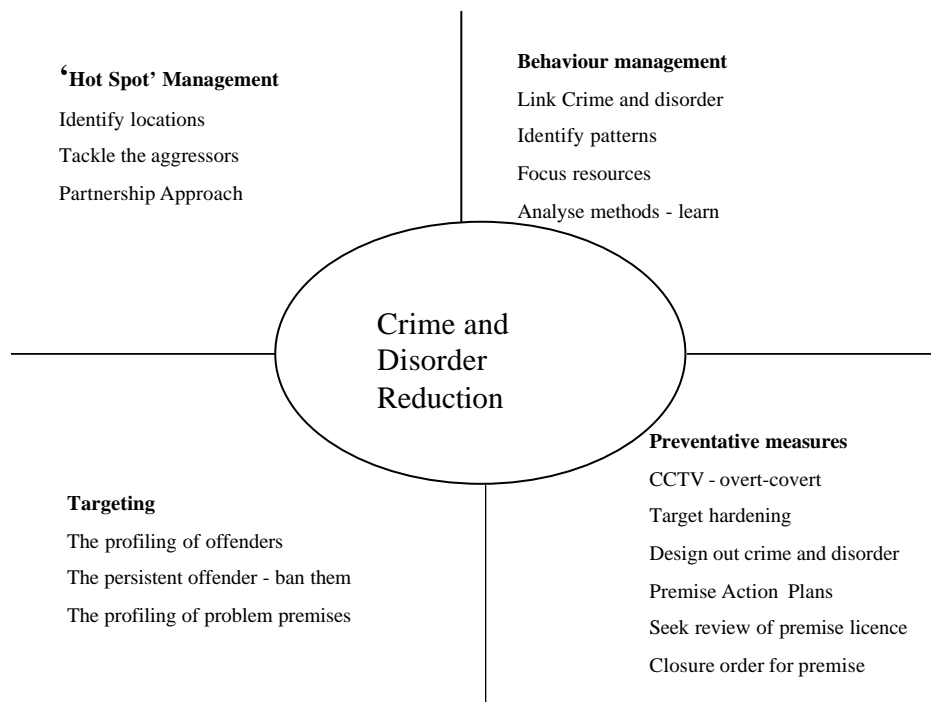


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- 3.8. The introduction of the new licensing regime introduces a new focus with its four licensing objectives and this has ramifications for the police nationally in the manner we administer licensing matters. However, many of the skills and attributes attached to visiting licensed premises previously or enforcing the previous legislation remain current and relevant. Therefore, in order to equip training can be effectively provided in the form of awareness sessions cascaded by divisional training staff and licensing officers. The training/awareness will be based around a force-produced aide memoir, and developed to provide the level of awareness/training as appropriate.
- 3.9. The establishment of a West Mercia intra-site will be explored and developed to promote good practice as the transitional period progresses.

## 4 PARTNERSHIPS AND PRESENTATION OF LICENSING MATTERS

- 4.1. Partnership approach should involve working 'with local authorities, local businesses, agencies, local people and those involved in child protection working towards the common objectives described'. Whilst there is a presumption that the operators of premises will do so in a 'socially responsible manner' it is emphasised that the licensing objectives cannot be used as 'a panacea' to address all community problems. Crime and disorder within society adversely affects the public's quality of life, reduces opportunities for economic and social regeneration and violates people's freedoms and rights. Crime and disorder is therefore the major role for the police. Below is typical crime and disorder model, adapted to address alcohol related crime and disorder, that focuses on four key areas and which through a partnership approach will reduce crime and disorder.



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This model is based upon the ACPO Manual of Guidance for Keeping the Peace

The approach supported is to limit the threat of disorder by correct identification of the problem and an early course of action and intervention to address the root cause. None of the facets of the model should be viewed as being the sole responsibility of the police and the role of the licensed operator is paramount in seeking any solution.

- 4.2. The force's licensing officers are well-versed in liquor licensing application handling, processing and working in partnership with local authorities.
- 4.3. When difficulties are identified with a problem premise and where proceedings such as an application for a review of an licence is likely and warranted, to ensure that a professional, and consistent approach is achieved, it is recommended that consultation is made at an early stage, with the Force Legal Department. This will also assist in providing best representation and minimise the risk of the making of a complaint, later to be found unsubstantiated or not relevant to the licensing objectives.

## **5. STATEMENTS OF POLICY (WEST MERCIA PERSPECTIVE OF WHAT SHOULD BE FOUND IN LICENSING AUTHORITIES STATEMENTS OF LICENSING POLICY)**

- 5.1 West Mercia Constabulary welcomes the opportunity to participate in their role in the 'new licensing regime' and pledge its support to the period of consultation. The Crime and Disorder Act 1998 emphasised the importance of partnership working and consequently much good work has evolved. The Licensing Act 2003 again reinforces to the significance Section 17 of the 1998 Act (general duty to consider crime and disorder implications) and supplies a fresh impetus to the discharge of that duty.
- 5.2 The recognition in the statutory guidance of the "cumulative impact", supports the West Mercia Constabulary's recognition that in certain areas of its Constabulary, the argument exists where upon the numbers, types and density of licensed premises that operate can cause significant problems of disorder and nuisance. The view that such areas have reached saturation point is a reality, and where appropriate the establishment of a special saturation policy is a move welcomed by the police.
- 5.3 West Mercia Constabulary is committed to supporting the Licensing Authority to establish and maintain dedicated protocols with responsible authorities on enforcement issues. This should provide for a more efficient deployment of Local Authority staff and police officers that are commonly engaged in enforcing licensing law and the inspection of licensed premises. These protocols will in particular provide for the targeting of agreed problems and high risk premises which require particular attention, while providing a more routine approach for the well run premise. The 2003 Act does not require inspections to take place save at the discretion of those charged with this role.
- 5.4 West Mercia Constabulary recognise the importance that all parties, namely the licensing authority, licence and certificate holders, authorised persons, the

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police and other responsible authorities should be working together in partnership to ensure collectively that the licensing functions are promoted and to establish protocols on enforcement issues.

- 5.5 Alcohol related harm is a key issue to local societies. The Constabulary supports the role that Community Safety Groups perform in addressing the concern and recognise the importance of their inclusion in partnership working.
- 5.6 West Mercia Constabulary support the integration of local crime prevention, planning, transport, tourism and cultural strategies (Section 3.45 of guidance issued under Section 182 of the Licensing Act 2003).
- 5.7 West Mercia Constabulary wishes to see clear definition on the manner in which the licensing authority will seek to secure the provision of the four licensing objectives in their statements of policy together with other matters such as the mechanisms available for controlling the culminative effect of licensed premises (Sections 3.13 - 3.28 of guidance).
- 5.8 West Mercia Constabulary emphasise the importance of representation made by child protection bodies and the maintenance of regular contact with local Youth Offending Teams to gain insight and intelligence regarding the link between alcohol, young persons and offending.
- 5.9 West Mercia Constabulary supports the guidance issued regarding Safer Clubbing and the role of the Drug Action Teams. The force policy is set out in Paragraphs 5.12 and 5.13 of the policy document. Whilst it is envisaged that the required policies and protocols are produced locally, advice from the force solicitor on citizens' arrest with regard drugs and carrying weapons is set out in some detail in paragraph 5.9.1 – 5.9.4, since nationally there remains a difference of opinion as to the powers available door persons. This is particular important in relation to the training of persons who wish to be trained to the SIA accredited standard and therefore important that the persons who deliver such training fully understand our policy.

## 5.9.1 Citizens Arrest

Under Section 24(4) PACE any person can arrest without warrant anyone who he has reasonable grounds for suspecting to be committing an arrestable offence. Therefore, when the offence is suspected to be taking place, both a constable and a citizen who effect an arrest are in the same position as the arrest will be lawful if there were reasonable grounds for suspecting that the person was committing an arrestable offence. However, the position changes if an arrest is made after the suspected offence has been committed. At that stage an arrest by a constable will still be lawful if he has reasonable grounds for suspecting that an arrestable offence has been committed. In contrast, a citizens arrest will be unlawful if it turns out that no offence was in fact committed, even though there might have been reasonable grounds for suspicion.

- 5.9.2 Door Persons who are considering making an arrest would ordinarily be intervening at a time when a suspected offence is being committed, and therefore be in a position to rely on having reasonable grounds for suspicion. It would be very risky for a doorman to arrest on suspicion that a person had drugs or an offensive weapon earlier. It is calculated

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that the training door staff will offer sound guidance by defining appropriate use of the power of arrest and by showing them drugs and paraphernalia enhancing their recognition ability and expertise. It is important they consider all relevant evidence presented to them i.e. value of asking person what the substance is, noting where it concealed etc and then make a judgement on the evidence presented.

