



Licensing and Safety Committee

5 April 2023

Conference Room 2 at the Council House, Lichfield Street, Walsall

Livestream link:

Membership:

Councillor Gandham (Chair)
Councillor Samra (Vice-Chair)
Councillor Bains
Councillor C. Bott
Councillor Cooper
Councillor A. Hussain
Councillor I. Hussain
Councillor K. Hussain
Councillor P. Kaur
Councillor Nawaz
Councillor S. Nasreen
Councillor W. Rasab
Vacancy
Vacancy

Quorum: Five Members

Democratic Services, The Council House, Lichfield Street, Walsall, WS1 1TW

*Contact Name: **Helen Owen** Telephone: (01922) **654522***

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please contact the person above**

A G E N D A

PART I – Public Session

1. **Apologies**
2. **Minutes 22 February 2023**
To approve the minutes of the last meeting as a correct record
3. **Declarations of Interest**
4. **Local Government (Access to Information) Act, 1985 (as amended):**
There are no items for discussion in the private session of the agenda.
5. **Gambling Act 2005 – Policy and statement of principles**
 - Report of the Director, Resilient Communities - **enclosed**
6. **Walsall Town Centre, Night Time Economy and control of licensed premises opening hours.**
 - Report of the Director, Resilient Communities - **enclosed**
7. **Work programme**
 - Copy enclosed
8. **Date of next meeting**
 - To be confirmed

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The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Specified pecuniary interests

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Localism Act 2011 are the interests specified in the second column of the following:

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member in carrying out duties as a member, or towards the election expenses of a member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to a member's knowledge):</p> <p>(a) the landlord is the relevant authority;</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to a member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

Schedule 12A to the Local Government Act, 1972 (as amended)

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
 - (a) to give any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information being disclosed during a meeting of a Scrutiny and Performance Panel when considering flood risk management functions which:
 - (a) Constitutes a trades secret;
 - (b) Its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the risk management authority);
 - (c) It was obtained by a risk management authority from any other person and its disclosure to the public by the risk management authority would constitute a breach of confidence actionable by that other person.

Licensing and Safety Committee

Minutes of the meeting held on Tuesday 22 February 2023 in the Council Chamber at the Council House, Lichfield Street, Walsall at 6.00pm.

Present: Councillor Gandham (Chair)
Councillor B. Bains
Councillor C. Bott
Councillor S. Cooper
Councillor I. Hussain
Councillor K. Hussain
Councillor P. Kaur
Councillor Nawaz
Councillor S. Nasreen
Vacancy
Vacancy

In Attendance: Mr D. Elrington, Head of Community Protection
Mr S. Alom, Team Leader, Licensing
Mrs H. Owen, Democratic Services Officer

Observer: Ms S. Heath, Community Protection Officer

1/23 Welcome

Councillor Gandham welcomed everyone, introductions took place and a quorum of members present in-person was established.

2/23 Apologies

Apologies were received from Councillor Samra and Councillor A. Hussain.

3/23 Minutes of the last meeting

Resolved:

That the minutes of the last meeting held on 10 October 2022 copies having previously been circulated to each member of the Committee, be approved and signed by the Chair as a correct record.

4/23 Declarations of Interest

There were no declarations of interest

5/23 Local Government (Access to Information) Act, 1985

There were no items to be considered in private session.

6/23 Walsall Town Centre – Night Time Economy

The Head of Community Protection, Mr D. Elrington, presented a report which set out the powers available to the Council and the Police with regard to the control of opening and closing hours for premises licensed under the Licensing Act 2003.

(see annexed)

In presenting the report, Mr Elrington sought views of members on whether they wished officers to report further on the potential to introduce greater control over the closing times of licensed premises by introducing an Early Morning alcohol Restriction Order (EMRO) in Walsall Town Centre.

A lengthy discussion took place, during which time comments included:

- The committee already took licensing breaches seriously and there were compliance and enforcement processes already in place which were sufficient at this time, both for the police and the local authority.
- Regard should be had to home office guidance set out in the report which stated that applications should be treated on their own merits and that there should not be predetermined licensing opening hours.
- There could be more spot checks and enforcement activity undertaken rather than having an outright ban.
- Not all establishments open during the NTE hours were associated with anti-social behaviour and so those establishments could be disadvantaged.
- An EMRO could have implications for investment in the town and could have a detrimental effect on the town's economy making some establishments unviable.
- Young people could be disenfranchised and could move to areas which open later such as Birmingham or Wolverhampton, which also disadvantaged the Walsall town centre economy.
- There were increasingly more living spaces in the town centre and associated anxiety from residents regarding the NTE.

In response to questions from members, Mr Elrington advised that the introduction of EMROs would need to be justified and that a consultation would be required to inform this; and also that the introduction of zoned areas could displace any problems. He also confirmed that no other Council as far as he was aware, had successfully implemented such an order.

Members concluded the discussion by expressing their view that for the reasons given in the discussion, there should be no further action to tighten restrictions by pursuing the introduction of an EMRO at the current time.

It was **Moved** by Councillor Bains, **Seconded** by Councillor Kaur and, upon being put to the vote was:

Resolved (Unanimously)

- 1) That the Licensing and Safety Committee note that it is not possible within the current statement of licensing policy to impose a blanket closing time on premises operating in Walsall town centre, and that each application must be considered on its individual merits.

- 2) That the committee note that the statement of licensing policy can be reviewed at any time, however Home Office guidance states that licensing authorities must always consider each application and must not impose predetermined licensed opening hours.
- 3) That recommendation 2.3, to report further on the potential to introduce greater control over the closing times of licensed premises by introducing an Early Morning alcohol Restriction Order (EMRO) in Walsall Town Centre, be not pursued at this time.

7/23 Progress Report on various Licensing Policies

The Team Leader, Licensing, Mr S. Alom presented a report which updated on current policies under review by the Council as the Licensing Authority.

(see annexed)

Mr Alom responded to questions from members during which time he confirmed that with regard to the Street Trading Policy, charitable stalls were exempt as they were regulated by other legislation.

Resolved

That the report be noted.

8/23 Potential policy change to introduce six monthly DVLA checks

The Team Leader, Licensing, Mr S. Alom presented a report which responded to a request from the Taxi Licensing Sub Committee to consider a policy change to introduce six monthly DVLA checks.

(see annexed)

Members discussed the merits or otherwise of introducing such a policy however, on balance members considered that a change to the policy was not currently necessary for the following reasons:

- The number of cases of non-disclosure of endorsements was relatively low;
- There were existing robust compliance and enforcement processes already in place;
- The additional administrative and financial burden on both the local authority;
- The risk that drivers would apply to other local authorities having lower fees.

Resolved (unanimously)

That the report be noted and that no further action be taken at this time.

9/23 **Part relocation of Taxi Licensing office**

The Team Leader, Licensing, Mr S. Alom presented a report which updated members on the part re-location of the licensing service to the Council's depot.

(see annexed)

Mr Alom advised members that the new location was working well with positive feedback being received from the trade and an increase in drivers presenting their vehicles a timely way prior to the MOT test date.

Members welcomed the feedback and thanked Mr Alom and his team for their work.

Resolved:

- 1) That part of the licensing service will continue to work from the Council's depot, providing a more efficient service;
- 2) That the committee supports continued liaison with trade representatives from the Hackney Carriage Association and Private Hire Association to help promote the change further.

10/23 **Work Programme**

The work programme was submitted for information.

Resolved

That the work programme be noted.

Date of next meeting: 5 April 2023

The Meeting terminated at 6.59pm

Chair:

Date:



REPORT OF THE DIRECTOR OF RESILIENT COMMUNITIES

LICENSING AND SAFETY COMMITTEE

5 APRIL 2023

REVISION OF THE WALSALL COUNCIL STATEMENT OF PRINCIPLES

GAMBLING ACT 2005

1.0 Summary of Report

- 1.1 The Purpose of this report is to seek members approval of a revised Statement of Principles issued under section 349 of the Gambling Act 2005

2.0 Recommendations

Subject to consideration of the outcome of consultation referred to in paragraph 3.5 to 3.8:

- 2.1 That members receive the revised Statement of Principles for the period 2023/26 and recommend it to full Council for approval and adoption.
- 2.2 That members agree that the Licensing Service as part of its ongoing desire to protect the health of the communities of Walsall work with partners both internal and external to raise the profile of organisations, charities and services that can assist those who may suffer harm because of gambling.

3.0 Background information

- 3.1 The Gambling Act 2005 provides a comprehensive framework for the regulation of gambling nationwide. Its objectives are:
- a. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
 - b. Ensuring gambling is conducted in a fair and open way.
 - c. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

- 3.2 Walsall Council as a Licensing Authority is responsible for the licensing of premises, permits and registrations. The Gambling Commission issue licences for Gambling Operators and Personal Licences.
- 3.3 The Act places a duty on the licensing authority to determine and publish its Statement of Principles every three years with respect to the exercise of its functions.
- 3.4 During the three year period the Statement of Principles must be kept under review and the licensing authority may make any revisions to it as it considers necessary. In the last three years no matters have been brought to the attention of the Licensing Service that have suggested there was any need to make amendments to the Walsall Council Statement of Principles.
- 3.5 On the 12 October 2022 members Licensing and Safety Committee agreed that public consultation on the revised Statement of Principles could proceed.

The full public consultation was then launched on the **10 February 2023**. The online consultation was split into three sections

- 1. Questions regarding the Statement of Principles
- 2. Questions regarding the wider social impacts of Gambling and any concerns or complaints individuals or organisations may have.
- 3. Equalities information as to who was completing the questionnaire.

The consultation ended on the **21 March 2023**.

The second set of questions was felt important as the amount of intelligence and information the Licensing Service has in relation to gambling, any harms it creates and any problem premises is very limited. This approach was agreed with the Consultation Institute.

Prior to the public consultation, all relevant responsible authorities were contacted on the 28 February 2022 for information relating to concerns around gambling within the borough.

- 3.5 **Appendix 1** identifies those persons and organisations that were contacted as part of this consultation process.
- 3.6 Consultation ended on the **21 March 2023**.
- 3.7 Details of responses will be provided prior to the meeting.
- 3.8 The comments made have in the consultation have predominantly led to a greater emphasis being placed on licence applicants or holders raising the profile of organisations that can assist vulnerable persons in seeking help.

3.9 As part of this review process the service requested and has received details from GamCare the leading national provider of information, advice, support and free treatment for anyone affected by problem gambling. This data showed the numbers of persons in the Walsall area contacting them about problems caused by their gambling habits.

3.10 There are presently 46 Licensed premises in the Borough and these consist of

- 28 Betting establishments
- 8 Adult Gaming establishments
- 7 Bingo establishments
- 3 Casino establishments

3.11 Since the introduction of the 2005 Act only one application has had to be brought before the relevant sub committees for determination. This application was granted following an appeal made to Magistrates Court by the applicant

Since the previous Statement of Principles was introduced (in 2016) there have been four new applications and no reviews. Overall since the introduction of the Gambling Act in 2007 there have been 85 new applications and no reviews.

3.12 Local Area Profile – officers from the Licensing Service continue to work alongside the Public Health Intelligence team to devise the Local Area Profile for Walsall. As soon as the document is ready it will be made available on the Licensing web pages or upon request.

3.13 The recommended Statement of Principles for 2023 -2026 is attached as **Appendix 2**.

5.0 Resource Considerations

5.1 **Financial:** The Licensing Service is fully funded through the income it receives from the licensing of gambling establishments as mentioned in the main body of this report. The Service sets the fees for such applications based on relevant guidance.

There is not a huge turnover of these premises and therefore income appears to be relatively stable. This consequences of approving this Statement of Principles should not adversely affect income generation.

5.2 **Legal:** The Act places a duty on the licensing authority to determine its Statement of Principles with respect to the exercise of its functions and to publish that statement before it starts the exercise of those functions on a three year cycle.

Such a Policy must be approved by council and published before the licensing authority carries out its functions in respect of individual applications.

Any challenge of the Licensing Authority's Statement of Principles is by way of Judicial Review.

Enforcement relating to gambling is undertaken primarily by Community Protection Officers. There are however allowances within the act for Environmental Health officers, Trading Standards Officers and the Police to inspect and enforce licence conditions.

5.3 **Staffing issues:** None arising from this report.

6.0 Citizen Impact

6.1 Is addressed through the Statement of Principles

7.0 Community Safety

7.1 Is addressed through the Statement of Principles

8.0 Environmental Impact

8.1 Nothing arising from this report.

9.0 Performance and Risk Management Issues

9.1 Nothing arising from this report.

10.0 Equality Implications

10.1 These are addressed through the Statement of Principles

11.0 Consultation

- 11.1 Section 349(3) of the Act states that the following must be consulted:
- a. The Chief Officer of Police
 - b. One or more persons who appear to the authority to represent the interest of persons carrying on gambling businesses in the authority's area
 - c. One or more persons who appear to the authority to represent the interest of persons likely to be affected by the exercise of the authority's functions under the Act

12.0 Associated Papers

- 12.1 Appendix 1 - List of people consulted
12.2 Appendix 2 – Final policy to be adopted.

13.0 Contact Officer

- 13.1 Muhammed Sayful Alom (Licensing Team Leader) –
sayful.alom@walsall.gov.uk

Name	Address 1	Address 2
DWF Law LLP	5 St Paul's Square	Old Hall Street
Flint Bishop	St Michaels Court	St Michaels Lane
Freeths	One Colton Square	Leicester
Gosschalks	Queens Gardens	Hull
John Gaunt	Omega Court	372-374 Cemetery Road
Lanyon Bowdler Solicitors	Chapter House North	Abbey Lawn
Lockett & Co	Lockett House	13 Church Street
Lunn Groves	Sterling House	158 Hagley Road
Poppleston Allen	37 Stoney Street	The Lace Market
TLT Solicitors	One Redcliff Street	Bristol
Trethowans LLP	Trethowans LLP	London Road
Ward Hadaway	102 Quayside	Newcastle upon Tyne
Winckworth Sherwood	Minerva House	5 Montague Close
Woods Whur	St James House	28 Park Place

Address 3	Address 4	Address 5
Liverpool	L3 9AE	
Derby	DE1 3HQ	
	LE1 1QH	
East Riding of Yorkshi	HU1 3DZ	
Sheffield	S11 8FT	
Shrewsbury	SY2 5DE	
Kidderminster	DY10 2AH	
Stourbridge	DY8 2JL	
Nottingham	NG1 1LS	
	BS1 6TP	
Salisbury	SP1 3HP	
	NE1 3DX	
London	SE1 9BB	
Leeds	LS1 2SP	

Name	Address 1	Address 2
Licensing Matters Ltd	54 Fairfield Drive	Clitheroe
Arka Licensing Ltd	Trident Business Centre	89 Bickersteth Road
Inn Dispensable	Unit 45 Basepoint Centre	Waterberry Drive
Licence Leader	25 Hemyock Road	Selly Oak
JMC Licensing Consultants	540 Antrim Road	Belfast
Innpacked	Suite F8, 10 Whittle Road	Ferndown Industrial Estate
Get Licensed	None	
CPL Learning	Bridge Court	110 Canning Street
Licensing Guys	Rural Enterprise Centre	Vincent Carey Road
Inn Confidence	Inn Confidence	2nd Floor, Edward Pavilio
Optimised Training Centre	1 Guildford Street	Lozells
Knights Training	1-3-4 The Barracks	White Cross Business Park
Hospitality Training Solutions	Peter House	Oxford Street

Address 3	Postcode
London	BB7 2PE
Waterlooville	SW17 9SH
Birmingham	PO7 7TH
N. Ireland	B29 4DG
Wimborne	BT15 5GJ
	BH21 7RU
Birkenhead	CH41 1EW
Rotherwas	HR2 6FE
Royal Albert Dock	Liverpool
Birmingham	B19 2HN
South Road	Lancaster
Manchester	M1 5AN

Name	Address 1	Address 2
Betfred (Done Brothers Ltd)	56-58 Benson Road	Birchwood
Boyle Sports UK Ltd	172 Stafford Road	Shirley
Buzz Group Ltd	1st Floor, 7 Castle Quay	Castle Boulevard
Crown Leisure Ltd	Unit 1 Hillridge Road	Martland Park Ind Estate
Genting UK Plc	Circus Star City	Watson Road
Grosvenor Casinos Ltd	TOR, Saint-Cloud Way	Maidenhead
Ladbrokes Betting & Gaming Ltd	One Stratford Place	Montfichet Road
Megabet UK Ltd	Pinetree Business Centre	Durham road
Merkur Slots	Seebeck House	1A Seebeck House
Nexstar Ltd	19 High Street	Wednesfield
Off Course Bookmakers Ltd	560 Walsall Road	Great Barr
Players Amusements Ltd	Lucky Strike Amusement	18 Croft Parade
Playland Holdings Ltd	257 Stafford Street	Walsall
Pot Luck Gaming Centre Ltd	Penny Lane Business Ce	374 Smithdown Road
Power Leisure Bookmakers Ltd	Waterfront	Hammersmith Embankme
Talarius Ltd	Fifth Avenue Plaza	Queensway
William Hill Organisation Ltd	1 Bedford Avenue	London

