

Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.



# Statement of Licensing Policy

**2020 -2025**

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## **TAMWORTH BOROUGH COUNCIL**

### **LICENSING ACT 2003**

#### **STATEMENT OF LICENSING POLICY 2020 - 2025**

## **1 INTRODUCTION**

The Licensing Act 2003 came into force on 24 November 2005. From that date the Licensing Authority became responsible for issuing authorisations for premises in the Borough in respect of the sale and supply of alcohol, the provision of regulated entertainment and late night refreshment.

The Borough of Tamworth is located in the south-eastern corner of Staffordshire, 15 miles north-east of Birmingham and covers an area of 3,095 hectares. It is situated at the confluence of two rivers, the river Tame and Anker. Tamworth is essentially urban in character, which includes a vibrant town centre and smaller centres within local districts.

Tamworth's resident population of around 76,800 (Source – Census 2011, ONS) makes it one of the main urban centres in Southern Staffordshire. It has the highest population density (24.2 people per hectare) of all Southern Staffordshire districts and second only to Stoke on Trent (25.8 people per hectare) in the County as a whole.

The Borough has a wide range of recreational facilities including the Snowdome, an indoor real ski slope (the first in Europe), an athletics stadium, a football stadium, leisure centres, ~~a municipal golf course~~, indoor bowls and a 26 lane ten-pin bowling alley. It also has a ten-screen cinema, nightclubs, pubs and restaurants.

## **2 LICENSING ACT 2003 STATEMENT OF LICENSING POLICY PURPOSE AND SCOPE**

This licensing policy statement sets out the manner in which Tamworth Borough Council (the Licensing Authority) will consider applications for licences as required by the Licensing Act 2003 (the Act).

The Licensing Authority's policy relates to all licensing activities falling within the provisions of the Act, namely:

- The sale of alcohol by retail; (including for consumption on or off premises, with or without food;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;

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- the provision of regulated entertainment to the public, club members or with a view to profit;
- the provision of late night refreshment.
- In carrying out its functions the Authority will not only have regard to this policy but also any guidance issued from time to time by the Secretary of State under Section 182 of the Act (referred to as “the guidance”).
- The guidance makes it clear, and the Authority recognises that licensing should not be seen as the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and therefore beyond the direct control of those with responsibility for managing and controlling licensed premises.
- However, licensees should take all reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden or in a smoking shelter to the extent that these matters are within their control.

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

The Local Authority recognises its duty under Section 17 of the Crime and Disorder Act 1998 with regard to the prevention of crime and disorder in its area and will continue to work in partnership with the police, responsible authorities as defined by the Act, local businesses, local people and others towards the promotion of all the licensing objectives.

### **Regulated Entertainment**

Regulated entertainment requires a licence when it is performed in front of an audience and includes the following:

- A performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- boxing or wrestling entertainment;
- a performance of live music (not incidental music, i.e. piano in a restaurant);
- any playing of recorded music;
- a performance of dance;
- provisions of facilities for making music;
- entertainments of a similar description to the performance of live music, the playing of recorded music and the performance of dance where the entertainment takes place in the presence of an audience and is provided for the purpose (or for purposes which include the purpose) of entertaining that audience.

Subject to the qualifying conditions, definitions and the exemptions, entertainment facilities include facilities for enabling persons to take part in

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entertainment for the purpose of, or for the purposes that include the purpose, of being entertained:

- a) Making music;
- b) dancing;
- c) entertainment of a similar description to making music or for dancing.

### **Late Night Refreshment**

Late night refreshment (subject to certain exemptions) is regarded as the supply on or off any premises between the hours of 11:00pm and 5:00am of hot food or drink for consumption on or off the premises.

The policy will apply in respect of new consents, renewals, transfers and variations to the following:

- Premises Licences;
- Club Premises Certificates;
- Personal Licences;
- Temporary Event Notices.

The licensing authority must have regard to the guidance issued by the Secretary of State for Culture, Media and Sport in discharging its functions under the Act and this statement of licensing policy has been prepared taking into account guidance issued under section 182 of the Act.

### **Consultation**

Section 5 of the Act requires that the licensing authority prepares and publishes a statement of its licensing policy every 5 years. During the five year period the Authority will keep the policy under review and may make any amendments to it as it considers necessary. The Act makes provision for this policy to be the subject of consultation and in developing this policy the Licensing Authority has consulted a wide range of organisations including statutory consultees as follows:

- Chief Officer for Police for Staffordshire;
- Chief Fire Officer for Staffordshire;
- Representatives of local holders of existing licences, within the meaning of Part 1 of Schedule 8 to the Act;
- Representatives of local holders of club premises certificates within the meaning of the Licensing Act 1964.

**The Licensing Authority has also consulted a range of non statutory consultees including:**

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- Staffordshire County Council – Department of Social Care and Health;
- Tamworth Community Safety Partnership;
- Bodies representing consumers;
- Officers within the Borough Council responsible for Regeneration Growth and Development, Health and Safety, Environmental Protection.

The views of all consultees have been given proper weight in the preparation of this policy document.

When approved, the statement of licensing policy will be used by the Licensing Authority in the administration and enforcement of its duties under the Act.

### **3 LICENSING OBJECTIVES AND FUNDAMENTAL PRINCIPLES**

In exercising its duties and responsibilities under terms of the Licensing Act 2003, the Licensing Authority will operate within the statements and procedures mentioned in this policy statement. Notwithstanding this statement, all applications will be treated on their merits and judged accordingly. In exercising its powers under the Act, the Licensing Authority will have regard to any relevant guidance issued by the Secretary of State under section 182 of the Act.

The Licensing Authority will exercise its duties so that the licensing objectives of the Act are met. The licensing objectives are:

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

The Licensing Authority confirms that each of these objectives is considered to be of equal importance.

#### **Applications, Notices and Representations**

The Licensing Authority requires that all applications for the grant, variation or transfer of any licence, permit or certificate detailed in the Act, are made in accordance with the Act and statutory guidance. In particular all such applications must be accompanied by the appropriate fee, where applicable, to be deemed duly made. Where applications are incomplete or inadequate and therefore not duly made, the whole application will be returned to the applicant. The Licensing Authority will do all that it can in such circumstances

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to provide guidance to an applicant on the reasons for the applications return. Where such applications are statutorily required to be advertised, or notified to other specified persons, the application must confirm that such advertising or notification has been properly made.

Upon receipt of a valid application, the Licensing Authority will consider the matter and determine it in accordance with this licensing policy, statutory requirements and current guidance issued by the Secretary of State. In order to maximise administrative speed, efficiency and cost effectiveness, the application will be determined in accordance with the delegation criteria detailed in section 14 of this policy.

The Licensing Authority will encourage all applicants intending to submit an application under the Act to carefully consider within the operating schedule accompanying the application; the steps that they propose to promote each of the licensing objectives.

Applicants should make themselves aware of the Licensing Authority's statement of licensing policy, in particular the issues that will need to be addressed in producing the operating schedule.

Prospective holders of new premises licence and those seeking variations to existing licences are advised to consult with the Licensing Authority's licensing officers and other responsible authorities early in the planning stage in order to reduce the risk of confusion and dispute arising.

The Licensing Authority 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.

It will also expect that where such representations are made by interested parties and, in particular, by responsible authorities, they 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. Whenever feasible, the Licensing Authority will facilitate discussions between the applicants and objectors to assess whether a compromise can be agreed between both parties. Where such agreements are reached, the Licensing Authority after consulting other appropriate responsible authorities may then agree with the original parties that a hearing is no longer necessary.

When one part of the Licensing Authority seeks a premises licence from the licensing authority, the licensing committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the Police, they will be considered fairly by the committee. Those making representations genuinely aggrieved by a positive decision in favour of a local authority application considered by the licensing authority may be entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision made.

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### **Hearings and Determinations**

Where an objection is received concerning the grant or variation of a licence for any purpose regulated by the Act, the matter will be determined in accordance with the terms of this licensing policy. The objection will be considered in accordance with the delegation criteria listed in the table in Section 14 of this policy.

Where the complaint or objection has been judged to be irrelevant, frivolous or vexatious, the matter will not proceed any further and the complainant will be advised in writing this fact.

Where “relevant representations” (as defined in section 18(6), 31(5), 35(5), 52(7), 72(7), 85(5) and 88(7) of the Act) are received, the Licensing Authority will normally hold a hearing to consider them. Applicants will be advised of all representations and all parties involved will be informed of the time and place of the hearing.

Where no representations are received, representations are withdrawn, or agreements are made that a hearing on an application is unnecessary; the Licensing Authority will approve the application and only impose conditions that are consistent with operating schedules accompanying it and/or are statutorily required of it under sections 19, 20, 21, 73 and/or 74 of the Act.

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 Licensing Authority will hold a hearing to consider it, whether or not representations are received. The application for review will be considered in accordance with the delegated criteria listed in the table at section 14.4.

The Licensing Authority will 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.

In relation to a refusal to grant a licence or club premises certificate, the notification will detail the grounds for the refusal and specify the process for the applicant to appeal against the Licensing Authority's decision.

Where an application for review has been judged to be irrelevant, frivolous or vexatious, the matter will not proceed any further and the complainant will be advised in writing of this fact.

When an application to review a premises licence or club premises certificate has been determined in accordance with the procedures detailed above, the licence or certificate will either:

- Continue in operation unaltered;



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- be modified and the terms and conditions changed in accordance with the Licensing Authority's decision, or
- be cancelled.

