

# **Statement of Licensing Policy**

**2011 -2014**

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## **TAMWORTH BOROUGH COUNCIL**

### **LICENSING ACT 2003**

#### **STATEMENT OF LICENSING POLICY 2011 - 2014**

##### **1.0 INTRODUCTION**

- 1.1** 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.
- 1.2** 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.
- 1.3** Tamworth's resident population of around 74,500 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. (Source – Census 2001, ONS)
- 1.4** 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.

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

- 2.1** 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).
- 2.2** 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;
- the provision of regulated entertainment to the public, club members or with a view to profit;
- the provision of late night refreshment.

### **2.3 Regulated Entertainment**

**2.4** 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.

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

### **2.6 Late Night Refreshment**

2.7 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.

2.8 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.

2.9 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. (June 2007)

## 2.10 Consultation

2.11 Section 5 of the Act requires that the licensing authority prepares and publishes a statement of its licensing policy every 3 years. The revised statement of licensing policy must be published by 7 January 2011 to enable the Licensing Authority to continue to exercise its licensing functions under the Act.

2.12 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.

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

- Staffordshire County Council – Department of Social Care and Health;
- The Tamworth Community Safety Partnership;

- Local Accident and Emergency Departments;
  - Bodies representing consumers;
  - Officers within the Borough Council responsible for Planning, Regeneration, Tourism, Cultural Strategy, Transport, Health and Safety, Pollution Control and Racial Equality.
- 2.14** The views of all consultees have been given proper weight in the preparation of this policy document.
- 2.15** 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.
- 2.16** The policy will apply from the 7 January 2011; it will remain in force for a period of 3 years from that date and will be reviewed and subject to further consultation before the end of the 3-year period.
- 2.17** During the currency of any statement of licensing policy, the Licensing Authority will keep the operation of the policy under review and make appropriate revisions to ensure the effectiveness of the policy.

### **3.0 LICENSING OBJECTIVES AND FUNDAMENTAL PRINCIPLES**

**3.1** 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.

**3.2** 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.

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

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

**3.5** 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 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.

- 3.6** 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.
- 3.7** 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.
- 3.8** 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.
- 3.9** 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.
- 3.10** 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.
- 3.11** 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.
- 3.12** 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.

### **3.13 Hearings and Determinations**

**3.14** 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 at 14.4.

**3.15** 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.

**3.16** 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.

**3.17** 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.

**3.18** 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.

**3.19** 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.

**3.20** 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.



- 3.21** 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.
- 3.22** 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;
  - be modified and the terms and conditions changed in accordance with the Licensing Authority's decision, or
  - be cancelled.
- 3.23** The Licensing Authority will determine the date upon which the decision will take effect and the licence holder and applicant for review advised accordingly.
- 3.24** 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.
- 3.25 Conditions**
- 3.26** The Licensing Authority can only regulate licensable activities at those premises and events licensed or authorised within the terms of the Act. Its licensing function is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are beyond the direct control of those holding individual licences/certificates under the Act.
- 3.27** Any conditions imposed on licences/certificates issued under the Act will, therefore, relate only to those matters falling within the control of the holders of those authorisations.
- 3.28** Conditions will be targeted to control the direct impact that activities taking place at a licensed premises have on members of the public living, working, or engaged in normal activity in the area.
- 3.29** If an applicant volunteers a prohibition or restriction in their operating schedule because their own risk assessment has determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions may become conditions attached to the licence, or certificate if so attached and will be enforceable as such.
- 3.30** Any conditions imposed under the Act will be tailored to the specific needs of the premises and will relate only to the licensing objectives. When imposing conditions, consideration will be given to representations and recommendations made by responsible authorities

defined in section 13(4) and section 69(4) of the Act and to the model pool of conditions included in guidance issued under section 182 of the Act.

**3.31** In order to avoid duplication with other statutory regimes, the Licensing Authority will not attach conditions regarding matters that are already adequately covered by other legislation. Other regulatory controls are referenced in more detail in section 4.0 of this policy document.

