



Statement of Licensing Policy

2011 – 2014

Licensing Act 2003

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1. INTRODUCTION

- 1.1 Malvern Hills District Council is situated in the County of Worcestershire, which contains 6 District Councils in total. The Council area has a population of 74,760 and covers an area of 577 Square Kilometres and as a rural area there are many small villages.
- 1.2 The three main towns in the Malvern Hills District are Malvern, the main centre of population and well known for its mineral and spring waters and the Three Counties Show Ground, Upton on Severn situated on the banks of the river Severn and the venue for several festivals and Tenbury Wells, a market town situated on the river Teme at the northern most end of the District.
- 1.3 The district's economy is primarily made up of agricultural activities, small enterprises, offices, retailing and tourism with some larger manufacturers and business parks and has transport links by road and rail.
- 1.4 The Statement of Licensing Policy is intended to provide information and guidance to licence applicants, responsible authorities and interested parties on the general approach that the Council will take to licensing.
- 1.5 Specific details are provided by way of advice sheets, available from the Council web site or sent on request.
- 1.6 The Council's aim is to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents. The objective of the licensing process is for a unified system of regulation of licensable activities so that such activities are carried out in a way that ensures public safety, but is not detrimental to residents, and does not give rise to a loss of amenity.
- 1.7 The Licensing Authority has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its function with due regard to the likely effect of those functions and the need to do all it reasonably can to prevent crime and disorder (including anti-social and other behaviour adversely affecting the local environment) the misuse of drugs, alcohol and other substances in its area.

2. LICENSING POLICY STATEMENT

- 2.1 As a Licensing Authority, the Council has based this policy on the requirements of the Licensing Act 2003 and statutory guidance from the Department for Culture, Media and Sport (DCMS). This policy has effect from 7 January, 2011
- 2.2 The Council has delegated its Licensing function to its Licensing and Environmental Committee, Sub Committees and Licensing Officers. In the remainder of this Statement of Licensing Policy they are referred to collectively as the 'Licensing Authority'.

- 2.3 The current scheme of delegation is available from the Council's Head of Legal Services.
- 2.4 The Licensing Authority will consult with interested parties and review the policy every 3 years – or sooner if this policy is impacting on the provision of regulated entertainment.
- 2.5 Where there are no representations (representations are objections that the Licensing Authority has accepted as relevant), applications will be granted with no hearing, subject only to any mandatory conditions detailed in the Licensing Act 2003 and to any conditions arising from the application form (if appropriate).
- 2.6 If there are representations that can't be resolved informally, the applicant and objectors will be invited to a public hearing. After considering submissions from applicants and objectors, the licensing sub-committee will make a decision in the light of this Statement of Licensing Policy and the Secretary of State's Guidance on the Act.
- 2.7 This policy applies to activities that the Licensing Authority has to licence 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.

3. DECISION MAKING PROCESS

- 3.1 The Licensing Authority will consider every application on its individual merits and will promote the four statutory licensing objectives:
- Prevention of crime and disorder
 - Protection of public safety
 - Prevention of public nuisance
 - Protection of children from harm.
- 3.2 The Licensing Authority 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 named 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.

4. INTEGRATING STRATEGIES

- 4.1 The Licensing Authority has consulted widely when deciding this policy, to ensure that it is integrated with all relevant local strategies, policies and initiatives.
- 4.2 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.

5. LIVE MUSIC, DANCING AND THEATRE

- 5.1 The Licensing Authority recognises 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. It will balance these wider cultural benefits with the natural concern to prevent disturbance in neighbourhoods and the duty to promote the licensing objectives.
- 5.2 When a solution is not agreed at a hearing, conditions may be imposed on a licence. Such conditions will be appropriate, and the Licensing

Authority will try to avoid indirect costs which may deter live music, dancing or theatre.

- 5.3 This policy will be reviewed if evidence is obtained that licensing requirements are deterring broader cultural activities and entertainment.
- 5.4 The Licensing Authority has given a Premise Licence to areas of land under its control to allow circus displays as regulated entertainment. This entertainment can take the form of a “circus” as long as animals do not form part of the entertainment.

6. PROMOTION OF RACIAL EQUALITY

- 6.1 The Licensing Authority is committed to eliminating unlawful discrimination and promotion of equality of opportunity, and good relations between persons of different racial groups.
- 6.2 It recognises its obligations under the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000.

7. CONDITIONS

- 7.1 Unless there are relevant representations, the Licensing Authority must grant applications subject only to conditions consistent with the applicant's Operating Schedule and to any Mandatory Conditions prescribed in the Licensing Act 2003.
- 7.2 If there are relevant representations, the Licensing Authority will only impose conditions to promote the licensing objectives.
- 7.3 The Licensing Authority will use conditions issued in guidance by DCMS and reserve the right to impose unique conditions when necessary.
- 7.4 Where any licence conditions are applied, the Licensing Authority will tailor them to suit the particular premises. Those conditions will have regard to local crime prevention strategies and will only relate to matters that the licence holder can control. They will focus on the premises being used for licensable activities and the immediate vicinity of those premises.
- 7.5 The Licensing Authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 7.6 The Licensing Law is not the primary mechanism for the general control of nuisance and anti social behaviour by individuals once they are away from licensed premises, and therefore, beyond the direct control of the individual club, or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and Licensing Law will always be part of a holistic approach to the management of the evening and night time economy in the town centres.