The Licensing Authority will determine the date upon which the decision will take effect and the licence holder and applicant for review advised accordingly.

In relation to a modification or the cancellation of a licence or club premises certificate, the notification will detail the grounds for the modification or cancellation and specify the process for the applicant to appeal against the Licensing Authority's decision.

### **Conditions**

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

Any conditions which are attached to licences, certificates and other authorisations will be tailored to the individual style and characteristics of the premises and events concerned and will reflect, as far as possible, local crime prevention strategies. The Authority will not attempt to impose any 'blanket' conditions which apply to all premises but the applicant's operating schedule, which forms part of the application process should include sufficient information to enable a responsible authority or interested party to assess whether the steps being taken to promote the licensing objectives are satisfactory or not.

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

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

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condition(s) agreed between the parties or if all parties agree that a hearing is not necessary.

Duplication with other statutory or regulatory regimes will be avoided as far as possible. In circumstances where existing legislation already effectively promotes the licensing objectives it is likely that no additional conditions will be necessary. For this purpose each case will need to be assessed on its own individual merits.

Other regulatory controls are referenced in more detail in Section 4 of this policy document.

### **Suspension for Non Payment of Annual Fees**

The Act requires the Authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due. The Act provides for a grace period of 21 days in cases of an administrative error or where there is a dispute over liability for the fee, after which the licence/certificate will be suspended. The Authority has to give a minimum two days notice of the licence/certificate being suspended if payment is not made. The Authority, in this case, considers that seven days notice is more appropriate.

### **Temporary Event Notices (TEN)**

There are two types of temporary event notice (TEN) which can be given to the Council; standard and late. Anyone wishing to give a standard TEN to the Authority must do so at least ten (10) clear working days prior to the event in question.

If it is not possible to give ten(10) working days notice then a late TEN may be given as long as five (5) working days notice is given. If an objection to a standard TEN is made by the Police or Environmental Health to impose existing conditions and all parties agree that a hearing is not necessary, the Authority will not normally hold a hearing. If, however, the Police or Environmental Health object to a late TEN then it will not be possible for the event to go ahead. The Licensing Authority would recommend that applicants refer to the documents detailed at Appendix 2 of this policy for further guidance.

### **Personal Licences - New Applications**

A personal licence is a licence issued to an individual authorising them to make or authorise the sale of alcohol in accordance with a premises licence. Every premises licence that authorises the sale of alcohol must specify an individual who acts as the designated premises supervisor (DPS). The DPS must hold a personal licence.

Applications for personal licences should be made to the licensing authority for the area where the applicant is ordinarily resident at the time they make their application.

- (a) The applicant is aged 18 or over
- (b) The applicant is entitled to work in the United Kingdom
- (c) The applicant possesses a licensing qualification or is a person of a prescribed description

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(d) The applicant has not forfeited a personal licence in the five year period prior to their application being made

(e) The applicant has not been convicted of any relevant offence or any foreign offence or required to pay an immigration penalty

The licensing authority must reject an application if the applicant fails to meet one or more of the requirements set out in (a) to (d) above.

Where the applicant meets the requirements in (a) to (d) but does not meet the requirements of (e), the licensing authority must give the chief officer of police for its area a notice to this effect. Having received such a notice, if the chief officer of police is satisfied that the granting of the application would undermine the crime prevention objective, he must within 14 days, give the licensing authority a notice to that effect.

Where the applicant fails to meet the requirements of (e) as a result of a conviction for an immigration offence or because they have been required to pay an immigration penalty, the licensing authority must give a notice to the Secretary of State for the Home Department to that effect. The Home Office may object to an application on grounds that granting the personal licence would be prejudicial to the prevention of illegal working in licensed premises.

Where an objection to the grant of a personal licence is received from either the chief officer of police or the Home Office, the applicant is entitled to a hearing before the licensing authority. If no objections are received, the licensing authority must grant the application.

At a hearing to determine a personal licence application to which the chief officer of police or Home Office have objected, the licensing authority will have regard to all of the circumstances including the following:

- The need to assess each case on its merits
- The duty to promote the crime prevention objective
- The objection notice given by the Police or Home Office
- The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
- The seriousness of the relevant offence
- The sentence or penalty imposed on the applicant for the relevant offence
- Any representations made by the applicant
- Any other evidence as to the previous character of the applicant

If, having considered all of the circumstances, the licensing authority considers that it is appropriate for either the promotion of the crime prevention objective or for the prevention of illegal working in licensed premises to reject the application, it must do so. In all other cases the application must be granted.

If an application is refused, the applicant will be entitled to appeal against the decision they make. Similarly, if the application is granted despite a police objection notice or an objection from the Home Office, the chief officer of police or Home Office are entitled to appeal against the licensing authority's determination. The licensing

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authority will therefore record in full the reasons for any decision that it makes.

## **Personal Licences - Suspension and Revocation**

Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 and gave the power to a licensing authority to suspend or revoke personal licences that it has issued with effect from 6 April 2017.

When a licensing authority has granted a personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, a licensing authority may revoke the licence or suspend it for a period of up to six months. This applies to convictions received and civil immigration penalties which a person has been required to pay at any time before or after the licence was granted, as long as the conviction was received after 6 April 2017, or the requirement to pay the civil penalty arose after 6 April 2017. Only magistrates' courts can order the forfeiture or suspension of a personal licence for convictions received prior to 6 April 2017.

The process which must be undertaken by the licensing authority to suspend or revoke a personal licence is set out at section 132A of the 2003 Act. The decision to revoke or suspend a personal licence must be made by the licensing committee or sub-committee, but the actions required before making a final decision may be made by a licensing officer.

The licensing authority may not take action if the licence holder has appealed against the conviction or the sentence imposed in relation to the offence, until the appeal is disposed of. Where an appeal is not lodged, the licensing authority may not take action until the time limit for making an appeal has expired.

If a licensing authority is considering revoking or suspending a personal licence, the authority must give notice to the licence holder. This notice must invite the holder to make representations about the conviction, any decision of a court in relation to the licence, or any decision by an appellate court if the licence holder has appealed such a decision. The licence holder may also decide to include any other information, for example, about their personal circumstances.

The licence holder must be given 28 days to make their representation, beginning on the day the notice was issued. The licensing authority does not need to hold a hearing to consider the representations. Before deciding whether to revoke or suspend the licence the licensing authority must consider any representations made by the licence holder, any decisions made by the court or appellate court in respect of the personal licence of which the licensing authority is aware, and any other information which the licensing authority considers relevant.

The licensing authority may not be aware of whether the court considered whether to revoke or suspend the licence, and there is no obligation on the licensing authority to find this out before making a decision themselves. Where the court has considered the personal licence and decided not to take action, this does not prevent the licensing authority from deciding to take action itself. Licensing authorities have different aims to courts in that they must fulfil their statutory duty to promote the licensing objectives, and therefore it is appropriate for the licensing authority to come to its own decision about the licence.

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If the licensing authority, having considered a suspension and revocation and subsequently considered all the information made available to it, proposes not to revoke the licence it must give notice to the chief officer of police in the licensing authority's area, and invite the chief officer to make representations about whether the licence should be suspended or revoked, having regard to the prevention of crime. The chief officer may make representations within the period of 14 days from the day they receive the notice from the licensing authority.

Any representations made by the chief officer of police must be taken into account by the licensing authority in deciding whether to suspend or revoke the licence.

Convictions may come to light via police in another area, for example if the personal licence holder no longer lives in the area of the licensing authority which issued the licence, or if the offence took place in another police force area. In this instance it would be good practice for the police providing the information to notify the police force in the licensing authority area, because it is the local chief officer who must provide representations if the licensing authority proposes not to revoke the licence.

Where the licence holder is convicted of immigration offences or has been required to pay a civil penalty for immigration matters, the licensing authority should notify Home Office Immigration Enforcement and allow representations to be made in the same way.

In deciding whether to suspend or revoke a personal licence, the licensing authority will have regard to all of the circumstances including the following:

- The need to assess each case on its merits
- The duty to promote the licensing objectives
- The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
- The seriousness of the relevant offence
- The sentence or penalty imposed on the licence holder for the relevant offence
- Any representations made by the Police or Home Office Immigration Enforcement
- Any representations made by the holder of the licence
- Any evidence as to the previous character of the holder of the licence

The licensing authority must notify the licence holder and the chief officer of police of the decision made (even if the police did not make representations). The licence holder may appeal the licensing authority's decision to revoke or suspend their personal licence. A decision to revoke or suspend the licence does not take effect until the end of the period allowed for appealing the decision (21 days); or if the decision is appealed against, until the appeal is disposed of.

If the personal licence holder is a DPS, the licensing authority may notify the premises licence holder once the decision to revoke or suspend the licence has been made if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions.

The licensing authority may also notify any person who has declared an interest in the premises under section 178 of the 2003 Act if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions.

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## **Immigration Act 2016 - Entitlement to Work**

Section 36 of and Schedule 4 to the Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention of these changes is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

The statutory prevention of crime and disorder licensing objective in the Licensing Act 2003 includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The Council will work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.

Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amended the 2003 Act to provide that in England and Wales:

Premises licences to sell alcohol or provide late night refreshment and Personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;

Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end;

Immigration offences, including civil penalties, are 'relevant offences' as defined by the 2003 Act;

- The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences) and applications to transfer premises licences, and in some limited circumstances personal licence applications, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence; and

- Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.