Address 3	Address 4	Address 5
Warrington	WA3 7PQ	
Solihull	B90 3BQ	
Nottingham	NG7 1FW	
Wigan	WN5 0LS	
Birmingham	B7 5SA	
Berkshire	SL6 8BN	
London	E20 1EJ	
Birtley	DH3 2TD	
Milton Keynes	MK8 5FR	
West Midlands	WV11 1ST	
Birmingham	B42 1LR	
Walsall	WS9 8LY	
West Midlands	WS2 8DF	
Liverpool	L15 5AN	
Chancellors Road	London	W6 9HP
Team Valley Trading Estate	Gateshead	NE11 0BL
	WC1B 3AU	

Name

West Midlands Police
Gambling Commission
Trading Standards
Environmental Health
Childrens Services
West Midlands Fire Service (1)
West Midlands Fire Service (2)
Planning
Public Health
Community Protection
HMRC

Eddie Hughes Conservative MP
Wendy Morton Conservative MP
Valerie Vaz Labour MP
Walsall Ward Councillors
Walsall Parish Councillors
Sandwell Council
Dudley Council
South Staffs Council
Cannock Chase Council
Lichfield District Council
Birmingham City Council

Name	Address 1	Address 2
Gamble Aware		
Gam Care		
Aquarius Action Projects		
National Problem Gambling Clinic		
National Centre for Gaming Disorders		
Gamblers Anonymous		

Address 3

Postcode

Name	Address 1	Address 2
DWF Law LLP	5 St Paul's Square	Old Hall Street
Eversheds	Eversheds Sutherland (In	Eversheds House
Flint Bishop	St Michaels Court	St Michaels Lane
Freeths	One Colton Square	Leicester
Gosschalks	Queens Gardens	Hull
Harrison Clark Rickerby's Ltd	63 Church Street	Birmingham
John Gaunt	Omega Court	372-374 Cemetery Road
Kenneth Curtis Solicitors	88 Aldridge Road	Perry Barr
Lanyon Bowdler Solicitors	Chapter House North	Abbey Lawn
Lester Aldridge LLP	120 Moorgate	London Road
Lockett & Co	Lockett House	13 Church Street
Lunn Groves	Sterling House	158 Hagley Road
Poppleston Allen	37 Stoney Street	The Lace Market
Richard Bradley	Poppleston Allen	37 Stoney Street
Shoosmiths Licensing	2 Colmore Square	38 Colmore Circus
TLT Solicitors	One Redcliff Street	Bristol
Trethowans LLP	Trethowans LLP	London Road
VKM Solicitors	48 Queen Street	Wolverhampton
Ward Hadaway	102 Quayside	Newcastle upon Tyne
Winckworth Sherwood	Minerva House	5 Montague Close
Woods Whur	St James House	28 Park Place

Address 3	Address 4	Address 5
Liverpool	L3 9AE	
70 Great Bridgewater	Manchester	M1 5ES
Derby	DE1 3HQ	
	LE1 1QH	
East Riding of Yorkshi	HU1 3DZ	
	B3 2DP	
Sheffield	S11 8FT	
Birmingham	B42 2TP	
Shrewsbury	SY2 5DE	
	EC2M 6UR	
Kidderminster	DY10 2AH	
Stourbridge	DY8 2JL	
Nottingham	NG1 1LS	
The Lace Market	Nottingham	NG1 1LS
Queensway	Birmingham	B64 6SH
	BS1 6TP	
Salisbury	SP1 3HP	
	WV1 3BJ	
	NE1 3DX	
London	SE1 9BB	
Leeds	LS1 2SP	

Name

Email

Tel

Address 1

Address 2

Address 3

Postcode

Gambling Act 2005

Draft Statement of Principles



Date policy adopted:	Date
Date formally published:	Date
Date implemented:	Date
Next review due:	Date

2023 - 2026



Walsall Council

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Version Details:

Date	Version	Summary Changes
05.04.2023	1.1	Guidance and Legislation – Inspections

IMPORTANT NOTE

Where this policy refers to information, legislation, policy, or guidance produced by other governing bodies or regulatory agencies, please note that the requirement detailed within this this policy will be subject to any amendments thereof.

Walsall Metropolitan Borough Council

Statement of Licensing Policy

1 Introduction

- 1.1 Under Section 349 of the Gambling Act 2005 ('the Act'), licensing authorities are required to prepare a statement of principles that they propose to apply in relation to their regulatory responsibilities pertaining to gambling. Walsall Council ('the Council') is the Licensing Authority for the Walsall Metropolitan Borough licensing area and is fulfilling its legal duty to prepare a statement of principles through this Gambling Policy Statement ('the Policy').
- 1.2 The Council is required to publish the Policy at least every three years. It will also review the Policy from time to time and revise it when appropriate to do so. Any amendments to the Policy must be the subject of further consultation and the Policy, or relevant parts of the Policy, must then be re-published. In exercising its functions under the Gambling Act 2005 (the Act), Walsall Council in its role as licensing authority will regulate gambling in the public interest and by having regard to the licensing objectives, as set out in Section 1 of the Act.
- 1.3 Walsall MBC is located in the West Midlands; an area comprising seven Metropolitan Councils in total. Walsall Council covers 40.2 square miles of which 24.83 square miles are predominantly urban development. With an estimated population of 293,378 (2018) it is the fourth largest area in the County, in terms of population.
- 1.4 The towns of Willenhall and Darlaston, to the west of the M6, contrast with the eastern parts of the borough, which are more residential and, in parts, agricultural in character. Traditional and growth industries are spread throughout the borough. Walsall benefits from its position at the cross-roads of the motorway network and communications have been improved further by the M6 Toll Road and the new Junction 10 improvement plan.
- 1.5 Birmingham airport and the Genting Arena Complex are within easy reach and frequent trains to Birmingham provide links to the national network. Regeneration projects focussing on Walsall town centre, local centres, the wider borough, and key transport corridors continue to transform the borough's new economic well-being.
- 1.6 Through its statement of licensing principles, Walsall Council strives to sustain core values of Honesty and Integrity, Fairness and Equality, Value for Money, Innovation and Collaboration and Listening and Responding.

Below is a map showing all the wards within the borough.



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- 1.7 Gambling is a legitimate regulated activity that is enjoyed by a large number of the population. However, there are a number of people within our society who are at risk to gambling related harm. The council, as the Licensing Authority under the Act has a duty to consider applications relating to allowing gambling facilities within the town to ensure that they meet the fundamental principles of the Act. In doing so the authority must balance the needs of business to profit and grow with the potential impact on those who are vulnerable to being exploited or susceptible to gambling related harm.

2 Licensing Objectives

- 2.1 In exercising its functions under the Gambling Act 2005 (the Act), Walsall Council in its role as licensing authority will regulate gambling in the public interest and by having regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- Ensuring that gambling is conducted in a fair and open way.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

- 2.2 In making decisions about whether to issue premises licences and temporary use notices Walsall Council will have regard to s153 of the Act and aim to permit the use of premises for gambling in so far as it thinks fit:

- in accordance with any relevant code of practice issued by the Gambling Commission
- and in accordance with any relevant guidance issued by the Gambling Commission
- and where the decision is reasonably consistent with the licensing objectives
- and in accordance with the authority's statement of licensing policy.

- 2.3 The Gambling Act 2005 specifically references factors which Walsall Council as Licensing Authority must not consider in exercising its functions including:

- The expected demand for facilities (s.153(2))
- Whether the application is to be permitted in accordance with the law relating to planning or building (s.210(1)) 1.10.

- 2.4 The aim to permit principle provides wide scope for the authority to impose conditions on a premises licence, reject, review or revoke premises

licences where there is a potential conflict with the relevant codes of practice, relevant Commissions Guidance and this Statement of Licensing Principles.

3 Consultation

2.5 Section In line with the requirements of the Act the following persons, groups or organisations will be consulted with before the Statement of Policy is finalised and published:

- The Chief Officer of Police.
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area.
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

3.0 The consultation period will take place between DATE 2022 – DATE 2022. The list of persons consulted can be found at APPENDIX 1

3.1 The policy was approved at a meeting of the Council on DATE 2022 and was published via our website on DATE 2022. This Policy is effective from DATE 2022.

3.2 Comments on Statement of Principles

The Statement of Principles will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

Licensing Service
Walsall M.B.C
Civic Centre
Darwall Street
Walsall
WS1 1TP

e-mail: licensing@walsall.gov.uk

website: www.walsall.gov.uk

3.3 It should be noted that this statement of licensing policy does not:

- override the right of any person to make an application and to have that application considered on its merits in accordance with the statutory requirements of the Act, or

- restrict the right of persons to make representations on an application or seek a review of a licence where provision has been made for them to do so.

4 Declaration

- 4.1 In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

5 Responsible Authorities and Interested Parties

Responsible Authorities

- 5.1 The Act allows for two different types of groups to make representations regarding applications and also to apply to have existing licences reviewed by the Authority. These groups are “Responsible Authorities” and “Interested Parties”.
- 5.2 The Act defines Responsible Authorities as:
- 5.3 S.157 of the Act identifies the bodies that are to be treated as responsible authorities. They are:
- a. The council’s Licensing Department (as the licensing authority)
 - b. the Gambling Commission
 - c. the chief officer of police or chief constable for the area in which the premises is wholly or partially situated
 - d. the fire and rescue authority for the same area
 - e. the council’s local planning authority
 - f. The council’s Environmental Health department (an authority which has functions in relation to pollution to the environment or harm to human health)
 - g. anybody, designated in writing by the licensing authority, as competent to advise about the protection of children from harm
 - h. HM Revenue & Customs
 - i. any other person prescribed in regulations by the Secretary of State.
- 5.4 In relation to a vessel:
- a. a navigation authority having functions in relation to the waters where the vessel is usually moored or berthed or any water where it is or is proposed to be navigated at a time when it is used for licensable activities.
 - b. the Environment Agency.
 - c. the Canal and River Trust.

- d. the Secretary of State, or
- e. any other person prescribed in regulations by the Secretary of State.

5.5 The contact details of Responsible Authorities under the Gambling Act 2005 are attached at Appendix 2 and are also available via the Council's website www.walsall.gov.uk.

Interested Parties

5.6 Interested parties may submit representations about licence applications or apply for a review of an existing licence.

5.7 Walsall Council will consider a person an interested party in relation to an application for or in respect of a premises licence where the person:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- has business interests that might be affected by the authorised activities or
- represents persons who satisfy paragraph (a) or (b)

5.8 Walsall Council will apply the following principles when determining whether a person lives sufficiently close to a premises to be considered an interested party:

- The size of the premises.
- The nature of the premises.
- The distance of the premises from the habitual residence or workplace of the person making the representation.
- The potential impact of the premises (numbers of customers, routes likely to be taken by those visiting the premises).
- The circumstances of the person and nature of their interests, which may be relevant to the distance from the premises.

5.9 A rigid rule will not be applied to decision making and each case will be decided upon its merits.

5.10 Where representations are made by a rival business, where no specific or reasonable evidence base exists, rival businesses will not be considered interested parties.

- 5.11 Democratically elected persons will generally be considered Interested Parties, providing the Councillor or MP represents the ward likely to be affected. Elected members who are also members of the Licensing and Safety Committee must seek advice prior to agreeing to represent any person(s).
- 5.12 In determining whether a person or organisation "has business interests" the authority will adopt the widest possible interpretation and include residents' and tenants' associations, trade associations, trades unions, partnerships, charities, faith groups and medical practices, as appropriate.
- 5.13 Representatives of Community Groups for example those supporting vulnerable persons living near the proposed premises, Residents and Tenants Associations, Governors of schools, partnerships, charities, faith groups and medical practices located near proposed premises will generally be considered Interested Parties.
- 5.14 Other than democratically elected persons each case will be decided upon its merits. Where necessary written evidence for example in the form of a letter from the Interested Person(s) will be requested to assist in making a decision. The letter or written evidence should show that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities

6 Responsible authority for protection of children from harm

- 6.1 In accordance with the powers under s157(h) of the Act and having regard to the Gambling Commission's Guidance to Licensing Authorities, the Walsall Safeguarding Partnership is designated as the competent body to advise Walsall Council about the protection of children from harm.
- 6.2 In making this determination consideration has been given to the following principles:
- i. the need for the body to be responsible for covering the whole of the licensing authority's area; and
 - ii. the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 6.3 The Safeguarding Partnership has the overarching responsibility to meet the requirements of section 14(1) of the Children Act 2004, including:
- 6.4 the co-ordination of what is done by each person or body represented on the Board for the purpose of safeguarding and promoting the welfare of children in the area of authority.

- 6.5 to ensure the effectiveness of what is done by each person or body for that purpose.
- 6.6 Should during the lifetime of this policy the Safeguarding Partnership change or be superseded in any way a new competent authority will be designated based upon the same principles described above.

7 Exchange of Information

- 7.0 The principles that Walsall Council will apply in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act are as follows:
 - 7.1 Regard will always be given to the Guidance to licensing authorities document issued by the Gambling commission as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005
 - 7.2 Information will be provided to the Commission in a manner determined by it as long as it forms part of a register maintained under the Act and that the information is in the possession of the authority in connection with the provisions of the Act.
 - 7.3 Information will be exchanged with some or all of the following:
 - a. A constable or police force
 - b. an enforcement officer
 - c. a licensing authority
 - d. HMRC
 - e. the First Tier Tribunal
 - f. the Secretary of State
 - g. Scottish Ministers.
 - 7.4 In the course of their duties, relating to Gambling or wider socio-economic impacts, information will be exchanged in compliance with the General Data Protection Regulation, the Data Protection Act 2018, the Freedom of Information Act 2000 and any other act or Regulation that forms a relevant part of the UK data protection regime.
 - 7.5 In respect of the processing, storage and use of information, Walsall Council is committed to complying with the General Data Protection Regulations (GDPR), underpinned by the council's Information

Governance Policy Framework consists of an overarching strategy supported by three separate Policies. These are:

- The Information Rights Policy
- The Records Management Policy
- The Information Risk and Security Policy
- For further information in relation to these matters contact can be made with informationmanagement@walsall.gov.uk

7.6 All Information received or retained by the Licensing Team is held within a secure access-controlled building. The electronic databases exist within a password protected server and any paper records are kept in locked cabinets.

7.7 Should any protocols be established as regards information exchange with other bodies then they will be made available.

8 Inspection and criminal proceedings

8.0 Walsall Council will adopt the principles of good regulation and will have regard to its Enforcement Policy, current Gambling Commission Statement of Principles for Licensing and the Gambling Commission Licensing, Compliance and Enforcement Policy Statement where appropriate.

8.1 Walsall Council will exercise its regulatory activities in a way which is:

Proportionate

The Regulators' Code promotes proportionate regulatory activity, which includes taking appropriate action where non-compliance is identified. The Public Interest Stage contained in the Code for Crown Prosecutors and can be accessed at www.cps.gov.uk/publication/code-crown-prosecutors will always be considered when determining whether it is right to prosecute. Our activities will reflect the impact of the offending on those living in, working in and visiting the area and enforcement action taken will relate to the seriousness of the offence.

Accountable

Council activities will be conducted and recorded in a way that ensures they are open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures,

Consistent

Our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in a consistent manner.

Transparent

We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and

Targeted

We will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities and intelligence.

- 8.2 Walsall Council will endeavour to avoid duplication with other regulatory regimes so far as possible, and ensure its primary focus is directed toward promoting and achieving compliance with the premises licences and other permissions it authorises.
- 8.3 Inspections of licensed premises will be carried out using intelligence and a risk-based approach.
- 8.4 Where a premises is considered to pose a high-risk inspections will be carried out no less than annually with appropriate revisits to ensure compliance.
- 8.5 Where complaints or other intelligence are received in relation to a premises these will be assessed and an appropriate response which may include inspection will be made. Should it be considered necessary to undertake test purchases or age verification exercises Walsall Council will follow the guidance set out in the Gambling Commission Test Purchasing and Age Verification toolkit or any guidance which supersedes it.
- 8.6 Walsall council will always be prepared to work in partnerships with the Gambling Commission on local test purchasing and age verification or other enforcement exercises and use any evidence gathered in decisions relating to review of a licence and implementation of its Enforcement Policy.
- 8.7 Where consultations are required as part of an application an inspection will normally be carried out.
- 8.8 This regime does not include issues relating to operating and personal licences and concerns about manufacture, supply or repair of gaming machines which are the responsibility of the Gambling Commission.

- 8.9 This authority supports the principals of better regulation to promote efficient and effective approaches to regulatory inspection and enforcement that improve regulatory outcomes without imposing unnecessary burdens on business.
- 8.10 Bearing in mind the principle of transparency, this licensing authority's enforcement policy and any protocols which may be in place are available upon request to the Licensing service.

9 Licensing authority functions

- 9.1 Walsall Council is required under the Act to:
- a. Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
 - b. Issue Provisional Statements
 - c. Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
 - d. Issue Club Machine Permits to Commercial Clubs
 - e. Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
 - f. Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
 - g. Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
 - h. Register small society lotteries below prescribed thresholds
 - i. Issue Prize Gaming Permits
 - j. Receive and Endorse Temporary Use Notices
 - k. Receive Occasional Use Notices
 - l. Set and collecting fees
- 9.2 Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- 9.3 Maintain registers of the permits and licences that are issued.