- 5.9.3 Possession of Class A and Class B drugs are arrestable offences by virtue of the maximum sentence exceeding five years. While cannabis has been re-classified as a Class C drug, it remains an arrestable offence because it is now one of those offences listed in Schedule 1A to PACE.
- 5.9.4 The general offence of carrying offensive weapons without lawful authority or reasonable excuse under Section 1 Prevention of Crime Act 1953, and the specific offence of carrying knives under Section 139 Criminal Justice Act 1988 are both arrestable offences (not because of the maximum term of imprisonment, but because they are listed in Schedule 1A PACE). (Folding pen knives are not caught by Section 139 provided the blade is not more than three inches long. If a pen knife blade exceeds three inches, then an offence under Section 139 is committed subject to the statutory defence of good reason or lawful authority). Door Staff are entitled to suspect that an offence is being committed as it is not evident what lawful authority or good reason might be available in the case of person who wants to take an offensive weapon or bladed article into a night club.
- 5.10 West Mercia Constabulary has a policy in relation to the Planning and Management of Events and where appropriate recommends that policies recognise the existence and role of Safety Advisory Groups. It strongly recommends licensing authorities publicise the need for the organisers of festivals, events, and carnival approach the local safety advisory group or equivalent in the area at the earliest opportunity to ensure that the appropriate advice is gained and that proper co-ordination of such events is achieved.
- 5.11 Licensing authorities in accordance with section 8.11 of the guidance issued under section 182 of the Act should publicise locally their preferences in terms of service of documents and in particularly temporary events notices to allay any potential difficulties that may arise in service of such applications thus allowing the Police the opportunity to make a sensible assessment of the application. Additionally, the Police would support that organisers of such an event where any doubt arises as to the appropriateness of it should at the earliest opportunity consult with the local police licensing officer to discuss the matter.
- 5.12 It has been long recognised that untoward discounting and sales promotions of alcohol has become, in certain areas and at certain times, a contributory factor to the levels of crime and disorder suffered. The West Mercia Constabulary suggests that statements of policy maintain a position against such practice and that where evidence exists it takes appropriate measures to prevent the resultant crime and disorder attributable to such promotions. Section 7.79 of the guidelines issued under section 182 make reference to a voluntary industry codes of practice which covers irresponsible drinks promotions and whilst in general it is necessary to consider each application

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on its merits, the guidelines form a good starting point to tackle irresponsible promotions. Section 7.80 puts forward the merits of achieving the crime and disorder objective by controlling the capacities at large capacity venues used exclusively or primarily for the 'vertical' consumption of alcohol. Such a measure will prevent overcrowding and frustration to customers and additionally ensuring the provision of door security teams at the premises to regulate persons who are drunk and or disorderly.

## **6. LICENCES AND RELATED ISSUES**

*(Premise and Personal Licences, Club Premises Certificates and Permitted Temporary Activities)*

### **6.1 Premise and Personal licences**

The requirements that applicants and premises must fulfil are specified within the context of the Licensing Act 2003 and statutory guidance. Licence holders are in a position of trust. They are expected to be conversant with the premises operation schedule and conditions that apply, in order to comply with their responsibility to meet the four licensing objectives. Any breach will be brought to the attention of the licensing authority. Premises that operate in high-risk areas will be expected to comply with many of the 'pool of conditions' attached at item 11. Special reference is made to Sections 13.6 – 13.8 of the Guidelines issued under Section 182 of the Licensing Act 2003 to the conversion of current licences and certificates will continue under the new licensing regime. In essence this should ensure that there would not be a weakening of any existing statutory conditions when the applicant merely to "convert" the existing licence.

Prevention is key to the successful operation of any premise and the commission of offences in the surrounding area. The advice of the divisional crime prevention manager in securing situational crime prevention measures such as CCTV, the likely effect of the introduction of a designated alcohol free zone or the need of a premise watch, etc should be sought.

- 6.2 Sections 3.13 to 3.28 of the guidelines recognise the cumulative impact that a saturation of premises can bring making an area a focal point for persons to gather or circulate from, thereby creating exceptional circumstances, with the potential for problems of disorder or nuisance thrive. Experience shows that visitors to such areas are more likely to become the victim of crime or become an offender themselves. Such focal points create difficulties in themselves such as large boisterous gatherings of people, noise nuisance, traffic congestion, parking difficulties, littering and fouling. The policing of such areas are expensive and can be counter productive in keeping the peace. Therefore, the West Mercia Constabulary actively seeks to support the statutory guidance with consideration to adopting special saturation policies where appropriate, as part the Licensing Authorities Statement of Policy. In this case, and as part of the police exercise to gather evidence to warrant the implementation of saturation area measures by the licensing authority, consideration should be given to consulting with the Divisional Crime Prevention Manager and Force Community Safety Department who have expertise in assessing and providing the necessary evidence in this discipline. Experience shows difficulty in opposing the grant of new licences throughout the force. Since the issue is recognised and emphasised within the Statutory Guidance, West Mercia Constabulary welcome the opportunity presented to tackle an emerging problem. It is also fundamental that local authorities have

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a duty to do all that they reasonably can to prevent crime and disorder in the area under section 17 of the Crime and Disorder Act 1998.

- 6.3 A significant change to existing practice is the new licensing regime for late refreshment. Schedule 2 of the Licensing Act 2003 defines late night refreshment as the provision, between the hours of 11pm and 5am, of hot food or hot drink to members of the public on or from any premises whether for consumption on or off the premises. This will mean that the Act will not only cover takeaways but also apply to a variety of outlets such as service stations with microwave or grill facilities for the heating of pies, pasties and sausage rolls if they are to operate between the hours of 11pm and 5am.

6.4 **Club Premise Certificates**

Clubs have historically been treated differently from other licensed premises since they are private premises run on a non-profit making basis for the benefit of its membership. The Licensing Act 2003 recognises the special nature of such premises. It should be noted that the police have limited powers of entry and have no power of immediate closure.

6.5 **Permitted Temporary Activities**

A permitted temporary activity is a licensable activity carried on in accordance with a temporary event notice given under the section 100 Licensing Act 2003, and in compliance with the provisions of Part 5. In effect anyone wishing to organise a small-scale temporary event, which will not go on longer than 96 hours and at which alcohol will be sold or other licensable activities will take place, can do so provided that he gives notice to the local authority for the area in which the event takes place and to the police and no action is taken by the police to prevent that notice coming into effect. Therefore the police have a positive role to perform to ensure that the crime prevention objective is not breached. The police must within 48 hours of receiving a copy of the temporary event notice decide whether or not allowing the premises to be used in accordance with the notice would undermine the crime prevention objective. That is the only ground on which the police can object.

It is therefore imperative that divisional licensing officers are alive to the time restriction and devise a system of scrutiny which has the support of the local licensing authority and which prevents the opportunity for the unscrupulous to circumnavigate the procedure. Such applications are made on prescribed forms and it is proposed, as a matter of licensing authority policy, that the application contains the address of the Police Station where the application should be lodged. Again it is proposed that this will be re-enforced with instruction in the Local Authorities Policy Statement on how an application for a Temporary Event is applied for.

It will be a matter for the licensing officer whilst scrutinising the application and becomes aware of a risk to public safety or nuisance to refer the matter to the appropriate authority in order they may tackle the issue using other existing legislation. For example the fire service provides a twenty-four service across the force area and may consider, when risk of fire is serious, the issue of a prohibition notice under Section 10 Fire Precautions Act 1971.

- 6.6 West Mercia Force Policy 37/2002 Planning and Managing Events Safety Policy sets out common minimum standards for event organisers.

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- 6.7 The following addresses are considered within the West Mercia Constabulary where service of ALL licensing applications and temporary event notices can be given:

## **C Division (South Worcestershire)**

Licensing Officer  
West Mercia Constabulary  
Police Station  
Castle Street  
Worcester  
WR1 3AD

## **D Division (North Worcestershire)**

Licensing Officer  
West Mercia Constabulary  
Police Station  
The Crescent  
Bromsgrove  
B60 2DF

Licensing Officer  
West Mercia Constabulary  
Police Station  
Grove Street,  
Redditch  
B98 8DD

Licensing Officer  
West Mercia Constabulary  
Police Station  
Habberley Road,  
Kidderminster'  
Worcestershire  
DY11 6AN

## **E Division (Herefordshire)**

Licensing Officer  
West Mercia Constabulary  
Police Station  
Bath Street,  
Hereford  
HR1 2 HT

## **F Division (Shropshire)**

Licensing Officer  
West Mercia Constabulary  
Police Station  
Clive Road,  
Shrewsbury

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SY2 5RW

*For Shrewsbury, Whitchurch, Wem and Market Drayton areas*

Licensing Officer  
West Mercia Constabulary  
Police Station  
Tasley Bank,  
Shrewsbury Road,  
Bridgnorth  
WV16 5BB

*For Bridgnorth, Much Wenlock, Shifnal and Albrighton areas*

Licensing Officer  
West Mercia Constabulary  
Police Station  
Lower Galdeford  
Ludlow,  
Shropshire  
SY8 1SA

Licensing Officer  
West Mercia Constabulary  
Police Station  
Park Street,  
Oswestry  
Shropshire  
SY11 2HE

*For Oswestry and Ellesmere areas*

## **G Division (Telford)**

Licensing Officer  
West Mercia Constabulary  
Police Station  
Victoria Road,  
Wellington,  
Telford  
TF1 1LQ

Licensing Officer  
West Mercia Constabulary  
Police Station  
Malinsgate Town Centre,  
Telford  
TF3 4HW

## **7 VISITS TO PREMISES AND ENFORCEMENT**

7.1 The Constabulary has numerous premises within its area to administer and monitor. The vast majorities of premises are run in a responsible manner and are occupied by persons who do not offend. Frequently, problems occur when



# DRAFT 1.1.

unscrupulous operators stray from their duty of social responsibility and where a small percentage of people commit offences, although the two may not be related. More often than not, those who offend will do so away from the premise where they have been drinking. It is therefore important to build on the good concepts that exist and act positively where the offenders are identified. Visits to well run premises are welcomed by their socially responsible operators. They have a difficult role to perform and will welcome assistance from and the presence of police officers on their premise. It is important to build a professional relationship with the operators of such premises who run legitimate businesses and form an integral part of an area's economy. The fostering of a working relationship is important in maintaining order and building up intelligence. However, due to the large numbers of premises within the Constabulary area it is a practice that should be concentrated on those premises that are situated in busy town centres or premises where problems frequently occur or are operated by the irresponsible operator. The principal change to the licensing mechanism that existed is that the premise operator, as a starting point, will propose and determine operating factors in a **operating schedule**. This is a crucial document and one on which discussions between the operator and the authorities are based. It will include, times of operation, the licensable activities conducted on the premise including the sale of alcohol, and the steps and or conditions which the applicant proposes to promote the licensing objectives such as provision of security staff or stewards, use of CCTV on premise and so forth. Each premise will be considered on its individual merits and conditions will be imposed which are considered necessary and proportionate. If alcohol is being sold a designated premise supervisor who is responsible for the day to day control of the premise will be named. Officers therefore visiting a premise should familiarise themselves with the content of the operating schedule, a copy of which will be held at the premise on display or acquire the detail from the force computerised licensing system.