The licensing authority will have regard to any guidance issued by the Home Office in relation to the immigration related provisions now contained in the Licensing Act 2003.

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The licensing authority will also work in partnership with the Home Office (Immigration Enforcement) and the Police with a view to preventing illegal working in premises licensed for the sale of alcohol or late night refreshment.

### **Designated Premises Supervisor (DPS)**

On premises where there is the supply or sale of alcohol, the Licensing Authority will require one of the personal licence holders to be a designated premises supervisor. The main purpose being to ensure that there is always one specified individual among the personal licence holders, who can be readily identified as having key responsibilities at the premises. Therefore it will be clear who is in charge of the day to day running of the business. Guidance issued under section 182 of the Act does not state that a designated premises supervisor must be physically on the premises at all times when there is a supply or sale of alcohol.

The premises licence will specify the name of the designated premises supervisor. It is the responsibility of the premises licence holder to notify the Licensing Authority immediately of any change of designated premises supervisor.

### **Removal of DPS requirement at Community Premises**

Instead of being required by way of a mandatory condition, to appoint an individual as a designated premises supervisor, (DPS), volunteer committees managing community premises are now allowed to take joint responsibility for the sale of alcohol in community premises. Management Committees wishing to apply for the removal of the mandatory condition requiring a DPS at community premises will need to demonstrate clearly to the Authority how they operate and that there will be appropriate supervision of all alcohol sales at different types of events.

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

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

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

### **Adult Entertainment**

An applicant wishing to provide adult entertainment should specify in the operating schedule what sort of adult entertainment they intend to provide and

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how frequently it will be provided. If sexual entertainment is to be provided, for example lap dancing, striptease etc. then a separate Sexual Entertainment Licence will also be required.

### **EMRO and Late Night Levy**

There are no current proposals to implement a late night levy or introduce an early morning restriction order, but these will be kept under review in consultation with the Police and other responsible authorities.

### **Late Night Refreshment - Local Powers to Deregulate**

Section 71 of the Deregulation Act 2015 inserted paragraph 2A into Schedule 2 of the Licensing Act 2003 in relation to the provision of late night refreshment.

This amendment created a discretionary power to licensing authorities to exempt premises in certain circumstances, from the requirement to have a licence to provide late night refreshment.

The powers allow a relevant licensing authority to exempt the supply of late night refreshment if it takes place:

- on or from premises which are wholly situated in a designated area;
- on or from premises which are of a designated description; or
- during a designated period (beginning no earlier than 23.00 and ending no later than 05.00).

The licensing authority does not currently consider it appropriate to exercise the discretionary powers within paragraph 2A of Schedule 2 to the Licensing Act 2003.

If the licensing authority was going to consider exercising the powers in the future, it would only do so having carefully considered the risks to the promotion of the licensing objectives and having carried out a comprehensive consultation exercise with relevant stakeholders.

### **Working with Partners**

The Licensing Authority recognises that licensing functions under the Licensing Act 2003 are only one means of promoting the delivery of the licensing objectives. The Licensing Authority is committed to working in partnership with a wide range of organisations, including Staffordshire Police, Fire, and Social Services Authorities, Planning Authorities, Environmental Health e.g. Tamworth Responsible Body Group, CIEH Shropshire and Staffordshire Licensing Group; Staffordshire and Stoke Responsible Body Group, Neighbourhood Authority Working Group; the Tamworth Local Strategic Partnership and Community Safety Partnership, local businesses e.g. Tamworth Licensees Forum and Destination Tamworth, local communities, performers and other organisations, to deliver these objectives.

### **Rights of Individuals**



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This policy sets out the general approach this Licensing Authority will take in making licensing decisions under the Act. It does not seek to 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.

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.

#### **4 INTEGRATING OTHER REGULATORY CONTROLS**

There are a number of other regulatory controls that may affect the Licensing Authority's licensing function. The Authority recognises that the licensing process should not duplicate powers; provisions or restrictions provided for in other legislation, and will in so far as possible avoid duplication of this kind. The Licensing Authority will be mindful of the following legislation and related strategies when executing its licensing functions under the 2003 Act:

1. The Licensing Act 2003, as amended;
2. Regulations and orders made under the Act;
3. Guidance issued by the Home Office; and
4. The principles of better regulation, particularly as set out in the Regulators' Code (BRDO 14/705 April 2014)

The following key areas have been considered during the formulation of this policy and will continue to be taken into consideration during administration and enforcement of the licensing process. However, the Licensing Authority recognises that it cannot use its powers under the Licensing Act 2003 as a mechanism for enforcing other legislation where it is more appropriate to enforce those requirements through more specific statutory provisions.

##### **Planning and Building Control**

The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. Licensing decisions will take into account any relevant planning decisions made by the Council's planning committee or made as a result of appeal and will not cut across such decisions.

Where applications relating to premises licences and club premises certificates involve material alterations to a building, the granting of any such licence/certificate will not relieve the applicant of the need to apply for planning permission or building regulation approval and refusal of either of these may be taken into consideration by the Licensing Authority when considering representations on such applications.

Where requested, the Licensing Authority will arrange for reports to be provided to the Council's planning committee on situations regarding licensed

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premises in the Borough, including the general impact of alcohol related crime and disorder, in order for that committee to have regard to such matters when considering planning decisions.

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

### **Health and Safety**

The Health and Safety at Work Act, etc. 1974 (and other relevant statutory provisions) impose duties on employers, employees and persons in control of premises to prevent where possible or minimise the risk of injury or ill health to people affected by work activities or the condition of the premises. Local authorities are the enforcing authority for the majority of premises on which licensable activities are carried on; in other cases the Health and Safety Executive is responsible.

Licensing objectives overlap with health and safety requirements in so far as foreseeable risks to public safety would be covered by the duties imposed by relevant legislation. In the majority of cases health and safety requirements will not form part of the conditions relating to premises licences and club premises certificates, as it is more appropriate to enforce those requirements through more specific statutory provisions. However when the Licensing Authority's decision making powers under the Act have been engaged following the receipt of relevant representations and where it is considered that such statutory provisions do not provide for adequate protection with regard to public safety, consideration may be given to addressing those matters through the imposition of licence/certificate conditions.

### **Fire Safety**

The licensing objective for public safety overlaps with fire safety requirements, which are enforced by the Staffordshire Fire and Rescue Service (FARS) under the Regulatory Reform (Fire Safety) Order 2005 and the Health and Safety at Work etc Act 1974, in premises where licensable activities take place in the Borough of Tamworth. In the majority of cases, therefore, fire safety requirements will not form part of the conditions relating to premises licences and club premises certificates, as it is more appropriate to enforce those requirements through more specific statutory provisions. However when the Licensing Authority's decision making powers under the Act have been engaged following the receipt of relevant representations and where it is considered that such statutory provisions do not provide for adequate protection with regard to public safety, consideration may be given to addressing those matters through the imposition of licence/certificate conditions. The Licensing Authority will not seek to impose any fire safety conditions where the Regulatory Reform (Fire Safety) Order 2005 applies.

### **Noise and Other Public Nuisance**

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The licensing objective for the prevention of public nuisance overlaps with statutory environmental health requirements for controlling statutory nuisances, including noise, which are enforced, in Tamworth Borough, by the Council under the Environmental Protection Act 1990. Powers under the Act are also available to the Police and, under the Anti Social Behaviour Act 2003, to Environmental Health Staff and authorised officers to secure the closure of licensed premises causing a public nuisance because of noise. In the majority of cases, therefore, controls to prevent statutory nuisance will not form part of the conditions relating to premises licences and club premises certificates, as it is more appropriate to enforce those requirements through more specific statutory provisions. However, when the Licensing Authority's decision making powers under the Act have been engaged following the receipt of relevant representations and where it is considered that there is the potential for noise (or other public nuisance such as that caused by light pollution, noxious smells and/or litter) and where it is considered that such statutory provisions do not provide for adequate protection with regard to public nuisance, consideration may be given to addressing those matters through the imposition of licence/certificate conditions.

### **Human Rights Act**

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with a Convention Right. When considering applications relating to licensable activities or representations on applications, the Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8 that everyone has the right to respect for their home and private life; and
- Article 1 of the first protocol that every person is entitled to the peaceful enjoyment of their possessions, including for example the possession of a licence.

### **Disability Discrimination Act**

This Act provides that any person providing a service to the public must make reasonable adjustments to enable disabled people to access the service. From October 2004 service providers are under a duty to make reasonable adjustments to any physical features which make it impossible or unreasonably difficult for disabled persons to access a service, or they have to provide the service by a reasonable alternative means. The Licensing Authority will not attach conditions to licences or certificates which conflicts with or duplicates this requirement. Applicants may wish to obtain guidance from the Building Control Section of Tamworth Borough Council as regards access to buildings and their facilities, particularly as any alterations affecting

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access may require an application for building control approval. Further advice can also be obtained from the Disability Rights Commission at [www.drc-gb.org.uk](http://www.drc-gb.org.uk)

### **Equality Act 2010**

Tamworth Borough Council has adopted an Equal Opportunities Policy and a Race Equality Scheme in which it sets out how it aims to address race equality issues in the Borough, and to have due regard to eliminate unlawful discrimination, promote equality of opportunity and good relations between different racial groups. The Licensing Authority's undertaking of its licensing functions will therefore be monitored in accordance with Tamworth Borough Council's Equal Opportunities Policy and Race Equality Scheme.