10 Local risk assessments

- 10.1 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) formalise the need for operators to consider local risks. The risk assessment requirement is intended to provide a well evidenced and

transparent approach to considering and implementing measures to address the risks associated with gambling.

- 10.2 The Social responsibility (SR) code requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must consider relevant matters identified in the licensing authority's policy statement.
- 10.3 Licensees are required to undertake a local risk assessment when applying for a new premises licence. This risk assessment must also be updated:
- i. when applying for a variation of a premises licence.
 - ii. to take account of significant changes in local circumstances, including those identified in a licensing authority's policy statement.
 - iii. when there are significant changes at a licensee's premises that may affect their mitigation of local risks.
- 10.4 Walsall Council expects licence holders and applicants to share their risk assessment when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise upon request.
- 10.5 Walsall Council will wherever possible facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. Licensees will be given the opportunity to volunteer specific conditions that could be attached to the premises licence where appropriate.
- 10.6 The risk-based approach provides a better understanding of, and enables a proportionate response, to risk. This approach includes looking at future risks and thinking about risks in a probabilistic way. Risk is not necessarily related to an event that has happened. Risk is related to the probability of an event happening and the likely impact of that event. In this case it is the risk of the impact on the licensing objectives.
- 10.7 Walsall will work with responsible authorities and in collaboration with the industry at putting together a premises-based gambling risk assessment for new and existing businesses to conduct, assess and complete when looking at applying for a new licence, or to vary an existing one.
- 10.8 Gambling operators are required to undertake a risk assessment for all of their licensed premises. Operators must also undertake a review of those assessments when concerns are raised by the council or responsible authorities.

- 10.9 This local risk assessment process is not the same as other forms of risk assessment undertaken by gambling operators, such as Health and Safety at Work, Fire Safety and Food Hygiene, etc. These local risk assessments are specific to the potential harm that gambling premises can have on one or more of the licensing objectives under the Act. They are specific to the premises, the local area and the local community.

11 Local Area Profile

- 11.1 Walsall Council has completed its own assessment of the local environment as a means of 'mapping out' local areas of concern. This will be updated and reviewed regularly and no later than each review of this Gambling Policy.
- 11.2 The local area profile takes account of a wide range of factors, data and information held by Walsall Council and its partners. This includes public health, mental health, housing, education, community welfare groups and safety partnerships, and organisations such as Gamcare or equivalent local organisations.
- 11.3 It is envisaged that the profile will increase awareness of local risks and improved information sharing, to facilitate constructive engagement with licensees and a more coordinated response to local risks. The local area profile will help to inform specific risks that operators will need to address in their risk assessment.
- 11.4 For example, if an area is identified as high risk on the basis that it is located within close proximity to a youth centre, rehabilitation centre, or school, Walsall Council could reasonably expect, the licensee to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 11.5 Walsall Council would also expect a licensee to have sufficient controls in place to mitigate associated risks in such areas and, if not, the council may itself consider other controls and impose them through conditions.
- 11.6 Walsall council will produce its local area profile in a separate document to this general gambling policy statement and review the contents regularly.
- 11.7 As stated, there is no mandatory requirement to have a local area profile, but Walsall Council considers that there are a number of benefits in doing so:

- it enables licensing authorities to better serve their local community, by better reflecting the community and the risks within it.
- greater clarity for operators as to the relevant factors in licensing authority decision making, will lead to improved premises licence applications, with the operator already incorporating controls and measures to mitigate risk in their application.
- it enables licensing authorities to make robust but fair decisions, based on a clear, published set of factors and risks, which are therefore less susceptible to challenge.
- it encourages a proactive approach to risk that is likely to result in reduced compliance and enforcement action.

12 Licensing Authority Delegations.

- 12.1 A summary of the licensing authority delegations is given as Appendix 3.
- 12.2 A licensing sub-committee of three councillors will sit to hear applications where relevant representations have been received from responsible authorities and/or interested parties.

PART B

PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

13 General Principles

- 13.0 Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

14 Decision-making

- 14.1 Walsall Council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks the application is:
- a. in accordance with any relevant code of practice issued by the Gambling Commission,
 - b. in accordance with any relevant guidance issued by the Gambling Commission,
 - c. reasonably consistent with the licensing objectives, and
 - d. in accordance with the authority's statement of licensing policy.
- 14.2 In its decision making, Walsall Council will comply with the Gambling Commission's Guidance that "moral objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for a licensing authority.
- 14.3 Applicants for premises licences will have to hold an operator's licence from the Commission (except occupiers of tracks who do not propose to offer gambling themselves). Generally, the licensing authority will not (unless evidence to the contrary comes to light) have to ascertain if the applicant is suitable to hold a premises licence. The licensing authority will have to be satisfied that the premises will not adversely affect the licensing objectives and is compliant with the Commission's Guidance, codes or practice and this statement of principles.
- 14.4 Walsall Council will expect the applicants to provide details as to their crime prevention measures and any risk assessments that they have carried out. The operator must meet the Commission's requirements to obtain and hold an operator's licence, whilst the Licensing Authority's

concerns are focused on the premises and how the operation of the premises will affect the licensing objectives.

- 14.5 Walsall Council, when considering any applications in such a location that has been identified by the police as having a problem with anti-social behaviour, particularly involving groups who loiter will expect applicants or licensees to demonstrate that they have sufficient measures in place to prevent or deter people involved in unlawful activities from using their premises to support crime or to avoid apprehension.
- 14.6 For the purposes of this Policy and its responsibilities as a licensing Authority Walsall Council will use the following definition of premises.
- 14.7 "Premises" is defined as including "any place". Section 152 of the Act therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. Walsall Council will expect that mandatory conditions relating to access between premises are observed.
- 14.8 Walsall Council will give due consideration in its decision making to the Gambling Commission's Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street.
- 14.9 But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing authority.
- 14.10 Walsall Council does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. If a premises is located within a wider venue, a licensing authority should request a plan of the venue on which the premises should be identified as a separate unit.
- 14.11 Walsall Council will give due consideration in its decision making to the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a

discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised, and that people do not 'drift' into a gambling area. The plan of the premises should clearly denote entrances and exits.

14.12 Walsall Council will consider the following and other relevant factors in making its decision, depending on all the circumstances of each case, including:

- a. Does the premises have a separate registration for business rates?
- b. Are neighbouring premises owned by the same person or someone else?
- c. Can each of the premises be accessed from the street or a public passageway?
- d. Can the premises only be accessed from any other gambling premises?

15 Vehicles

15.1 Vehicles (trains, road vehicles, aircraft, sea planes and amphibious vehicles, other than a hovercraft) may not be the subject of a premises licence and therefore all forms of commercial betting and gaming will be unlawful in a vehicle in Walsall. Certain allowances may be made for private and non-commercial gaming or betting to take place in a vehicle, but these are subject to a number of stringent requirements that ensure that, at no point, can the gambling become a commercial activity.

16 Vessels

16.1 Walsall Council will give due consideration into applications made for premises licences relating to passenger vessels.

16.2 The definition of a vessel for these purposes is:

- a. anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water,
- b. a hovercraft,
- c. anything, or part of any place, situated on or in water, and
- d. In terms of point 3 a normal and sensible interpretation will be made. Structures which are an extension of the land will not be considered vessels, even if they arch over water. This means that, neither a pier nor a bridge will be considered a vessel and they remain premises for the purposes of this Policy.

- 16.3 All other matters relating to the licensing of a vessel will be considered in line with the Gambling Commission's Guidance to Licensing Authorities.

17 Types of Premises Licence.

- 17.1 Walsall Council will give due consideration in its decision-making processes to the Gambling Commission's relevant access provisions for each premises type, outlined below:

Casinos

- 17.2 The principal access entrance to the premises must be from a street.
No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons.
No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

Adult Gaming Centre

- 17.3 No customer must be able to access the premises directly from any other licensed gambling premises.

Betting Shops

- 17.4 Access must be from a street or from another premises with a betting premises licence.
No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind unless that shop is itself a licensed betting premises.

Tracks

- 17.5 No customer should be able to access the premises directly from a casino or an adult gaming centre.

Bingo Premises

- 17.6 No customer must be able to access the premises directly from a casino, an adult gaming centre or a betting premises, other than a track.

Family Entertainment Centre

- 17.7 No customer must be able to access the premises directly from a casino, an adult gaming centre or a betting premises, other than a track.
Walsall Council will give due consideration to Part 7 of the Gambling Commission's Guidance to Licensing Authorities which contains further guidance on this issue.

Premises “ready for gambling”

- 17.8 For the purposes of this Policy and the operation of the Licensing Service Walsall Council consider that a licence to use premises for gambling should only be issued in relation to premises that it can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.
- 17.9 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead. However, there is nothing to prevent a premises licence application being made in these circumstances if there is a right to occupy the premises.
- 17.10 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-
- a. first, whether the premises ought to be permitted to be used for gambling; and
 - b. thereafter, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be, before gambling can take place.
- 17.11 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

18 Location

- 18.1 Walsall Council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. The Gambling Commission’s Guidance to Licensing Authorities will be followed by this authority and particular attention will be paid to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 18.2 Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.
- 18.3 The Licensing Authority will expect applicants to consider the measures necessary to be reasonably consistent with the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. The location of the premises may be a significant factor if for example the premises are located near a school, hostel or other sensitive premises. Other policies specifically deal with location

although the applicant will have to demonstrate that there are suitable control measures to be reasonably consistent with this objective.

- 18.4 It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.
- 18.5 Persons under 18 cannot be admitted to many types of gambling premises. New gambling premises or variations to existing premises that are in close proximity to schools or main routes to schools will expect the applicant to have carefully considered their operation and any potential for exposing children and young people to gambling. Operators should demonstrate policies and procedures that will prevent children and young people from entering premises or partaking in gambling activities.

19 Planning

- 19.1 In determining applications and unless there are compelling legal or evidence-based decisions to the contrary Walsall Council will generally not take into consideration matters that are unrelated to gambling and the licensing objectives. For example, the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal or whether those buildings have to comply with the necessary planning or building consents. Walsall Council would however require confirmation that a premises will be ready to use for gambling in the reasonably near future. Walsall Council consider the placing of conditions on the licence to cater for situations where premises are not yet in a state to allow gambling to take place.

20 Duplication with other regulatory regimes

- 20.1 This licensing authority will seek to avoid any duplication with other statutory or regulatory systems where possible, including planning. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 20.2 Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

21 Licensing Objectives

- 21.1 Those Premises licences that are granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities relevant comments are made below.

- 21.2 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- 21.3 The Gambling Commission takes a leading role in preventing gambling from being a source of crime. Walsall Council will endeavour to pay attention to the proposed location of gambling premises in terms of this licensing objective. Where it is believed or can be reasonably proven that an area has high levels of organised crime Walsall Council will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. In order to make a distinction between disorder and nuisance consideration of factors such as whether police assistance has been required at a premises and how threatening and behaviour was to those who could see it.
- 21.4 Whether there is a history of crime or disorder associated with the premises or its use by those involved in crime to associate or dispose of the proceeds of crime.
- 21.5 Whilst issues of nuisance are not included specifically in the gambling objectives, the council may consider, when making decisions on the applications for premising licenses, that extreme instances of public nuisance and persistent public nuisance may constitute disorder and criminal offences.
- 21.6 Walsall Council will expect gambling to be conducted in a fair and open way and that this will be addressed via operating and personal licences that are issued by the Gambling Commission.
- 21.7 Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 21.8 For the purposes of this policy, consultations and operational procedures Walsall Council considers this to mean preventing children from taking part in gambling as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children. Consideration will be given by the authority as to whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances and machines and possible segregation of areas etc. Each case brought before the authority will be considered separately in relation to compliance with this licensing objective.
- 21.9 The Licensing Authority will consider each application on its own merits and will look closely at applications for types of premises that can be run by an operator where there is no requirement to hold an operator's licence.

22 Vulnerable Persons

- 22.1 As regards the term “vulnerable persons” Walsall Council defines this group as people who gamble more than they want to; people whose gambling is beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.”
- 22.2 Has the operator a specific training programme for staff to ensure that they are able to identify children and vulnerable people and take appropriate action to be reasonably consistent with this objective to exclude them from the premises or parts of the premises.
- 22.3 If the premises is an adult only environment has the operator taken effective measures to implement an appropriate proof of age scheme to ensure that no one under the age of 18 is admitted to the premises or restricted areas.
- 22.4 Applicants will be required to demonstrate whether sufficient management measures are proposed or are in place to protect children and other vulnerable persons from being harmed or exploited by gambling.

23 Conditions

- 23.1 Any conditions attached to licences issued by Walsall Council will be proportionate and will be:
- a. relevant to the need to make the proposed building suitable as a gambling facility;
 - b. directly related to the premises and the type of licence applied for;
 - c. fairly and reasonably related to the scale and type of premises; and
 - d. reasonable in all other respects.
- 23.2 Decisions upon individual conditions will be made on a case-by-case basis, although there will be a number of measures this authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc.
- 23.3 There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer their own suggestions as to the way in which the licensing objectives can be met effectively.
- 23.4 In order to pursue the licensing objectives Walsall Council will consider specific measures which may be required for buildings which are subject to multiple premises licences these may include:

- a. the supervision of entrances,
- b. segregation of gambling from non-gambling areas frequented by children,
- c. the supervision of gaming machines in non-adult gambling specific premises, and
- d. any other such matters in accordance with the Gambling Commission's Guidance.

24 Category C Machines

- 24.1 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- a. all such machines are located in an area of the premises that can be viewed or monitored by an authorised person of the premises;
 - b. access to the area where the machines are located is supervised;
 - c. the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
 - d. at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
 - e. These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 24.2 In terms of the management of Tracks particularly where they are subject to more than one premises licence Walsall Council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 24.3 It is noted that there are conditions which cannot be attached to premises licences such as:
- a. any condition on the premises licence which makes it impossible to comply with an operating licence condition;
 - b. conditions relating to gaming machine categories, numbers, or method of operation;
 - c. conditions which provide that membership of a club or body be required;
 - d. conditions in relation to stakes, fees, winning or prizes.

25 Door Supervisors

- 25.1 Where Walsall Council is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it is likely that a requirement shall be made that the entrances to the premises are controlled by a door supervisor. In these circumstances the applicant or licence holder will be notified by the authority as to whether these need to be SIA licensed. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

26 Adult Gaming Centres (AGC)

- 26.1 Walsall Council is committed to protecting children and vulnerable persons from harm or being exploited by gambling and will expect any applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18-year-olds do not have access to the premises.
- 26.2 Adult gaming centres (AGCs) premises licences allow the holder of the licence to make gaming machines available for use on the premises. Persons operating an AGC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the licensing authority. The holder of an adult gaming centre premises licence that was issued prior to the 13th of July 2011 is entitled to make available four category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever, is the greater. An AGC premises licence granted after the 13th of July 2011 may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines.
- 26.3 Gaming machines are a form of gambling which is attractive to children and AGC's will contain machines of a similar format to the Category D machines on which children are allowed to play. However, no-one under the age of 18 is permitted to enter an AGC and applicants must be aware of the location of and entry to AGC's to minimise the opportunities for children to gain access.
- 26.4 The following measures are deemed suitable for applicants to consider in relation to the promotion of the licensing objectives. The list is not mandatory, nor exhaustive, and is merely indicative of example measures.
- 26.5 All potential risks and measures taken to mitigate such risks should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated, including:
- Proof of age schemes
 - CCTV
 - Supervision of entrances / machine areas
 - Physical separation of areas

- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises.

27 (Licensed) Family Entertainment Centres (FEC):

27.1 Walsall Council is committed to protecting children and vulnerable persons from harm or being exploited by gambling and will expect any applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18-year-olds do not have access to the premises.

27.2 Generally, FECs must be operated by a person or body having an operating licence from the Gambling Commission (the Act also provides that there is a class of unlicensed Family Entertainment Centres that may be run by individuals or bodies not holding an operator's licence).

Unlicensed Family Entertainment Centres do not require the operator to have a Gambling Commission operator's licence but do need to have a gaming machine permit as set out below. Gaming machines are a form of gambling which is attractive to children and FECs will contain both Category D machines on which they are allowed to play, and category C machines on which they are not.

27.3 The following measures are deemed suitable when applicants are considering how to meet the licensing objectives. The list is not mandatory, nor exhaustive, and is merely indicative of example measures.

27.4 All potential risks and measures taken to mitigate such risks, should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage

- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises.

27.5 Walsall Councils Licensing Officers will refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. They will also review any mandatory or default conditions on these premises licences, when they have been published.

28 Casinos

28.1 No Casinos resolution - Walsall Council has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005 but is aware that it has the power to do so. Should it be decided in the future to pass such a resolution, this policy statement will be updated with details of that resolution. Any such decision will be made by the Full Council.

28.2 Licence considerations / conditions – Walsall Council will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance, bearing in mind the mandatory conditions listed in the Guidance and the Licence Conditions and Codes of Practice published by the Gambling Commission.