### **3.32 Temporary Event Notices**

**3.33** The Act provides for certain occasions when regulated entertainment at small scale events (for no more than 499 people at a time lasting for no more than 96 hours) do not need a licence but do need to provide advance notice to the Police and the Licensing Authority. The Police can object to a temporary event notice if the event is likely to undermine the crime prevention objective.

**3.34** The law states that at least 10 working days notice must be given to the Police and the Licensing Authority prior to the date of the event but the less time that is given will increase the likelihood of a Police objection being made. Applicants should note that section 193 of the Licensing Act 2003 defines "working day" as any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday under the Banking & Financial Dealings Act 1971 in England and Wales. "Ten working days" notice means ten working days exclusive of the day on which the event is to start, and exclusive of the day on which the notice is given.

**3.35** In the event of a relevant representation from the Police, the Licensing Authority will hold a hearing not less than 24 hours before the event is due to take place.

**3.36** It should be noted that for events concerning more than 499 people a premises licence will be required for a limited period. Due to the fact that a premises licence is required, where the sale of alcohol is involved there must be a designated premises supervisor specified on the application who must be a personal licence holder.

**3.37** Much larger crowds may be attracted to large scale temporary events and the risks to public safety and to crime and disorder as well as public nuisance may be considerable. The Licensing Authority should be given early notice of such major events to discuss operating schedules with the organiser prior to a formal application being submitted. It will be required that public safety, crime and disorder as well as public nuisance are considered in the operating schedule.

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

### **3.39 Personal Licences**

- 3.40** Any person may seek a personal licence, whether or not they have current employment or business interests associated with the use of the licence. Applications cannot be made in the name of a corporate body.
- 3.41** A personal licence will be valid for 10 years.
- 3.42** The Licensing Authority will grant a personal licence providing the following criteria is met:
- a)** The applicant is over 18;
  - b)** has paid the required fee;
  - c)** the applicant possesses a relevant licensing qualification;
  - d)** the applicant has not forfeited a personal licence in the previous 5 years beginning with the day the application was made;
  - e)** the applicant has not been convicted of any relevant offence, or foreign offence as defined in the Act;
  - f)** the Police have not given an objection notice about the grant of a personal licence following notification of any unspent relevant offence or foreign offence;
  - g)** the application has been submitted correctly.
- 3.43** In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence or foreign offence, applicants will be required to produce a current Criminal Record Bureau certificate. The Licensing Authority will consult with the Police regarding any relevant offences or foreign offences as listed in Schedule 4 of the Licensing Act 2003 and Annex C of the Guidance.
- 3.44** A relevant offence or a foreign offence will be disregarded if it is spent for the purposes of the Rehabilitation of Offenders Act 1974.
- 3.45** The Licensing Authority will liaise closely with the Police when an applicant is found to have an unspent conviction for a relevant offence or foreign offence as defined in the Act.
- 3.46** Where an applicant for a personal licence has an unspent criminal conviction for a relevant offence or foreign offence, the Police and Licensing Authority may interview the applicant should the Police be minded to object to the grant of the licence.
- 3.47** If a representation is made by the Police to an application the matter will be referred to the licensing sub committee.

- 3.48** A hearing will be held for the licensing sub committee to consider the matter. Each application will be judged on its merits.
- 3.49** Tamworth Borough Council will be the “relevant licensing authority” for all 10 year personal licences issued regardless of the subsequent place of residence of the licence holder.
- 3.50** Where a personal licence holder is convicted by a court for a relevant offence, the Court will advise the Licensing Authority in accordance with section 131 of the Act. On receipt of such notification, the Licensing Authority will contact the holder within 14 days requesting return of the licence so that the necessary action can be taken in accordance with section 134 of the Act.
- 3.51** The personal licence holder has a duty to inform the Licensing Authority of any new relevant offences or foreign offences that he / she has been convicted of in accordance with section 132 of the Act.
- 3.52 Designated Premises Supervisor**
- 3.53** 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.
- 3.54** 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.

**3.55 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 the Tamworth Local Strategic Partnership and Community Safety Partnership, local businesses, local communities, performers and other organisations, to deliver these objectives.

### **3.56 Rights of Individuals**

**3.57** 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.

**3.58** 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.

## **4.0 INTEGRATING OTHER REGULATORY CONTROLS**

**4.1** There are a number of other regulatory controls that may affect the Licensing Authority'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. 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.