## **5 INTEGRATING OTHER STRATEGIES**

There are a number of strategic influences that may affect Tamworth Borough Council's licensing function. The following key areas have been considered during the formulation of this policy and will continue to be taken into consideration during administration and enforcement of the licensing process.

### **Corporate Vision**

Tamworth's Vision;

**Is to put Tamworth, its people and the local economy at the heart of everything we do.**

### **Community Strategy**

Tamworth Community Safety Partnership contribute to Tamworth Responsible Body Group and this is reflected in the **Tamworth Community Safety Partnership Plan 2017-2020** [www.safertamworth.org](http://www.safertamworth.org). We will consider any reports submitted to ensure that these needs are reflected in our licensing considerations.

### **Live Music, Dancing and Theatre**

The Licensing Authority is aware of the need to encourage and promote a broad range of entertainment, particularly live music and dancing and traditional theatre performances. The Licensing Authority will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children. Where there is any indication that such events are being deterred by licensing requirements, this policy statement will be reviewed to see how that situation may be reversed.

In addition the Licensing Authority will consult the National Association of Local Government Arts Officers (NALGAO) for practical help and advice in this area when required.

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To promote this policy, Tamworth Borough Council now holds its own premises licences for some public spaces within the Borough including St Editha's Square, some streets in the town centre and the Castle Pleasure Grounds. This is intended to encourage the above mentioned activities in that at these premises and venues performers and entertainers would not need to acquire a licence to perform but would only need the permission of the Council as the premises licence holder.

Furthermore, live music is no longer considered to be regulated entertainment in venues licensed for the sale of alcohol for consumption on the premises in the following situations:

- When it is unamplified and takes place between 8am and 11pm; and
- When it is amplified and takes place in the presence of an audience of 200 persons or less and is provided between 8am and 11pm.

The premises must be open for the sale of alcohol during the time that the live music is provided for the exemption(s) to take effect. Any condition attached to the Premises Licence relating to live music will cease to have effect in respect of the live music when offered between 8am and 11pm, unless such conditions have been reinstated by the Licensing Authority as part of a Review Hearing.

### **Transport**

Licensing protocols agreed between the Licensing Authority and Staffordshire Police will be established and will incorporate any procedures necessary to ensure that adequate arrangements are made in local transport plans and, where appropriate, in conditions relating to premises licences and club premises certificates for the swift and safe dispersal of people from premises and events authorised under the Act.

### **Alcohol Harm Reduction Strategy**

The Government published in (2012) its Alcohol Harm Reduction Strategy for England in this it outlined how the Licensing Act can be used to address some of the social health and crime and disorder issues raised by the misuse of alcohol, when considering applications for premises or personal licences. On occasions when the Licensing Authority's decision making powers under the Act have been engaged, i.e. - upon receipt of relevant representations, this strategy will be taken into account specifically with regard to the sale of alcohol to under 18's and the impact of lack of effective steps to tackle antisocial behaviour.

The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks, which seeks to ensure that drinks are packaged and printed in a socially responsible manner and only to those who are 18 years old or older, is commended for consideration by applicants whose proposed licensable activities involve the supply of alcohol.

### **Drug Abuse**

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The Licensing Authority would commend for consideration by applicants the strategy outlined in the Home Office Drug Strategy booklet - Safer Clubbing - Guidance for Licensing Authorities, Club Managers and Promoters.

On occasions when the Licensing Authority's decision making powers have been engaged, the Licensing Authority may impose special conditions for certain types of premises to prevent the sale and use of drugs and to create a safer environment for those who may have taken them. Conditions will take into account the Home Office "Safer Clubbing" guidelines and Annex D of the guidance issued under section 182 of the Act.

### **Director of Public Health**

Health Bodies have been responsible authorities under the Act since April 2012 and health functions are now exercised by local authorities via the Director of Public Health. Although 'health' is not a licensing objective under the Act, health bodies hold certain information which other responsible authorities do not, but which would assist the Council in carrying out its licensing functions, especially in relation to the public safety or crime and disorder objectives.

### **Rebalancing Licensing**

The Police Reform and Social Responsibility Act brought about amendments to the Licensing Act 2003. The legislative changes have been instigated by Her Majesty's Government giving a clear commitment to overhaul alcohol licensing and to tackle the crime and disorder, and associated health and social harms, associated with alcohol consumption. The changes also aimed to rebalance the 2003 Act in favour of local communities.

The majority of the new measures are in force, in particular these relate to:

- Late night levy
- Early morning restriction orders (EMROs)
- Locally set licensing fees

## **6 OPENING HOURS**

The Licensing Authority will deal with licensing hours on the merits of each individual application. The Licensing Authority will have regard to the overall impact of the licensed premises on the local amenity and any proposals the applicant might submit to mitigate such impact.

The Licensing Authority recognises that longer licensing hours, with regard to the sale of alcohol, may be an important factor in ensuring that the concentrations of customers leaving premises simultaneously are avoided. This will help reduce the potential for disorder at fast food outlets, taxi ranks and other sources of transport. It will not, therefore, seek to impose fixed trading hours within any designated area, (i.e. zoning) but will take into consideration the individual merits of each application and any representations received from responsible authorities and/or interested parties regarding those applications.

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When relevant representations have been received thus engaging the Licensing Authority's decision making functions under the Act, the Licensing Authority may, if appropriate, consider applying stricter conditions with regard to licensing hours for licensed premises situated in or immediately adjacent to residential areas to ensure that disturbance to local residents is avoided. This may particularly apply in circumstances where, having regard to the location, size and nature of the licensed premises, it is likely that disturbance will be caused to residents in the vicinity of the premises by concentrations of people leaving during normal night time sleeping periods (11:00pm – 07:00am). However, when considering applications, the Licensing Authority will consider each application on its merits and will have regard to the overall impact of the licensed premises on the local amenity and any proposals the applicant might submit to mitigate such impact.

In the absence of any relevant representations being received, the Licensing Authority will approve the application subject only to any applicable mandatory conditions and such conditions which are consistent with the applicants operating schedule.

With regard to shops, stores and supermarkets, the Licensing Authority will not seek to restrict the sales of alcohol for consumption off the premises during times when the retail outlet is open for shopping, unless representations received from any responsible authority or interested party, regarding any of the licensing objectives being compromised, are substantiated. However, limitations on operating hours may be imposed as appropriate, for example in the case of specific premises known to be a focus of disorder and disturbance late at night.

## **7 THE LICENSING OBJECTIVES**

Section 3 of this policy outlines the four licensing objectives which are paramount considerations at all times.

The following four sections of this policy ( 8, 9, 10, 11) provide further detail in respect of the four licensing objectives. The Licensing Authority recognises that applicants will know their businesses best and it is therefore for them to demonstrate how they will promote the four licensing objectives.

The Licensing Authority wishes to make it clear that where no relevant representations are received in respect of applications, the Licensing Authority will grant the application subject to any applicable mandatory conditions and such conditions which are consistent with the applicant's operating schedule. This is in line with Guidance issued by the Secretary of State under section 182 of the Act.

## **8 PREVENTION OF CRIME AND DISORDER**

Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.

Tamworth Borough Council is committed to reducing crime and disorder and improving community safety in the Borough of Tamworth.

Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Tamworth Borough Council, Staffordshire Police, Staffordshire County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities. The Licensing Authority will therefore have regard to the likely impact of licensing on related crime and disorder in the Borough, particularly when considering the location, impact, operation and management of licensable activities.

Conditions relating to premises licences and club premises certificates will, so far as is possible, reflect local crime prevention strategies and, where the Licensing Authority is satisfied, having received reports from the Tamworth Community Safety Partnership through the LSP or from Staffordshire Police, that there are serious crime prevention issues that need to be addressed in a particular area or areas of the Borough, it will consider adopting a “saturation policy”. Adoption of saturation policies is referenced in more detail in section 6 of this policy document.

The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives and in particular the prevention of crime and disorder

The Licensing Authority recommends that all licensees of licensed premises be encouraged to attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises.

The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. When addressing crime and disorder, the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the crime and disorder objective. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.

Within the operating schedule for premises from which alcohol will be sold, a premises supervisor must be designated (‘Designated Premises Supervisor’ DPS). The Licensing Authority will normally expect the DPS to have been given the day to day responsibility for running the premises by the premises licence holder, and, as such, would normally be present on the licensed premises on a regular basis.

Certain temporary events are not required to be licensed but can be notified to the Licensing Authority using the temporary event notice procedure. Depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged



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to submit their notification as soon as reasonably practicable to enable the Police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder.

### **Security Operatives**

Whenever security operatives are employed at licensed premises to carry out any security function they must be licensed by the Security Industry Authority (SIA).

Competent and professional door supervisors are key to public safety at licensed premises and the provision of door supervisors is an action point for the leisure industry to consider in the Home Office Harm Reduction Strategy.

All security operatives employed at licensed premises will be expected to display their identification as issued by the Security Industry Authority (SIA).

If a licensee directly employs security operatives he/she will need to be licensed by the SIA as a supervisor/manager.

When the Licensing Authority's decision making powers under the Act have been engaged following the receipt of relevant representations and where it is considered that such certain premises may require strict supervision for the purpose of the promotion of the licensing objectives, the Licensing Authority may impose a condition that licensed security operatives must be employed at the premises either at all times, or, at such times that certain licensable activities are taking place. However, the Authority will consider each application on its merits.