28.3 Betting machines – Walsall Council will, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

28.4 It will be expected that all potential risk measures should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

29 Bingo premises

29.1 Prior to a licence being issued an applicant will need to satisfy Walsall Council that bingo can be played in any bingo premises. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas. Before issuing additional bingo

premises licences, this authority will consider whether bingo can be played at each of those new premises.

- 29.2 Children and young people are allowed into bingo premises; however, they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.
- 29.3 All potential risk measures should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.
- 29.4 A Bingo premises licence granted before the 13th of July 2011 are entitled to make eight category B gaming machines, or 20% of the total number of gaming machines, whichever is greater. For Bingo premises licences granted after the 13th of July 2011 are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. There are no restrictions on category C or D machines that can be made available in any Bingo licence no matter when it was granted.
- 29.5 To avoid a situation where a premises holds a bingo premises licence primarily to benefit from the gaming machine allowance, the licensing authority will need to be satisfied that bingo can be played in any premises for which a premises licence is issued. Particular consideration will be given when the operator of an existing bingo premises applies to vary the premises licence to exclude an area of the existing premises and then applies for a new licence for the excluded area.

30 Betting premises

- 30.1 Betting machines - Walsall Council will, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.
- 30.2 All potential risk measures should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.
- 30.3 This licensing authority may consider measures to meet the licensing objectives such as:
- Proof of age schemes

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises.

31 Tracks

- 31.1 Walsall Council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.
- 31.2 As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 31.3 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 31.4 This licensing authority may consider measures to meet the licensing objectives such as:
- Proof of age schemes
 - CCTV
 - Supervision of entrances / machine areas
 - Physical separation of areas

- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

31.5 This list is not mandatory, nor exhaustive, and is merely indicative of example measures. All potential risks and measures taken to mitigate such risks, should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

32 Gaming machines

Where the applicant holds a pool betting operating licence and is going to use the entitlement for up to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

33 Betting machines

Walsall Council will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

34 Applications and plans

34.1 Applicants are required to submit plans of the premises with their application, in order to ensure that this authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.

34.2 Plans for tracks do not need to be in a particular scale but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

34.3 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point

racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

- 34.4 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.
- 34.5 It is appreciated that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place.

35 Travelling Fairs

- 35.1 This authority is responsible for deciding where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 35.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 35.3 It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.
- 35.4 Low-stake gaming machines can be made available at fairgrounds along with coin-pushers, cranes and grabbers. Higher stake machines, like those typically played in arcades and pubs, are not permitted. Fairground operators must source their machines from a Gambling Commission licensed supplier and employees working with gaming machines must be at least 18 years old.

36 Provisional Statements

- 36.1 Developers are able to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge

whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

- 36.2 S.204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- a. expects to be constructed,
 - b. expects to be altered, or
 - c. expects to acquire a right to occupy.
- 36.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 36.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 36.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired.
- 36.6 When determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties will be considered unless:
- a. they concern matters which could not have been addressed at the provisional statement stage, or
 - b. they reflect a change in the applicant's circumstances.
- 36.7 In addition, Walsall Council may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- a. which could not have been raised by objectors at the provisional statement stage,
 - b. which in the authority's opinion reflect a change in the operator's circumstances, or
 - c. where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can

discuss any concerns it has with the applicant before making a decision.

37 Reviews

- 37.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities. Walsall Council will then decide whether a review is to be carried-out. The matters listed below will be used to make a decision:
- a. the review is in accordance with any relevant Code of Practice issued by the Gambling Commission,
 - b. the review is in accordance with any relevant guidance issued by the Gambling Commission,
 - c. the review is reasonably consistent with the licensing objectives; and
 - d. the review is in accordance with the authority's statement of principles,
 - e. the Council has reason to suspect that premises licence conditions are not being observed,
 - f. the premises is operating outside of the principles set out in the licensing authority's statement of policy,
 - g. there is evidence to suggest that compliance with the licensing objectives is at risk, or
 - h. for any other reason which gives them cause to believe that a review may be appropriate, such as a complaint from a third party.
- 37.2 Walsall Council Licensing Officers will consider each application for a review in terms of whether it is frivolous, vexatious, or whether it will certainly not cause the authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 37.3 In its role as a licensing authority Walsall Council will also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
- 37.4 Once a valid application for a review has been received by the authority, representations can be made by responsible authorities and interested parties during a 28-day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 37.5 Walsall Council will carry out the review as soon as possible after the 28-day period for making representations has passed.

- 37.6 The purpose of the review will be to determine whether any action in relation to the licence. If action is justified, the options that the authority may consider are:-
- a. add, remove or amend a licence condition imposed by the licensing authority,
 - b. exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion,
 - c. suspend the premises licence for a period not exceeding three months, or
 - d. revoke the premises licence.
- 37.7 In determining what action, if any, should be taken following a review Walsall Council will have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 37.8 Walsall Council will in appropriate circumstances seek to initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 37.9 Once the review has been completed, notification of the decision and the reasons for the decision will be made to:
- a. the licence holder
 - b. the applicant for review (if any)
 - c. the Commission
 - d. any person who made representations
 - e. the chief officer of police or chief constable; and
 - f. Her Majesty's Commissioners for Revenue and Customs
- 37.10 The authority will follow the Gambling Commission advice to Local Authorities guidance in terms of any appeal provisions.

38 PART C - Permits / Temporary & Occasional Use Notice

Permits

- 38.1 The Policy of Walsall Council in respect of permits for unlicensed family entertainment centres, club gaming, club machine and gaming machine on alcohol licensed premises is to:
- a. promote the licensing objectives;
 - b. treat each application individually on its own merits;
 - c. comply with the statutory requirements;

- d. ensure compliance with the guidance issued by the Gambling Commission;
 - e. promote and ensure high standards at all venues.
- 38.2 When considering a licence or permit application, Walsall Council will consult closely with the Chief of Police and Safeguarding Partnership.
- 38.3 Details on the categorisation of gaming machine entitlements and the gaming entitlements for clubs and pubs can be found on the Gambling Commissions website through the links listed below.

Gaming machine entitlements

- 38.4 www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-B-Summary-of-gaming-machine-categories-and-entitlements.aspx

Gaming entitlements

- 38.5 www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-C-Summary-of-gaming-entitlements-for-clubs-and-alcohol-licensed-premises.aspx

(Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))

Automatic entitlement: 2 machines

- 38.6 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines of categories C and/or D. The premises need only notify the licensing authority in the prescribed manner.
- 38.7 Walsall Council may remove this automatic authorisation in respect of any particular premises if:
- a. the provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - b. gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e., that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
 - c. the premises are mainly used for gaming; or
 - d. an offence under the Gambling Act has been committed on the premises.

Permit: 3 or more machines

- 38.8 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and Walsall Councils consideration of an application where a premises wishes to have more than 2 machines will be based upon the licensing objectives, any guidance issued by the Gambling Commission and any such matters as the authority think relevant.
- 38.9 Such matters will be decided on a case-by-case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18-year-olds do not have access to the adult only gaming machines. Measures in terms of preventing access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 38.10 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as, an Adult Gaming Centre premises licence.
- 38.11 Walsall Council may grant an application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 38.12 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

**Unlicensed Family Entertainment Centre gaming machine permits
(Statement of Principles on Permits - Schedule 10 paragraph 7)**

- 38.13 Where a premises does not hold a premises licence but wishes to provide gaming machines, Walsall Council will expect the applicant to show that the premises will be wholly or mainly used for making gaming machines available for use.
- 38.14 An application for a permit will only be granted where Walsall Council is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application.
- 38.15 Walsall Council will expect applicants to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;

- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes.

Statement of Principles

38.16 Walsall Council will expect an applicant for a Family Entertainment Centre Permit to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.

The efficiency of such policies and procedures will each be considered on their merits; however, they may include appropriate measures such as training in relation to:

- suspected truant school children being on the premises,
- how staff would deal with unsupervised very young children being on the premises, and/or
- children causing perceived problems on or around the premises.

38.17 Walsall Council will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

Prize Gaming Permits

38.18 Walsall Councils Statement of Principles for Prize Gaming Permits states that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant demonstrates:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law
- that they have clear policies that outline the steps to be taken to protect children from harm.

38.19 In making any decision on an application for this permit Walsall Council will generally have regard to the licensing objectives but will always have regard to any Gambling Commission guidance.

38.20 It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

Club Gaming and Club Machines Permits

38.21 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

38.22 Walsall Council will take into account the statutory guidance when deciding whether it is a genuine members club.

38.23 Walsall Council may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- a permit held by the applicant has been cancelled in the previous ten years;
- an objection has been lodged by the Commission or the police.

38.24 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003

(Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

38.25 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

Temporary Use Notices (TUN)

38.26 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice would include hotels, conference centres and sporting venues.

38.27 Walsall Council will only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence. Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner.

38.28 There are restrictions on the type of gambling that can be offered under a TUN:

38.29 it can only be used to offer gambling of a form authorised by the operator's operating licence, and consideration should therefore be given as to whether the form of gambling being offered on the premises will be remote, non-remote, or both.

38.30 gambling under a TUN may only be made available on a maximum of 21 days in any 12-month period for any or all of a named set of premises

38.31 it can only be used to permit the provision of facilities for equal chance gaming, and where the gaming in each tournament is intended to produce a single overall winner

38.32 gaming machines may not be made available under a TUN.

38.33 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 14 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

38.34 In considering whether a place falls within the definition of "a set of premises", Walsall Council will look at, amongst other things, the ownership/occupation and control of the premises.

38.35 It is likely Walsall Council will object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

Occasional Use Notices

38.36 Walsall Council has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. Consideration will however be given to the definition of a 'track' and whether the applicant is permitted to avail themselves of the notice.

39 Safeguarding against Child Sexual exploitation (CSE)

39.1 Walsall Council acknowledges that CSE awareness doesn't just apply to children on licensed premises, particularly as children are not permitted access to most gambling premises. Applicants should be equally aware of children in the proximity of the premises that may be waiting for, or seeking, older persons.

39.2 Applicants are encouraged to ensure that suitable management controls are in place to safeguard children against the risk of CSE as part of their policy. Measures may include, but are not limited to:

- awareness training for staff;
- regular patrols of the premises, including external areas and the immediate proximity, to identify any vulnerable children;
- close monitoring of patrons as they leave the premises;
- recording and reporting concerns to the police.

39.3 The Council expects applicants to be aware of 'risk indicators' of CSE which include, but are not limited to:

- developing relationships between a child and an older person;
- children in the company of a group of older person;
- children regularly attending premises and meeting with a number of different older persons, particularly where older persons may be facilitating gambling for children;
- children outside of licensed premises developing relationships with an older person, particularly an older person facilitating gambling for children;
- children leaving the locality of the premises with older persons, particularly with a group of older persons;
- children looking uncomfortable in the company of, or leaving with, older persons, particularly groups of older persons.

39.4 Whilst Walsall Council does not wish to create the impression that all contact between children and older persons is inappropriate, it is strongly of the view that licence holders should be aware of the risks of CSE and should proactively manage their premises to minimise the risks.

40 **Appendix 1 – Definitions**

"Premises" is defined as including "any place". Section 152 of the Act therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place.

"Operator Licence" is a licence which states that it authorises the licensee—

- to operate a casino (a "casino operating licence"),
- to provide facilities for playing bingo (a "bingo operating licence"),
- to provide facilities for betting other than pool betting (a "general betting operating licence"),
- to provide facilities for pool betting (a "pool betting operating licence"),
- to act as a betting intermediary (a "betting intermediary operating licence"),

- to make gaming machines available for use in an adult gaming centre (a “gaming machine general operating licence” for an adult gaming centre),
- to make gaming machines available for use in a family entertainment centre (a “gaming machine general operating licence” for a family entertainment centre),
- to manufacture, supply, install, adapt, maintain or repair a gaming machine, or a part of a gaming machine (a “gaming machine technical operating licence”),
- to manufacture, supply, install or adapt gambling software (a “gambling software operating licence”), or
- to promote a lottery (a “lottery operating licence”).

“Gambling Commission” is the body primarily concerned with ensuring that each operator conducts gambling activities in a fair and open way.

Appendix 2

<p><u>Licensing Authority</u> Walsall Council 2nd Floor Civic Centre Darwall Street Walsall WS1 1TP Email: Licensing@walsall.gov.uk</p>	<p><u>Police</u> The Licensing Officer West Midlands Police Walsall Council Civic Centre Darwall Street Walsall WS1 1TP Tel: 0345 113 5000</p>
<p><u>Planning</u> Planning & Transportation Licensed Premises Applications Walsall MBC 2nd Floor Civic Centre Darwall Street Walsall WS1 1DG Tel: 01922 652425 or 652452 Email: PlanningConsultations@walsall.gov.uk</p>	<p><u>Fire</u> Protection (Fire Safety) Admin West Midlands Fire Service Headquarters 99 Vauxhall Road Birmingham B7 4HW Telephone 0121 380 6300 Email: firesafety.admin@wmfs.net</p>
<p><u>Safeguarding Partnership</u> Children Services, 2nd Floor Civic Centre Darwall Street Walsall, WS1 1TP Tel: 0300 555 2866 Email: WalsallFIS@walsall.gov.uk</p>	<p><u>Environmental Health</u> Civic Centre Darwall Street Walsall WS1 1TP Tel: 01922 653024</p>
<p><u>Gambling Commission</u> Victoria Square House Victoria Square Birmingham B2 4BP Tel: 0121 230 6666</p>	<p><u>HM Revenues & Customs</u> Excise Processing Teams BX9 1GL United Kingdom Tel: 0300 322 7072 option 7 Email: nrubetting@gaming@hmrc.gsi.gov.uk</p>

Appendix 3 – Summary of Licensing Authority delegations permitted under the Gambling Act 2005

Matter to be Dealt with	Full Committee	Sub-Committee	Officers
Final approval of three year licensing policy.	X		
Policy not to permit casinos.	X	X (Where delegated by full council)	
Fee setting (where appropriate)			
Application for premises licences		Relevant representations received and not withdrawn	No representations received
Application for a variation to a licence		Relevant representations received and not withdrawn	No representations received
Application for a transfer of a licence		Relevant representations received and not withdrawn	No representations received
Application for a provisional statement		Relevant representations received and not withdrawn	No representations received
Review of premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made or objections have been withdrawn
Application for other permits			X
Cancellation of licensing premises gaming machine permits			X
Consideration of temporary use notices			X
Decision to give a counter notice to a temporary use notice		X	

Comments

The Statement of Licensing Policy will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

Licensing Unit
Walsall M.B.C
Civic Centre
Darwall Street
Walsall
WS1 1TP

e-mail: licensing@walsall.gov.uk

website : www.walsall.gov.uk

Licensing and Safety Committee - 5 April 2023.

Walsall Night Time Economy and control of closing times for licensed premises

1.0 Purpose of the report

- 1.1 To respond to a request from the Leader of the Council for the Licensing and Safety Committee to revisit matters regarding the control of closing times for licensed premises, previously considered on 22 February 2023, in the light of recent events within the town centre night time economy.
- 1.2 To seek the views of the committee regarding the provision of knife detection equipment and bleed kits at premises that are open in Walsall town centre's night time economy.

2.0 Recommendation

The views of the committee are requested on how they wish to proceed with regard to:

- (a) pursuing the possibility of introducing an Early Morning Restriction Order in Walsall Town Centre (Paragraphs 4.0 and 5.0 refers)
- (b) pursuing the introduction of knife detection equipment and bleed kits in Walsall town centre premises open during the night time economy. (paragraph 6.0 refers)

3.0 Background

- 3.1 On 22 February 2023, the Licensing and Safety Committee considered a report which sought views on the Walsall Night Time Economy (NTE) and control of closing times for licensed premises.

It was:

Resolved (unanimously):

- 1) That the Licensing and Safety Committee note that it is not possible within the current statement of licensing policy to impose a blanket closing time on premises operating in Walsall town centre, and that each application must be considered on its individual merits.
- 2) That the committee note that the statement of licensing policy can be reviewed at any time, however Home Office guidance states that licensing authorities must always consider each application and must not impose predetermined licensed opening hours.
- 3) That recommendation 2.3, to report further on the potential to introduce greater control over the closing times of licensed premises by introducing an

Early Morning alcohol Restriction Order (EMRO) in Walsall Town Centre, be not pursued at this time.

A copy of the report is attached as Appendix 1.

- 3.2 A further murder has since taken place within the night time economy in Walsall. This incident has led to further discussions around violence in the night time economy and how it could be better managed or controlled. As the circumstances have changed since the last report the Leader of the Council has requested that this matter be revisited.

4.0 Recent Incidents

- 4.1 On 28 January 2023, a man was attacked and killed in Walsall town centre. Nine teenagers have been arrested and charged with his murder. Whilst the incident happened in the town centre during the NTE hours and the investigation is ongoing, at this stage no fault is being apportioned to any licensed premises.
- 4.2 On 11 March 2023 at 05:16 hours, a man was fatally stabbed whilst inside a licensed premises in Walsall town centre. The injured person subsequently died of his wounds and arrests have been made for his murder. On 16 March 2023, West Midlands Police requested a summary review of the associated premises licence. A hearing took place at which a decision was made to suspend the premises licence as an interim measure pending a full hearing in 28 days.