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

**4.3** 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.

**4.4** 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.

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

### **4.6 Health and Safety**

**4.7** The Health and Safety at Work Act (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.

**4.8** 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.

#### **4.9 Fire Safety**

**4.10** The licensing objective for public safety overlaps with fire safety requirements, which are enforced by the Stoke on Trent and Staffordshire Fire Authority, 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.

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

**4.12** 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 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.

#### **4.13 Human Rights Act**

**4.14** 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.

#### **4.15 Disability Discrimination Act**

**4.16** 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 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)

#### **4.17 Race Relations Act 1976 as amended**

**4.18** The 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.

**4.19** 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 and will be subject to equality impact assessments.

**4.20** The Licensing Authority will be mindful the following legislation and related strategies when executing its licensing functions under the 2003 Act:

- Crime & Disorder Act 1998
- The Government's Alcohol Harm Reduction Strategy - Safe Sensible Social. The next steps in the National Alcohol Strategy (June 2007)
- The Anti-Social Behaviour Act 2003
- Violent Crime Reduction Act 2006
- The Health Act 2006
- The Clean Neighbourhoods & Environment Act 2005
- Local Government & Public Involvement in Health Act 2007

#### **5.0 INTEGRATING OTHER STRATEGIES**

**5.1** 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.

#### **5.2 Corporate Vision & Community Strategy**

#### **5.3 Corporate Priorities**

**5.4** By working with local people and partners we will:

- make our communities safer, more confident and better places to live
- develop and maintain an environment that reflects the needs of the future while conserving the uniqueness of our past
- develop a vibrant and prosperous town



- improve housing choice and address housing needs for the people of Tamworth
- promote Tamworth as good for business, great to visit, and welcoming to all
- actively support those responsible to improve the health and education standards in Tamworth
- be accountable, approachable, and visible

The corporate priorities are been subject to revision and have been adopted by the Council in 2010. Any subsequent new priorities will be inserted into this policy.

## **5.5 Community Strategy**

**5.6** The Local Government & Public Involvement in Health Act 2007 places a statutory requirement on the Local Authority to develop a Local Area Agreement (LAA), along with duties on named partners to cooperate with the Authority. The Licensing Authority recognises the key role that this statement of licensing policy will have in the successful implementation of the Tamworth LAA, particularly in relation to safer stronger communities, health and well being and children and young people. The Licensing Authority will work with its partners through joint operations to ensure the high level outcomes of the LAA are achieved. The Tamworth LAA is split into five blocks, each of which has developed a delivery plan. More information can be found on the Council's website [www.tamworth.gov.uk](http://www.tamworth.gov.uk) Home>Community and Living>Tamworth LAA

**5.7** The Licensing Authority will consider any reports submitted to it by the LSP on local issues and aspirations on social inclusion, environmental protection, employment and economic development of the Borough, to ensure that these needs are reflected in its licensing considerations.

## **5.8 Culture, Tourism and Employment**

**5.9** The Borough Council has a tourism strategy, 7 and is developing a cultural strategy. These strategies will feed into the Local Area Agreement delivery plans. Arrangements will be made to facilitate the opportunity for the Licensing Committee to receive reports and/or representations relating to the needs of the local tourist economy and local employment situation, with particular reference to the entertainment sector and night time economy.

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

**5.11** 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. Advice and guidance on this matter will be sought from the Council's Deputy Director (Communities, Planning and Partnerships).

**5.12** 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.

**5.13** 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.

#### **5.14 Transport**

**5.15** 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.

#### **5.16 Alcohol Harm Reduction Strategy**

**5.17** The Government published in (2004) 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.

**5.18** 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.

## **5.19 Drug Abuse**

**5.20** 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.

**5.21** 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.

## **6.0 CUMULATIVE IMPACT OF A CONCENTRATION OF LICENSED PREMISES**

**6.1** There can be confusion about the difference between "need" and the "cumulative impact" of premises on the licensing objectives. "Need" concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. "Need is a matter for planning committees and for the market".

**6.2** "Cumulative impact" means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. 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.

