



LICENSING ACT 2003

INTRODUCTION

There are three main towns in the district of Malvern Hills:

Great Malvern – Situated in the shadow of the Malvern Hills and famous for its pure water, its connection with Sir Edward Elgar and its acclaimed theatre complex.

Upton-upon-Severn – Renowned for its vibrancy and for hosting various musical and waterborne festivals throughout the year.

Tenbury Wells – the town in the Orchard and the 'gem' at the end of the Teme Valley tour.

There are numerous areas and villages, each with its own individuality, including the areas of Malvern Link, Malvern Wells, West Malvern, Barnards Green, and villages as diverse as Little Malvern on the borders of Herefordshire to Bayton and its border with Wyre Forest.

The district has good transport links by road and rail and has a thriving local economy in which premises licensed for sale of alcohol and entertainment play a prominent part.

Malvern Hills District Council's vision is of a District which has first class, services and facilities, is clean, safe, healthy and prosperous, and has vibrant and active communities.

This policy statement accords with our vision, and has been produced as required by the Licensing Act 2003 to reflect that vision.

Our statement of policy is intended to provide information and guidance to licence applicants, responsible authorities and interested parties on the general approach that we will take to licensing. Specific details are provided by way of advice sheets, available from our website or sent on request.

The licensing policy statement has been produced in consultation with our neighbouring authorities across the whole of Worcestershire.

LICENSING POLICY STATEMENT

As a licensing authority, we have based this policy on the requirements of the Licensing Act 2003 and statutory guidance from the Department of Culture, Media and Sport (DCMS). This policy has effect from 7th January 2008.

The Council's Licensing Committee is responsible for making licensing decisions. This power is delegated to its Sub-Committees and officers as detailed in the formal

Revised Guidance to the Licensing Act 2003 (Issued 28th June 2007) and any subsequent regulations issued. The current scheme of delegation will be available from the licensing unit.

We will consult with interested parties and review our policy every 3 years – or sooner if we become aware that this policy is impacting on the provision of regulated entertainment.

Where there are no representations (representations are objections that we have accepted as relevant), applications will be granted without the need for a hearing, subject only to any mandatory conditions detailed in the Licensing Act 2003 and to any conditions arising from the application form (if appropriate).

If there are representations ***or an accepted request for a review that cannot be resolved informally, relevant parties will be invited to a public hearing. At such hearing, our Licensing Sub-Committee will determine the application in accordance with the Licensing Act and with a view to promoting the licensing objectives in the overall interests of the local community, giving appropriate weight to:***

- ***The steps that are necessary to promote the licensing objectives***
- ***The representations(including supporting information) presented by all parties***
- ***The Secretary of State's formal guidance to the Act***
- ***This statement of licensing policy.***

This policy applies to activities that are required to be licensed by Law, on licensed premises, by qualifying clubs and at temporary events.

These are:

- retail sale of alcohol;
- supply of alcohol to club members;
- provision of entertainment to the public, or club members or with a view to making profit;
- theatrical performance;
- film exhibition;
- indoor sporting event;
- boxing or wrestling entertainment;
- live music performance;
- playing of recorded music;
- dance performance;
- provision of facilities for making music;
- provision of facilities for dancing, and
- supply of hot food and / or drink from premises between 23.00 to 05.00 hours.

Decision making process

We will consider every application sent to us, on its individual merits. When we make licensing decisions we will promote:

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

In general, we will combine licensing with the full range of regulatory powers and policies to help achieve the licensing objectives. For example;

- planning and environmental health powers for controlling development, health and safety and nuisance;
- use of the power of the police, other responsible authorities, local residents and business to seek review of the licence or certificate in question;
- use of powers preventing public consumption and allowing confiscation of alcohol from adults and children in designated parts of the district;
- positive measures to create safe and clean town centres including use of CCTV surveillance
- Police enforcement of general law concerning disorder and anti-social behaviour and specific law enabling instant closure of premises or temporary events where there is disorder, likelihood of disorder or noise nuisance;
- Informing local transport policies as to the need to disperse people swiftly and safely, and "crime and disorder" policies and powers.

Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.

Integrating Strategies.

We have consulted widely when deciding this policy, to ensure that it is integrated with all relevant local strategies, policies and initiatives.

The Licensing Committee, when appropriate, will be informed of relevant county and local strategies. The report may include information relating to:

- local crime prevention strategies;
- needs of the local tourist economy;
- any cultural strategy for the area;
- employment issues in the area;
- any relevant planning matters so as to ensure the clear distinction between licensing and planning functions, and
- local relevant partnerships and their objectives.

Live music, dancing and theatre

We recognise the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community, and that providing consumers with

greater choice and flexibility is an important consideration. We will balance these wider cultural benefits with the natural concern to prevent disturbance in neighbourhoods and the duty to promote the licensing objectives.

When a solution is not agreed at a hearing and we impose conditions on a licence, those conditions will be appropriate and we will try to avoid indirect costs which may deter live music, dancing or theatre.

This policy will be reviewed if we obtain evidence that licensing requirements are deterring broader cultural activities and entertainment.

Promotion of Equality

We are committed to eliminating unlawful discrimination and promotion of equality of opportunity and good relations between persons of different racial groups. In line with our diversity policy we will monitor for any adverse impacts resulting from this policy.

Conditions

Unless there are relevant representations, we have to grant applications subject only to conditions consistent with the applicant's operating schedule and to any mandatory conditions prescribed in the Licensing Act 2003.