## **9 PUBLIC SAFETY**

The Act covers a wide range and variety of premises that require licences, including cinemas, concert halls theatres, nightclubs, public houses, cafes, restaurants, fast food outlets and takeaways. Each of these premises will present a mixture of risks, with many common to most premises and others unique to specific operations. It is essential that premises are constructed or adapted and maintained so as to acknowledge and safeguard occupants against these risks as far as is practicable.

There are a wide range of statutory requirements as detailed in Section 4 in this policy which are separate regulatory requirements with which applicants and employers have a duty to comply.

The licensing authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. Where an applicant identifies an issue with regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should indicate in their operating schedule the steps which will be taken to ensure public safety.

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The capacity of a premises is a legitimate public safety issue. The Licensing Authority is aware that from 1 October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. Under article 43 of the Fire Safety Order any conditions imposed by the Licensing Authority that relate to any requirements or prohibitions that are or could be imposed by the Order, automatically ceased to have effect. This means that the Licensing Authority will not seek to impose fire safety conditions or capacity limits where the Order applies.

The Licensing Authority may set an occupancy capacity following representations from the Chief Fire Officer for Stoke on Trent and Staffordshire Fire Authority, after having regard to any guidance issued by the Secretary of State if considered necessary to meet the public safety licensing objective. Each application will be considered on its merits.

The Licensing Authority would recommend that applicants refer to the documents detailed at Appendix 2 of this policy for further guidance.

## **10 PREVENTION OF PUBLIC NUISANCE**

Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. These issues mainly relate to noise nuisance, light pollution and noxious odours. However this will depend on the individual circumstances of any premises 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.

The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

There are a number of statutory controls available to deal with nuisance issues as outlined in Section 4.

When addressing public nuisance the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.

Applicants need to be clear that where relevant representations have been received, the Licensing Authority may apply stricter conditions, including controls on noise and operating hours, where licensed premises are in residential areas.

## **11 PROTECTION OF CHILDREN FROM HARM**

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The protection of children from harm is an extremely important issue and is one of the statutory licensing objectives. It is the Licensing Authority's wish that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.

The Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice.

It is also an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5:00am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or temporary event notice.

Otherwise, the Act does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity at those venues. However this does not mean that children should automatically be allowed access to such premises.

The Licensing Authority will enforce the requirements of the Act restricting access by children to premises and events licensed or authorised under the Act. It will not, however, seek to limit such access through the imposition of conditions (other than those statutorily required of it), 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.

The Licensing Authority recognises Staffordshire County Council through its Safe Guarding Children's Board or any successor Board or Directorate charged with the responsibility for or interest in matters relating to the protection of children from harm and the Staffordshire Police as the responsible authorities for advising the Licensing Authority in matters relating to the protection of children from harm and competent to advise it on such matters.

When addressing the protection of children, the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to cause concern in relation to children. Such steps as are required to deal with these identified concerns should be included within the applicant's operating schedule.

When considering applications and deciding whether to limit access of children to premises, the Licensing Authority will judge each application on its own merits.

However the Licensing Authority will have particular regard to premises where there is substantial evidence that:

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- Entertainment or services of an adult or sexual nature are commonly provided such as topless bar staff, striptease, lap-, table- or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language
- 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;
- there is a known association with drug taking or dealing;
- there is a known association with prostitution;
- 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); and
- the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided.

Where concerns have been identified in respect of individual premises, and it is felt that the access of children should be restricted the Licensing Authority may consider the following options:

- Limiting the hours when children may be present;
- age limitations (below 18);
- limiting or prohibiting access when certain activities are taking place;
- fully excluding persons under the age of 18 from the premises when certain licensable activities are taking place;
- limitations on access to certain parts of the premises for persons under 18;
- permitting access only when accompanied by an adult.

The above list is not exhaustive and the alternatives may be adopted in combination.

Applicants applying for premises licences and club premises certificates may also volunteer such prohibitions and restrictions in their operating schedules where their risk assessments have determined the presence of children is undesirable or inappropriate.

Where no relevant representations are made to the Licensing Authority, these volunteered prohibitions and restrictions will become conditions attached to the licence or certificate and will be enforceable as such. No other conditions concerning the presence of children on premises may be imposed by the Licensing Authority in these circumstances.

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 alcoholic drinks are only marketed to those 18

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years and older. The Licensing Authority commends the adoption of this Code by all relevant parties.

The Licensing Authority 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), or in specific cases the Licensing Authority itself. The Licensing Authority will expect 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.

When considering any application, the Licensing Authority will take into account any evidence that age restrictions for cinema exhibitions are not being properly observed.

Where representations are received from a responsible authority regarding regulated entertainment attended by children, the Licensing Authority will consider imposing conditions requiring the presence of adult staff for the purposes of controlling access and egress from the premises and for the protection of children from harm. The numbers of adults required will be determined through consultation with the appropriate responsible authorities defined in Section 13(4) and Section 69(4) of the Act; i.e., Staffordshire County Council through its Safe Guarding Children's Board or any successor Board or Directorate and the Chief Fire officer for Stoke on Trent and Staffordshire Fire Authority.

The Licensing Authority 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 licence/certificate holder.

### **Illegal Sales of Age Restricted Goods.**

The Licensing Authority recognises the important work carried out by Staffordshire County Council Trading Standards and Staffordshire Police in this field. The Licensing Authority, Staffordshire County Council Trading Standards and the Police take a very serious view of the illegal sale of alcohol and other age restricted goods and the Licensing Authority will work closely with Trading Standards and the Police to seek to ensure that illegal sales of alcohol and other age restricted goods are reduced and ultimately eradicated.

The sale of alcohol to minors (under 18 years of age) is a criminal offence and Trading Standards has, over time, worked to advise the off-licence trade on how to set up systems to avoid sales taking place. Trading Standards will continue to regularly conduct covert test purchasing exercises with volunteers in response to complaints and local intelligence. Trading Standards have been successful in bringing a number of prosecutions recently; having

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particular regard to the link between alcohol and crime and disorder issues, and this continues to be a concern of Staffordshire County Council under the Licensing Act 2003.

Staffordshire Trading Standards have issued guidance that applicants may wish to consider in respect of underage age sale of alcohol and other age restricted goods. Copies of this guidance can be obtained from Staffordshire Trading Standards or from the Licensing Authority.

**Guidelines to be followed by the Licensing Committee when dealing with a review application following under age sales of alcohol**

The Act provides the Council with a wide range of powers to be used when determining a review application. There are a number of steps which the Committee can take in order to promote the licensing objectives, as follows:

- a. modify the conditions of licence
- b. exclude a licensable activity from the scope of the licence
- c. remove the designated premises supervisor
- d. suspend the licence for a period of up to 3 months
- e. revoke the licence

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When deciding which steps are appropriate, each case will be judged on its own merits but, the Committee will consider taking tougher steps in cases where, for example: an underage sale of alcohol has been made and there are related issues involving the use of counterfeit or illicit alcohol from the same premises, or the premises have already been before the Committee previously for an underage sale and conditions were imposed at that time.

Where a premises licence has been revoked by the Committee or one of its panels, the Authority will not normally grant an application for a new premises licence within 12 months of the date of the revocation, where there has been an objection to the application, when they are not satisfied that the management structure of the premises is not related to the management involved in the revoked licence and when one or more of the licensing objectives is undermined by such a circumstance. However, each application is to be considered on its own merits and this part of the policy does not fetter the discretion of the Committee and Panels. The Authority must carry out its functions with a view to promoting the licensing objectives. Any action taken by the Committee or Panel should be an appropriate and proportionate response.

Nothing within this policy removes the discretion or judgement from the Committee or Panel when considering a review of a licence and each application and representation will be considered on its own merits. If the Committee or Panel depart from this policy or the guidance, reasons will be given.

## **12 ENFORCEMENT**

The Licensing Authority has established good working relationships with the Police and other enforcing authorities. These arrangements provide for the targeting of agreed problem high risk premises, but with a lighter touch being applied to those premises which are shown to be well managed and maintained. The Licensing Authority will incorporate the Hampton principles of inspection and enforcement into these activities. Consideration will also be given to any relevant codes of practice issued by the Better Regulation Delivery Office (BDRO).

It is intended that in general, action will only be taken in accordance with agreed enforcement principles and in line with the Licensing Authority's own enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

## **13 THE LICENSING PROCESS AND DELEGATION OF FUNCTIONS**

The Licensing Authority's licensing functions will be discharged by the licensing committee. To facilitate the processing of applications made under the Act and in the interests of speed, efficiency and cost effectiveness, the

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Licensing Authority's licensing committee will delegate those functions to sub committees, each of which will comprise three members of the licensing committee.

Many of the licensing committee's decisions will be purely administrative and, where under the provisions of the Act, there are no relevant representations on an application for the grant of a premises licence or club premises certificate or police objections to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters will be delegated to officers of the Licensing Authority who are responsible for the administration and enforcement of the Act.

The Licensing Authority's licensing committee will receive regular reports on decisions made by officers and its sub committee so that it maintains an overview of the general licensing situation in the Borough.