**6.3** Where representations regarding cumulative impact are upheld, or, reports from any of the responsible authorities or the Tamworth LSP, indicate any of the licensing objectives are compromised, or are likely to be compromised, through the cumulative impact of a significant number of licensed premises in one area, the Licensing Authority, will consider adopting a special "saturation policy".

### **6.4 Steps that the Council will follow in Considering whether to Adopt a Special Policy**

Representations from responsible authorities or interested persons, as defined under section 13(4) and section 69(4) of the Act and reports from those responsible authorities or the Tamworth LSP on cumulative impact issues will be expected to:

- Identify the boundaries of the area within which it is alleged problems are arising;

- provide full details and evidence as to the seriousness of the nuisance and/or disorder caused in the area;
  - identify the licensable activities causing the nuisance and/or disorder;
  - identify the licensing objective(s) which it is alleged will be undermined.
- 6.5** Where representations are made, the licensing objectives, which it is alleged will be undermined, should be identified with specific regard to:
- The occupancy figure for the proposed premises;
  - the nature of the licensed activity to be carried on at the premises;
  - the patrons of the premises.
- 6.6** The onus will be on the objector to provide evidence that additional licences or the variation of existing licences will produce the cumulative impact claimed.
- 6.7** A special saturation policy will only be adopted by the Licensing Authority after it has considered the available evidence and consulted those individuals and organisations listed in section 5(3) of the Act. Any special saturation policy will take the form of a formal, published amendment to this statement of licensing policy and will be reviewed regularly.
- 6.8 Effects of Special Policies Relating to Cumulative Impact**
- 6.9** The effect of adopting a special policy of this kind 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.
- 6.10** Applicants, therefore, need to address any special saturation policy issues in their operating schedules in order to rebut the presumption that applications for new licences/certificates or for material variations would normally be refused.
- 6.11** Special saturation policies will never be absolute. They will still allow for each application to be considered individually on its own merits and for licences and/or certificates that are unlikely to add to the cumulative impact on the licensing objectives, to be granted. Furthermore the Licensing Authority is under a legal duty to grant applications where there have been no relevant representations.

**6.12** Special saturation policies will not be used to justify:

- 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.

**6.13 Adopted Special Policy Relating to Cumulative Impact**

**6.14** As a Responsible Authority defined under section 13(4) and section 69(4) of the Act, a formal request was made by Staffordshire Police in November 2004, for the Licensing Authority to consider and declare a 'cumulative impact' area in Tamworth town centre. Following consultation with stakeholders and consideration of responses arising from that consultation, the Licensing Authority resolved to amend the statement of licensing policy adopted on 14 December 2004, by the insertion of a "special policy relating to cumulative impact". This policy relates to a defined special cumulative impact area within the Tamworth town centre and is attached to this statement of licensing policy as Appendix 3.

**6.15 Other Methods of Controlling Cumulative Impact**

**6.16** 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;
- 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.

## **7.0 OPENING HOURS**

- 7.1** 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.
- 7.2** 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.
- 7.3** 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.

**7.4** 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.

**7.5** 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.

**7.6** 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.

## **8.0 THE LICENSING OBJECTIVES**

**8.1** Section 3.2 of this policy outlines the four licensing objectives which are paramount considerations at all times.

**8.2** The following four sections of this policy (9, 10, 11, 12) 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.

**8.3** 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

## **9.0 PREVENTION OF CRIME AND DISORDER**

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

**9.2** 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.

- 9.3** 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 6.0 of this policy document.
- 9.4** 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
- 9.5** 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.
- 9.6** 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.
- 9.7** 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.
- 9.8** 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 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.
- 9.9** **Security Operatives**
- 9.10** Whenever security operatives are employed at licensed premises to carry out any security function they must be licensed by the Security Industry Authority (SIA).



- 9.11** 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.
- 9.12** All security operatives employed at licensed premises will be expected to display their identification as issued by the Security Industry Authority (SIA).
- 9.13** If a licensee directly employs security operatives he/she will need to be licensed by the SIA as a supervisor/manager.
- 9.14** 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.