5.0 Control over closing times of licensed premises

- 5.1 The legal position regarding the control over closing times has not changed since the previous report on 22 February 2023 and therefore this is attached at appendix 1.
- 5.2 As advised in the previous report, should members wish to pursue the introduction of an Early Morning Restriction Order, a further report would need to be submitted to the committee with data and evidence to determine if there are recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises, to determine if an early morning alcohol restriction order (EMRO) is appropriate

6.0 Introduction of knife detection equipment and bleed kits

- 6.1 There have been views expressed recently by police colleagues, charities, licence holders and others, that knife detectors such as knife arches or knife wands (hand held metal detectors) and bleed kits ought to be installed at premises that are open in Walsall's night time economy. The cost of this equipment ranges from around £4,000 for a knife arch to £40 for a knife wand. Licence holders are of course free to purchase and install these items themselves as part of their premises risk assessment and indeed some venues already have knife arches and bleed kits.

- 6.2 Should the committee consider that the installation, use and maintenance of these items should be added as a condition on existing premises licences, consultation with current licence holders should first be undertaken and the outcome reported to the committee.

Paul Gordon

Director, Resilient Communities.

Author:

David Elrington

Head of Community Safety and Enforcement

REPORT OF THE DIRECTOR OF RESILIENT COMMUNITIES**LICENSING AND SAFETY COMMITTEE****22nd FEBRUARY 2023****Walsall Night Time Economy and control of closing times for licensed premises.****1.0 Summary of Report**

- 1.1 The report sets out the legislation, guidance and Walsall Council's own Statement of Licensing Policy with regard to the control of opening and closing hours for premises licensed under the Licensing Act 2023.

2.0 Recommendation

- 2.1 That the Licensing and Safety Committee note that it is not possible within the current statement of licensing policy to impose a blanket closing time on premises operating in Walsall town centre, and that each application must be considered on its individual merits.
- 2.2 That the committee note that the statement of licensing policy can be reviewed at any time, however Home Office guidance states that licensing authorities must always consider each application and must not impose predetermined licensed opening hours.
- 2.3 That a further report is brought to the committee with data and evidence to determine if there are recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises, to determine if an early morning alcohol restriction order (EMRO) is appropriate.

3.0 Background

- 3.1 Walsall like many urban towns has a number of licensed premises within its town centre that draw people from around the borough and wider conurbation to attend and enjoy the facilities on offer.
- 3.2 Since autumn 2020 Walsall Council's community safety and enforcement service and Walsall Police have had regular meetings using an operational name of Argonite to monitor and control crime, disorder and anti-social behaviour within Walsall town centre's night time economy.

- 3.3 Over the course of this period Walsall Police have made changes to the shift patterns worked by their neighbourhood teams to ensure that there is regular and consistent police presence in the NTE from Friday and Saturday nights until 05:00 on Saturday and Sunday mornings. This change has shown commitment from the police commander to protect the safety of those within the NTE and others affected by the NTE but has resource implications for policing across Walsall as there is a finite number of police staff to cover all demand in the Borough.
- 3.4 Some of the successes of Operation Argonite include
- Weekly meetings to review weekend crimes and disorder and implement actions prior to the forthcoming weekend in order to improve management of premises or to deploy resources effectively.
 - Continual liaison with council CCTV staff to gather evidence of crime, disorder and ASB in the NTE for use in enforcement activity.
 - Letters sent to nine separate premises where failings of management appear to have resulted in crime, disorder or ASB on the NTE.
 - Two premises issued with Partnership actions plans to improve performance with one responding positively and one failing.
 - Removal of benches in Leicester Street where persons under the influence of alcohol were sitting and were prone and vulnerable.
 - Review of licence of premises where crime and disorder and public nuisance were of concern leading to the revocation of the licence.
 - Objection to Temporary Event Notices where in the view of police and Local Authority the event would breach Licensing Objectives.
 - Implementation of bus gate in Bridge Street with over 140 warnings being given to motorists driving down the road during the prohibited hours.
- 3.5 It was with great sadness that a young man Bailey Atkinson was recently killed in Walsall town centre. Whilst the incident happened in the town centre during the NTE hours and the investigation is ongoing, at this stage no fault is being apportioned to any licensed premises within the town. It has however brought into focus the safety of all those living, working and visiting the town and a consideration of what more can be done to safeguard customers, businesses and indeed public services.
- 3.6 One such consideration is whether additional controls can be placed upon licensed premises to close earlier, for example 02:00. This would reduce the number of hours where people are present in Walsall town centre consuming alcohol from licensed premises at night or in the early hours of the morning.

- 3.7 At present venues have different closing times depending on their business model and depending on the hours requested at the time of the application for the licence and any subsequent variations to their licence. Licence holders can choose to stay open to the full extent of the hours contained within their licence or vary their opening and closing hours as long as this is within the times allowed by their licence conditions.
- 3.8 Appendix 1 is a list of all licensed venues within the town centre. The list of licensed venues also includes fast food venues, restaurants, filling stations who will also be affected by the decision of introducing an early morning restriction order (EMRO).

Walsall Council Statement of Licensing Policy

- 3.9 The council is required by the Licensing Act 2003 section 5(1) to have a Statement of Licensing Policy. The current policy was approved by Licensing and Safety Committee on the 25 August 2021 and subsequently approved by Council on the 20th September 2021. As required by law the policy is reviewed every five years unless an issue occurs during that period that requires a change to be made. A copy of this policy and associated report can be found at **Appendix 2**.
- 3.10 The Statement of Licensing Policy should be read as a complete document however section 9 specifically references licensing hours

9 Licensing Hours

- 9.1 Walsall Council wishes to emphasise that consideration will always be given to the individual merits of any application. However, it is clear that in some circumstances adopting more flexible licensing hours, in relation to the sale of alcohol, may be an important factor in avoiding a concentration of customers leaving premises simultaneously and generally lead to a slower dispersal of people from licensed premises. This can help to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport, which can be hot spots for disorder and disturbance.
- 9.2 Walsall Council recognises that providing consumers with greater choice and flexibility is an important consideration when it comes to developing thriving night-time local economies, which are equally important for local investment and employment. That said, economic considerations must always be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents.
- 9.3 Each application will always be considered on its own individual merits, however, it should be recognised that restricting the hours of operation in some cases can play an important role in preventing public nuisance, especially in residential areas where there is a history of noise complaints relating to a particular premises from those living within the vicinity.

- 9.4 In accordance with 'the guidance', retail premises (e.g. shops, stores and supermarkets) will generally be permitted to sell alcohol for consumption off the premises during the normal hours they are open for shopping purposes.
 - 9.5 However, in the case of individual premises known to be a focus of disorder and disturbance, then, subject to relevant representations, some limitation on licensing hours may be appropriate.
- 3.12 Section 12 of the Statement of Licensing Policy sets out Walsall Councils Cumulative Impact Policy
- 12.1 Under the Home Office Guidance, issued under section 182 of the Licensing Act 2003, the definition of Cumulative Impact is:

"Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area"
- Walsall Council's Cumulative Impact Policy is defined within the Statement of Licensing Policy and covers mainly premises that fall within the WS1 post code area. The Cumulative Impact Policy will be reviewed every 3 years in line with section 5A of the Licensing Act 2003. .
- 3.13 The policy also states that
- 12.11 The cumulative impact policy will not be used to revoke existing licences or certificates. However, such a policy may be a justification to refuse an application to vary a licence or certificate in circumstances where the variation is directly relevant to the policy and the refusal is strictly necessary for the promotion of the licensing objectives, each case must be treated on its own merits.
- 3.14 In terms of the conditions attached to a premises licence the policy states

18 Licence Conditions

- 18.1 The Authority may only impose conditions (other than mandatory conditions) on a premises licence or club premises certificate (and in certain circumstances Temporary Event Notices) where they form part of an applicant's operating schedule or following a decision of the licensing sub-committee at a formal hearing. However this may include the voluntary addition, by the applicant, of conditions following mediation in response to the submission of a relevant representation,
- 18.2 Any conditions attached to licences, certificates and other authorisations must be tailored to the individual style and characteristics of the premises and events concerned and will reflect, as far as possible, local crime prevention strategies.

- 18.3 The Authority will not attempt to impose any 'blanket' conditions which apply to all premises, but the applicant's operating schedule, which forms part of the application should include sufficient information to enable a responsible authority or other person to assess whether the steps being taken to promote the licensing objectives are satisfactory or not.

Home Office guidance

- 3.15 The section 182 Guidance issued by the Home Office and which Licensing authority's such as Walsall use to ensure they conduct their duties in a fair and consistent manner is 90 pages long and has not therefore been produced as an Appendix to this report. The link to read the Guidance is as follows.

[Section 182 Guidance](#)

The guidance states the following with regard to hours of trading and licence conditions.

Hours of Trading

- 10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

Early morning alcohol restriction orders

- 3.16 The Licensing Act 2003 makes provision for early morning alcohol restriction orders (EMROs) which the s182 guidance states at section 17 are

'designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.'

- 3.17 An EMRO as described by the s182 guidance:

- applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
- applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week, and can apply for different time periods on different days of the week;
- applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
- applies to the whole or any part of the licensing authority's area;
- will not apply to any premises on New Year's Eve (defined as 12am to 6am on 1 January each year);

- will not apply to the supply of alcohol by those who provide hotel or similar accommodation to their residents between 12 am and 6am, provided the alcohol is sold at those times only through mini-bars and/or room service; and
- will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the 2003 Act.

3.18 The s182 Guidance clarifies the delegation as regards an EMRO

17.6 Introducing an EMRO is a licensing function. Therefore, this is not the responsibility of a council's executive. The final decision to make an EMRO (or to vary or revoke one) must be made by the full council of the licensing authority. Any preceding steps, including advertising the proposed EMRO, holding hearings and making a determination to put before the full council for its final decision, are for the licensing committee of the licensing authority. The licensing committee may delegate these steps to the licensing sub- committee or officers as it sees fit.

3.19 Walsall Councils Statement of Licensing Policy states the following with regard to EMROs

14 Early Morning Restriction Orders (EMRO)

14.1 Walsall Council has considered the parameters of such orders, but has resolved that none be implemented at this time. The council reserves its right to introduce such orders, but will only do so after ensuring it has gone through the statutory consultation process and a formal decision has been made in respect of all evidence and comments received.

3.20 In terms of the process of implementing an EMRO Licensing authorities should consider firstly:-

- working in partnership with licensed premises on voluntary measures and encouraging the creation of business-led best practice schemes in the area;
- reviewing licences of specific problem premises;
- introducing a Cumulative Impact Assessment;
- use of the new closure power in the Anti-social Behaviour, Crime and Policing Act 2014 which replaces section 161 of the 2003 Licensing Act. This new closure power can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder. Further guidance on this power can be found on the gov.uk website, under the Anti-social Behaviour, Crime and Policing Act: anti-social behaviour guidance;
- use of other mechanisms such as those set out in paragraph 14.47 of this Guidance
- The EMRO must be advertised for 42 calendar days

The process for an EMRO is further described at **Appendix 3**

Public Space Protection Orders

3.21 Walsall Council implemented a Public Spaces Protection Order (PSPO) covering parts of Walsall town centre on 28 September 2017. The PSPO was put in place as a means to tackle on going anti-social behaviour that was having a detrimental effect on the quality of life of those who live and work in the locality. The order is there to ensure the law abiding majority can use and enjoy public spaces safely, free from anti-social behaviour. The order has been extended from 28 September 2020 to 11.59 hours to 27 September 2023.

3.22 The PSPO is contained at Appendix 4 but the basic prohibitions it covers are

- No person shall remain in a shop, betting office, or food outlet so as, without reasonable excuse, to cause harassment, alarm, or distress.
- No person shall remain at Walsall Market, shown hatched in blue on the map so as, without reasonable excuse, to cause harassment, alarm, or distress.
- No person without reasonable excuse shall in a public place use a hypodermic needle to inject themselves or another.
- No person shall, without reasonable excuse, throw down, drop or otherwise deposit and leave in any public place a hypodermic needle or other drug paraphernalia.
- No person shall beg in a manner so as to cause harassment alarm or distress.
- No person shall remain in a bus station, a bus shelter, at the cenotaph or in the doorway of any building so as, without reasonable excuse, to cause harassment, alarm, or distress.
- No person shall consume alcohol.
- No person shall consume any psychoactive substances.
- No person shall, except in a lavatory, urinate or defecate in a public place.

It is also ordered that the following specified things are done by persons carrying on specified activities in the restricted area.

- Any person in charge of a dog in a public place must keep the dog on a lead or otherwise under physical control at all times. The provisions of this Order relating to the control of dogs do not apply to any person who is registered blind in accordance with section 29 of the National Assistance Act 1948, to any person who is deaf and in charge of a dog trained by Hearing Dogs for Deaf People and to any person suffering a disability and in charge of a dog trained by a charity to assist with them.

3.23 The PSPO states

It is a criminal offence for a person, without reasonable excuse:-

- (a) to do anything, save for consuming alcohol in breach of a public spaces protection order, that the person is prohibited from doing by a public spaces protection order, or
- (b) to fail to comply with a requirement to which the person is subject under a public spaces protection order.

A person guilty of the above offence is liable on conviction to a fine not exceeding £1000.

Offence of consumption of alcohol in breach of prohibition in order

- A constable or authorised person may require a person not to consume, in breach of a public spaces protection order alcohol or anything which the constable or authorised person reasonably believes to be alcohol.
- A constable or authorised person may require a person to surrender anything in their possession which is or which the constable or authorised person reasonably believes to be, alcohol or a container for alcohol.

A person who fails without reasonable excuse to comply with a requirement made by a constable or an authorised person commits an offence and is liable on summary conviction to a fine not exceeding £500.

Use of this PSPO or further refinement of the PSPO may lead to more prohibitions being included which would assist the council and police in tackling anti social behaviour in the NTE.

4.0 **Resource Considerations**

- 4.1 **Financial:** Any legal challenge to the authority from decisions made with regard to the Licensing Act 2003 would require the services of Counsel to formulate and present the authority's case in whichever court of summary jurisdiction the appeal occurs. This cost would have to be met by the Licensing Authority and costs born by the appellant(s) should they be successful may also have to be paid by the authority.

- 4.2 **Legal:** Walsall Council is a Licensing Authority as defined by section 3 of the Licensing Act 2003 its duties are described by section 4 of the Act

General duties of licensing authorities

- (1) A licensing authority must carry out its functions under this Act ("licensing functions") with a view to promoting the licensing objectives.
- (2) The licensing objectives are—
 - (a) the prevention of crime and disorder;
 - (b) public safety;

- (c) the prevention of public nuisance; and
 - (d) the protection of children from harm.
 - (3) In carrying out its licensing functions, a licensing authority must also have regard to—
 - (a) its licensing statement published under section 5, and
 - (b) any guidance issued by the Secretary of State under section 182.
- 4.3 Since this power was created in 2012, to date not a single EMRO has been brought into effect by a Licensing Authority in England and Wales.

5.0 Staffing issues:

- 5.1 None

6.0 Citizen Impact

- 6.1 The Licensing Act and therefore Walsall Councils Statement of Licensing Policy is concerned with upholding the following licensing objectives

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

Therefore any decision taken by the committee should seek to uphold these objectives in terms of their impact upon all citizens within Walsall.

7.0 Community Safety

- 7.1 The Licensing Act and therefore Walsall Councils Statement of Licensing Policy is concerned with upholding the following licensing objectives

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

Therefore any decision taken by the committee should seek to uphold these objectives in terms of their impact upon all communities within Walsall.

8.0 Environmental Impact

- 8.1 None

9.1 Performance and Risk Management Issues

- 9.1 Decisions by the committee must be compliant with all relevant legislation and if they deviate from the Guidance produced by government the reasons for that deviation must be explicitly stated.

10.0 Equality Implications

- 10.1 Nothing arising from this report.

11.0 Consultation

- 11.1 None required.