Applications will be determined in accordance with the following delegation criteria:

Function	Full Committee	Sub Committee	Officers
Application for personal licence		Where an objection has been received from the Police or Home Office	Where no objection received
Decision whether to suspend or revoke a personal licence		All cases	
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate	<ul style="list-style-type: none"> <li>Where objection relates to cumulative impact</li> <li>Where application falls within paragraph 14.5 below</li> </ul>	Where "relevant representation" has been made	Where no "relevant representation" made or all representations made are withdrawn



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Application for provisional statement	<ul style="list-style-type: none"> <li>• Where objection relates to cumulative impact</li> <li>• Where application falls within paragraph 14.5 below</li> </ul>	Where “relevant representation” has been made	Where no “relevant representation” made <b>or all representations made are withdrawn</b>
Application to vary a premise licence/club premises certificate	<ul style="list-style-type: none"> <li>• Where objection relates to cumulative impact</li> <li>• Where application falls within paragraph 14.5 below</li> </ul>	Where “relevant representation” has been made	Where no “relevant representation” made <b>or all representations made are withdrawn</b>
Application to vary designated premise Supervisor		Where an objection has been received from the Police	<b>Where no objection has been received</b>
<b>Application for the mandatory alcohol condition under the Licensing Act 2003 requiring a Designated Premises Supervisor in respect of a premises licence to be disapplied</b>		<b>If a police representation is made</b>	<b>All other cases</b>
<b>Decision whether to consult other responsible authorities on minor variation application</b>			<b>All cases</b>
<b>Determination of minor variation application</b>			<b>All cases</b>
Application for		Where an	All other cases

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transfer of premise licence		objection has been received from the Police or Home Office	
Applications for interim authority notices		Where an objection has been received from the Police or Home Office	All other cases
Application to review premise licence/club premises certificate		All cases	
Decision on whether a complaint or objection 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	
Acknowledgement of receipt of a temporary event notice			All cases
Determination of a Police or environmental health representation to a temporary event notice		All cases	
Decision to suspend a licence or certificate for non-payment of the annual fee			All cases

Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.

Where a councillor who is a member of the licensing committee or a licensing sub committee has had a direct or indirect involvement in the affairs of an application before them, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the premises licence in question.

The Licensing Authority's nominated officers will deal with all licence applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

Entitlements to appeal for parties aggrieved by decisions of the Licensing Authority are set out in Schedule 5 of the 2003 Act. Other than in the case of personal licences, an appeal has to be made to the magistrates' court. In which the premises concerned is situated. In the case of personal licences, the appeal must be made to the magistrates' court for the area in which the licensing authority (or any part of it) which made the decision is situated.

#### **14 EQUAL OPPORTUNITIES**

The Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relation, between persons with different protected characteristics, for example age, disability, race and religion.

Tamworth Borough Council has a Statement of Intent for Equality and Diversity which requires that services are provided that embrace diversity, promote equality of opportunity and access. The statement can be found at <http://www.tamworth.gov.uk/equality-and-diversity>

#### **15 FURTHER INFORMATION**

Further information about the Licensing Act 2003 and the Licensing Authority's licensing policy can be obtained from:

Environment, Health and Regulatory Services  
Tamworth Borough Council  
Marmion House  
Lichfield Street  
Tamworth  
Staffordshire  
B79 7BZ

Telephone (01827) 709445

Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.

E-mail [publicprotection@tamworth.gov.uk](mailto:publicprotection@tamworth.gov.uk)

This policy is available on the Council's web-site [www.tamworth.gov.uk](http://www.tamworth.gov.uk)

## APPENDIX 1

### Definitions

The following definitions are included to provide an explanation of certain terms included in the Act and therefore in this policy. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

### Appeals

Appeals against decisions of the licensing authority are to the magistrates' court for the area in which the premises are situated. The appeal must be lodged within 21 days of being notified of the Council's decision. On appeal a magistrates' court may, dismiss the appeal; substitute its own decision; remit the case to the licensing authority with directions; and make an order for costs.

### Authorised Persons

"Authorised Persons" are specified people who have statutory duties in relation to the inspection of premises, e.g. licensing officers, police, fire, health & safety, environmental health officers.

### Interested Parties

"Interested Parties" are persons living in the vicinity of the premises; a body representing such persons; a person involved in business in the vicinity; or a body representing businesses in the vicinity.

### Responsible Authorities

"Responsible Authorities" include the police, fire, enforcing authority for health and safety, planning authority, environmental health, bodies responsible for child protection and other specified authorities. Only these groups can make representations about an application for a premises licence.

### Closure Order

New powers for the police and courts to close premises. The 2003 Act significantly extends the existing powers of the police to seek court orders in a

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geographical area that is experiencing or likely to experience disorder or to close down instantly individual licensed premises that are disorderly, likely to become disorderly or are causing noise nuisance.

### **Club Premises Certificate**

A certificate which licences a qualifying club for the sale/supply of alcohol. It can be granted to members clubs which comply with specific conditions e.g. membership rules, run by club committees, profits go to members not an owner etc club premises certificates replace registration under the Licensing Act 1964. The law for members clubs has changed relatively little under the 2003 Act. There is no time limit on the duration of the certificate but it may be withdrawn, surrendered or suspended.

### **Conditions**

A premises licence may be granted subject to different conditions, and these may be in respect of different parts of the premises and different licensable activities. There is no power to impose conditions on a personal licence. Secretary of State's guidance provides "The only conditions which should be imposed on a premises licence or club premises certificate are those which are necessary for the promotion of the licensing objectives. Accordingly, if the existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties on the premises licence holder". Conditions must be proportional and tailored to size, style, characteristics and activities taking place at the premises concerned.

### **Designated Premises Supervisor**

The person in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the premises licence or will be the premises licence holder themselves (who must also be a personal licence holder).

### **Interim Authority Notices**

Where a premises licence lapses due to death, incapacity or insolvency etc of the holder, specified persons can within 7 days serve an interim authority notice on the Licensing Authority. This revives the licence, subject to Police objection, for a period of up to 2 months so the premises can continue trading. This is the equivalent to "interim authorities" and "protection orders" under the Licensing Act 1964.

### **Late Night Refreshment**

Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.

The supply of hot food and/or drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00pm and 5.00am.

### **Licensable Activities**

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club, or to the order of a member of the club;
- the provision of regulated entertainment;
- the provision of late night refreshment.

### **Licensing Authority**

Tamworth Borough Council

### ***Licensing Objectives***

The objectives of licensing set out in the Act:

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

The Licensing Authority must carry out its functions under the Act with a view to promoting the licensing objectives.

### **Licensed Premises**

Includes club premises and events unless the context otherwise requires.

### **Mandatory Conditions**

Conditions that the Act requires are imposed on a premises licence, club premises certificate or personal licence.

### **Objection Notice**

Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.

A procedure whereby the police can object to the grant of a personal licence on the grounds where having regard to convictions of the applicant for relevant offences, the grant would undermine the crime prevention objective.

### **Operating Schedule**

A document containing a statement of the following matters (and any others that may be prescribed):

- Steps taken by the licence holder to tackle the four licensing objectives;
- the licensable activities to be conducted on the premises;
- the times during which the licensable activities are to take place and any other times when premises are open to the public;
- where the licence is required only for a limited period, that period;
- where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor.

### **Personal Licence**

A licence granted to an individual and authorises that person to supply alcohol or authorise the supply of alcohol in accordance with a premises licence. The licence lasts for 10 years and can be renewed. It ceases to have effect when revoked, forfeited, surrendered or suspended. A personal licence holder is not required where the premises concerned does not supply alcohol as one of its licensable activities. A personal licence holder is also not required for the supply of alcohol in a club which holds a club premises certificate. Only the Police can object to the grant of a personal licence (there is no equivalent to relevant representations as for premises licences).

### **Premises Licence**

A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities, has effect until revoked, surrendered or on the death, insolvency etc of the holder. Applications are dealt with by the local authority licensing committee in the area where the premises are situated.

### **Provisional Statement**

A procedure by which the Licensing Authority can give a statement approving for licensing purposes proposals for a premises being built or in the course of being constructed. Equivalent to a “provisional grant” under the Licensing Act 1964. Where a provisional statement is made, subject to limited exceptions, the full licence must normally be granted once the premises are completed.

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## **Qualifying Club**

Club premises certificates will be issued to qualifying clubs formerly registered members clubs. To be eligible for a club premises certificate the club/organisation members must have joined together for a particular social, sporting or political purpose and then have combined to purchase alcohol in bulk as members of the organisation for supply to members and their guests. Qualifying conditions are specified in section 61 of the Act and the Council must be satisfied that these conditions have been met, including evidence to support that the club is non profit making and that there is a minimum of 48 hours delay between application and acceptance of new members. The club must be established and conducted in 'good faith' (this involves consideration of details such as club finances).

## **Regulated Entertainment**

- A performance of a film;
- an exhibition of a film;
- an indoor sporting event;
- a boxing or wrestling entertainment;
- a performance of live music;
- any playing of recorded music;
- a performance of dance;
- entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance;
- (or entertainment of a similar description falling within the last three of the categories listed above), where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

## **Relevant Offences**

Relevant offences are set out in Schedule 4 to the 2003 Act.

## **Relevant Representations**

The 2003 Act does not use the term “objections”. Instead authorised persons, interested parties and responsible authorities may be able to make relevant representations about an application for a licence. Representations must



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relate to the licensing objectives and where made by an interested party must not be frivolous or vexatious. When considering an application from an interested party or responsible authority the local authority need only consider relevant representations. The making of relevant representations engages the licensing authorities discretion to take “steps” consistent with the licensing objectives when considering the application.

