



Solihull Metropolitan Borough Council

Licensing Act 2003

Statement of Licensing Policy

For Publication January 2016 for the period
2016-2021

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SOLIHULL METROPOLITAN BOROUGH COUNCIL

STATEMENT OF LICENSING POLICY

This Policy Statement is prepared in accordance with the Licensing Act 2003 (the Act) and is in line with the Guidance issued to Licensing Authorities, by the Home Office, under section 182 (the Guidance).

In producing this policy statement, the Licensing Authority recognises that the Government may periodically amend the Act, the Guidance and any regulations issued under the Act. Revisions to the policy are not intended to take place as a consequence of these amendments and readers are advised to familiarise themselves with these developments via the Home Office website.

1. Introduction

- 1.1 Solihull is the largest metropolitan borough in the West Midlands (in geographical terms), consisting mainly of rural areas, with a population of over 200,000, concentrated mainly in urban communities.
- 1.2 The mixture of urban and rural areas gives rise to the Council motto 'Urbs in Rure' (Town in the Country) and the numerous parklands, trees, fields and other open spaces, cannot be lost to residents or visitors to the borough.
- 1.3 The location of Solihull allows it to enjoy exceptional national and international connectivity, thanks to its high quality transport infrastructure. Within the borough is Birmingham International Airport with its many links to national and international destinations, whilst the West Coast main railway line, running through Birmingham International Railway Station, provides easy access to London and other major UK cities. The M5, M6, M40 and M42 motorways are within easy reach of Solihull, and offer rapid access to the national motorway network.
- 1.4 Solihull is home to over 4000 businesses, many of which are nationally and internationally recognised names, from the engineering and motor industry, to high-class retail outlets and cutting edge technology companies.

1.5 Solihull has a growing retail and leisure sector with over 16 million people visiting the shopping centres and leisure complexes annually. There are many hotels, pubs, clubs and restaurants in the borough that enhance and support the enjoyment of residents and visitors. It is the intention of the Licensing Authority to encourage and facilitate a broad range of entertainment provision by a wide cross-section of the public. The development of Park Gate in Shirley, Resorts World at the NEC and the proposed developments within Solihull town centre, including the expansion of the Touchwood shopping centre have seen and will see an increase in this sector within the borough.

2. Licensing Objectives

2.1 Solihull Metropolitan Borough Council is the Licensing Authority for this district and will promote the licensing objectives set out in the Act, which are:-

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

Each of the licensing objectives is considered to be of equal importance for the purposes of this policy.

2.2 For the purposes of this Statement of policy, Licensing is about regulating activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. Conditions attached to any authorisation will be focussed on matters that are within the control of individual licence holders and those with other relevant authorisations, i.e. the premises itself and the surrounding vicinity.

2.3 The Licensing Authority will work closely with the Responsible Authorities (Police, the Fire Authority, Environmental Health, Trading Standards, the Local Safeguarding Childrens Board, Planning and Public Health). In addition it will liaise with Hospital Trusts, Parish Councils, local businesses, community representatives, local people and other groups or individuals, as considered appropriate in meeting these objectives. The sharing of information and intelligence is likely to take place between the Licensing Authority and Responsible Authorities where appropriate..

2.4 In addition to the Responsible Authorities, representations may be made by any other person, so regular engagement with local Councillors, Parish Councils, community groups and trade representatives will be paramount in reaching the wider residential and

business community. The Licensing Authority will share information in respect of applications received and topical issues with local councillors and parish councils if appropriate.

- 2.5 The Licensing Authority shall in respect of each five year period, determine its policy with regard to exercising its licensing function and publish a statement of that policy before the beginning of the period. It will be necessary for the Licensing Policy to be kept under review during any five-year period and revision made to the policy as required. Such revision(s) made will be published.

3. The Licensing Authority as a Responsible Authority

- 3.1 When acting as Responsible Authority, the Licensing Authority will not normally intervene where issues or concerns are primarily within the remit of another Responsible Authority, and will act in accordance with the Guidance where appropriate. There will be a clear separation between the administration of licence applications and the Responsible Authority role.