- 7.7 The Licensing Authority 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.
- 7.8 Licensing Authority may consider adoption of a 'special saturation policy' for particular areas, if evidence is received of problems due to the overall number of licensed premises. It will follow the procedure for adopting such a policy outlined in the DCMS guidance.

8. LICENSING HOURS

- 8.1 The Licensing Authority will have a flexible approach to hours when alcohol can be sold or supplied. It will give more freedom to responsible licensees, but may impose stricter controls on particular licensed premises, such as those effecting residential properties.
- 8.2 The Licensing Authority will not generally restrict times when shops, stores or supermarkets can sell alcohol for consumption off the premises but may do so if the Police consider individual premises to be a focus of disorder and disturbance.
- 8.3 When the Licensing Authority's discretion is engaged consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested unless there are objections to those hours raised by the responsible authorities or interested parties on the basis of the licensing objectives.
- 8.4 Shops, stores and supermarkets will normally be able to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless representations raise reasons, based on the licensing objectives, for restricting those hours.
- 8.5 The Licensing Authority recognizes that in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided.

9. PROTECTION OF CHILDREN

- 9.1 The Licensing Act 2003 does not stop children having access to licensed premises of all kinds.
- 9.2 The Licensing Authority 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. It will expect licence holders to restrict access by children where they think it's appropriate.
- 9.3 Following representations under any of the licensing objectives the Licensing Authority 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.

9.4 Options that the Licensing Authority 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.

9.5 The Licensing Authority will not impose conditions requiring the admission of children to any premise.

10. RESPONSIBLE AUTHORITY AND CHILDREN

10.1 The Licensing Authority has nominated the Worcestershire Safeguarding Children Board, Worcestershire County Council as being competent to act as the responsible authority in relation to the protection of children from Harm.

11. CHILDREN AND CINEMAS

11.1 In the case of premises giving film exhibitions, the Licensing Authority expects 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 .

12. GUIDANCE TO APPLICANTS

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

12.2 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.

13. SEPARATION OF LICENSING, BUILDING CONTROL AND PLANNING FUNCTIONS

- 13.1 The Licensing Authority will make sure that there is a proper separation of licensing, building control and planning functions. The Licensing and Environmental Committee will report to the Committee dealing with planning matters where appropriate, to outline the situation relating to licensed premises in its area, including the general impact of alcohol related crime and disorder.

14. TEMPORARY EVENTS NOTICES

- 14.1 The Licensing Authority requires an application for a temporary event to be received at least 10 clear “working” days before the day of the event so that there will be sufficient time for it to be considered by the police and processed . Late applications will be rejected.
- 14.2 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 and 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.

15. LICENCE REVIEWS

- 15.1 It is important that responsible authorities should give an early warning of any concerns identified at premises.
- 15.2 An application for the Review of a Premises Licence is limited to:
- Responsible Authorities,
 - Interested parties (e.g. Local residents, local organisations and Councillors)
- 15.3 The Licensing Authority itself cannot initiate the review process. The authority’s role is to administer the process and to determine its outcome at a hearing where an evidential basis for the allegations made will be submitted.
- 15.4 The Licensing Authority will generally expect that attempts should be made to offer a solution to problems at premises in terms of:
- Informal warning / advice.
 - Written warning
 - Application for Review
- 15.5 In cases where the crime prevention objective is being undermined it is expected that revocation of the licence – even in the first instance – will be seriously considered.

16. ENFORCEMENT

- 16.1 The Licensing Authority has established protocols with the West Mercia Constabulary about enforcement of the Licensing Act 2003 in licensed premises and will target inspection and enforcement at problem premises and higher risk activities.
- 16.2 The Licensing Authority will act in line with our Licensing Enforcement Policy, which follow the principles of consistency, transparency and proportionality. Copy of the Policy can be obtained from the Council.

17. ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTION

- 17.1 The Licensing Committee is responsible for making Licensing decisions and Officers have some delegated power to make decisions.
- 17.2 The table on the following page describes how Licensing Authority will make decisions.

Decisions to be made by:

Matter to be dealt with:	Full Committee	Sub Committee	Officers
Application for personal licence		If a representation made	If no representation made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/ club premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no representation made
Application to vary designated personal licence holder	If a police representation		All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence	If a police representation		All other cases
Applications for Interim Authorities	If police representation		All other cases
Application to review premises licence/club premises certificate	All cases		
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc	(in exceptional cases)		All cases (see exception)
Decision to object when local authority is a consultee and not the lead authority			All cases
Determination of a police representation to a temporary event notice		All cases	