- 7.2 Generally, four types of visits to premises will be made, those made by the Police Licensing Officer to enquire into the likely effect of the granting, variation to or renewal of a premises licence, a general visit when premises are operating, response to a call or deployment to an incident on a licensed premise or visits to detect specific offences which on occasion may be joint visits with other agencies in line with an agreed protocol.. The police have powers to enter premises on most occasions but it is important that officers are conversant with their right to enter such establishments. Visits to premises need to be focused to be effective and should always be made with the officer's personal safety safeguarded – see 9 post. Generally, little or no risk will be attached to visiting of such premises, since they will be well run and orderly. Key to the successful operation of any premise is the exclusion of drunkenness or disorder. There remains a positive duty on any person at premises in a management capacity to prevent this conduct (it matters not whether that person is being specifically employed or paid to do so). This includes the holder of a premises licence, a member of or officer of a club who is present in a capacity to prevent the disorderly conduct, and a premises user in relation to premises used for a permitted temporary event activity. It is an offence for that person to knowingly allow such conduct. If either disorder or drunkenness is detected in the first instance it is for the designated premises supervisor/ premises user in relation to a permitted temporary event notice to remedy the situation but it is worthy of note that a constable is under a statutory duty to help expel a drunk or disorderly person or prevent re-entry. Officers may later be called to give evidence at a subsequent review of a premises licence, in subsequent court proceedings or before a court hearing on appeal, and should be mindful of the need and importance of ensuring the

# DRAFT 1.1.

divisional licensing officer is aware of the occurrence and the requisite to keep an accurate record of the event. On rare occasions officers may be involved in the closure of a premise (Section 8 post).

- 7.3 Principally visits to licensed premises are therefore to detect offences of drunkenness or the allowing of disorder. Officers will be alert where children are present to detect any offences of sale or supply to them. Officers will be aware of other types of offences that regularly occur on premises such as the disposal of smuggled or stolen goods. They should be mindful of the opportunity that exists whilst visiting premises of gathering intelligence.
- 7.4 All visits to licensed premises will be recorded and include detail such as whether the holder of premises licence/designated premises supervisor was present, numbers of persons present, whether evidence of key offences, that is drunkenness or disorder was found, whether licence holder was challenged or reported, what action he took, etc. A written record of the visit will be forwarded to the Divisional Police Licensing Officer.
- 7.5 Officers are re-minded of -  
Schedule 1 of the Police (Conduct) Regulations 2004  
**SOBRIETY** - 10. Whilst on duty officers **MUST** be sober. Officers should not consume alcohol when on duty unless specifically authorised to do so or it becomes necessary for the proper discharge of police duty.  
Any offer of alcoholic drink or refreshment will be declined and a note made of the offer.
- 7.6 This policy focuses on premises and their operators. The Licensing Act 2003 is **not** intended as a mechanism for the general control of anti-social behaviour by individuals once they are way from the premises and therefore, beyond the direct control of the individual club or business holding the licence, certificate or authorisation concerned. The licensing objective relating to crime and disorder clearly falls to the police to enforce and offenders against the peace will be dealt with in keeping with police training and deployment.
- 7.7 Officers will be mindful of supporting powers and legislation available to them, such as the use of anti-social behaviour orders to tackle persistent offenders, under the Crime and Disorder Act 1998, exclusion orders from licensed premises when persons resort to violence or offer violence on such premises, Licensed Premises (Exclusion of Certain Persons) Act 1980, and the power to deal with habitual drunks, Licensing Act 1902.
- 7.8 The West Mercia supports the principle of premise watches (See National Pubwatch Good Practice Guideline). Such good practice is already common throughout West Mercia. Staff should be aware of the force policy regarding the sharing of photographs and information.
- 7.9 Proof of Age schemes are mechanisms encouraged and supported by the West Mercia Constabulary but they are unable to specifically recommend a particular scheme supplied by any commercial organisation and in the first instance would recommend that a current passport and driving licence which bears a photograph of its holder are used to achieve best practice. However, the Constabulary recognises the following other means of verifying identification is used effectively within its area-

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- Citizen Card
- Herefordshire Proof of Age Card
- Portman Group Card
- Validate UK Card

## 8. POLICE CLOSURE ORDERS

### Closure of Premises

Both the police and the courts have the power to close licensed premises and those operating under the authority of a temporary events notice in circumstances as specified in Part 8 of the Licensing Act 2003. The power does not apply clubs with a club premises certificate.

Considerable guidance is given within the Section 182 Guidance and the following is intended only as a brief summary of the key issues to be considered

### General Closure Orders

The power to make a temporary closure order relating to all licensed premises, or premises with a temporary events notice, in a particular area, may be granted by the magistrates' court. The application is made by a police superintendent or above, on the grounds that it is necessary to prevent disorder (Section 160).

General application will be when disorder is expected, for example rival supporters from football clubs or where rival political factions are expected in an area. The magistrates' court may make an order that all licensed premises at or near the place of the expected disorder be closed for a period not exceeding 24 hours. A constable may use force for the purpose of closing the premises concerned. It is an offence for either a manager of the premises, the holder of the premises licence, the designated supervisor, or, in the case of a temporary event, the premises user to knowingly keep open the premises.

### Specific Closure Orders

The decision to close a licensed premise may be taken by a police officer of the rank of Inspector or above for a period not exceeding twenty-four hours in the first instance. The magistrates' court must be notified of the decision as soon as practicable and must arrange a hearing to review the order. The decision of the magistrates' court must be reported to the licensing authority, which must then conduct a review of the licence in question.

To make that order the senior police officer must have a reasonable belief that:

- a) there is, or is likely imminently to be, disorder on, or in the vicinity of and related to, the premises and that the closure is necessary in the interests of public safety: or
- b) a public nuisance is being caused by noise coming from the premises and the closure of the premises is necessary to prevent that nuisance. (Section 161)

In making that decision the same senior police officer has to have regard to the conduct of the 'appropriate person', that is the manager of the premises, the premises licence holder, the designated supervisor, or the premises user (temporary events) in relation to the disorder or nuisance. The closure order comes into effect at the time a constable gives notice of it to the appropriate person and it is an offence to permit, without reasonable excuse, premises to be open in contravention of a closure order.

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The senior officer who made the original order can issue an extension if he has reasonable belief that the magistrates court will not have made a decision or order before the end of the closure period, and that the grounds for granting the extension of a closure order are continuing and necessary, the proviso being that service of the extension must take place before the end of the previous closure order or extension and cannot again exceed 24 hours.

Equally the same senior police officer who made the closure order, or ordered its extension, may cancel it at any time before the magistrates court determines whether to exercise any of its powers and MUST cancel a closure order if he does not have a reasonable belief that continued closure of the premises is necessary on the specified grounds. If a closure order is cancelled, notice must be given to the appropriate person connected with the activities in the first instance and which gave rise to the order being made.

Whenever a closure order is made, even though it may have expired or been cancelled, the senior police officer must as soon is reasonably practicable, apply to the magistrates court for the area for it to consider the order and then notify the licensing authority. Therefore, the making of a closure notice in respect of licensed premises automatically triggers both a hearing before the magistrates court who have a range of powers open to them from revocation of the closure notice to ordering the premises to remain closed until the licensing authority has reviewed the premises. A review of the premise licence will be undertaken by the licensing authority, who can take steps from modifying the conditions of the premises licence to revoking the licence.

Some practical considerations however, are worthy of note. Police Officers at all times should 'seek to ensure that their actions are appropriate and proportionate'. The guidance issued under section 182 of the Licensing Act 2003 clearly indicates that the emphasis should be in obtaining voluntary co-operation in dealing with problems. Closure orders have a significant impact on the livelihood of those involved and should not be made unless there is a real necessity. Consideration should be given to alternative strategies to deal with problems such as seeking an early review of a problem premise. Regular visits and early intervention should be considered the preferred option rather than facing the disorder or its likely imminence. "Good practice should involve an effective working liaison and system of communication between the police and operators of licensed premises".

The role of enforcing the law relating to noise nuisance primarily is a matter for local authority officers although the police have closure powers where the noise is coming from within the premises. The local authority has powers under Part 6 of the Anti-social Behaviour Act 2003 (when in force), Part 3 of the Environmental Protection Act 1990, and the Noise Act 1996. In practise the expertise of the local Environmental Health Department in considering the noise nuisance should be sought. This does not rule out the situation where for example the noise is such that it is plainly obvious that taking action is inescapable. In such cases best evidence should be collated such as number of complainants, extent from which noise could be heard and so forth.