4. Public Health

- 4.1 The Responsible Authorities recognise that alcohol can cause harm. The Health and Wellbeing Board and Safer Solihull Partnership are committed to reducing the harm caused by alcohol, and will tackle the misuse of alcohol through the introduction of strategies and approaches which aim to reduce the harm caused by alcohol to individuals, their families and communities.
- 4.2 The Director for Public Health is now recognised as a Responsible Authority under the Act, and may make representations about new licence applications or variations to existing licences, and may also request a review of an existing licence.
- 4.3 Whilst public health is not a licensing objective, the Licensing Authority recognises that there may be much input that Public Health can have in licensing in relation to the local population and their alcohol related health needs. Health bodies may have access to data that is not always available to other Responsible Authorities which can help inform licensing decisions.
- 4.4 Public Health are able to provide useful evidence of alcohol related harm in relation to cumulative impact. The Joint Strategic Needs Assessment, for example, will help identify areas where there may be vulnerable groups who may be at higher risk of

alcohol-related harm and identify priorities for action. A number of awareness-raising campaigns and/or voluntary arrangements may be useful in preventing/reducing alcohol related harm.

5. Scope of the Policy

- 5.1 This policy covers new applications, renewals, transfers and variation of licences and certificates, including where applicable, temporary premises licences, and Temporary Event Notices. It will also include the review and possible revocation of licences and certificates.
- 5.2 Any reference to a licence will also include a Club Premises certificate. Applications made to the Licensing Authority for a Club Premises Certificate will only be considered from those premises occupied by and habitually used for the purposes of a club and which can be considered a 'qualifying club', as laid down in the Act. The same principles will apply to club premises, as to any other licensed premises.
- 5.3 Activities that require a licence under the Licensing Act 2003 and covered by this policy include:
- retail sale of alcohol
 - supply of alcohol to club members
 - provision of 'regulated entertainment', to the public **or** to club members **or** with a view to profit
 - Supply of hot food and/or drink between the hours of 11 p.m. and 5 a.m.
- 5.4 In formulating this policy statement, the Licensing Authority has had regard to the following relevant provisions of the European Convention on Human Rights:
- Protocol 1, Article 1 - that every person is entitled to the peaceful enjoyment of his possessions.
 - Article 6 – entitlement to a fair and public hearing within a reasonable time by an independent tribunal established by law.
 - Article 8 – that everyone has the right to respect for his home and private life.
- 5.5 Regard has also been had to the provision in the Human Rights Act 1998, which makes it unlawful for a public authority to act in a way that will be incompatible with a

convention right. Consequently an aim of this policy in relation to the decision making process of the Licensing Authority is to ensure that all decisions made, are compatible with convention rights.

- 5.6 The Licensing Authority has and will take into account the Equality Act 2010, and must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity and to foster good relations between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Licensing Authority will also take into account the provisions of section 17 of the Crime and Disorder Act 1998. This requires Local Authorities to have regard to the likely effect of the exercise of their function on crime and disorder in their area and to do all they can to prevent such crime and disorder. The Licensing Authority will as far as possible avoid duplication with other regulatory regimes and legislation.

6. The Licensing Process

- 6.1 The powers of the Licensing Authority under the Act may be carried out by Members of the Licensing Committee, a Sub-Committee, or by an Officer acting under delegated authority. A scheme of delegations is available at the end of this document.
- 6.2 The Licensing Authority will normally expect applicants to address the licensing objectives in their Operating Schedule, having regard to the type of premises, the licensable activities to be provided, the operational procedures, and the nature of the location and the needs of the local community.
- 6.3 It is expected that the applicant should also include consideration of the following in their operating schedule, where appropriate (this is not an exhaustive list):
- Evidence of risk assessments regarding health and safety, first aid and fire safety.
 - Details of partnership working with the Responsible Authorities, regarding issues such as noise, disturbance, drugs and drug prevention policies, weapons, litter, smoking and smoking areas, children, entry and re-entry, security and the use of door supervisors etc., CCTV provision including details of surveillance, location and retention of images.
 - The inclusion of a rapid communication system with other licensed premises in the area and/or the Police, and membership of and active participation in a local Pub Watch scheme or similar, where one exists.

