



Bromsgrove
District Council
www.bromsgrove.gov.uk



Licensing Act 2003

Statement of Licensing Policy

To be reviewed by 7th January 2008

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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.

Due to 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 As a licensing authority, we have based this policy on the Licensing Act 2003, and the Guidance issued by the Department of Culture Media and Sport (DCMS) under Section 182 of the Act. This policy has effect from 7th January 2008. The Licensing Authority is required to publish a statement of its licensing policy every three years or sooner if we become aware that this policy is impacting on the provision of licensable activities.

2.2 The policy is intended to provide information and guidance to licence applicants, responsible authorities and interested parties on the general approach that we will take to licensing. Specific guidance detailing the application process is available separately from the Licensing Authority or alternately log onto the Council's web site www.bromsgrove.gov.uk

2.3 This Policy relates to all activities identified as falling within the terms of the Act on licensed premises, by qualifying clubs and at temporary events, 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.

2.4 The Licensing Authority has a duty under the Act to carry out its functions with a view to promoting the four licensing objectives, which all have equal importance, these are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

2.5 Whilst this statement of policy will set out a general approach for determining 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.

3.0 Cumulative Impact

3.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter, which the Licensing Authority can take into account. This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of

premises. The issue of 'need' is therefore a matter for planning consideration or for market forces to decide and does not form part of this licensing policy statement.

- 3.2 Where serious problems of nuisance and disorder continually 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 Licensing Authority 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 Licensing Authority 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 At present, the licensing authority has not adopted a special policy, however, this 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.
- 3.7 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 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.
- 4.2 The licensing hours for each premises will be examined on the individual merits of the application, 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, major sporting events, Bank Holidays and seasonal variations. 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.
- 4.3 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 following representations made by the Police.

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 of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
- With a known association with drug taking or dealing;
- Where there is a strong element of gambling on the premises, with the exception of AWP machines in pubs and bars;
- 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 It may be necessary, following an objection upheld by a hearing of the Licensing Sub-Committee, 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.

5.4 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.

5.5 It is suggested that Licensees familiarise themselves with the guidance by 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.

5.6 A further way in which the Licensing Authority may wish to protect children, following an objection, which was upheld by a hearing of the Licensing Sub-Committee, is to include a condition on a licence, to insist that the Licensee seeks proof of age and supports the 'Challenge 21' scheme. 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'.

5.7 Further advice on such matters can be sought from the Child Protection Planning and Review Unit, Worcestershire County Council, as being competent to act as the responsible authority in relation to the protection of children from harm. Contact details are set out in Appendix 'B'.

6.0 Children and Cinemas

6.1 Where a licence is granted for the exhibition of films, it will be 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 according to the British Board of Film Classification.

7.0 Integrating strategies

7.1 By consulting widely prior to this policy statement being reviewed, the Licensing Authority will endeavour to secure proper integration with local crime prevention, planning, transportation, tourism and cultural strategies.

7.2 The licensing authority recognises the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community and that providing consumers with greater choice and flexibility is an important consideration. We will balance these wider cultural benefits with the natural concern to prevent disturbance in neighbourhoods and the duty to promote the licensing objectives.

- 7.3 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.
- 7.4 Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises. Other methods of control to help achieve the licensing objectives 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;
 - Provision of 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 or certificate in question.
- 7.5 The Licensing Authority 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.
- 7.6 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.
- 7.7 The Licensing Authority 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.

8.0 Conditions

- 8.1 Licensing is about the control of licensable activities on licensed premises within the terms of the Act, and any conditions attached to licences and certificates will be focused on matters that are within the control of the Licensee and these will relate to the premises themselves and/or the immediate vicinity. 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.
- 8.2 It is not the intention of the Council 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, the Anti Social Behaviour Act 2003, the Race Relations (Amendment) Act 2000 and the Criminal Justice and Police Act 2001. Therefore

conditions will be considered unnecessary if they are already adequately covered by other primary or secondary legislation.

8.3 We support the key concept of the Act that conditions must be tailored to the specific premises concerned. This effectively rules out standardised conditions. The Licensing Authority will also 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.

8.4 Despite there being no provision for standardised conditions, there are a few mandatory conditions that must be applied, where appropriate.

9.0 Outside the Premises

9.1 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 licence holders 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.

9.2 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.

9.3 The Licensing Authority further recognises that public nuisance can occur when people are making their way home. One way 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 of a licensed premises.