Officers should be mindful of the generic risk assessment attached to the closure of premises together with other related policies such as the Force Manual of Guidance: Public Order Policing and Mobilisation of Resources

## 9 RISK ASSESSMENTS/ HEALTH AND SAFETY CONSIDERATIONS

A generic risk assessment has been prepared which details the risks attached to each of the five previously mentioned visits:

- Visit to licensed premise to enquire into licensing application
- General visit to licensed premise
- Response or deployment to answer call to licensed premise when incident taking place
- Visit to licensed premise which is pre-planned to detect specific offences
- Closure of premise

## 10 MANAGEMENT OF THE NIGHT-TIME ECONOMY

In recent years the West Mercia Constabulary in many of the areas it polices has witnessed a expansion of the night-time leisure economy attracting investment, creating employment and arguably regenerating those locations. These leisure economies are often aimed at young people and focus largely on the sale and consumption of alcohol. The residual problem of persons committing public disorder offences has frequently overrun the traditional police response to the problem. Much of public nuisance inflicted on local societies is no longer challenged since the Police do not have sufficient resources to place an officer on every street corner even if such a course of action was desired or warranted. The role of partnership and the duty Section 17 of the Crime and Disorder Act places on the Police and Local Authorities are essential ingredients to ensure that residential and commercial uses exist side by side. A Day time and night economy needs contrast. The role of local authorities as licensing authorities and in particular those engaged in the planning process must establish a balance between the needs of the entertainment industry and the needs of the other users of the area including residents, businesses, workers, shoppers and visitors. Later hours of operation demand careful management since supporting services, such as public transport, something often taken for granted during the day, is often not available at night and its absence can result in a number of problems or issues.

## 11 APPENDICES - *Pool of Conditions* (The list is not intended to be comprehensive and certain mandatory conditions within the guidelines will apply to certain premises)

- A *CCTV – use to record area immediately outside premise in particular able to record detail of persons entering or leaving/ being ejected from premise and second camera placed in such as a position to capture facial images of persons entering club. There is an expectation that where possible all persons being escorted from the premise should be exited through a*

# DRAFT 1.1.

doorway, which has CCTV coverage. Footage to be retained for 21 days after day of operation and available to responsible authorities.

- B Searching of customers – mandatory for certain premises where a crime and disorder concern prevails.*
- C Actively support and partake in premise watch as part of crime and disorder function*
- D To ensure safety and integrity of premise - a minimum fixed number of security stewards be employed – link to Private Security Industry Act 2001 and mandatory condition*
- E As condition of operation a incident book be maintained containing such detail as, named of security staff and other staff on duty, brief account of any occurrence relevant to the four licensing functions with any relevant known detail such as details of persons involved, witnesses, names of members of staff involved or who witnessed then occurrence./ records to be available for minimum of 21 days and available to member of responsible authority.*
- F Provide signage-reminding persons of their responsibility to leave premise in orderly manner.*
- G Mandatory use of proof of age scheme for all customers' twenty-one years or under when appropriate i.e. conviction of current management for serving alcohol to minor or premise has reputation for allowing underage drinking.*
- H Compulsory 'drinking up time' predetermined to style and method of operation – examine in context of district premise will operate.*
- I Provision of minimum standard of training for all members of staff – dependent on crime and disorder risk factor but minimum standard may be that staff members are familiar with use of premise watch.*
- J Where appropriate need for Designated Premises Supervisor to be present when premise is operating or alternatively in absence of DPS the presence of a person whose details have been notified in writing to the police and detail where that person can be contacted both during and outside times of operation. The person in charge of the premise shall not engage in any duties, which will prevent his general supervision of the premises.*
- K Undertaking to prevent fly posting to advertise premises*
- L A ban on drinking from bottles and encouraging the use of plastic glasses*
- M Measures taken to ensure that bottles and glasses are not taken beyond boundaries of premises –particularly when premise is bounded by alcohol free zone*
- O Consideration to linking with or promoting the availability of late night transport*

# DRAFT 1.1.

- P Provision and expectation those operators of premises are required to meet with local residents, businesses or their representatives to discuss problems relevant to the four licensing functions*
- Q Capacities attached to premises licences or club premise certificates may in certain circumstances be necessary in preventing disorder, as overcrowded venues can increase the risks of disorder.*

## **12. DISTRIBUTION/PUBLICATION**

This policy is suitable for public disclosure and will form part of the Crime and Disorder portfolio published within the publication scheme on the Intranet.

## **13. MONITORING /EVALUATION**

This policy will be monitored by the Force Licensing policy Advisor on an ongoing basis. An evaluation will take place at the following stages to gauge the forces progress in implementing the 'new' licensing regime;

The first appointed date when the process to convert licences will commence – 7<sup>th</sup> February 2005.

The second appointed date when the Act becomes fully operational October 2005.

Further evaluations then to take place at three months, six months and twelve months after implementation – January 2006 and April 2006 and November 2006

## **14. REVIEW**

Crime and Disorder Department will review this policy document at the end of the transitional period in November 2005 and then on an annual basis in line with Force Policy.

The next review will be November 2005

## **15. ORIGINATING DEPARTMENT**

Crime and Disorder Department, Headquarters

## Glossary of Terms

An 'authorised person' means:

- An officer of a licensing authority in whose area the premises are situated who is authorised by that authority for the purposes of the Act;
- An inspector appointed under Section 18 of the Fire Precautions Act 1971;
- An inspector appointed under section 19 of the Health and Safety at Work etc. Act 1974;
- An officer of a local authority, in whose area the premises are situated, who is authorised by that authority for the purposes of exercising one or more of its statutory functions in relation to minimising or preventing the risk of pollution of the environment or of harm to human health.

An 'interested party' means:

- 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; and
- A body representing persons involved in such businesses.

A 'responsible authority' means:

- The chief officer of police in which the premises are situated;
- The fire authority for an area in which the premises are situated;
- The enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc. Act 1974;
- The local planning authority;
- The local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health;
- A body which – represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and secondly, is recognised by the licensing authority for that area as being competent to advise it on such matters.

The meaning of a 'personal licence':

- Is granted by a licensing authority to an individual, and authorises that individual to supply alcohol, or authorise the supply of alcohol, in accordance with a premises licence. It is granted for 10 years.

The meaning of a 'premises licence':

- A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities. It is granted for life.

The meaning of 'licensable activities':

- The sale and/or supply of alcohol;
- The provision of regulated entertainment;
- The provision of late night refreshment.



**BROMSGROVE DISTRICT COUNCIL**

**EXECUTIVE CABINET**

**17TH AUGUST 2004**

**CEMETERY CHARGES**

Responsible Portfolio Holder	Councillor Mrs. J. M. L. A. Griffiths
Responsible Head of Service	Head of Administrative Services

**1. PURPOSE OF REPORT**

- 1.1 To review the charges currently applying in the Council's cemeteries and to decide on the amount of any increase to be applied.

**2. RECOMMENDATION**

- 2.1 That the present charges be increased by 10% with effect from 1<sup>st</sup> October 2004.

**3. BACKGROUND**

- 3.1 The last increase in charges in the Council's cemeteries came into effect on 1<sup>st</sup> October 2003, so a further review is now appropriate. The last review resulted in substantial increases in charges, to bring the charges nearer into line with some of the nearby authorities and to close the substantial difference between the cost of the cemeteries service and the income received.
- 3.2 Total income during 2003/4 was £60,340. Total income during the first four months (nearly) of 2004/5 was £28,000, which if projected forward for the whole year would give a total income of around £90,000, which is approximately on course to meet the budget figure (income figures fluctuate substantially as some funeral directors pay their bills in batches and it is not thought that the apparent shortfall in the year so far is cause for concern). Total budgeted expenditure for the cemeteries service is £148,900, giving an expected deficit for 2004/5 of £53,900. This compares to £55,600 in 2003/4 (this is a provisional actual figure for that financial year: the budget figure was £77,000, much of the difference between the budget and actual figures was due to increased income resulting from the increase in charges applied half way through the year).
- 3.3 At the time of the last review, it was indicated that the Cabinet would wish to see the budget deficit on the cemeteries progressively reduced in future years. This would be achieved by increases in charges which would be above the general level of inflation.
- 3.4 A comparison between this Council's charges and those made by several Councils nearby is attached as an Appendix. This indicates that an increase in charges of 10% is sustainable as the new charges would not be markedly out of line with those made by several other Councils in the area.

3.5 A 10% increase would result in the following charges:-

#### INTERMENTS

(The fees indicated include the digging of the grave)

Child aged under 1 month	£ 15.00
Child aged 1 month to 14 years	£ 82.00
Person aged 15 or over	£253.00
Extra Charge for burials at 7 ft	£ 66.00
Extra Charge for burials at 9 ft	£120.00
Extra charge for grave longer than 6' 6" and/or wider than 2'	£ 50.00
Interment in a bricked grave	£330.00
Interment of cremated remains	£ 92.00

#### EXCLUSIVE RIGHTS OF BURIAL

(75 year grants)

Adult grave	£770.00
Child grave	£110.00
Cremated remains plot	£275.00

#### MEMORIALS

Trees	£ 99.00
Maintenance Charge for Benches	£ 82.00

#### OTHER FEES

Search arising from indemnity on loss of deed of assignment	£ 8.80 + VAT
Certified Copy of Entry	£ 7.15 + VAT
Issue of Memorial Permit	£ 16.00

(All charges for interments and exclusive rights of burial are triple for non-residents of the District.)

### **4. FINANCIAL IMPLICATIONS**

4.1 It is estimated that implementing a 10% increase will produce additional income of £4,750 in the financial year 2004/5 and additional income of £9,500 in 2005/6 (full year).

### **5. LEGAL IMPLICATIONS**

5.1 None

### **6. RISK CONSIDERATIONS**

6.1 The rules of market forces would dictate that price increases could result in a drop in demand – translated to the situation of the cemetery, this could mean that people choose to bury their relatives in other cemeteries where the charges are lower.