- Drinks glasses and bottles, including a prevention policy regarding the carrying out of the premises, glasses and bottles by patrons.
- Customer/staff dispersal and the availability of buses, taxis and private hire vehicles, including any reminders to drivers about the use of vehicle horns.
- Provision of training for staff on all relevant matters, e.g. underage sales, licensing law, measures intended to prevent the sale/supply of alcohol to individuals who are already drunk and thereby reducing a person's drinking at hazardous or harmful levels, the operation of equipment, and evidence of awareness of child protection issues, including Child Sexual Exploitation (CSE).

The Licensing Authority may seek further information as appropriate regarding the promotion of the licensing objectives.

- 6.4 The Licensing Authority recognises that it is for the applicant to comply with the statutory requirements in drafting the operating schedule, and for the applicant to demonstrate how he will promote the four licensing objectives.
- 6.5 Applicants may wish to familiarise themselves with any relevant planning and transportation policies, tourism and cultural strategies and local crime prevention strategies and to have taken these into account, when formulating the operating schedule for their premises.
- 6.6 Although not a requirement, applicants are encouraged to seek the views of the Responsible Authorities before formally submitting applications, as they may find them a useful source of expert advice, and can offer guidance around specific issues. This may minimise the risk or representations being made.

7. Determination of Applications

- 7.1 Each application for the grant, variation, or review of a licence, will be considered and determined on its individual merits, and in accordance with the licensing objectives of the Act, and the Guidance. The Licensing Authority may consider any steps taken or proposed to address the following matters prior to determining any application.
- 7.2 The Licensing Authority will also have regard to other local and national initiatives that appear to support the promotion and delivery of the licensing objectives, for example, the Local Strategic Partnership, the Health and Wellbeing Board, and the Government's Alcohol Strategy.

- 7.3 It will be necessary that all those likely to be affected by an application, are made aware of it and afforded an opportunity to make any relevant representation. To ensure that this is achieved, the Licensing Authority may undertake the requisite checks to ensure that all advertising requirements have been complied with.
- 7.4 A representation is 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local business person about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation that nuisance caused by new premises would deter customers from entering the local area and the steps proposed by the applicant to prevent that nuisance were inadequate would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. It will be for licensing officers to determine whether a representation is frivolous or vexatious on the basis of what might ordinarily be considered to be frivolous or vexatious. Frivolous representations would lack seriousness, they would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing officers will consider the main effect of the representation and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.
- 7.5 If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Licensing Authority will balance those representations against the wider benefits to the community. All applications will be considered on their own merits if relevant representations are made in respect of them. .
- 7.6 If the Licensing Authority receives any relevant representations, then there will be a hearing before the Licensing Committee or any Sub-Committee to which that authority has been delegated, unless all parties concerned, agree that such a hearing is unnecessary.
- 7.7 Licensing conditions, where appropriate, should be tailored to the individual application and only those conditions considered appropriate to meet the licensing objectives will be imposed. Mandatory conditions, specified under the Act, will also be imposed where relevant.

7.8 When considering conditions, the Licensing Authority will encourage openness, transparency and reasonableness and, officers may wish to discuss proposed conditions, with the applicant and/or their representatives, with a view to ensuring that any conditions imposed are enforceable to sufficiently promote the licensing objectives.

8. Personal Licenses

8.1 The Licensing Authority has little discretion regarding the granting of a Personal Licence. In general, provided that the applicant has the appropriate qualification and does not have a recent relevant conviction, the application will be granted.

8.2 If an applicant has a recent relevant conviction, the Police may object to the application, following which a hearing must be held, unless all parties deem it unnecessary. At that hearing the Licensing Authority will consider whether the grant of a licence will be in the interest of the crime prevention objectives. If it is not so satisfied, the application will be rejected.

9. Minor Variations

9.1 On receipt of an application for a minor variation to a Premises Licence or Club Premises Certificate, the Licensing Authority will consider whether it may adversely impact on the licensing objectives. If appropriate, the Licensing Authority will consult with any relevant Responsible Authorities in order to obtain specialist advice, and may take this into account when making a decision about whether or not to grant the application. The Licensing Authority will also take into account any relevant representations received from any other person before arriving at a decision.

10. Temporary Events

10.1 An individual who wishes to use premises for one or more licensable activities in a period not exceeding 168 hours, must deliver to the Licensing Authority a Temporary Event Notice, or TEN (in duplicate), in the prescribed form. The form will detail the proposed activities, the times that the activities will take place and whether or not there will be any sale of alcohol for consumption on or off the premises. The notice shall also state the maximum number of persons permitted on the premises, which must be less than 500.