12.0 Supporting Documents

Appendix 1 – Licensed Venues in Walsall Town Centre
Appendix 2 – Statement Of Licensing Policy
Appendix 3 – Process for EMRO
Appendix 4 – PSPO – Walsall Town Centre

13.0 Contact Officer

- 13.1 David Elrington
Head of Community Safety and Enforcement
Telephone: 01922 653023
Email: david.elrington@walsall.gov.uk

Appendix 5 Current venues and opening hours

Current venues and opening hours - Alcohol			
Venue	Hours of Opening		Last Entry Policy.
	Fri	Sat	
Bradford Place			
Colliseum (Valeesha/Savannahs)	08.00 - 08.00	08.00 - 08.00	Last entry 4.30 am - usually closes doors at 6 am.
Memoirs Bradford Place	09.00 - 02.30	09.00 - 02.30	tend to only open for events/private functions
Alibi	12:00 - 08:30	12:00 - 08:30	not open at the moment
Ablewell Street			
Watering Trough	11:00 - 02:30	11:00 - 02:30	
Flan O'briens	10:00 - 02:30	10:00 - 02:30	
Balloons/Shimla	11.00 - 00.00	11.00 - 00.00	Restaurant
Golden Moments	11.00 - 00.00	11.00 - 00.00	Restaurant
Ablewell Garage	00.00 - 23.59	00.00 - 23.59	Service Station
News and Booze	10.00 - 22.30	10.00 - 22.30	Off Licence
Bridge Street			
Lexx Bar and Grill	11:00 - 04:30	11:00 - 04:30	
Religion	12:00 - 05:15	12:00 - 05:15	not open at the moment
WS1 Bar	12:00 - 05:15	12:00 - 05:15	Condition to state that they will close at 3 am unless agreement by Police x8 per year
Makoto	07:00 - 05:00	07:00 - 05:00	
The Pitch	10:00 - 03:30	10:00 - 03:30	not open at the moment - up for sale
Baileys Bar	06.00 - 02.45	06.00 - 02.45	not open at the moment
Ignite (Studio 45)	11.00 - 03.30	11.00 - 03.30	not open at the moment
Gurkha Bhaja	10.00 - 00.00	10.00 - 00.00	Restaurant
Emerald	08.00 - 23.00	08.00 - 23.00	
Leoo Shop	14.00 - 18.00	14.00 - 18.00	
Lichfield Street			
Discotheque	11.00 - 04.30	11.00 - 04.30	
St Matthews Hall	07.00 - 02.30	07.00 - 02.30	
Walsall Town Hall	07.00 - 03.00	07.00 - 03.00	not open at the moment
Leicester Street			
The Registry	07:00 - 04:30	07:00 - 04:30	current last entry 02.00
Tap n Tanner	09.00 - 02.30	09.00 - 02.30	
Freer Street Lounge Bar	10.00 - 00.30	10.00 - 00.30	Not open at the moment.

Current venues and opening hours - Late Night Refreshment Venues			
Venue	Opening Hours		
	Fri	Sat	
Ablewell Street			
Pikeys Plaice	12.00 - 03.00	12.00 - 03.30	
Wishbone	17.00 - 03.30	17.00 - 03.30	
Rooster Hut	12.00 - 04.00	12.00 - 04.00	
Bridge Street			
Central Chippy	11.00 - 05.00	11.00 - 05.00	Not open
No 1 Pizza	17.00 - 03.30	17.00 - 03.30	
Pizza Hut	11.00 - 01.30	11.00 - 01.30	Not open
Mini Meals	10.00 - 04.00	10.00 - 04.00	Same address as Lexx - Currently suspended -since 2013
Texas Chicken	11.00 - 04.00	11.00 - 04.00	Not Open
Oi Nosh	11.00 - 05.00	11.00 - 05.00	
Unit 34 a Bridge Street	12.00 - 03.00	12.00 - 03.00	Not Open
36 Bridge Street	16.00 - 05.00	16.00 - 05.00	
Lichfield Street			
Oysters	08.00 - 03.30	08.00 - 03.30	
Papa Johns	10.00 - 05.00	10.00 - 05.00	
Leicester Street			
Paradise Pizza	10.30 - 03.30	10.30 - 03.30	



Licensing Act 2003

Statement of Licensing Policy.

Effective From: 20th September 2021



Walsall Council

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Version: 1.1

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Version	Effective Date	Reason	Summary
1.1	01/01/2021	5 Year Review	Update Policy to include changes to legislation, changes to Cumulative Impact Policy following CIA

IMPORTANT NOTE

Where this policy refers to information, legislation, policy or guidance produced by other governing bodies or regulatory agencies, please note that the requirement detailed within this this policy will be subject to any amendments thereof.

Walsall Metropolitan Borough Council

Statement of Licensing Policy

1 Introduction

- 1.1 Section 5 of the Licensing Act 2003 requires each Licensing Authority to publish a Statement of its Licensing Policy at least every five years. During the five-year period, the policy must be kept under review and the licensing authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the licensing objectives are being met.
- 1.2 This document is Walsall Council's (Walsall MBC) Statement of Licensing Policy, which will come into force on once members have approved the consulted version. The policy will be updated and modified as and when the Council considers appropriate.
- 1.3 Walsall MBC is located in the West Midlands; an area comprising seven Metropolitan Councils in total. The Walsall Council covers 40.2 square miles of which 24.83 square miles are predominantly urban development. With an estimated population of 293,378 (2018) it is the fourth largest area in the County, in terms of population.
- 1.4 The towns of Willenhall and Darlaston, to the west of the M6, contrast with the eastern parts of the borough, which are more residential and, in parts, agricultural in character. Traditional and growth industries are spread throughout the borough. Walsall benefits from its position at the cross-roads of the motorway network and communications have been improved further by the M6 Toll Road.
- 1.5 Birmingham airport and the Genting Arena Complex are within easy reach and frequent trains to Birmingham provide links to the national network. Regeneration projects focussing on Walsall town centre, local centres, the wider borough, and key transport corridors continue to transform the borough's new economic well-being.
- 1.6 Through its statement of licensing policy, the Licensing Authority strives to sustain core values of Honesty and Integrity, Fairness and Equality, Value for Money, Innovation and Collaboration and Listening and Responding.

2 Licensing Act 2003

- 2.1 This Licensing Statement of Policy is intended to meet Walsall Councils obligations under Section 5 of the Licensing Act 2003 (“the Act”).
- 2.2 The Licensing Authority (“the Authority”) will carry out the licensing functions of Walsall MBC with a view to promoting the four licensing objectives contained in the Act. These are –
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance; and
 - the protection of children from harm.
- 2.3 Each objective is treated as having equal importance.

3 Scope of the Policy

- 3.1 Section 5 of the Act requires a Licensing Authority to prepare and publish a statement of its licensing policy at least every five years.
- 3.2 The revised statement of licensing policy will take effect from the following consultation and approval by members.
- 3.3 The policy will be reviewed at appropriate intervals and Walsall Council will make such revisions to the policy as it considers appropriate. Where revisions to the policy are made they will be in accordance with statutory requirements and, following any amendment, a statement of such revisions, or a revised licensing policy statement will be published.
- 3.4 The main purpose of this policy is to provide clarity to applicants, interested parties, and Responsible Authorities, in relation to how Walsall Council will determine applications for the supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment. It will also provide a basis for all licensing decisions taken by Walsall Council and will inform Councillors of the parameters within which licensing decisions should be made.
- 3.5 In carrying out its functions, the Authority will not only have regard to this policy but also any guidance issued from time to time by the Home Office under Section 182 of the Act (referred to as ‘the guidance’,)
- 3.6 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the 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 town and city centres.

- 3.7 However, licence holders are expected to take all reasonable steps to prevent the occurrence of crime and disorder and public nuisance in the immediate vicinity of their premises.
- 3.8 Licensing will be one of the key contributory factors in the overall management of the evening and night time economy, particularly in relation to town centres and other 'high risk' areas, working in partnership with the police and other responsible authorities.
- 3.9 In relation to the prevention of crime and disorder, Walsall Council recognises its duty under Section 17 of the Crime and Disorder Act 1998. It will continue to work in partnership with the police, responsible authorities defined in the Act, local businesses, local people and other interested parties, in the promotion of all the licensing objectives.

Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act; and conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.

- 3.10 In conducting the review of its policy statement, Walsall Council will consult in accordance with the statutory provisions of the Act and will also seek to integrate these requirements with local policies for crime prevention, community safety, planning, transport, tourism and child protection procedures.
- 3.11 This policy acknowledges the importance of the role of partnership working, with the police, local businesses, performers and local people, in how the Council fulfils its licensing responsibilities.
- 3.12 In regulating licensable activities, the aim of the Walsall Council licensing process is to promote well-managed premises, where licence holders are aware of, and sensitive to, the impact of their premises on local residents. Walsall Council wishes to encourage licensees to provide a wide range of entertainment activities during their opening hours, promoting the provision of live music, dance, theatre etc., for wider cultural benefit. These activities are considered to be key factors in maintaining a thriving and sustainable community. A fair balance will be struck between promoting the provision of entertainment and addressing concerns relevant to the licensing objectives. Walsall Council is conscious that licensing policy may inadvertently deter live music by imposing indirect costs of a disproportionate nature, for example a blanket policy that any pub providing live music entertainment must have door supervisors.

- 3.13 Walsall Council has a duty to protect the amenity of the borough, which is a mixed commercial and residential area. The Authority wishes to promote safer and stronger communities, ensuring all persons are as safe and secure as possible. Where an application is likely to increase the concentration of entertainment uses and/or lengthen hours of operation in a way that would materially impact on the local area, these factors will be taken into account.
- 3.14 This policy statement sets out the general approach the council will take when fulfilling its responsibility in determining applications made under the Licensing Act 2003. It will observe the right of any individual to apply for a variety of permissions and to have each application considered on its own merits. It will transparently protect the right, where provided in the Act, of any 'other person' to make representations in support or in opposition to an application, or to seek a review of licence where provision has been made for them to do so.
- 3.15 The policy relates to all 'licensable activities' as defined by the Act, namely:-
- the retail sale of alcohol.
 - the supply of alcohol to club members.
 - the provision of 'regulated entertainment' – to the public, to club members or with a view to profit including the following:
 - the performance of a play.
 - the exhibition of a film.
 - any indoor sporting event.
 - the provision of boxing or wrestling entertainment.
 - a performance of live music.
 - any playing of recorded music.
 - a performance of dance.
 - entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.
 - the supply of hot food and/or hot drink from any premises between 11pm and 5am.
- 3.16 Each application for the grant, variation or review of a licence will be considered and determined on its individual merits. When making a decision, Walsall Council will operate in accordance with this licensing policy and the statutory guidance; however, if the Authority considers it appropriate to depart from either of those, full reasons will be provided as to why the departure was necessary, appropriate and justified.

3.17 In addition, the Act also regulates:

- The licensing of individuals for the sale or supply of alcohol ('Personal Licences');
- The authorisation of certain licensable activities on a temporary basis ('Temporary Event Notices').

4 Duplication

4.1 Walsall Council recognises that the licensing process should not duplicate powers, provisions, or restrictions enshrined in other primary legislation. Therefore, in so far as possible, it will avoid duplication of this kind. Legislation that may be relevant is set out below:

- The Gambling Act 2005
- The Environmental Protection Act 1990
- The Noise Act 1996
- Anti-Social Behaviour, Crime & Policing Act 2014
- The Regulatory Reform (Fire Safety) Order 2005
- Health and Safety (First-Aid) Regulations 1981
- The Equality Act 2010

Walsall Council is committed to avoiding attaching conditions that duplicate other regulatory regimes as far as possible as set out in Chapter 10 of the s182 Guidance in force when this statement was made.

5 Partnership Working and Integrating Strategies

- 5.1 Walsall Council acknowledges the importance of integrating its policies with local crime prevention strategies, as well as public health, planning, transport, tourism, equality schemes and cultural strategies.
- 5.2 The Government recommends that licensing authorities should establish and set out joint enforcement protocols with the local police and the other authorities and describe them in their statement of policy. This will clarify the division of responsibilities for licence holders and applicants, and assists enforcement and other authorities to deploy resources more efficiently.
- 5.3 In particular, these protocols should also provide for the targeting of agreed problem and high-risk premises which require greater attention, while providing a lighter touch for low risk premises or those that are well run. In some local authority areas, the limited validity of public entertainment, theatre, cinema, night café and late night refreshment

house licences has in the past led to a culture of annual inspections regardless of whether the assessed risks make such inspections necessary. The 2003 Act does not require inspections to take place save at the discretion of those charged with this role. Principles of risk assessment and targeted inspection (in line with the Regulators' Code) should prevail and, for example, inspections should not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are used efficiently and for example, are more effectively concentrated on problem premises. Licensing authorities should also remind operators of licensed premises that it is incumbent on them to provide appropriate training for their staff to ensure the promotion the licensing objectives.

While many strategies may not appear directly related to the promotion of the licensing objectives, they may affect them and therefore such strategies are important for the Authority to consider

The Need for Licensed Premises

- 5.4 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority.

6 Licensing Process

- 6.1 Walsall Council's licensing responsibilities are executed by the Licensing and Safety Committee, supported by licensing sub-committees, and by one or more officers acting under delegated authority. Please see the delegations set out at Part 26.
- 6.2 Where applications are not contentious, the licensing functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part be carried out by officers. As part of the application process, applicants are expected to address each of the licensing objectives in their operational schedules having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community
- 6.3 If a lawful application for a premises licence or club premises certificate is received, and no relevant representations are submitted by responsible authorities or other persons, the Licensing Authority must grant the application, subject only to conditions that are consistent with the operating schedule and any relevant mandatory conditions.

- 6.4 When setting out the steps they propose to take to promote the licensing objectives, applicants are also encouraged to make themselves aware of, and be able to demonstrate that they understand the layout of the local area. This should include the physical environment and any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies, which may help to mitigate potential risks.
- 6.5 Any responsible authority, and/or any other person, may make representations to the Licensing Authority in relation to any application for the grant, variation, minor variation or review of premises licences and club premises certificates; the grant of a provisional statement. This right is not dependent upon their geographic proximity to the premises.
- 6.6 'Other person' is defined as any individual, body or business including a member of the relevant Licensing Authority.
- 6.7 Representations are not limited to objections, but may also be made in support of an application. However, a representation expressing support for an application will be subject to the same criteria under the Licensing Act.
- 6.8 Ordinarily, representations are invalid if they are made anonymously. However, if a person believes there are exceptional circumstances relating to the disclosure of their identity, they are advised to contact the Licensing Service for advice.
- 6.9 The Licensing and Safety Sub-Committee will determine any application for the grant of a new premises licence, where a relevant representation(s) objecting to the grant of the licence is received, and all applications for the review of a premises licence.
- 6.10 In accordance with the guidance, a representation is 'relevant' if it relates to the likely effect of the grant or variation of the licence on the promotion of at least one of the licensing objectives.
- 6.11 The outcome of any hearing before a Licensing and Safety Sub-Committee will be delivered to all parties verbally at the hearing and in writing as soon as practicable thereafter.
- 6.12 The Act requires the Authority to suspend a premises licence or club premises certificate if the annual fee remains unpaid by the due date (i.e. on or by, the anniversary of grant of the original licence). The Act provides a grace period of 21 days in cases where the non-payment is due to an administrative error or where there is a dispute over liability for the fee, after which the licence/certificate will be suspended.
- 6.13 The Authority is required to give a minimum 2 days' notice of the suspension of the licence/certificate, if payment is not made, however Walsall Council considers that 7 days' notice is more appropriate.

7 Review of Licences

- 7.1 Walsall Council may refuse to review licences if it considers
- a) that the representations are not relevant to any of the licensing objectives; or
 - b) in the case of a representation made by any other person, that the representation is frivolous, vexatious or a repeat of a representation already made at the time of the licence application or previous application for review.
- 7.2 Anyone may appoint a representative to make representations on their behalf, including a ward councillor. However, it will be expected that any councillor who is also a member of the licensing committee and who is making such representations on behalf of another person will disqualify him or herself from any involvement in the decision making process affecting the application in question.
- 7.3 As elected members, and regardless of whether they live or run a business in the vicinity of those premises, Councillors may also apply for the review or submit representations in their own right if they have concerns about any premises.
- 7.4 Where possible though, Walsall Council will attempt to give licence holders early warning of any problems or concerns raised about the operation of licensed premises, and the need for improvement. It may be possible for an agreement to be reached between the authority, the licence holder, the relevant responsible authorities, or other persons, in respect of relevant representations.
- 7.5 Walsall Council will attempt to encourage a dialogue, and mediate between the relevant parties if necessary, to achieve a satisfactory solution without the need for a review of the premises licence.
- 7.6 In the first instance Walsall Council will decide whether any complaint or representation is relevant, vexatious, frivolous, or repetitious. This will be determined on the facts of each individual case and should be supported by evidence. This decision will be taken by officers under delegated powers.
- 7.7 Walsall Council will not allow more than one application for the review of any premises licence, originating from other persons, within a period of twelve months on similar grounds, save in exceptional and compelling circumstances or where it arises from a closure order.
- 7.8 Where Walsall Council conducts a review of a premises licence, the hearing will follow the process prescribed in the regulations. The Authority will ensure that all the parties to a review will receive a fair hearing. In particular, the licence holder will be made fully aware of the allegations

made in respect of their licence, and any evidence supporting the allegations or representations, in order that they or their legal representatives have the opportunity of robustly answering allegations and defending their premises licence.

7.9 When determining a review application, the Act provides a wide range of powers when considering what action may be proportionate and necessary for the promotion of the licensing objectives.

7.10 In deciding which of these powers to invoke, wherever possible, Walsall Council will seek to establish the cause or causes of the problem, substantiated by the evidence before them. Remedial action may then be directed at identified causes.

The options available to the Sub-Committee include:

- Taking no action;
- Issuing an informal written warning to the licence holder and/or recommending an improvement within a specified period of time;
- Attaching conditions to the licence either temporarily, for a period of up to three months or permanently;
- The exclusion of a licensable activity from the scope of the licence, either temporarily, for a period of up to three months or permanently;
- The removal of the designated premises supervisor if applicable;
- The revocation of licence

7.11 Where representations are received and subsequently withdrawn, or agreement is reached prior to hearing (by all parties concerned), Walsall Council may determine the application, and only impose such conditions that

- will promote the licensing objectives;
- are consistent with the operating schedule; and/or
- are required by statute.