However, it should be noted that –

- The Council's charges constitute only a relatively small proportion of the average funeral

- Even after the increases are applied, the Council's charges are no greater than those of many surrounding Councils, and those Councils also charge double or triple for non-residents. The prospects of being able to "shop around" for a lower burial price are therefore extremely limited.
- Most people who are about to bury their relatives/friends are more concerned about where the burial is to take place (bearing in mind the wishes of the deceased and future visiting) and these concerns are likely to override any differentials in pricing

6.2 It is therefore considered that the risk of the number of burials being reduced as a result of increases in charges is minimal to non-existent.

Background Papers:

Note prepared by Registration Assistant concerning other Councils' cemetery charges.

Contact Officer

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**APPENDIX 1****CEMETERIES FEES – COMPARATIVE TABLE**

	BROMSGROVE	REDDITCH	WORCESTER	WYRE FOREST	STRATFORD	WALSALL	SOLIHULL	BIRMINGHAM
Adult Burial (Coffin)	£230	£237	£325	£231	£240	£523	£400	£405
Extra Depth	£ 60	£ 89	£ 45	£ 0	£ 0	£ 15	n/a	n/a
Interment of Cremated Remains	£ 85	£ 88	£ 50	£108	£ 60	£207	£115	£118
Deed of Grant (Coffin)	£700	£815	£240	£204	£240	£793	£700	£1225
Deed of Grant (C/R)	£250	£305	£130	£ 81	£100	£482	£380	£345
Multiplier for non-residents	X3	X3	X2	X2	X2	X3	Varies	Varies

The fee charged by Birmingham City Council for a Deed of Grant (Coffin) is believed to be the second highest in the country and the fee charged by Redditch may be about 5<sup>th</sup> highest.

**BROMSGROVE DISTRICT COUNCIL**

**EXECUTIVE CABINET**

**17TH AUGUST 2004**

**EXECUTIVE PROCEDURE RULES – CABINET MEETINGS**

Responsible Portfolio Holder	Councillor D. C. Norton
Responsible Head of Service	Head of Administrative Services

**1. PURPOSE OF REPORT**

- 1.1 To consider a possible change to the Executive Procedure Rules in the Council's Constitution

**2. RECOMMENDATION**

- 2.1 That the Standards Committee be requested to consider an amendment to the Constitution, under which Executive Procedure Rule 1.6 would be changed to allow the Executive Cabinet to meet on a minimum of 10 occasions per year, instead of 30.

**3. BACKGROUND**

- 3.1 The Executive Procedure Rules in the Council's Constitution specify a minimum number of occasions on which the Executive Cabinet should meet during the year. A minimum requirement is desirable to ensure that there is a level of co-ordination amongst the Cabinet and that the Leader and Cabinet model of decision-making is preserved. When the Council first moved to modernised decision-making arrangements in 2001, it was anticipated that the Executive Cabinet would meet weekly and the minimum number of meetings was set at 30, well below the number of meetings which was actually expected.
- 3.2 More recently, however, the Cabinet has met on a fortnightly basis (with a number of additional meetings during the budget preparation period). During the municipal year 2003/4, the minimum number of 30 meetings was only just achieved.
- 3.3 Following recent moves to delegate decision-making on routine matters to officers, the amount of business coming before Cabinet meetings has reduced and the Cabinet Members have now indicated that they consider that monthly meetings are sufficient, with additional meetings being called to consider any urgent matters arising between those monthly meetings. In the light of this, Executive Procedure Rule 1.6 would need to be revised. It is suggested that the minimum number of meetings could be set at 10, which would allow a small number of monthly meetings to be cancelled if there was no business.
- 3.4 As this would involve a change in the Council's Constitution, a recommendation to the Standards Committee is necessary.

#### **4. FINANCIAL AND LEGAL IMPLICATIONS**

4.1 None.

##### Background Papers:

None.

##### Contact Officer

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**BROMSGROVE DISTRICT COUNCIL**

**EXECUTIVE CABINET**

**17TH AUGUST 2004**

**FORMAL CAUTIONS**

Responsible Portfolio Holder	Councillor D. C. Norton
Responsible Head of Service	Head of Administrative Services

**1. PURPOSE OF REPORT**

- 1.1 To seek delegated authority for officers to administer formal cautions as an alternative to prosecutions.

**2. RECOMMENDATIONS**

- 2.1 That the Standards Committee be recommended to approve an amendment to the Council's Constitution to authorise officers to administer formal cautions to offenders, as an alternative to court proceedings.
- 2.2 That for a temporary period up to 13<sup>th</sup> October 2004 (i.e. until the next Council meeting), officers be authorised to administer those formal cautions which are necessary and cannot wait until after that date.

**3. BACKGROUND**

- 3.1 Formal cautions are an effective method of enforcement, which lie in between a warning letter and court proceedings. Whilst many formal cautions are administered by the Police, they can also be used by local authorities. Their purposes are
- To deal quickly and simply with less serious offenders
  - To divert them from unnecessary, time-consuming and expensive appearances in the courts
  - To reduce the chances of an offender re-offending.

They can be applied successfully in several areas of the Council's work, where offences can take place, e.g. enforcement of food safety, health and safety and benefits investigations. A caution is a much stronger sanction than a warning letter, which carries no formal status, and is an effective tool in cases where a prosecution (which might eventually result in a relatively small fine) would appear to be unnecessary and excessive, e.g. where the offender has already remedied breaches which have occurred.

By agreeing to receive a formal caution, the offender is acknowledging that the offence has taken place. If there is a further offence, the caution can be referred to in the subsequent court proceedings and any sentence applied is likely to be harsher as a result of a previous caution.

Discretion to issue a caution is in all cases one for the enforcement agency. The Home Office specifies that decisions on enforcement action are a matter for professional judgement. A formal caution should be administered in person by a Police Officer of the rank of Inspector or above (or, in local government terms, a Head of Service or Divisional Manager). A decision on a formal caution should be based on professional opinion without external influence (e.g. political) and it is therefore more appropriate that the decision to administer a caution should be taken by an officer, rather than at member level. Also, the Home Office guidance is that formal cautions should be administered without unnecessary delay and the need to obtain authority from a monthly Cabinet meeting would undoubtedly cause delay.

In respect of environmental health matters, the Council did accept the principle of using formal cautions, about two years ago, when the service's Enforcement Policy was approved. This policy made it clear that the procedure was one to be used by officers, rather than at member level. However, until now, that principle has not been incorporated in the Council's Constitution, which is the reason for seeking formal authority, as set out in the recommendation.

There are presently, in the Environmental Health Department, a couple of outstanding matters which need to be resolved and settled fairly quickly, which is the reason for seeking the "temporary" authority referred to in the second recommendation.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 No direct effect on the budget, but prosecutions are not only time-consuming, they can prove expensive, especially if contested. A policy which provides for the prudent and proportionate use of formal cautions will therefore be effective use of the Council's resources.

#### **Background Papers:**

Note from Environmental Services Department to Head of Administrative Services.

#### **Contact Officer**

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## BROMSGROVE DISTRICT COUNCIL

### EXECUTIVE CABINET

17TH AUGUST 2004

#### CAR PARKING SERVICE - END OF YEAR REVIEW 2003/2004

Responsible Portfolio Holder	Cllr P Whittaker
Responsible Head of Service	Head of Community Safety & Engineering

#### **1. SUMMARY**

This report reviews the performance of the car parking operation for the financial year 2003/2004, and also the first three months for the year 2004/2005.

#### **2. RECOMMENDATIONS**

That a further report be submitted late autumn which will include the following;

1. a full analysis of the customer satisfaction and compliance surveys
2. an up to date financial position relating to the car parking operation 2004/2005
3. a medium term plan for the development of the car parking service

#### **3. BACKGROUND**

3.1 ADMISSION CHARGES 2003/2004. Ticket revenue for the year rose by 8% compared with the previous year to a net figure of £676,634. The revenue budget for this figure was £700,000, which means that admission charges fell short of the expected total by £23,366, or 3.3%. This was despite the complete closure of the Churchfields car park and the revamp of the Recreation Road south car park over several days. The chart below lists all the car parks in terms of performance.

Car Park	Number Of Spaces	Total Net Revenue	Net Revenue Per Space	%age Of Revenue Taken
Recreation Road South	317	£254,447.96	£802.67	37.60%
Hanover Street	139	£ 80,576.79	£579.69	11.91%
Windsor Street	74	£ 75,087.47	£1,014.70	11.10%
Parkside	99	£ 75,003.77	£757.61	11.08%
School Drive	137	£ 62,997.61	£459.84	9.31%
New Road	46	£ 50,529.34	£1,098.46	7.47%
Churchfields Multi Storey*	321	£ 30,132.93	£93.87	4.45%
Recreation Road North	47	£ 19,626.21	£417.58	2.90%
Stourbridge Road	83	£ 14,012.23	£168.82	2.07%
Bromsgrove Station	68	£ 14,219.70	£209.11	2.10%
<b>Total</b>	<b>1331</b>	<b>£676,634.01</b>	<b>£560.24</b>	<b>100.00%</b>

\*open for 4 ½ months out of 12.

It is important to point out at this juncture that the Council received a sum of £100,000 for disruption and the use of the recreation ground for contractors vehicles, and in part for compensation for the loss of revenue for the car parking service. The component for the loss of revenue was £35,000.

If the average monthly revenue for those periods when Churchfields Multi Storey was open is applied for the whole year, then it would generate £80,354 in net ticket revenue and be the third highest performing car park.