10.2 A standard TEN must be delivered to the Licensing Authority with a copy of delivered to both the Chief Officer of Police and the Environmental Health Officer no less than 10

working days before the event period begins. The Chief Officer of Police or Environmental Health Officer may object to the event taking place (within 72 working hours of being notified), on the grounds that such an event would undermine one or more licensing objectives. In such circumstances a hearing will be held, unless all parties agree that a hearing is unnecessary.

- 10.3 A late TEN must be delivered to the Licensing Authority with a copy delivered to both the Chief Officer of Police and the Environmental Health Officer no less than 5 working days before the event period begins. The Chief Officer of Police or Environmental Health Officer may object to the event taking place (within 72 working hours of being notified), on the grounds that such an event would undermine one or more licensing objectives. In these circumstances the notice will not be valid and the event will not go ahead.

11. Enforcement

- 11.1 The Licensing Authority will work in partnership with the Responsible Authorities and other agencies, with a view to scrutinising the needs of problematic and high-risk premises, in order to provide them with further support. Less rigorous activity will be undertaken in respect of those premises that are shown to be well managed and maintained, thus ensuring compliance with the Licensing Objectives.
- 11.2 In general, action will normally only be taken in accordance with enforcement policies and the key principles of consistency, transparency and proportionality will be considered.
- 11.3 Licensing law should not be considered the primary mechanism for dealing with incidents of crime, disorder and general misbehaviour which occurs away from licensed premises, and therefore, beyond the direct control of individual licence holders. However, it is a key aspect of such control and will always form part of a holistic approach to the management of the night-time economy within the borough. Other mechanisms that may be considered include:-
- Planning controls.
 - Positive measures to create a safe and clean city centre environment in partnership with local businesses, transport operators and other services provided by the Local Authority.
 - Police enforcement of the law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices.

- The confiscation of alcohol from adults and children in designated areas.
- Police powers to close down instantly, for up to 24 hours, any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises.
- The power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question

11.4 The Licensing Authority will use the review procedure effectively to deter criminal activities, persistent sales of alcohol to children and other serious concerns undermining the licensing objectives. It is expected that revocation of the licence – even in the first instance - may be seriously considered in these circumstances.

12. Late Night Levy and Early Morning Restriction Orders (EMROs)

12.1 Having not been presented with any evidence in support of the introduction of a Late Night Levy or EMRO, the Licensing Authority does not consider either to be appropriate for any area within the borough at the present time. These matters will be kept under review, and should sufficient evidence be received, this situation may change and these measures may be introduced during the life of this Statement of Licensing Policy.

13. Cumulative Impact

13.1 Cumulative Impact means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. It should not be confused with need, which relates to commercial demand for a particular type of premises. Need therefore, is a matter for planning consideration or market forces and does not form part of this Statement of Licensing Policy.

13.2 Where the Licensing Authority receives written relevant representations from a responsible authority or any other person, that the cumulative effect of many licensed premises in a particular area gives rise to problems impacting on any of the four licensing objectives, over and above the impact from the individual premises themselves, those facts can be taken into account when considering the individual merits of any application. At the present time, the Licensing Authority has no evidence to support the introduction of a special policy in relation to cumulative impact, and therefore does not consider it appropriate. This matter will be kept under review and reserves the

right to introduce such policy, if appropriate, during the life of this Statement of Licensing Policy.

14. Licensing Hours

- 14.1 The Licensing Authority's view, having considered the Act and having had regard to the Guidance under section 182, is that that the Act neither promotes nor discourages extended licensing hours. For that reason the Licensing Authority will consider each application on its own individual merits and with the aim of properly promoting the licensing objectives. The Licensing authority will not apply artificially fixed hours to any area within the borough.
- 14.2 Shops and supermarkets will normally be free to provide sales of alcohol for consumption off the premises at any times when they are open for shopping unless the Licensing Authority has good reasons for restricting those hours such as where there have been Police representations in the case of shops known to be a focus of crime, disorder and/or disturbance. The Licensing Authority may consider any other matter that it considers relevant to the promotion of the licensing objectives.
- 14.3 When issuing a licence in respect of premises situated in a largely residential area, the Licensing Authority may, where appropriate, consider the imposition of stricter conditions.

