

SOUTH STAFFORDSHIRE DISTRICT COUNCIL

LICENSING ACT 2003

STATEMENT OF LICENSING POLICY

(7 February 2008)

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1. INTRODUCTION

1.1 The Licensing Act 2003 (the Act) provides for a unified system for regulating the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment. In the Act, these activities are referred to collectively as “licensable activities” and are:

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order or, a member of the club
- Provision of “regulated entertainment”, which includes:
 - Performance of plays
 - Film exhibitions
 - Indoor sporting events
 - Boxing or wrestling entertainment

- Performance of live music
- Playing of recorded music
- Performance of dance
- Entertainment of a similar description to a performance of live music, playing recorded music and /or performance of dance
 - Providing facilities for making music
 - Providing facilities for dancing
 - Providing facilities for entertainment of a similar description to making music and/or dancing
- The supply of hot food and/or drink from any premises between 11.00pm and 5.00am (late night refreshment).

1.2 South Staffordshire District Council (The Council) is the licensing authority for the purposes of the Act in South Staffordshire. Reference to “the Council” in this document will relate to its capacity as that licensing authority.

1.3 The Act requires that the Council publish a “Statement of Licensing Policy”, setting out its policy in respect to the exercise of its licensing functions under the Act.

1.4 This Statement of Licensing Policy was prepared in accordance with the provisions of the act and, in particular:

- having regard to guidance issued by the Secretary of State under Section 182 of the Act; and
- after proper consideration of responses to consultation with those authorities and representative bodies as required by Section 5(3) of the Act

1.5 It can be accessed on the Council’s website at www.sstaffs.gov.uk and in hard copy from its Legal and Licensing Service Unit, South Staffordshire Council Offices, Codsall WV8 1PX.

1.6 The Policy will apply from 7th February 2008 for a period of no more than three years.

2. LICENSING OBJECTIVES AND FUNDAMENTAL PRINCIPLES

2.1 The Council will carry out its functions under the Licensing Act 2003 (licensing functions) with a view to promoting the licensing objectives. These are:

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

They are in no particular order. No Licensing objective has priority over any other.

2.2 In addition, it will carry out those functions having regard to this policy and to any guidance issued by the Secretary under Section 182 of the Act.

APPLICATIONS, NOTICES AND REPRESENTATIONS

- 2.3 The Council will not accept notices, applications and representations that are not submitted in accordance with the requirements of the Act or regulations made under it.
- 2.4 The Council will expect all notices and applications to be publicised and advertised in accordance with the requirements of the Act or regulations made under it.
- 2.5 The Council will expect operating schedules accompanying applications for premises licences and club premises certificates to include sufficient information as to the steps proposed by applicants to promote each of the licensing objectives. In its capacity as the licensing authority, the Council will rely on the responsible authorities as defined in the Act to make representations regarding any concerns they may have over the sufficiency of that information.
- 2.6 The Council will expect representations on applications relating to licensable activities and applications for the review of existing authorisations under the Act to relate directly to the promotion of one or more of the licensing objectives and to be supported and justified by a proper evidence base.
- 2.7 It will also expect the person making such representations will have informed the applicant of their concerns with a view to agreeing amendments to the details of the application that are acceptable to all parties.
- 2.8 Although 10 working days prior to the event is the minimum time prescribed in the Act in which to give notice of a permitted temporary activity, applicants are encouraged to give as much notice as possible. Applicants are reminded that there is no mechanism to obtain an authorisation for licensable activities later than 10 working days prior to the event.

HEARINGS AND DETERMINATIONS

- 2.9 Where relevant representations (as defined in the Act) are received, the Council will normally hold a hearing to consider them. The Council will give notice of the hearing to those entitled as required by regulations made under the Act.
- 2.10 Where no relevant representations are received, such representations are withdrawn, or agreements are made that a hearing on an application is unnecessary; the Council must grant the application imposing only those conditions that are consistent with the operating schedule accompanying it and those that are mandatory under the Act.
- 2.11 Where, however, an application for review of an existing premises licence or club premises certificate is received in accordance with Sections 52(1) or Section 88(1) of the Act, respectively, the Council will hold a hearing to consider it, whether or not relevant representations are received.
- 2.12 The Council may take steps to reject applications, to impose or modify conditions, to exclude specific licensable activities, or, to cancel or revoke existing authorisations under the Act, only where it considers such steps necessary for promoting one or more of the licensing objectives. The Council does not have the power to initiate a review of an existing authorisation.

- 2.13 When considering representations on applications made under the Act, the Council’s licensing officers and members of its Licensing Committee will maintain an impartial and objective stance with regard to representations made by other officers of the Council in their capacity as “responsible authorities”, or, by other members should they be present as “interested parties”, under the Act.
- 2.14 The Council can only regulate licensable activities at those premises authorised within the terms of the Act. Its licensing functions is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of those holding the authorisation under the Act. The Council will focus primarily 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.