## **10.0 PUBLIC SAFETY**

- 10.1** 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.
- 10.2** There are a wide range of statutory requirements as detailed in section 4.0 in this policy which are separate regulatory requirements with which applicants and employers have a duty to comply.
- 10.3** 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.
- 10.4** 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.

- 10.5 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.
- 10.6 The Licensing Authority would recommend that applicants refer to the documents detailed at Appendix 2 of this policy for further guidance.

## **11.0 PREVENTION OF PUBLIC NUISANCE**

- 11.1 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.
- 11.2 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.
- 11.3 There are a number of statutory controls available to deal with nuisance issues as outlined in section 4.0.
- 11.4 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.
- 11.5 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.

## **12.0 PROTECTION OF CHILDREN FROM HARM**

- 12.1 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.

- 12.2** 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.
- 12.3** 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.
- 12.4** 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.
- 12.5** 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.
- 12.6** 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.
- 12.7** 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.
- 12.8** When considering applications and deciding whether to limit access of children to premises, the Licensing Authority will judge each application on its own merits.
- 12.9** However the Licensing Authority will have particular regard to premises where there is substantial evidence that:

- 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.

**12.10** 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.

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

**12.12** 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.

**12.13** 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.

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

- 12.15** 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.
- 12.16** When considering any application, the Licensing Authority will take into account any evidence that age restrictions for cinema exhibitions are not being properly observed.
- 12.17** 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.
- 12.18** 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.
- 12.19 Illegal Sales of Age Restricted Goods.**
- 12.20** 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 is reduced and ultimately eradicated.
- 12.21** 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 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 new Licensing Act 2003.

- 12.22** 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.

### **13.0 ENFORCEMENT**

- 13.1** 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.

- 13.2** 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.

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

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

- 14.2** 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.

- 14.3** 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.

- 14.4** 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	Where no objection received
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
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
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
Application to vary designated premise Supervisor		Where an objection has been received from the Police	Where no “relevant representation” made

Request to be removed as designated premises supervisor			All cases
Application for transfer of premise licence		Where an objection has been received from the Police	All other cases
Applications for interim authority notices		Where an objection has been received from the Police	All other cases
Application to review premise licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a Police representation to a temporary event notice		All cases	

**14.5** Where a councilor 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.



- 14.6** 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.
- 14.7** 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.

## **15.0 FURTHER INFORMATION**

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

Environmental Management  
Tamworth Borough Council  
Marmion House  
Lichfield Street  
Tamworth  
Staffordshire  
B79 7BZ

Telephone (01827) 709445  
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)

### **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 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**

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**

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.

### **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 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 3 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**

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.



### 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
- 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.

**TAMWORTH BOROUGH COUNCIL  
SPECIAL POLICY RELATING TO CUMULATIVE IMPACT**

**1.1** This policy applies to the following roads ('the special cumulative impact area'):

- 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.

**1.2** 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.

**1.3** As a consequence of the number of late night premises within the town, the Licensing Authority and the Police has adopted a number of measures to deal with the resulting crime and antisocial behaviour. These have included additional Police resources at times of peak

demand; the introduction of CCTV in the town centre; and playing a full part in supporting a Town Centre Licensees' Forum.

- 1.4 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.
- 1.5 Accordingly, the Licensing Authority is adopting a special policy. **Where relevant representations have been received about applications within the special cumulative impact area**, it will consider whether to refuse the application if it appears that the application is likely to add to the existing problems of crime and disorder in the area, or if public nuisance is more likely than not to be caused.
- 1.6 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.
- 1.7 Notwithstanding this policy, the Licensing Authority is under a legal duty under the Act to grant applications where there are no relevant representations. In circumstances where no representations have been received, a licence application will be granted. It is also open for applicants to demonstrate to the Licensing Authority that their application will not add to the existing cumulative problems of crime, disorder, and nuisance within the special cumulative impact area.
- 1.8 **Exceptions to the Special Cumulative Impact Policy**
- 1.9 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.
- 1.10 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, eg - 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.

- 1.11** 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.
- 1.12** 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.
- 1.13** 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.
  - 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.

# Cumulative Impact Area



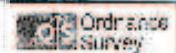
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**1.14 Nudity Striptease and Other Entertainment of an Adult or Sexual Nature**

- 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.

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