- 3.2 Revenue from ticket sales by each month has fluctuated from month to month with no clear reason for any changes. However, the new charging periods and increase in tariff will increase revenue generated by ticket sales provided usage patterns remain similar. For the month of March 2004 an increase in revenue from ticket sales of 14% was recorded. This can be attributed to the extra charging periods from 1900 to 2200 which were introduced in February.
- 3.3 The number of tickets sold from the ticket machines has fallen by 3% from 1,186,741 tickets for 02/03 to 1,154,134 for 03/04. Officers believe that this was due to the shortfall in revenue resulting from the closure of one car park, and the partial closure of another.
- 3.4 EXCESS CHARGE NOTICES. Revenue from excess charges has risen by 65% from £41,627 to £68,744, with the actual number of excess charges issued increasing from 4,466 to 7,438, a rise of 67%. This rise is primarily due to the appointment of the Transport Administration Officer which has allowed a tightening of supervisory, administrative, and managerial processes. The following chart details where these various offences were committed.

Car Park	No of Offences	No Spaces	Offences per Space	%age Of Offences Committed
Recreation Road South	3238	317	10.21	44%
Parkside	791	99	7.99	11%
New Road	750	46	16.3	10%
Windsor Street	679	74	9.18	9%
School Drive	522	137	3.81	7%
Hanover Street	546	139	3.93	7%
Station	375	68	5.51	5%
Recreation Road North	287	47	6.11	4%
Churchfields	163	321	0.51	2%
Stourbridge Road	87	83	1.05	1%
<b>Total</b>	<b>7438</b>	<b>1331</b>	<b>6.46</b>	<b>100%</b>

- 3.5 Members should be aware that attendants patrol in a random way and do not target specific car parks. Officers believe that the information in the above chart is a true reflection of where the majority of offences take place.
- 3.6 73% of those who committed an offence made a payment at some stage of the process. 6% of the excess charges issued are still being processed and have yet to come to a conclusion. The remaining 21% of excess charges were cancelled for a variety of reasons, the chart below details why.

Reason For Cancellation	Number Cancelled	%age Of Those Issued
Had a valid ticket/permit/badge	700	10%
Parking Attendant Error	400	5%
Special Circumstances	224	3%
Owner Untraceable	87	1%
Out Of Legal Timescale	45	1%
Processing Error	37	1%
Valid Orange Badge Holder	21	0%
Ticket Machine Faulty	10	0%
Stolen Vehicle	5	0%
Broken Down	4	0%
Inadequate Signing	3	0%
Foreign Vehicle	3	0%
Emergency Vehicle	1	0%
Written Off	1	0%
<b>Total</b>	<b>1541</b>	<b>21%</b>

Only one case was successfully contested at Court during this period, and the offender in this case was unable to apply for costs against the Council. Of the valid excess charges issued, 76% were for not displaying a valid ticket/permit/badge at the time of parking, 15% were for displaying an expired ticket/permit/badge at the time of parking, and 14% were issued for not parking in a designated parking bay. Some of these excess charges were issued for two separate offences on one notice, which accounts for the discrepancy in the total percentage.

- 3.7 Officers believe that a significant number of those offenders who later produced a valid ticket did so after obtaining one from another driver. Possible measures to combat this would be the introduction of pay on foot, or the use of key pads for drivers to enter their registration numbers. To support our view in relation to this, officers will shortly be conducting a compliance survey to provide hard data relating to the number of drivers who avoid payment.
- 3.8 Bearing in mind that the capital program for pay on foot, and the possibility of further slippage, should the compliance survey prove your officers suspicions, I would be looking to put forward a supplemental bid of £16,000 for the purchase of key pads in this years review of capital expenditure, or alternatively making a submission for the financial year 05/06.
- 3.9 It is hoped that the continued targeting of offenders will eventually have the effect of raising the level of compliance and increasing revenue from ticket sales. Officers believe that the introduction of a more effective enforcement process, and particularly the use of cameras to record the offence, has already led to an increase in ticket revenue. Unfortunately, however, this increase cannot be accurately measured.

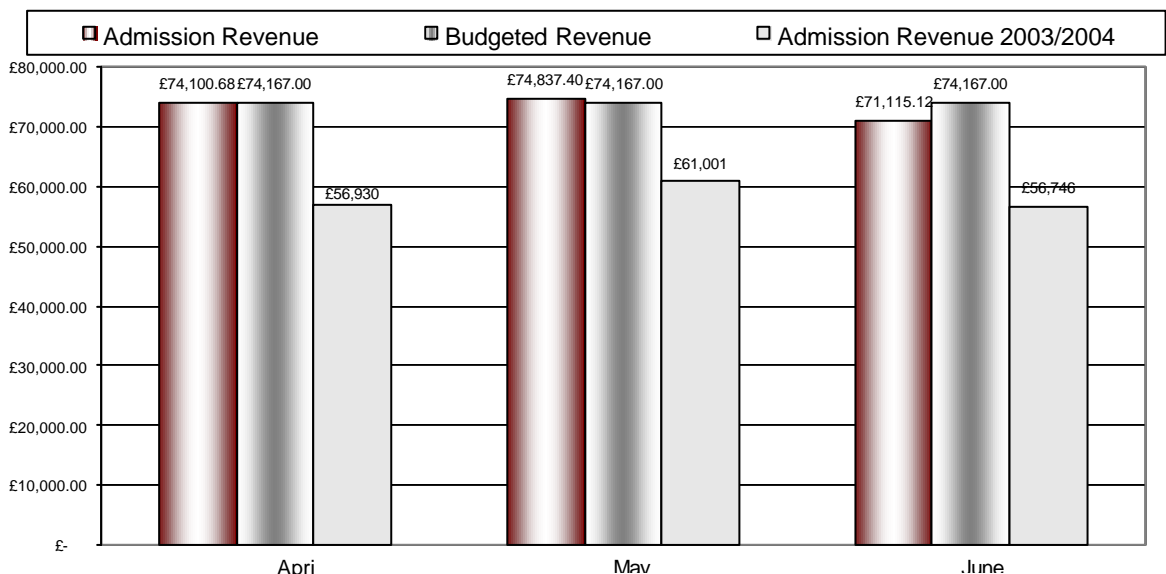
3.10 PERMITS. The number of car parking permits now stands at 5,257 of all types. The number of each type, the cost for each, and the revenue generated by each type is listed in the chart below.

Type Of Permit	Number Issued	Cost Per Unit	Total Revenue
Concessionary Permit 60-65	982	£5.15	£5,057.30
Concessionary Permit 65+	3826	£0.00	£0.00
Temporary Concessionary Permit	97	£0.00	£0.00
Replacement Concessionary Permits	252	£0.00	£0.00
Concessionary Permits For Bus Pass Holders	17	£30.00	£510.00
Annual Parking Permits	41	£205.63	£8,430.83
Quarterly Parking Permits	42	£51.41	£2,159.22
<b>Total</b>	<b>5257</b>	<b>N/A</b>	<b>£16,157.35</b>

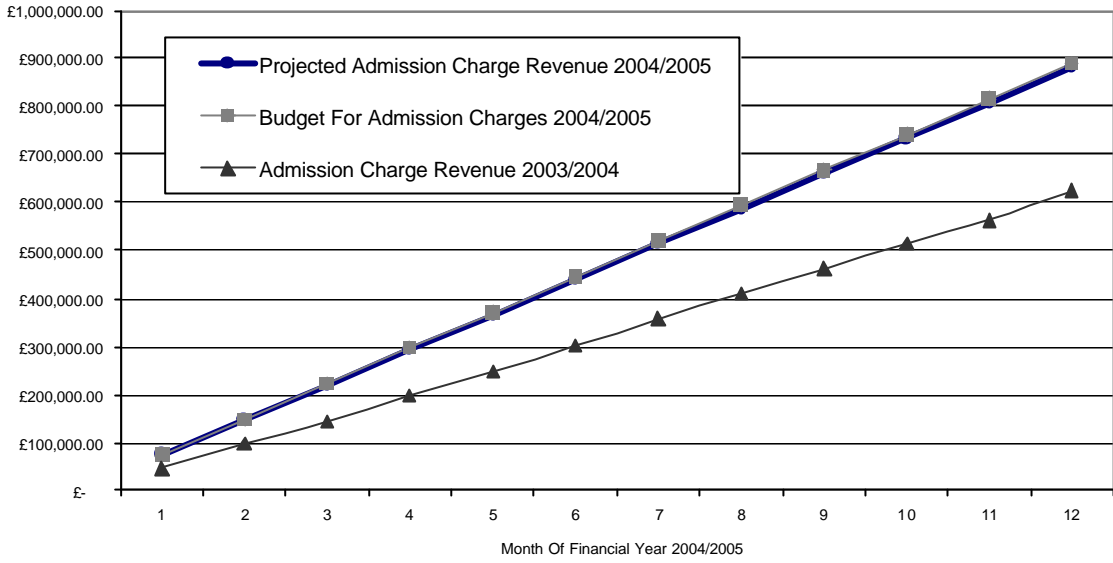
There are currently nearly 4 times as many permits in circulation as there are parking spaces. At any one time there are as many as between one quarter and one third of parking spaces occupied by permit holders. There are an unknown number of permit holders who possess more than one car but who own a permit that covers them for all the cars. Your officers believe that this area needs to be revisited in the near future, and officers will submit a report regarding permits shortly. There are no comparable figures for the previous financial year to compare this data with. This information will therefore be used as baseline figures for any future reports.

3.11 REVENUE 2004/2005. Members are aware that since April 2004 new charges, and extended periods of charging, have come into play. The first three months have shown a net increase for the same period last year of £75,945 on admission charges, whilst the increase in excess charge revenue was £10,468, again for the same period last year. The following charts highlight the income from admission charges and excess charges for the first three months, and also the projected income for the current financial year.