### **Review of Licence**

Where a premises licence is in force an interested party or responsible authority may apply to the Council for it to be reviewed. The Council must hold a hearing to review the licence and as a result must take any necessary steps to promote the licensing objectives, such as modification of conditions; exclusion of licensable activities; removal of the premises supervisor; suspension of the licence for up to 3 months; or the revocation of the licence.

### **Responsible Authority**

- the Chief Officer of Police in the area where the premises are situated;
- the Fire Authority in the area where the premises area situated;
- the enforcing authority for Health and Safety at Work.
- the Local Planning Authority;
- the local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health;
- the body representing matters relating to the protection of children from harm;
- in relation to a vessel, a navigation authority, the Environment Agency, or the British Waterways Board.

### **Statement of Licensing Policy**

Each licensing authority must every 5 years determine and publish a statement of licensing policy. There is a requirement to consult on the policy and keep it under review.

### **Supervisor**

Responsible for supervision of the premises e.g. the day to day manager. Any premises where alcohol is supplied as a licensable activity must have a designated premises supervisor.

### **Temporary Event Notice**

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A permitted temporary activity involving one or more licensable activities subject to the following various conditions and limitations:

- Duration – they are limited to events lasting for up to 96 hours;
- Scale – they cannot involve the presence of more than 499 people at any one time;
- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used;
- The number of notices given by one individual within a given period of time – a personal licence holder is limited to 50 notices in 1 year, and any other person to 5 notices in a similar period;
- (If these conditions are not fulfilled, the temporary event would require a premises licence if it were currently unlicensed for the activity involved).

### **Transfer**

A procedure where an application can be made to transfer the premises licence into a new name e.g. if a premises licence holder sells his premises an application may be made to transfer the premises licence to the new owner.

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## APPENDIX 2

### List of Publications That Provide Guidance When Considering Public Safety

Annex D of the Statutory Guidance issued under section 182 of the Licensing Act 2003 includes a list of publications that provide guidance on public safety matters. The Guidance recommends that in addition, to considering the points made in Annex D, those preparing operating schedules or club operating schedules, licensing authorities and responsible authorities should consider the following:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance (2002) 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, reprinted 2002) (“The Purple Book”) (HSG 195) ISBN 0 7176 2453 6;
- Managing Crowds Safely: guide for organisers at events and venues (HSE 2000) (HSG 154) ISBN 0 7176 1834 X;
- 5 Steps to Risk Assessment: Case Studies (HSE 1998, reprinted 2002) (HSG 183) ISBN 07176 15804;
- The Guide to Safety at Sports Grounds 4<sup>th</sup> revised edition The Department of National Heritage (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.uk/publications./index.php](http://www.streetartsnetwork.org.uk/publications./index.php)
- The London District Surveyors Association’s “Technical Standards for Places of Public Entertainment” (2001) ISBN 0 9531229 2 1.

The following British Standards should also be considered:

- BS 5588-6:1991 Fire precautions in the design, construction and use of buildings. Code of practice for places of assembly
- BS 5588-9:1999 Fire precautions in the design, construction and use of buildings. Code of practice for ventilation and air conditioning ductwork
- BS 5588-8:1999 Fire precautions in the design, construction and use of buildings. Code of practice for means of escape for disabled people

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- BS 5839 (fire detection, fire alarm systems and buildings)
- BIP 2081:2006 A Guide to Emergency Lighting ISBN 0580 47755

However, in consulting these texts, those creating operating schedules or club operating schedules, licensing authorities and responsible authorities should note that under no circumstances should any conditions be regarded as standard for all premises.

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## APPENDIX 3

### **TAMWORTH BOROUGH COUNCIL CUMULATIVE IMPACT ASSESSMENT**

The Licensing Authority, when publishing its licensing policy, is required to have regard to the Cumulative Impact Assessment contained in the following pages.

The statements within the policy are aimed at encouraging best practice; a safe environment and to actively promote the four licensing objectives.

The Licensing Authority is also required to publish, within the licensing policy, a summary of the Cumulative Impact Assessment. However, by including the justification for the Cumulative Impact Assessment and supporting evidence within the licensing policy document, it is considered that this would make a summary unnecessary and would duplicate the information provided in the pages that follow.

#### **Cumulative Impact Assessments – Background**

The concept of Cumulative Impact has been described within the Secretary of State's Guidance (section 182) since the Licensing Act 2003 came into force. It has been part of the Council's licensing policy since May 2005.

Cumulative impact is defined as the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. In some areas where the number and type or density of licensed premises, such as those selling alcohol or providing late night refreshment is high, serious problems of nuisance and disorder may arise outside or some distance from those premises

Such problems generally occur when large numbers of drinkers are concentrated in one area at peak times when queuing for transport or food. These can attract criminal activity such as drug dealing or street robbery. The effect of this type of concentration of people can also place increased pressure on local transport and public services resulting in littering and public nuisance.

The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement and when determining applications under the Act.

The Policing and Crime Act 2017 amended the Licensing Act 2003 to place 'Cumulative Impact Assessments' on a statutory footing by introducing paragraph 5A of the Licensing Act.

Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.

### **Reasons for the Cumulative Impact assessment**

One of the Council's key objectives is to seek a reduction in crime and disorder throughout the Borough, consistent with its statutory duty under section 17 of the Crime & Disorder Act 1998, and an improvement in local amenity through the reduction of antisocial behaviour.

The Licensing Authority is aware of the potential link between an increase in licensed premises within the town centre and the rise in the number of violent crimes, and antisocial behaviour.

The cumulative impact of people dispersing from an area can also disturb nearby residents

The Licensing Authority is mindful of the need to safeguard users of the late night economy, in relation to crime and disorder but also from alcohol harm. It recognises its responsibilities to protect children from harm and to promote public safety. The concentration of licensed premises, whose primary function is the consumption of alcohol can increase the vulnerability of people and result in alcohol harm.

The authority recognises that the impact of longer hours can be a factor as well as the density of the premises, and this issue will be given due consideration in any decision.

### **Town Centre Cumulative Impact Area – General Principles**

A cumulative impact assessment may be published by a Licensing Authority to help it limit the number of applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. Cumulative impact relates to applications for new premises and club premises licences and variations of existing licences.

A cumulative impact assessment must include a statement stating that the licensing authority considers that the number of premises in the identified area is causing a cumulative impact. The statement must encompass that if a special policy relating to cumulative impact is not put in place then it will impact on the ability of the authority to uphold the licensing objectives. The cumulative impact once identified must relate to licensable activities.

The publication of a cumulative impact assessment does not remove the Licensing Authority's discretion to grant applications for new licences or applications to vary, where the authority considers this to be appropriate to the individual circumstances of the case.

Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.

This proposed Cumulative Impact Assessment will therefore be published under these new provisions of the Licensing Act 2003. The assessment will be reviewed every three years from the date it comes into force, consulting the persons outlined in Section 5 of the Licensing Act 2003.

The Town Centre Cumulative Impact area has been subject to a Cumulative Impact Policy as part of the Council's Licensing Policy since May 2005. There are no changes to the area within this assessment.

This assessment applies to the following roads

- 1) Lower Gungate, from its junction with Albert Road and Aldergate to its junction with Colehill.
- 2) Spinning School Lane, from its junction with Lower Gungate to its junction with Marmion Street.
- 3) Colehill, from its junction with Lower Gungate and Church Street, to its junction with Bolebridge Street and George Street.
- 4) Bolebridge Street from its junction with Colehill, George Street up to its junction with the first traffic island (Mill Lane / Anker Drive island).
- 5) George Street, from its junction with Colehill, Bolebridge Street to its junction with Market Place and Market Street.
- 6) Market Street, from its junction with George Street, Middle Entry to its junction with Silver Street and Holloway.
- 7) Silver Street, from its junction at the entrance into Market Street up to the traffic lights at junction between Aldergate, Church Street and Lichfield Street.
- 8) Church Street, from its junction at the traffic lights in Silver Street, Lichfield Street, Aldergate, up to its junction with Colehill.
- 9) Aldergate, from its junction at the traffic lights with Lichfield Street, Church Street and Silver Street up to its junction with Lower Gungate, Hospital Street, Upper Gungate and Albert Road.
- 10) All other roads, streets and areas enclosed within the area bounded by the above streets, to include College Lane, Middle Entry, Market Place, King Street, Corporation Street, St Editha's Square, St Editha's Close, Church Lane, Little Church Lane and Lower Gungate Precinct.

Where a boundary line follows a street or road, addresses on both sides of the street or road are deemed to be within the cumulative impact area.

Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.

A map showing the Cumulative Impact area is attached at page 52.

The area that is covered by the Cumulative Impact Assessment as detailed above, occupies 8.9 hectares which is 0.28% of the total area of the Borough of Tamworth.

The number of licensed premises within the Cumulative Impact Area is 58 which is 27% of the total number of licensed premises within the Borough. 48 out of those 58 premises are licensed to sell alcohol.

There are 50 premises open past 23:00hours in the Town Centre Cumulative Impact Area of which 40 are licensed to sell alcohol. Furthermore 12 of the premises licensed to sell alcohol in the Cumulative Impact Area are permitted to be open after 02:00am on certain days of the week.

At the present time the numbers and types of premises within the Cumulative Impact Area are as follows:

Night Clubs and public houses = 22

Restaurants – 14

Hotels – 2

Takeaways – 10

Off sales only = 4

Clubs – 1

Cinemas and theatre type premises = 2

Others (including open spaces having the benefit of a premises licence, hair dressing salons, bingo premises) = 4

This assessment will apply to all applications for grant of a new premises licence/club premises certificate or the variation of an existing premises licence or club premises certificate to for example increase the hours for licensable activities or increase the capacity or any other matter that may add to the cumulative impact in the cumulative impact area.