At a hearing, we will only impose conditions to promote the licensing objectives. The precise wording of each condition will be determined in accordance with the application that is being considered and the nature of the premises; participating parties at the hearing will be given an opportunity to express an opinion before conditions are imposed.

Where relevant, conditions will have regard to local crime prevention strategies and will only relate to matters that the licence holder can control. Conditions will focus on the premises being used for licensable activities and the immediate vicinity of those premises.

We will not duplicate requirements of other legislation in licence conditions, such as:

- duties imposed by health and safety or fire safety law, and
- the requirement to obtain approval under town and country planning law for development or use of land.

In summary, conditions will only be attached where:-

- ***a relevant representation or request for review has been received***
- ***the condition relates to the representation or request for review, and;***
- ***the condition is necessary for the promotion of one or more licensing objectives and;***
- ***the condition is not a 'standard' one, but is tailored specifically to the premises in question and;***
- ***the condition is proportional to the circumstances and;***

- ***the condition does not duplicate any other statutory provision or requirement and;***
- ***the requirement of the condition is within the control of the licensee or;***
- ***the condition is a mandatory one.***

We may consider adoption of a "special saturation policy" for particular areas, if we have evidence of problems because of the overall number of licensed premises. We will follow the procedure for adopting such a policy outlined in the DCMS guidance.

Licensing hours

We will have a flexible approach to hours when alcohol can be sold or supplied. We will give more freedom to responsible licensees, but we may impose stricter controls on particular licensed premises, such as those effecting residential properties.

We will not generally restrict times when shops, stores or supermarkets can sell alcohol for consumption off the premises. But we may do so ***at hearing where there is evidence of sale of alcohol to children or premises are a focus of disorder or disturbance.***

Protection of Children

The Licensing Act 2003 does not stop children having access to licensed premises of all kinds.

We will not generally impose any conditions relating to the access of children to licensed premises, unless it is necessary for the prevention of harm to children. But we expect licence holders to restrict access by children where they think it is appropriate.

Following representation we may decide that restrictions are necessary on premises where:

- there have been convictions of members of the current staff for serving alcohol to minors;
- there is evidence of underage drinking, or failure to operate in line with the Portman Group Code of practice on naming, packaging and promotion of alcoholic drinks;
- there is a known association with drug taking or dealing;
- there is a strong element of gambling on the premises;
- entertainment or services of an adult or sexual nature are commonly provided or
- the main purpose of the premises is supply of alcohol for consumption on the premises.

Options that we will consider may include:

- limitations on the hours when children may be present;
- age limitations (below 18);

- limitations or exclusions when certain activities are taking place or on particular parts of premises, and
- requirements for accompanying adult.

We will not impose conditions requiring the admission of children to any premise.

Responsible Authority and Children.

We have identified the ***Worcestershire Safeguarding Children Board as being competent to act as the responsible authority in relation to the protection of children from harm. Within the Board, the day to day management of licensing issues is delegated to the Service Development Manager (Safeguarding), Children's Services, Worcestershire County Council.***

Children and Cinemas.

Where film exhibitions are to be given, we expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age restricted films according to the recommendations of the British Board of Film Classification. (BBFC) ***Where films which are not classified by the BBFC are to be shown, we expect operating schedules to specify the arrangements to ensure that children are not exposed to inappropriate material***

Guidance to Applicants

We will provide detailed guidance for applicants and others involved in the licensing process, including contact details for responsible authorities.

To minimise likelihood of representations and subsequent sub-committee hearings, applicants and clubs should liaise with the responsible authorities when they are preparing operating schedules.

Separation of licensing, building control and planning functions

We will make sure that there is a proper separation of licensing, building control and planning functions.

The licensing committee will report to the committee dealing with planning matters at least every year. The report will outline the situation relating to licensed premises in its area, including the general impact of alcohol related crime and disorder.

Enforcement

We have and will maintain protocols with the Police Authority and enforcing authorities, detailing local arrangements for the enforcement of the Licensing Act 2003 in licensed premises. ***The protocol is available on our website and a copy will be sent on request.***

We will comply with the Regulators Compliance Code when enacted in respect of licensing functions. Our current enforcement policy is available on request and on our website.

In summary we will:

- ***Support economic progress***
- ***Use risk assessment to concentrate resources in areas that need them most, and inspect only when necessary***
- ***Provide information and advice and properly communicate legal requirements***
- ***Minimise data collection burdens on businesses***
- ***Enforce in a transparent manner and use sanctions effectively***
- ***Be accountable and independent in our decision making.***

Advice

Further advice on whether or not activities are covered by this policy can be obtained from the Malvern Hills District Council Customer Service Centre on 01684 862151 or by visiting the licensing link at www.malvern hills.gov.uk.

Appendix A

Matter to be dealt with:	Decision to be made by:	
	Sub Committee	Officers
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/ club premises certificate	If a relevant representation made	If no relevant representation made (subject to consultation with local ward members)
Application for provisional statement	If a relevant representation made	If no relevant representation made (subject to consultation with local ward members)
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made (subject to consultation with local ward members)
Application to vary designated premises supervisor	If a Police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a Police objection	All other cases
Applications for Interim Authorities	If a Police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc		All cases
Decision when local authority is a consultee and not the lead authority	All cases –if decision is to object	If decision is not to object (subject to consultation with local ward members)
Determination of a police representation to a temporary event notice	All cases	