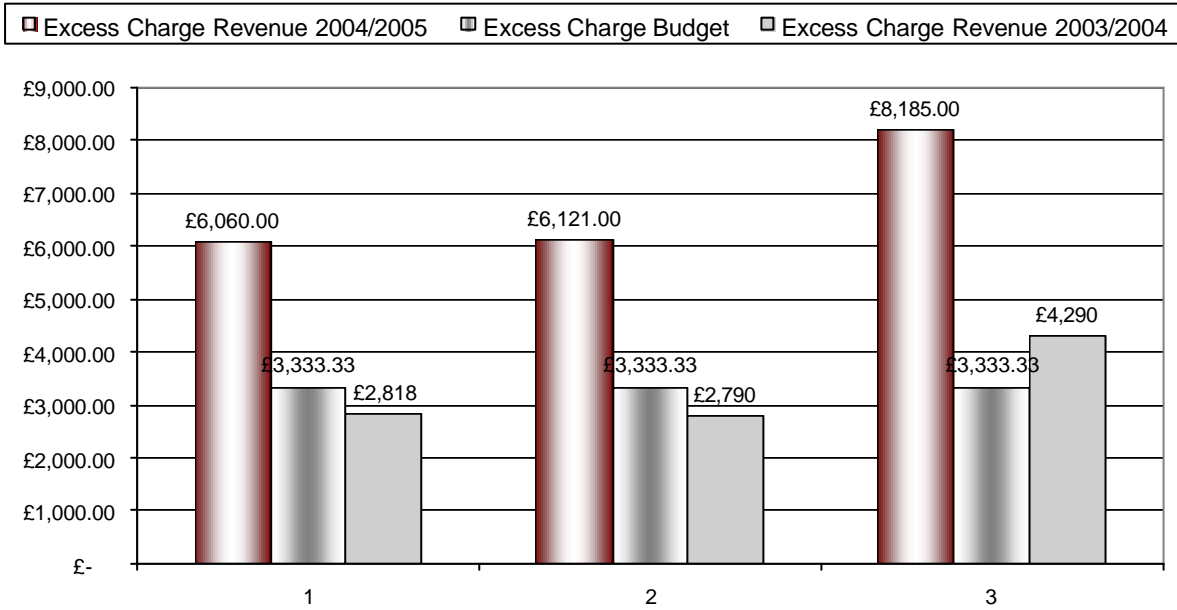
**Admission Charge Revenue For 1st Quarter 2004/2005**



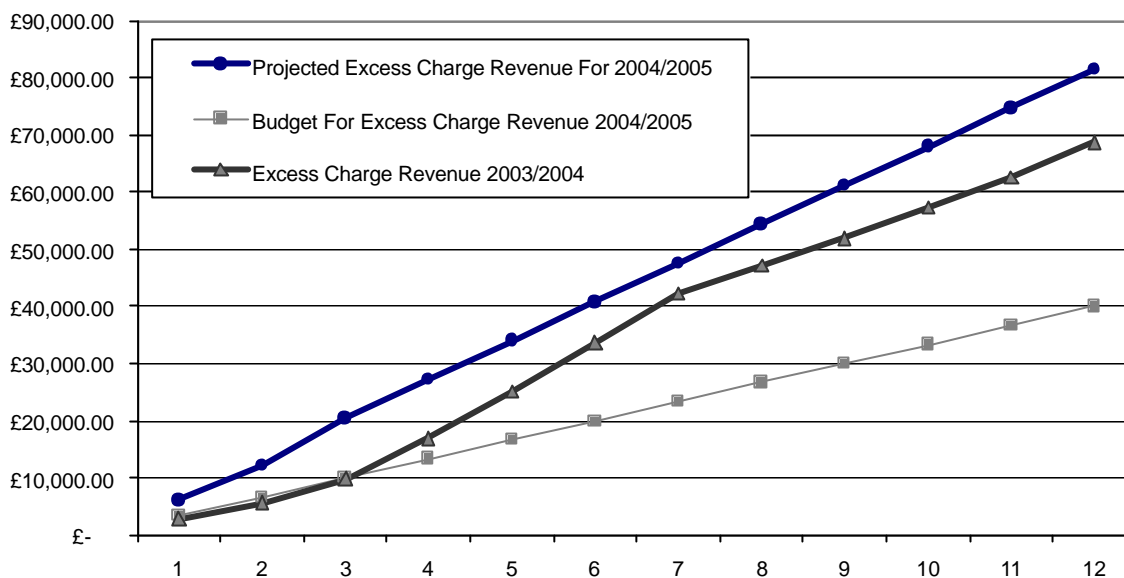
### Projected Income From Car Park Admission Charges 2004/2005



### Excess Charge Income For 1st Quarter Of 2004/2005



### Projected Excess Charge Revenue For 2004/2005



#### 4. Financial Implications

- 4.1 The car parks service met its revenue/spend budget figures for 2003/2004 and current trends indicate that the Council is on track to meet its budget for admission charge income for the current financial year, and is likely to exceed the excess charge revenue budget for the same period.

#### 5. Legal Implications

- 5.1 None

#### 6. Personnel Implications

- 6.1 The recent increase in the salary paid to parking attendants has led to an increase in the number and quality of applications for vacant posts. However, Members should be aware that the operation of a pay and display system to generate parking revenue causes significant problems for the staff employed to enforce it. Verbal abuse and threats of violence are made on a daily basis against these staff, and there have been more than one case where an attendant has had a death threat directed towards him. For the financial year 2003/2004 there was one assault that was fortunate not to result in serious injury. Officers believe that it is a question of *when* and not *if* one of the attendants is injured during an assault. This is particularly true in light of the recent increase of operational hours up until 2200, which requires enforcement in the dark, and frequently in the presence of drivers and passengers who have been drinking heavily. One assault was committed on an attendant in the current financial year, but fortunately no injuries were received as a result. The assailant has been formally cautioned by the police, which involved having his fingerprints taken along with a DNA sample.
- 6.2 The recent change in hours of operation and increase in tariff will almost certainly result in the number of instances of drivers waiting with their vehicles, without making payment for parking, to pick people up from the car park. This will almost certainly lead to an increase in confrontation, as these drivers will be challenged to provide proof of payment or entitlement to park. Attendants currently give the option for the driver to comply with the

car parking order (ie park in a space and pay for the parking) or leave the car park. Failure to comply immediately with either request results in the issue of an excess charge.

## **7 Risk Management Considerations**

- 7.1 In light of the recent construction of the multi storey Churchfields car park, a review of the risk management survey for the parking attendant position was undertaken. Recommendations made were that the close down of this facility should not be made by one member of staff, and that late night patrolling of all of the car parks after 1900 should also only take place with two members of staff. In light of the number of incidents of aggression and abuse which have taken place recently, the risk assessment will be reviewed further.

### **Background Papers**

None

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# BROMSGROVE DISTRICT COUNCIL

## EXECUTIVE CABINET

17TH AUGUST 2004

### LICKEY ROTARY CLUB - STREET NAMING

Responsible Portfolio Holder	Councillor P. J. Whittaker
Responsible Head of Service	Mr. J. J. Moody, Head of Community Safety and Engineering

#### 1. **SUMMARY**

- 1.1 This Report addresses a request from Lickey Rotary Club to include the word "Rotary" in its street naming policy.

#### 2. **RECOMMENDATION**

- 2.1 That the Council declines the request and stays with its existing policy on Street Naming.

#### 3. **BACKGROUND**

- 3.1 The Council has received a request from Lickey Rotary Club president-elect, Mr. Gordon Jones, that this Council considers including the name "Rotary" when they consider naming new roads/streets in the District.
- 3.2 The reason they have requested this is apparently next year is the Rotary Centenary year and all the Rotary organisations are writing to their respective local authorities on the issue.
- 3.3 The Council's current policy on street naming is this, "The Council does not name streets after living persons or existing organisations".
- 3.4 I therefore suggest that Members give consideration to what may happen should they depart from current policy:
- (a) The Council could then receive similar requests from other worthy organisations and would then need a set of criteria to assess who they would permit and who they would not; and
- (b) Members also need to consider whether or not the residents of such new roads and streets would also approve of such name or names.
- 3.5 Finally, as a general comment, there are usually other ways to mark the centenary of the foundation of the Rotary movement or indeed other such bodies; for example, sponsorship of litter bins, or other street furniture; traffic islands; or village/parish signs.

#### 4. **Financial Implications**

- 4.1 There are no financial implications related to this issue.

#### 5. **Legal Implications**

- 5.1 None.

#### 6. **Background Papers**

- 6.1 Letter of correspondence from Lickey Rotary Club.

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**BROMSGROVE DISTRICT COUNCIL**

**EXECUTIVE CABINET**

**17<sup>th</sup> AUGUST 2004**

**REPORT OF THE DIRECTOR OF PLANNING SERVICES**

**SUBDIVISION OF LAND ADJACENT TO PETERBROOK ROAD, MAJORS GREEN AND LAND ADJACENT TO HASLUCKS GREEN ROAD AND THE JUNCTION WITH TILEHOUSE LANE, MAJORS GREEN, WYTHALL**

Responsible Portfolio Holder	Councillor Mrs. MMT Taylor
Responsible Head of Service	Director of Planning Services

**1. SUMMARY**

- 1.1 To bring to Members attention the potential planning implications arising from the subdivision of parcels of land adjacent to Peterbrook Road, Majors Green and land adjacent to Haslucks Green Road and the junction with Tilehouse Lane, Majors Green, Wythall into individual plots, and to recommend authority for Directions under Article 4(1) to be issued pursuant to the Town and Country Planning (General Permitted Development) Order 1995, and the seeking of delegated powers should the need arise in similar circumstances in the future i.e the subdivision of land into plots.