7.12 Walsall Council will give comprehensive written reasons for any decision taken.

7.13 The written reasons will be provided to all relevant parties attending a review hearing, in accordance with the timescales provided by statute or regulation, or within a reasonable time taking into account the parties' right to lodge an appeal with the Magistrates Court under Schedule 5 of the 2003 Act.

Summary (Expedited) Licence Reviews

- 7.14 The Summary Review procedure was effected by Section 53A-C of the Licensing Act 2003, inserted by section 21 of the Violent Crime Reduction Act 2006. This allows an expedient process for attaching interim conditions to a licence and a fast track licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both).
- 7.15 The Licensing Sub Committee shall determine, by email, telephone (or in such other manner as may be deemed appropriate by the Regulatory Services Manager or by the Solicitor to the Council), whether it is necessary to take interim steps pending the determination of the premises licence the subject of an application and a certificate issued by a Senior Police Officer stating that in his/her opinion named premises are associated with serious crime or serious disorder (or both) (the requirements of the Local Government Act 1972 concerning the giving of notice of meetings will not apply).
- 7.16 Following a determination of interim steps, the licence will be subject to review, which will be heard in the usual manner.

8 Responsible Authorities and Other Persons

- 8.1 Any responsible authority and/or other person(s) who live or are involved in a business and are likely to be affected by the premises, may make representations about an application, variation, minor variation or review of a premises licence or club premises certificate or grant of a provisional statement.
- 8.2 The main responsible authorities relevant to Walsall Council are set out below and a full list of all responsible authorities is published on the Council's website.
- 8.3 The Authority will determine when it is appropriate to act in its capacity as a responsible authority, in accordance with its duties under section 4 of the Act, namely with a view to promoting the licensing objectives and with regard to its licensing policy and the statutory guidance
- 8.4 The Authority will not normally make representations or request a review of a licence when it is more appropriate for other responsible authorities to intervene, or when the basis for intervention falls within their remit. Licensing Authorities are not normally expected to act as a responsible authority on behalf of other parties such as local residents, local councillors or community groups.

8.5 **West Midlands Police**

Applicants are advised to include in their operating schedules any steps being taken to:-

- prevent disorder on the premises;
- prevent drunkenness in premises selling alcohol;
- prevent under age sales of alcohol;
- ensure customers enter and leave in an orderly manner;
- exclude illegal drugs; and
- exclude offensive weapons.

8.6 The police may consider the past history of a premises or an individual and may account decisions of the Magistrates' Courts when considering applications. Prior to submitting a representations, they may suggest that conditions be voluntarily added to a licence. However, with consideration to the specific location and style of a particular venue and the activities carried on there, the police may require applicants, or existing licence holders, to formalise extra measures in their operating schedule, in cases where it may be appropriate and proportionate to do so to promote public safety or prevent crime and disorder.

8.7 Any incidents of crime or disorder, which occur at, or can be linked to, a particular premises may lead to an application for review of the licence. Equally, any incidents which give cause for concern that the premises are not being properly managed, failure to comply with the operating schedule or conditions of licence, or where there are repeated complaints from the public, may also lead to a licence or club premises certificate being reviewed.

8.6 The police are expected to be Walsall Council main source of advice on matters relating to the promotion of the crime and disorder licensing objective.

8.7 Any current arrangements for the exchange of information between the police and other enforcement agencies will continue.

West Midlands Fire and Rescue Authority

8.8 From the 1st October 2006, the Regulatory Reform (Fire Safety) Order 2005 ('The Fire Safety Order') replaced previous fire safety legislation.

8.9 As such, any fire certificate issued under the Fire Precautions Act 1971 will have ceased to have effect. The Authority notes that under Article 43 of the Fire Safety Order any conditions imposed by the Authority that relate to any requirements or prohibitions that are, or could be, imposed by the Order automatically cease to have effect, without the need to vary the

licence or certificate. This means that the Authority will not seek to impose fire safety conditions where the Order applies.

- 8.10 The Fire Safety Order covers 'general fire precautions' and other fire safety duties, which have the effect of protecting 'relevant persons' in case of fire in, and around, 'most premises'. The Fire Safety Order requires fire precautions to be in place 'where necessary' and to the extent that it is reasonable and practicable in the circumstances of the case.
- 8.11 Responsibility for complying with the Fire Safety Order rests with the 'responsible person', which may be the employer, or any other person or people who may have control of the premises. Each responsible person must carry out a fire risk assessment, which must focus on the safety in case of fire for all relevant persons. The fire risk assessment must identify risks that can be removed or reduced and establish the nature and extent of the general fire precautions that need to be taken including, where necessary, capacity limits.
- 8.12 The Local Fire and Rescue Authority will enforce the Fire Safety Order in most premises and have the power to inspect the premises to check the responsible person is complying with the responsibilities imposed upon them. They will look for evidence that the responsible person has carried out a suitable fire risk assessment and acted upon the significant findings of that assessment.
- 8.13 In accordance with the guidance, 'safe capacities' should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. If a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence.
- 8.14 However, if no safe capacity has been imposed through other legislation, the Fire Authority may consider it appropriate for a new capacity to be attached to the premises licence, which would apply at any material time when the licensable activities are taking place and could make representations to that effect.

Director of Public Health

- 8.15 Health Bodies have been responsible authorities under the Act since April 2012 and health functions are now exercised by local authorities via the Director of Public Health. Although 'health' is not currently a licensing objective under the Act, health bodies hold certain information which other responsible authorities do not, but which may assist the authority in carrying out its licensing functions, especially in relation to the public safety or crime and disorder objectives.
- 8.16 The Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers.

- 8.17 Where a responsible authority, or other person, presents evidence to Walsall Council that links a specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence will be considered and appropriate action will be taken to ensure this licensing objective is effectively enforced.
- 8.18 In relation to applications for the grant of a premises licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18 Walsall Council will consider what conditions may be appropriate to ensure that this objective is promoted effectively.
- 8.19 Evidence relating to alcohol-related emergency department attendance of under 18s, hospital admissions, and underage sales of alcohol, could potentially have implications for both the protection of children from harm and the crime and disorder objectives. Health bodies can provide important supporting data/evidence, to lead or support representations, in relation to this objective.
- 8.20 In relation to proxy purchases, data collected by health bodies could be used to inform other responsible authorities, including the police and licensing authorities, about a prevalence of proxy purchasing in a particular area. For example, the police could use this data to tackle instances of 'shoulder tapping' (where under 18s approach adults to buy alcohol on their behalf) to suggest or support measures which retailers could impose to protect themselves against selling alcohol to adults who may be buying on behalf of persons aged under 18.
- 8.21 Although less obvious, health bodies may also have a role to play in the prevention of public nuisance where its effect is prejudicial to health and where they hold relevant data.
- 8.22 There will need to be consideration as to how to collect anonymised information about incidents that relate to specific premises or premises in a particular area (for example, a cumulative impact area). The College of Emergency Medicine has issued guidelines for information sharing to reduce community violence which recommends that data about assault victims should be collected upon admission to emergency departments, including the date, time and specific location of the assault – i.e. the name of the pub, club or street where the incident occurred.
- 8.23 Sometimes, it may be possible to link ambulance callouts or attendances at emergency departments to irresponsible practices at specific premises, such as serving alcohol to people who are intoxicated or targeting promotions involving unlimited or unspecified quantities of alcohol at particular groups.

Trading Standards

- 8.24 The sale of age-restricted products, in this case alcohol, remains a priority for Trading Standards. The service recognises the priorities of Walsall Council and partners, such as Police, Licensing, Public Health and the Community Alcohol Partnership, and will assist them in achieving their aims and objectives.
- 8.25 Trading Standards will help ensure that;
1. owners of licensed premises, premises licence holders and designated premises supervisors are aware of their obligations in law and those associated with the licensing policy;
 2. non-compliant licensed premises are helped to achieve compliance; and
 3. there is restricted access to cheap alcohol by removing from sale counterfeit, illicit and non-duty paid alcohol.
- 8.26 In 2014, the 'Better Regulation Delivery Office' published their Code of Practice for the enforcement of legislation relating to age restricted products, including test purchasing. Whilst not legally binding the document is persuasive and places some new requirements on Trading Standards.
- 8.27 It sets out a way of working that is rooted in the statutory principles of good regulation: that regulation should be proportionate, consistent, accountable, transparent and targeted. It applies the requirements of the statutory Regulators' Compliance Code, which promotes 'a positive and proactive approach towards ensuring compliance by: helping and encouraging regulated entities to understand and meet regulatory requirements more easily; and, responding proportionately to regulatory breaches'.
- 8.28 Trading Standards will in appropriate circumstances provide advice to licensed premises regarding the steps to be taken in order to avoid selling alcohol to children.
- 8.29 Trading Standards will ensure that any conditions requested as part of a licence review are appropriate and necessary.
- 8.30 Trading Standards are aware that the sale of counterfeit and non-duty paid alcohol and tobacco products is having a serious impact on the local economy. Legitimate retailers are struggling to compete with the small minority of dishonest traders who operate within the shadow economy.
- 8.31 These dishonest traders are making large profits by selling cheap counterfeit products, or evading duty on genuine products and selling

these at the full retail price, or even discounted rates, to unsuspecting consumers.

- 8.32 Consumption of illicitly produced alcohol could have additional negative health consequences due to a higher ethanol content and potential contamination with toxic substances, such as methanol.
- 8.33 Licence holders found to be selling illicit alcohol or tobacco will be liable to prosecution and, whether convicted or not, risk having their premises licence reviewed by the Licensing and Safety Committee or one of its sub committees.

Health and Safety

- 8.34 The main objective is to ensure the health, safety and welfare of employers, employees and members of the public working at, or attending licensed premises. Applicants applying for a premises licence or club premises certificate should therefore be able to demonstrate a safe environment.
- 8.35 Although existing health and safety legislation will primarily be used, it may be appropriate to apply for the review of a licence in the following circumstances:-
- serious or regular contraventions of health and safety legislation.
 - failure to comply with improvement or prohibition notices.
 - service of a prohibition notice where a significant risk to public safety exists.
 - prosecution for failure to comply with health and safety legislation.
- 8.36 The Council and the Health and Safety Executive are jointly responsible for enforcing health and safety. As a general rule, the Council is responsible for the majority of premises but the Health and Safety Executive are responsible in the case of Council-owned premises, manufacturers or transport depots.

Environmental Health

- 8.37 Operating schedules should contain sufficient information for officers to form a view as to whether noise from licensable activities is likely to cause a problem. Applicants should also provide details of any proposed noise control measures intended to be put in place, particularly for premises in largely residential areas where regulated entertainment is being applied for outside the hours of 8am to 11pm.
- 8.38 When preparing operating schedules applicants should note that stricter measures for controlling noise may be sought, either through operating schedules or by imposing conditions, in the case of premises situated in largely residential areas. This is especially relevant where there is a history of problems associated with a particular premises.

- 8.39 If licence conditions are to be imposed, they must be specific to the premises in question and must relate to the type of licensable activity proposed.

Planning

- 8.40 The Authority recognises that planning permission, building control approval and licensing regimes should be properly separated to avoid duplication and inefficiency.
- 8.41 Licensing applications may not be used to affect a re-run of the planning application process; the licensing committee will not be bound by decisions of the planning committee, and vice versa.
- 8.42 There are circumstances when, as a condition of planning permission; a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission are liable to prosecution under the planning legislative regime.
- 8.43 The Planning Authority may make representations in respect of an application (as a responsible authority under the Act) for a premises licence or club premises certificate as long as it relates to the licensing objectives. The granting of a licence, certificate or provisional statement will not override any requirement of the planning regime.

Children's Services

- 8.44 The Local Safeguarding Children's Board is the body recognised as being competent to advise on matters relating to the protection of children from harm, they are a responsible authority and are therefore, entitled to make representations.
- 8.45 In certain circumstances, where children will be present at a licensed premises, the Council expects responsible adults to be present to ensure their safety. Where relevant and appropriate, applicants must demonstrate how they will reasonably protect children from harm, not just by preventing underage sales but also how they will ensure that, whilst on the premises, children are not involved in crime and disorder, drugs or drug taking, entertainment of an adult nature or any other activity that may cause them harm.
- 8.46 The Council will expect cinemas to stipulate that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification. Similarly, theatre productions should be suitable for the audience present with consideration given in advance to the content and nature of the production.

- 8.47 In recent years, incidents of child sexual exploitation (CSE) and child criminal exploitation (CCE) taking place in or around licensed premises have been of particular concern across the country. Whilst there has been no specific intelligence suggesting incidents have taken place in Walsall, the Council will work via existing partnerships, including the licensed trade, to ensure that any concerns in relation to CSE and CCE can be tackled and addressed appropriately.
- 8.48 A resource that applicants should consider in the preparation of their applications, risk assessments and operating schedules are the materials produced by the Home Office on CSE and CCE, including its Child Exploitation Disruption Kit. Further advice and training materials for licence applicants can be accessed via Walsall Safeguarding Children Board's 'Virtual College' facility

Licensing Authority as a responsible authority

- 8.49 The Act enables the council to function as both a 'licensing authority' and to act as 'responsible authority' in its own right. These powers have been delegated to officers within the Council's licensing service. Officers may choose to intervene where they consider it appropriate for the promotion of the licensing objectives without having to wait for representations from other responsible authorities.
- 8.50 For example, where an application is in a cumulative impact area and officers have concerns about additional harm, they may make a representations to that effect. Also, where an application is received in respect of a premises which has a history of complaints which mean that additional activity may undermine the licensing objectives.
- 8.51 The Council's licensing service has taken steps to achieve a line of separation between those officers processing applications and those making representations. The officer presenting any application to a Licensing Sub-Committee will also be different from the officer acting as the responsible authority.

9 Licensing Hours

- 9.1 Walsall Council wishes to emphasise that consideration will always be given to the individual merits of any application. However, it is clear that in some circumstances adopting more flexible licensing hours, in relation to the sale of alcohol, may be an important factor in avoiding a concentration of customers leaving premises simultaneously and generally lead to a slower dispersal of people from licensed premises. This can help to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport, which can be hot spots for disorder and disturbance.
- 9.2 Walsall Council recognises that providing consumers with greater choice and flexibility is an important consideration when it comes to developing thriving night-time local economies, which are equally important for local investment and employment. That said, economic considerations must always be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents.
- 9.3 Each application will always be considered on its own individual merits, however, it should be recognised that restricting the hours of operation in some cases can play an important role in preventing public nuisance, especially in residential areas where there is a history of noise complaints relating to a particular premises from those living within the vicinity.
- 9.4 In accordance with 'the guidance', retail premises (e.g. shops, stores and supermarkets) will generally be permitted to sell alcohol for consumption off the premises during the normal hours they are open for shopping purposes.
- 9.5 However, in the case of individual premises known to be a focus of disorder and disturbance, then, subject to relevant representations, some limitation on licensing hours may be appropriate.

10 Temporary Event Notices (TEN)

- 10.1 There are two types of temporary event notice (TEN) which can be given to the Authority, standard and late.

Standard TEN

Anyone wishing to submit a standard TEN to the Licensing Authority must do so at least 10 clear working days prior to the event in question; not including the day the notice is submitted or the first day the event is due to take place.

Late TEN

If it is not possible to give 10 working days' notice, then a late TEN may be submitted providing there are at least 5 working days' notice given, again, not including the day of submission or the first day the event is due to take place.

- 10.2 The significant difference between a Standard and Late TEN is the loss of the notifier's right of appeal. If a relevant authority objects to a Standard TEN by way of submitting a counter notice, the applicant has a right of appeal. If the authority wishes to impose conditions on the notice and all parties agree, then a hearing is not necessary and the Authority will not normally hold a hearing.
- 10.3 Where all parties, including the applicant, fail to agree, the matter may be determined at a hearing of the Licensing and Safety Sub-Committee.
- 10.4 However, if a counter notice is submitted in relation to a late TEN, no right of appeal exists and the licensable activities may not go ahead.
- 10.5 Regulations control the number of TENs that may be held at any premises in a calendar year.

11 Adult Entertainment

- 11.1 An applicant wishing to provide adult entertainment should specify in the operating schedule what sort of adult entertainment they intend to provide and how frequently it will be provided. If sexual entertainment is to be provided, for example lap dancing, striptease etc. then a separate sexual entertainment licence may also be required.

Sexual Entertainment Venues (S.E.V)

- 11.2 Walsall Council has adopted a formal policy in relation to these types of premises under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. Standard conditions are attached to such licences. Where there are similar conditions attached to the 2003 licence for the premises, the more onerous will apply.

- 11.3 Under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009, premises that provide sexual entertainment on no more than 11 times per year and no more frequently than once per calendar month are exempt. For further information on SEVs please contact Walsall Council Licensing Unit.