10.0 Temporary Events

10.1 Licensing Authorities may not seek to attach any conditions on temporary events, other than those set down in the Act. It is however expected for the Licensing Authority 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; local bye laws; and the need to prevent anti-social behaviour by those attending. Applicants would also be reminded of the relevant offences under the Act, such as selling alcohol to minors or to any person who is drunk, and of the Police powers to immediately close down events and/or premises on the grounds of disorder, the likelihood of disorder because of public nuisance, including noise emanating from the event and/or 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.

10.2 The Act states that the statutory period for the submission of an application for a temporary event notice is 10 working days. However, the Licensing Authority would prefer if applications were submitted more than 10 working days prior to the date of the event; this would allow more time to process the application and to receive responses back from the Police.

11.0 Enforcement

11.1 An enforcement protocol has been established with West Mercia Police Authority and other enforcing authorities, which is available on request from the Licensing Authority. We will target inspection and enforcement at problem premises/high-risk premises and activities that require greater attention.

11.2 The Act extends the existing powers of the police; the police have powers to close without notice for up to 24 hours certain licensed premises that are disorderly, likely to become disorderly or excessively noisy.

12.0 Administration

- 12.1 The Council's Licensing Committee is responsible for making licensing decisions. This power is delegated to its Sub-Committee and Officers as recommended in the Statutory Guidance to the Act. 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 scheme of delegation of licensing functions is available from the Licensing Authority.
- 12.2 '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.
- 12.3 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, in accordance with the regulations issued by the DCMS. Representations must not, in the opinion of the Licensing Authority, be frivolous, vexatious or repetitious.
- 12.4 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.
- 12.5 The Licensing Authority will have little discretion regarding the granting of Personal Licences, provided that the applicant holds an approved qualification and does not have a recent relevant conviction as set out in the Act, the application will be granted.
- 12.6 Applicants and those making relevant representations in respect of an application to the Licensing Authority have a right of appeal to the Magistrates Court against the decision of the Licensing Authority.
- 12.7 The Licensing Authority will expect individual applicants to address the licensing objectives in their operating schedule 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. Any measures stated in the operating schedule, which will be used to address the licensing objectives will be transferred as a condition(s) to any subsequent licence or certificate.
- 12.8 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 schedule.
- 12.9 When determining applications, the Licensing Authority will have regard to the following:
- the Act and the Guidance, together with any Regulations and Orders issued by the DCMS. A copy of the Act, the Statutory Guidance and any Regulations and Orders can be found on the DCMS website at www.culture.gov.uk
 - 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;
 - Human Rights Act;
 - The Council's constitution, in particular, Members' Code of Conduct and Access to information rules.

13.0 Contact details for further advice

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

Sharon Smith - Principal Licensing Officer,
Planning and Environment 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

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

If you have any difficulty in reading or understanding this document, please telephone the writer on 01527 881626.

Details of useful contacts

Useful Contacts	Name	Organisation
Environmental Services le Noise, health & safety, food safety etc	Robin Goundry – Noise Pollution Cathy Reay – Health and Safety	Bromsgrove District Council The Council House Burcot Lane, Bromsgrove Worcs. B60 1AA r.goundry@bromsgrove.gov.uk Tel: 01527 881675 c.reay@bromsgrove.gov.uk Tel: 01527 881446
Crime & Disorder Reduction Partnership	Graham Roche Community Safety Manager	Bromsgrove District Council The Council House Burcot Lane, Bromsgrove Worcs. B60 1AA g.roche@bromsgrove.gov.uk Tel: 01527 881486
West Mercia Police Authority	PC Paul Bott Licensing Officer	Bromsgrove Police Station The Crescent, Bromsgrove, Worcs., B60 2DF. paul.bott@westmercia.pnn.police.uk Tel: 01527 586221 Fax: 01527 586227
Hereford & Worcester Fire & Rescue Service	Fire Safety	North District HQ Castle Street, Kidderminster Worcs, DY12 6TH. Tel: 01562 512612
Town Centre Strategy	Peter Michael Economic Development Officer	Bromsgrove District Council The Council House Burcot Lane, Bromsgrove Worcs. B60 1AA p.michael@bromsgrove.gov.uk Tel: 01527 881327
Leisure Services	Huw Moseley – Arts Development	Bromsgrove District Council The Council House Burcot Lane, Bromsgrove Worcs. B60 1AA. h.Moseley@bromsgrove.gov.uk Tel: 01527 881381
Protection of children	Mr. Alan Ferguson Service Manager – Safeguarding & Quality Assurance	Worcestershire County Council Wildwood Way, Worcester, WR5 2NP. aferguson@worcestershire.gov.uk Tel: 01905 758841.
Trading Standards	Mr. J. Dell	Worcestershire County Council Trading Standards & Scientific Services, Wildwood Way, Worcester WR5 2NP. Tel: 01905 765375