**2. RECOMMENDATIONS**

- 2.1 **That Directions be made under Article 4 (1) of the Town and Country Planning (General Permitted Development) Order 1995, directing that permission granted by that Order shall not apply to the following Classes of development:**

**Schedule 2 Part 2 Class A**

The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure

**Schedule 2 Part 4 Class A**

The provision on land of buildings, moveable structures, works or plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land.

### **Schedule 2 Part 4 Class B**

The use of the land for any purpose for not more than 28 days in total in any calendar year and the provision on the land of any moveable structure for the purposes for the permitted use.

### **Schedule 2 Part 5 Class A**

The use of the land, other than a building, as a caravan site in the circumstances referred to in paragraph A.2

- 2.2 That the powers to authorize the making of a Direction / Directions under Article 4 (1) of the Town and Country Planning (General Permitted Development) Order 1995 be delegated to the Director of Planning Services in consultation with the Head of Legal Services should the need arise in similar circumstances i.e the subdivision of land into plots, and the Classes of development to which the such Direction/ Directions may relate shall be any of the Classes to which Article 4 Directions may apply which are considered to be appropriate by the Director of Planning Services in the circumstances of each particular case.**
- 2.3 That the Standards Committee be requested to approve the delegation referred to in paragraph 2.2 above.**
- 2.4 That due to the urgency of the matter, the Cabinet's decision on this issue be not subject to the call –in procedure.**

### **3. BACKGROUND**

- 3.1** As a matter of urgency, a report was presented at the Planning Committee Meeting on 21<sup>st</sup> June 2004 advising that both plots of land had been subdivided into individual plots and a website [www.propertyspy.co.uk](http://www.propertyspy.co.uk) had advertised the plots for sale for investment purposes, subject to planning permission. The report outlined possible implications of the sale of each land plot with regard to permitted development rights and possible enforcement problems. Members were advised planning permission was not required for the subdivision of the land into these plots, nor would this constitute a breach of planning control. However it was noted the subdivision of the land could have an effect on the changing of the character of the land, and also could cause a detrimental impact to the Green Belt.
- 3.2** At the meeting, Members were also advised that the Office of the Deputy Prime Minister has reviewed this matter and has provided advice for local planning authorities to control such uses of the land as soon as possible. I have attached a copy this advice marked as Annex 1 at the end of this report. In respect of this guidance, and the potential planning implications that could arise, it was recommended to Members that a course of action should be taken to restrict any development on the land such as amongst other things, the erection of fencing, without planning permission first being obtained from this Council. A resolution was proposed to Members recommending Directions known as an Article 4 (1) Directions restricting permitted development rights be made, under the provisions of the Town and Country Planning (General Permitted Development) Order 1995.
- 3.3** Members were also advised that Directions under Schedule 2, Part 2 Class A, Part 4 Class A and Part 4 Class B could be made under this legislation and would immediately come into effect when served by the Council, but would have to be

approved within six months by the Secretary of State to remain permanently in effect. The Direction under Schedule 2 Part 5, Class A would have to be authorised by the Secretary of State before it came into effect.

- 3.4 At the meeting, Members agreed to make the Directions for Peterbrook Road, gave a delegation for any similar future cases (which would include Haslucks Green Road) and authorised the taking of enforcement action in the event of the development the subject of the Article 4 Directions being carried out on the land and no applications for planning permission being made, or if an application is subsequently refused. The decision regarding enforcement action still stands but since the Meeting of the Committee it has been ascertained that the removal of permitted development rights through Article 4 Directions are the responsibility of the Executive Cabinet and consequently the Planning Committee was not empowered to make the decisions regarding the Article 4 Directions.

#### **4. Financial Implications**

- 4.1 No direct cost implications, however the Council is liable to compensation, if planning permission is refused for a development proposal subject to the Article 4 Direction which would normally be permitted under the provisions of the Town and Country Planning (General Permitted Development) Order 1995.
- 4.2 Costs may also be awarded against the Council, where an enforcement appeal would be lodged for instigating enforcement action against the development subject to the Article 4 Direction and it is determined that the Council took 'unreasonable behaviour' for taking such action.

#### **5. Legal Implications**

- 5.1 This will require the specific grant of planning permissions of the classes of development referred to the Directions

#### **6. Environmental Considerations**

- 6.1 The Council considers the development to which the Directions relates being carried out as permitted development, will detrimentally harm the openness of the Green Belt and have an adverse impact on the visual amenities and the rural character of the land. The development would be contrary to Policy DS2 and DS13 of the Bromsgrove District Plan and Policy D38 and D39 of the Worcestershire Structure Plan and the provisions of PPG 2 and PPG 7. The Council considers it would be expedient that the exercise of such permitted development rights should be restricted and brought into control in the public interest.
- 6.2 Even though no development has been carried out to either site, the immediacy of the threat to the Green Belt has been recognized nationally in a letter of the 19<sup>th</sup> April 2004 from the Office of the Deputy Prime Minister regarding The Sale of Rural Plots and the Planning Consequences. The letter urges Local Planning Authorities to act quickly when the issue arises

## **Background Papers**

Letter of the 19<sup>th</sup> April 2004 from the Office of the Deputy Prime Minister regarding The Sale of Rural Plots and the Planning Consequences and relevant Minute of Planning Committee dated 21<sup>st</sup> June 2004.

## **Contact officer**

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**BROMSGROVE DISTRICT COUNCIL**

**EXECUTIVE CABINET**

**17<sup>TH</sup> AUGUST 2004**

**LOCAL GOVERNMENT EFFICIENCY – SHARED SERVICES**

Report of the Chief Executive and the Corporate Director (Resources)

**1. SUMMARY**

1.1 The purpose of the report is to inform Members of an initiative to explore the feasibility of developing the concept of shared “back office” services with other local authorities in Worcestershire and to seek support to progress this work in order to produce an informed report in the autumn 2004.

**2. RECOMMENDATION**

2.1 It is recommended that :

2.1.1 the report be noted;

2.1.2 members comment on the possible areas for shared “back office” service consideration; and

2.1.3 the principle to work with other officers across the Districts and the County to produce a further more detailed report in the autumn is endorsed.

**3. BACKGROUND**

3.1 Members will be aware of the recent Gershon Review into the potential for public sector efficiencies over the next few years and the likelihood that local authorities will be expected to deliver savings alongside other Government departmental savings.

3.2 The report attached as Appendix A was submitted to Worcestershire County Council’s Executive Cabinet, highlighting the potential through partnership with other District Councils, to secure savings by:

a) appropriate joint procurement, and / or

b) sharing some “back office” services

thereby reducing the duplication of separate systems and processes.

3.3 Appendix 1 of the County’s report lists some initial ideas as potential shared services, which were further refined as set out in Appendix 2.

3.4 At a recent Worcestershire Chief Executive’s meeting, officers agreed to take the County’s report on Shared Services to their respective Executive Cabinets for information and comment and to determine any areas of sensitivity.

It was stressed that opportunities to reduce unnecessary duplication of “back office” systems or procurement would be helpful in a quest to achieve savings whilst aiming to improve front line services.

- 3.5 It was recognised that some services would be easier to progress than others, e.g. procurement, payroll, some elements of I.T., revenues and benefits. These could be followed by other areas worthy of consideration e.g. licensing, out of hours services and possibly some elements of joint training.
- 3.6 In order to assist the feasibility work, it was suggested further research should be undertaken to learn from the experience gained by other local authorities e.g. (Surrey, Kent, Norfolk, Suffolk and Welland).
- 3.7 The Chief Executives were also informed that the ODPM was interested in developing and promoting good practice in this work, particularly as emerging good governance models.
- 3.8 Members are asked to endorse the principle of shared services and to comment on the possible areas.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 This work will seek to help the Council achieve the required efficiency savings that are part of the Gershon review. Any other financial implications will need to be considered as part of any proposals that come forward.

#### **5. LEGAL IMPLICATIONS**

- 5.1 None at this stage.

#### **6. OTHER SUB HEADINGS**

- 6.1 None.

Personnel Implications
Governance/Performance Management Considerations
Community Safety Considerations
Risk Management Considerations
Policy Considerations
Environmental Considerations
Equalities Implications

#### **BACKGROUND PAPERS**

None

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# **BROMSGROVE DISTRICT COUNCIL**

## **EXECUTIVE CABINET**

17TH AUGUST 2004

### **PERFORMANCE INFORMATION 2003-2004**

Responsible Portfolio Holder	All
Responsible Head of Service	All

#### 1. **SUMMARY**

1.1 This Report contains the service performance information for the financial year 2003-2004.

#### 2. **RECOMMENDATION**

2.1 Members are asked to note the Report.

#### 3. **BACKGROUND**

3.1 As part of a national government initiative and an ongoing commitment by the Council to improve its service provision, collected performance information is reviewed and monitored, using it to address areas of weakness and learn through areas of improvement, both from within this Council and other local authorities. The collection and analysis of data is only a part of the entire corporate process of Performance Management.

#### 4. **Financial Implications**

4.1 Any financial implications can only be identified when failing indicators have been fully analysed and appropriate improvement actions plans have been developed. There is no existing budget provision defined.

#### 5. **Legal Implications**

5.1 The need to identify where failure exists and put into place action plans for improvement is a requirement not only as part of the Government initiative but it is also essential for any good performing council in order to provide better services that continue to improve.

#### 6. **Corporate Governance**

6.1 Good performance management requires the availability of accurate and timely performance data. This Council is committed to addressing the changes required to exhibit good corporate governance and therefore is committed to putting into place an effective and efficient performance management framework. This information is therefore essential and should be used appropriately, re-defining its content as change is identified and thus ensuring that it remains relevant and useful.

#### **Background Papers:**

Detailed performance information is attached.

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