### **Evidence received to date in respect of the Cumulative Impact Assessment and to support the retention of the Special Town Centre Cumulative Impact Policy**

As part of this consultation process, Staffordshire Police have submitted updated evidence relating to levels of crime and antisocial behaviour (ASB) and rowdy and inconsiderate behaviour in the town centre. The evidence is available on request and a summary of the key points is included on page 53..

This evidence details current levels of crime and disorder within the town centre and the types of offences - which include violent offences - which are being committed in the area.

At the conclusion of their submission in support of the Town Centre Cumulative Impact Policy, Staffordshire Police make the following statement:



Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.

**“We cannot stress enough, based on the above, the importance of maintaining the Cumulative Impact Zone/Area”.**

The current Statement of Licensing Policy 2015 – 2020 contains a special policy relating to Cumulative Impact covering the town centre area of the Borough. The Licensing Authority considers that in the Cumulative Impact Area, the number of premises licences and/or club premises certificates are such that it is likely that granting further licences or variations to existing relevant authorisations would be inconsistent with its duty to promote the licensing objectives.

Therefore, the Licensing Authority will seriously consider the above evidence, along with any other comments that are received during this consultation period relating to the Cumulative Impact Assessment and the Town Centre Cumulative Impact policy.

### **The effect of the Cumulative Impact Assessment and adopting a special cumulative impact policy**

The effect of adopting a special policy is to create a rebuttable presumption that applications for new premises licenses or club premises certificates or material variations will normally be refused, if relevant representations about cumulative impact on the licensing objectives are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced.

It is for the applicant to consider, within their operating schedule, the potential cumulative impact and to demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives.

The contents of the Cumulative Impact Assessment does not change the fundamental ways that decisions are made under the 2003 Act. The Authority will make all decisions on applications within the Town Centre Cumulative Impact Area on a case by case basis with a view on how best to promote the licensing objectives. It also does not remove the requirement for a relevant representation to be submitted by a responsible authority or a member of the public (defined as ‘any other person’ within the Act) against an application for it to be considered by the Licensing Sub-Committee. An application that does not receive relevant representations is deemed granted under the Act.

As part of this policy, the licensing committee will not consider whether or not there is a need for any particular type of premises (as this is largely a matter for the local planning authority) but it will consider the cumulative impact that an application for grant of a new licence/club premises certificate or the variation of an existing premises licence or club premises certificate would have on the special cumulative area.

**The Town Centre Cumulative Impact Policy will not be used to justify:**

Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.

- Revocation of existing licences or certificates;
- rejecting applications to vary an existing licence/certificate, except where those modifications are directly relevant to the policy and the rejection is strictly necessary for the promotion of the licensing objectives;
- provisions for terminal hours of operation;
- imposing quotas on the number or capacity of premises that restrict the consideration of any application on its individual merits, or, impose limits on trading hours in particular areas.

### **Exceptions to the Special Cumulative Impact Policy**

In general, the Licensing Authority wants to encourage “family friendly” entertainment in the town centre and discourage antisocial behaviour especially that associated with excessive alcohol consumption.

Even in the light of valid representations, acceptable grounds for exceptions to be considered may include:

- 1) The applicant can demonstrate that the premises will not be used primarily for the consumption of alcohol or as a hot food takeaway premises. This may be evidenced by the general nature of the business activity, e.g. restaurant or other considerations such as the proportion of the floor space available for other activities that do not involve alcohol consumption and / or
- 2) The applicant can demonstrate that the general age profile of customers will be 25+ and / or family groups. The committee may consider evidence such as marketing plans showing examples of advertising and promotions.

In any case where an applicant wishes an exception to be considered, the responsibility is with the applicant to show why an exception should be considered, not on the committee to demonstrate why an exception should not be made.

If an exception is made to this special policy relating to cumulative impact, applicants must fulfil the other requirements to be granted a premises licence or club premises certificate.

Where the Licensing Authority’s discretion is engaged, grounds that will not be considered as an exception to the policy include:

- 1) That the building design will be of a high standard. It is assumed that all applicants will want to ensure the highest design standards possible.

Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.

- 2) That the applicant is of good character. It is a legal requirement that premises selling alcohol must be under the management of a designated premises supervisor, who must themselves hold a personal licence to sell alcohol.
- 3) The premises are small. A small business can still contribute to crime, disorder and nuisance suffered by interested parties in the vicinity of the special policy area.

### **Other Methods of Controlling Cumulative Impact**

There are, however, other mechanisms, both within and outside the licensing system, that are available for addressing the potential effects of cumulative impact in areas. These include:

- planning controls;
- positive measures to create a safe and clean environment in partnership with local businesses, transport operators and other service units of the Council;
- provision of CCTV surveillance, sufficient taxi facilities, public conveniences open late at night, street cleaning and litter patrols;
- designation of parts of the Borough as places where alcohol may not be consumed publicly;
- confiscation of alcohol from adults and children in designated areas;
- Police enforcement of the general law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices;
- prosecution of personal licence holders or members of staff at licensed/certificated premises that are selling alcohol to people who are drunk;
- Police powers to close down instantly, for up to 24 hours, any licensed/certificated premises or temporary event on grounds of disorder, the likelihood of disorder, or, noise emanating from the premises causing a nuisance;
- powers of local authority environmental health officers to close premises, for up to 24 hours, where noise is causing a public nuisance;

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- local authority, fire authority and Health and Safety Executive powers to prohibit activities including the use of premises or parts of premises, where there is a risk of serious personal injury;
- the right of responsible authorities or interested parties, to seek reviews of premises licences and club premises certificates.

- **Early Morning Restriction Orders**

- **Late Night Levy**

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## Cumulative Impact Area



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Assistant Director (Environmental Management)  
Tamworth Borough Council  
Marmion House  
Lichfield Street  
Tamworth  
Staffordshire

Tel: 01827 709445  
Fax: 01827 709434

environmentalprotection@tamworth.gov.uk  
www.tamworth.gov.uk

Department:	EM_PP_cj
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27:01:05	Scale: 1:3000



Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.

## **Cumulative Impact Assessment Evidence**

The Policing and Crime Act 2017 amended the Licensing Act 2003 to place 'Cumulative Impact Assessments' on a statutory footing by introducing paragraph 5A of the Licensing Act.

The Town Centre area has been subject to a Cumulative Impact Policy as part of the Council's Licensing Policy since May 2005. There have been no changes made to the area within this assessment.

The evidence in support of the Cumulative Impact Assessment and a request to retain the special policy relating to Cumulative Impact in the town centre is contained in the consultation submission and comments made by Staffordshire Police Licensing Department. Their submission gives the key findings from the Police information records using data from recorded incidents and figures based on year to date (05 05 2019). This information is available on request.

### **Key points:**

- There has been a 3% decrease in Town Centre ASB in the last 12 months compared to the previous 12 months.
- Rowdy and inconsiderate behaviour is the most prevalent type. 16% of ASB calls in the town centre are marked as Alcohol related (this figure may be higher dependent on recording accuracy) compared with Tamworth as a whole which sits at 5%.
- The majority of ASB incidents occur in the afternoon to the evening and into the early hours at the weekend (shown in the heat map below). This pattern is enhanced with clear alcohol related incidents.
- There has been a 2% increase in 'Town Centre' Public Space Violence (PSV) in the last 12 months compared to the previous 12 months.
- The highest levels of PSV are (on average) committed between 0000hrs and 0100hrs on Friday nights and 2300hrs and 0400hrs on Saturday nights. This has a direct correlation with the Tamworth night-time economy and also ASB.
- Public order offences have decreased, as has more serious violent crime.
- Less serious violent crime with injury, personal robbery and other violence against the person have increased.

Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.

- The highest repeat locations for PSV include licensed premises on Lower Gungate, Bolebridge Street, and Spinning School Lane all of which are within the hub of the night time economy.

At the conclusion of their submission in support of the Town Centre Cumulative Impact Policy, Staffordshire Police make the following statement: “We cannot stress enough, based on the above, the importance of maintaining the Cumulative Impact Zone/Area”.

DRAFT

Please note that the proposed changes to the current policy (2015 – 2020) are in red text in this draft consultation document.

## APPENDIX 4

### 1.14 Nudity Striptease and Other Entertainment of an Adult or Sexual Nature

1) This part of the policy statement details the approach of the Licensing Authority to entertainment involving nudity, striptease or other entertainment of an adult nature and applies to applications relating to:

- new premises licence;
- new club premises certificate;
- variation of a converted premises licence;
- variation of an existing premises licence;
- variation of a converted club registration certificate;
- variation of an existing club premises certificate; and
- a provisional statement.

**In which entertainment involving nudity, striptease or other entertainment of an adult nature is proposed.**

2) This part of the policy also applies to reviews.

#### The Policy

- 3) On the 2<sup>nd</sup> of June 2010 the Council's Cabinet adopted the new powers under section 27 of the Policing and Crime Act 2009 regarding the regulation of Sexual Entertainment Venues including lap dancing.
- 4) The Council is aware of the Indecent Displays Act 1981 and other legislation covering indecency and obscenity, and notes the Secretary of State's Guidance (para. 2.17) in not seeking to use the Licensing Act 2003 or the police and crime act to go beyond these other legislative controls.