CONDITIONS

- 2.15 Any conditions imposed on licences/certificates issued under the Act will, therefore, relate only to those matters falling within the control of the holders of those authorisations.
- 2.16 Although existing licences, converted during the transition period prescribed in orders made by the Secretary of State under the Act, will retain conditions imposed under previous legislation (until any application for variation of those conditions is processed), the Council will not impose standard blanket conditions on authorisations issued under the act and will avoid imposing disproportionate and over burdensome conditions.
- 2.17 Any conditions imposed under the Act will be tailored to the specific needs of the premises and will relate only to the licensing objectives.
- 2.18 In order to avoid duplication with other statutory regimes, the Council will not attach conditions regarding matters that are already adequately covered by other legislation.

DISCRETION

- 2.19 This policy sets out the general approach this Council will take in making licensing decisions under the Act. It does not alter the provisions of either the Act or regulations made under it. Any licensing function of the Council will be carried out with a view to promoting the licensing objectives having regard to both this policy and that of the Secretary of State issued under Section 182 of the Act. The Council will carry out any such functions on the basis of the individual merits of the particular matter within the scope of the Act. The Council is not bound to follow wither this policy or that of the Secretary of State but it must consider it where relevant and will have good reason for deviating from such policies should it do so.
- 2.20 Similarly, this policy does not seek to override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so under the Act.

3. OTHER REGULATORY CONTROLS

- 3.1 There are a number of other regulatory controls that may affect the Council's licensing functions.
- 3.2 The Council will not seek to use its licensing functions for non-licensing purposes.
- 3.3 The Council will not seek to use its licensing functions in a matter that duplicates other regulatory controls as to do so could not be justified as necessary. Where there is another regulatory control but it does not adequately address a specific licensing issue then the Council will utilise its licensing functions to effect additional and supplementary controls as necessary to promote the licensing objectives.
- 3.4 The grant of an authorisation does not establish, or even indicate, that regulatory bodies other than the licensing authority are content or that further licenses, permissions, consents or similar are not required.

4. LICENSING HOURS

- 4.1 The Council recognises that, in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of the customers leaving premises simultaneously are avoided.
- 4.2 With regard to shops, stores and supermarkets, the Council will not seek to restrict the sale of alcohol for consumption off the premises during times when the retail outlet is open for shopping, unless there are good reasons, based on the licensing objectives, for restricting those hours.

5. ACCESS TO LICENSED PREMISES BY CHILDREN

- 5.1 The Council will not seek to limit access to licensed premises by children through the imposition of conditions unless representations are received from any responsible authority or interested party and it is considered necessary to impose limitations for the prevention of physical, moral or psychological harm to children.
- 5.2 The Council recognises both the Local Safeguarding Children Board and Staffordshire County Council (Health and Consumer Services) as bodies responsible for or interested in matters relating to the protection of children from harm.
- 5.3 The premises that are likely to give rise to particular concern regarding the protection of children from harm will include those:
- where entertainment or services of an adult or sexual nature are provided;
 - where there have been convictions of members of the current staff at the premises for serving alcohol to minors, or, the premises has a reputation for under age drinking;
 - with a known associate with drug taking or dealing;
 - with a known association with prostitution;
 - where there is a strong element of gambling on the premises (but not, for example the simple presence of a small number of cash prize gaming machines);

- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided

5.4 Limitations on access by children imposed by the Council, following representations received from a responsible authority or interested party, may include any or a combination of the following:

- limitations on the hours when children may be present;
- exclusion of children under certain ages when particular specified activities are taking place;
- limitations on the parts of premises to which children might be given access;
- age limitations (under 18);
- requirements for accompanying adults;
- full exclusion of those under 18 years of age from the premises when any licensable activities are taking place

5.5 The Council will, as required by the Act, impose a condition on all licences and certificates authorising the exhibition of films, requiring the admission of children to be restricted in accordance with the recommendations given to films by a body designated under Section 4 of the Video Recordings Act 1984 (at the date of publishing this policy the British Board of Film Classification was the only body so designated). It will also be expected that operating schedules accompanying applications relating to activities involving film exhibitions, will include details of the arrangements proposed for preventing children from viewing age restricted films.

5.6 The Council will not impose any condition specifically requiring access to be provided for children at any premises. Where no restriction or limitation is imposed, the issue of access will remain a matter for the discretion of the individual authorisation holder.

6. ENFORCEMENT OF LICENCE REQUIREMENTS AND CONDITIONS

6.1 The Act does not require the inspection of premises or events licensed or authorised under the Act, save at the discretion of those charged with this role. The Council will not, therefore, undertake routine premises inspections but will follow the principles of risk assessment in targeting inspections at high risk and problem activities, as and when judged necessary.

7. DELEGATION OF FUNCTIONS

7.1 In accordance with the requirements of the Act, the Council's licensing functions, except those relating to the adoption of its licensing policy, will be discharged by its Licensing Committee.

7.2 To facilitate the processing of applications made under the Act and in the interests of speed, efficiency and cost effectiveness, the Council's Licensing Committee will delegate those functions to sub-committees (each of which will comprise three members of the Licensing Committee) and, so far as is permissible under the Act, the Council's licensing officers.

- 7.3 The scheme of delegation adopted by the Council's Licensing Committee follows the recommendations made by the Secretary of State in guidance issued under Section 182 of the Act:

Matter to be dealt with	Delegated to Sub-Committees	Delegated to Officers
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence / club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence / club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence / club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a police objection to a temporary event notice	All cases	