15. Children and Licensed Premises

- 15.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take away food outlets, community halls and schools. Access by children to all types of premises will not be limited in any way unless it is considered appropriate to do so, in order to protect them from harm and provided that such access is in accordance with the Act and/or Guidance issued by the Home Office.
- 15.2 When deciding whether to limit access to children or not, the Licensing Authority will judge each application on its individual merits. Examples that may give rise to concern in respect of children would include premises:-
- where entertainment of an adult or sexual nature is provided
 - where there is a strong element of gambling taking place

- where there is a known association with drug taking or drug dealing
- where there have been convictions for serving alcohol to those under 18
- where there is a reputation or other evidence of underage drinking
- where there is a history of violence or disorder
- where Fixed Penalty Notices have been issued in respect of underage sales

15.3 In the case of premises which are used for film exhibitions, conditions will be imposed restricting access, only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification, or in specific cases, a certificate given to the film by the Council itself.

15.4 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, then conditions may be imposed requiring the presence of an appropriate number of adult staff (ratio may be specified) to ensure safety and protection from harm.

15.5 The options available for limiting access by children would include -

- a limit on the hours when children may be present
- a limitation or exclusion when certain activities are taking place
- the requirement to be accompanied by an adult
- access may be limited to parts of the premises but not the whole
- an age limitation (for under 18s)

15.6 The Licensing Authority will not normally impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed, the issue of access will remain a matter for the discretion of the individual licensee or club.

15.7 The applicant may wish to consider displaying prominent signage informing customers that it is an offence to sell or allow the sale of alcohol to children, to purchase alcohol on behalf of a child, or for a child to buy or attempt to buy alcohol for themselves.

15.8 The Licensing Authority encourages applicants and licence holders to demonstrate how the risks of child sexual exploitation will be minimised and managed, e.g. through the

implementation of a child protection policy. Applicants and licence holders should be fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a crime. This information should be cascaded appropriately to staff through training. Appropriate conditions may be attached to protect children from moral, psychological or physical harm.

16. Integrating Strategies and the Avoidance of Duplication

16.1 There are a number of issues that may need to be considered when dealing with applications. The Licensing Committee will, where appropriate, have due regard to:-

- the needs of the local tourist economy
- the needs of visitors to local exhibitions and conferences
- cultural strategy for the area
- employment situation in the area and the need for new investment and employment where appropriate
- planning considerations which might affect licensed premises
- any other general provision that is appropriate to fulfil the Licensing objectives

16.2 Through consultation, the Licensing Authority will endeavour to secure proper integration with crime prevention, planning, transport, tourism, equality schemes and cultural strategies and health and wellbeing strategies.

16.3 Where any protocols agreed with West Midlands Police, identify a particular need to disperse people from town centres and / or other areas, swiftly and safely, to avoid concentrations which could lead to disorder and disturbance, the Council will initiate liaison with those responsible for providing local transportation, so that arrangements can be made to reduce the potential for disorder and disturbance. The Council may also implement any other measures considered appropriate, such as the use of Taxi Marshals.

16.4 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. However, there may be circumstances where a condition of planning permission exists that is contrary to what the licence allows, e.g. a terminal hour. In such circumstances, the applicant must

observe the earlier closing time as any breach would be liable to enforcement action by the relevant authority.

- 16.5 In order to avoid duplication with other statutory regimes as far as possible, the Licensing Authority will not attach conditions of licence, unless they are considered appropriate for the promotion of the licensing objectives. Conditions will not normally be considered appropriate if specific matters are already subject to existing legislation.

Appendix A Scheme of Delegations

Matter to be dealt with	Sub Committee	Officers
Application for personal licence	If police objection	If no objection made
Application for premises licence/club premises certificate	If relevant representation made	If no relevant representation made
Application for provisional statement	If relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Application for interim authority	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a police objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If police objection	All other cases
Decision on whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases

Appendix B List of Consultees

All Responsible Authorities

All Elected Members

Parish Councils

Representatives of current licence/authorisation holders

Representatives of local businesses

Representatives of local residents