12 Cumulative Impact Policy

- 12.0 These have undoubtedly helped licensing authorities to limit the number or type of licence applications granted in areas where the number of licensed premises is causing problems. Such problems have typically included crime and disorder or public nuisance caused by large numbers of drinkers being concentrated in one area.
- 12.1 Under the Home Office Guidance, issued under section 182 of the Licensing Act 2003, the definition of Cumulative Impact is:
- “Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area”
- 12.2 The cumulative impact policy was initially introduced on the 8 September 2008 and reaffirmed on the 7 January 2011.
- 12.3 As part of the 2020 review of the Statement of Licensing Policy Responsible authorities provided evidence that the WS1 post code area for Walsall were saturated with licensed premises (‘on/off licences’ and late night refreshment) and the level of saturation was having a significant cumulative effect, which undermined the licensing objectives.
- 12.4 The review showed the defined area where the cumulative impact was most demonstrable was under the WS1 post code including the town centre (Appendix 2).
- 12.5 Having regard to the statutory guidance issued under the Licensing Act 2003, the Council consulted on the issues, took into account the views of respondents, and considered all the evidence presented to it.
- 12.6 In light of the findings, the Authority, proposed a cumulative impact policy (amended in 2021) in respect of applications relating to the sale or supply of alcohol for consumption ‘on and off’ the premises’ and for the provisions of late night refreshment in a defined area of Walsall.
- 12.7 In this area applicants will be required to demonstrate how the granting of their licence will not have a cumulative impact on the licensing objectives. Where relevant representations are received to the application, the matter will be referred to the Licensing Sub-Committee to make a decision on the application.
- 12.8 Walsall Council recognises that any special policy regarding cumulative impact is not absolute and where licence applications will not add to cumulative impact and no relevant representations received, the licence/certificate will be granted as applied for.

- 12.9 The presumption contained in respect of this policy, does not relieve responsible authorities or other persons of the need to make relevant representations. If there are no relevant representations, Walsall Council must grant the application on the terms that are consistent with the application.
- 12.10 In determining an application, Walsall Council will have particular regard to the licensing objectives, the cumulative effect, and any adverse impact that may arise from the saturation of premises in the defined area.
- 12.11 The cumulative impact policy will not be used to revoke existing licences or certificates. However, such a policy may be a justification to refuse an application to vary a licence or certificate in circumstances where the variation is directly relevant to the policy and the refusal is strictly necessary for the promotion of the licensing objectives, each case must be treated on its own merits.
- 12.12 Walsall Council recognises the difference between cumulative impact and the commercial need for premises in an area. Need and market forces are not matters for the Authority to consider as part of its licensing function.
- 12.13 Walsall Council will not operate a quota of any description. Each application must always be considered on its merits.

13 Late Night Levy

- 13.1 Walsall Council has considered the parameters for the introduction of such a levy but has resolved that it not be implemented at this time. The Council reserves its right to introduce such a levy, but will only do so after ensuring it has gone through the statutory consultation process and a formal decision has been made in respect of all evidence and comments received.

14 Early Morning Restriction Orders (EMRO)

- 14.1 Walsall Council has considered the parameters of such orders, but has resolved that none be implemented at this time. The Council reserves its right to introduce such orders, but will only do so after ensuring it has gone through the statutory consultation process and a formal decision has been made in respect of all evidence and comments received.

15 Children

- 15.1 Walsall Council recognises the great variety of premises for which licences and certificates may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, food take-away premises, community halls, church halls and schools. However, in the case of premises used exclusively, or primarily, for the supply and consumption of alcohol on the premises, it is an offence to allow anyone under the age of 16, unaccompanied by an adult, to be present on such premises.
- 15.2 Where the consumption of alcohol takes place but is not the exclusive or primary activity at a particular venue, such as a hotel or cinema for example, it is an offence for, those under 16 to be unaccompanied between 12 midnight and 5am.
- 15.3 Other than these two restrictions there is no presumption in favour of giving access to children under 18 generally, or indeed, preventing their access. Each application and the circumstances prevailing at each individual premises must be considered on its own merits and admission will always be at the discretion of those managing the premises.
- 15.4 Walsall Council, in its own right, will not seek to limit the access of children to any premises unless it receives representations to that effect based on the prevention of physical, moral or psychological harm to children. Applicants seeking premises licences and club premises certificates should include in their operating schedule any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.
- 15.5 Examples of areas which may give rise to concern in respect of children include premises –
- where nudity or entertainment of an adult or sexual nature is provided
 - where there is a strong element of gambling taking place
 - with a known association with drug taking or dealing
 - where there have been convictions for serving alcohol to those under 18
 - with a reputation for underage drinking
 - where the premises have been linked to child sexual exploitation.
- 15.6 In the case of premises used for film exhibitions, applicants should include in their operating schedule any specific arrangements for restricting access to children to ensure they meet the required age limit in line with any certification granted by the British Board of Film Classification.
- 15.7 Where a large number of children are likely to be present on any licensed premises, for example at a children's show or pantomime, then applicants

may need to demonstrate that measures are in place to ensure an appropriate number of adults are present in order to satisfy the licensing objectives.

- 15.8 In cases where it is considered necessary, options available for limiting access by children could include –
- a limit on the hours when children may be present
 - a limitation or exclusion on the presence of children when certain activities are taking place
 - the requirement to be accompanied by an adult
 - access being limited to parts of the premises only
 - an age limitation (for under 18s)
- 15.9 For premises where the sale or supply of alcohol takes place as a licensable activity, the Authority recommends that applicants adopt The Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years of age or over. The premises should also comply with the Committee of Advertising Practice in relation to advertisements and promotions, particularly those provisions relating to the sale and promotion of alcohol.
- 15.10 The Authority also recognises the Guide to Responsible Alcohol Retailing jointly produced by The Association of Convenience Stores, The British Retail Consortium and The Wine and Spirits Trade Association, which covers key areas of under age sales, proof of age cards, staff training and alcohol promotions.

16 Live Music and Regulated Entertainment

- 16.1 Walsall Council is aware of the need to encourage and promote a broad range of entertainment, particularly live music and dancing as well as a range of traditional theatre performances for the wider cultural benefit of communities generally.
- 16.2 In determining what conditions maybe attached for the appropriate promotion of the licensing objectives, care will be taken to avoid measures which might deter live music dancing and theatre by imposing indirect costs of a disproportionate nature.
- 16.3 As a result of deregulatory changes that have subsequently amended the 2003 Act, there are a number of exemptions that now apply to the provision of all categories of regulated entertainment. Applicants/licence holders should ensure that they are fully aware of the current Section.182 guidance issued by the Home Office.
- 16.4 It is still possible however, for a premises licence or club premises certificate to be reviewed if appropriate grounds to do so exist. In determining a review application, the Authority is allowed, if it is considered appropriate, to lift the suspension of such restrictions or conditions that apply to such venues/times and give renewed effect to an existing condition.
- 16.5 Entertainment licensing requirements were further deregulated as a result of the Legislative Reform (Entertainment Licensing) Order 2014, which came into force on 6 April 2015.
- 16.6 The 2014 Order deregulated entertainment licensing in the following ways:
- The provision of regulated entertainment, by or on behalf of local authorities, health care providers, or schools on their own defined premises, between 08.00 - 23.00hrs on the same day, with no audience limit.
 - The audience limit for a performance of live amplified music in relevant alcohol licensed premises or in a workplace between 08.00 - 23.00hrs on the same day was raised from 200 to 500.
 - Local authorities, health care providers and schools are now exempt from entertainment licensing when making their own defined premises available to third parties for live and recorded music activities between 08.00 - 23.00hrs on the same day for audiences of up to 500.
 - Community premises, not licensed to supply alcohol, are now exempt from entertainment licensing requirements for live and recorded music between 08.00 - 23.00hrs on the same day for audiences of up to 500.
 - Travelling circuses are now exempt from entertainment licensing in respect of all descriptions of entertainment, except an exhibition of a

film or a boxing or wrestling entertainment, where the entertainment or sport takes place between 08.00 - 23.00hrs on the same day, with no audience limit.

- Greco-Roman and freestyle wrestling are now deregulated between 08.00 - 23.00hrs for audiences of up to 1000 people.
- An exhibition of film that is incidental to another activity (where that other activity is not itself a description of entertainment set out in paragraph 2 of Schedule 1 to the 2003 Act) is exempt now from licensing.
- The exhibition of films in community premises has also been deregulated under section 76 of the Deregulation Act 2015 and no licence is required for an exhibition of film on community premises between 08.00 - 23.00hrs on any day provided that:
 - the film entertainment is not provided with a view to profit;
 - the film entertainment is in the presence of an audience of no more than 500 people;
 - the admission of children is subject to such restrictions as are necessary to comply with the recommendation issued by the BBFC or relevant Licensing Authority regarding the admission of children; and
 - a person concerned in the organisation or management of the exhibition of the film has obtained the prior written consent of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.

17 Late Night Refreshment

- 17.1 Local Powers to Deregulate 26.1 Section 71 of the Deregulation Act 2015 inserted paragraph 2A into Schedule 2 of the Licensing Act 2003 in relation to the provision of late night refreshment.
- 17.2 This amendment created a discretionary power to licensing authorities to exempt premises in certain circumstances, from the requirement to have a licence to provide late night refreshment.
- 17.3 The powers allow a relevant Licensing Authority to exempt the supply of late night refreshment if it takes place:
- on or from premises wholly situated in a designated area;
 - on or from premises which are of a designated description; or
 - during a designated period (beginning no earlier than 23.00hrs and ending no later than 05.00hrs).
- 17.4 Walsall Council does not currently consider it appropriate to exercise the discretionary powers within paragraph 2A of Schedule 2 to the Licensing Act 2003.
- 17.5 If the Authority reviews this decision and considers exercising the powers in the future, it will only do so having carefully considered the risks to the promotion of the licensing objectives and having carried out a comprehensive consultation exercise with relevant stakeholders.

18 Licence Conditions

- 18.1 The Authority may only impose conditions (other than mandatory conditions) on a premises licence or club premises certificate (and in certain circumstances Temporary Event Notices) where they form part of an applicant's operating schedule or following a decision of the licensing sub-committee at a formal hearing. However this may include the voluntary addition, by the applicant, of conditions following mediation in response to the submission of a relevant representation,
- 18.2 Any conditions attached to licences, certificates and other authorisations must be tailored to the individual style and characteristics of the premises and events concerned and will reflect, as far as possible, local crime prevention strategies.
- 18.3 The Authority will not attempt to impose any 'blanket' conditions which apply to all premises, but the applicant's operating schedule, which forms part of the application should include sufficient information to enable a responsible authority or other person to assess whether the steps being taken to promote the licensing objectives are satisfactory or not.

- 18.4 The Council, therefore, expects all licence holders to set out, in their operating schedule, the measures and management controls they will have in place to: prevent alcohol being sold or served to children (other than in the limited circumstances permitted under the Act), demonstrate all reasonable precautions, and due diligence intended to prevent sales to under age persons whilst trading.
- 18.5 The Council considers that when effectively applied, 'Challenge 25' policies, where the individual attempting to purchase alcohol must prove they are 18 or over if they look as if they could be under 25, are an effective measure in preventing the sale of alcohol to children.
- 18.6 The Council expects licensed premises to embrace the 'Challenge 25' initiative. Premises licensed for the sale or supply of alcohol, particularly off-sales, are expected to display clear and prominent signage informing customers that it is an offence to:
- a) sell, or allow the sale of, alcohol to children;
 - b) allow an adult to buy, or attempt to buy, alcohol on a child's behalf; and/or
 - c) for a child to buy, or attempt to buy, alcohol themselves.
- 18.7 Where the Council is required to review a licence due to the sale of alcohol to children, the presumption will be for the licensee to demonstrate what measures and controls they had in place to prevent the situation arising.
- 18.8 When submitting an operating schedule, applicants are required by the Act to outline the measures and controls they commit to complying with in place in order to meet the licensing objectives. These measures will likely form the basis of conditions attached to the premises licence or club premises certificate if/when it is granted. However, only conditions considered appropriate and necessary, for the promotion of the licensing objectives, will be imposed and any breaches of conditions will, in most cases, be dealt with primarily through the review process.
- 18.9 The responsible authorities identified in this statement may also propose conditions of their own by making representations in relation to an application for the grant or variation of a premises licence. However, these must not be over burdensome or disproportionate and will only be imposed by the Authority in cases where it is considered appropriate and necessary to meet the licensing objectives.
- 18.10 In such cases, any conditions proposed by a responsible authority, and subsequently agreed by an applicant, can be attached to the premises licence without the need for a formal hearing. This is achieved either by the applicant agreeing to amend their operating schedule to include any condition(s) agreed between the parties, or if all parties agree that a hearing is not necessary.

- 18.11 As far as possible, duplication with other statutory or regulatory regimes will be avoided. However, in circumstances where existing primary legislation already effectively promotes the licensing objectives it is likely that no additional conditions will be necessary. For this purpose each case will be assessed on its own individual merits.

19 Removal of the requirement for a DPS at Community Premises

- 19.1 Instead of being required to appoint an individual as a designated premises supervisor (DPS), by way of a mandatory condition, volunteer committees managing community premises are may decide to take joint responsibility for the sale of alcohol on or from a community premises.
- 19.2 Management Committees wishing to apply for the removal of the mandatory condition requiring a DPS at community premises will need to demonstrate clearly to the Authority how they operate and that there will be appropriate supervision of all alcohol sales at different types of events.
- 19.3 Community premises will include church halls, chapels, community and village halls and similar buildings. If there is any doubt as to whether a building constitutes a community premises, the Authority will deal with such matters on a case by case basis with the main consideration being the primary use of the premises, for example;
- a. is it genuinely made available for community benefit most of the time?
 - b. is it accessible by a broad range of persons and sectors of the local community?
 - c. is it being used for purposes which are beneficial to the community as a whole?
- 19.4 Applicants will be required to set out exactly how the premises is managed, its committee structure and how alcohol sales are to be properly supervised within the committee/management structure.

20 Black Country Regulators Operating Framework

- 20.1 Walsall Council embraces the Department for Business Innovation and Skills 'Regulators Code', which came into force on the 6 April 2014. Its standards have been integrated into our regulatory culture and processes and the authority supports the principles of better regulation to promote efficient and effective approaches to regulatory inspection and enforcement that improve regulatory outcomes without imposing unnecessary burdens on business.
- 20.2 Bearing in mind the principle of transparency, Walsall Council joined together with its Black Country neighbours and produced the Black

Country Regulators Operating Framework. This framework is available upon request to: Licensing , Walsall Council, Civic Centre, Darwall Street, Walsall, WS1 1TP. E-mail Licensing@walsall.gov.uk, Website www.walsall.gov.uk

In general, action will be taken against 'problem' premises through the review process. In cases where more formal action, such as prosecution is considered to be appropriate, the key principles of consistency, transparency and proportionality will be maintained.

21 Equal Opportunities

- 21.1 The Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relation, between persons with different protected characteristics, for example age, disability, race and religion.
- 21.2 The Council recognises the right to freedom of speech (Human Rights Article 10) and will not intervene in this matter, when discharging its licensing functions, unless to do so would be appropriate to promote one or all of the licensing objectives. Holders of premises, club or personal licences/certificates should be aware of the potential for some organisations to have an influence on or advocate illegal activity that would be in direct contradiction of the spirit of the licensing objectives.
- 21.3 The Council may, based on evidence and on receipt of written representations from responsible authorities or other persons, seek to prohibit certain types of meetings or gatherings at licensed premises or clubs by attaching conditions in order to promote the licensing objectives, in particular the prevention of crime and disorder and the promotion of public safety.

22 **Delegations**

- 22.1 The Act provides that the functions of the authority must be carried out by the Licensing and Safety Committee. The Licensing and Safety Committee delegates certain individual powers, where it is appropriate to do so, via the Council's scheme of delegation.
- 22.2 The Scheme of Delegation, below, sets out the types of decisions that have been delegated to officers and the circumstances within which they can be used:

Delegation of Powers:

Matter to be Dealt with	Full Committee	Sub Committee	Officers
Review of Licensing Statement of Policy	All Cases		
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
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a 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 authorities		If a police objection	All other cases
Application to review premises		All cases	

licence/club premises certificate			
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 an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases

- 22.3 A licensing sub-committee of three councillors will sit to hear applications where relevant representations have been received from responsible authorities and/or other persons.

23 Public Register

- 23.1 The Licensing Authority will keep a register in the prescribed form containing:-
- a record of each premises licence, club premises certificate and personal licence issued by it,
 - a record of each temporary event notice received by it,
 - matters mentioned in Schedule 3 of the 2003 Licensing Act
 - such other information that may be prescribed.
- 23.2 The licensing register will be available for inspection during office hours by any person without payment.
- 23.3 If requested to do so the Authority will supply any person with a copy of information contained in any entry, for which a fee will be charged. This may assist people in making representations to the Licensing Authority.

24 Personal Licence – New Applications

- 24.1 A personal licence, issued under Section 117 of the Licensing Act 2003, authorises an individual to make, or authorise, the sale of alcohol in accordance with a premises licence.
- 24.2 Every premises licence that authorises the sale of alcohol must specify the named individual, appointed onto the licence, who acts as the designated premises supervisor (DPS). Only the holder of a Personal Licence can be appointed into the position of DPS.
- 24.3 Applications for personal licences must be made to the Licensing Authority of the area where the applicant is ordinarily resident at the time they make their application.
- 24.4 The applicant must:
- a. be aged 18 or over
 - b. be entitled to work in the United Kingdom
 - c. possess a licensing qualification or is a person of a prescribed description
 - d. have not forfeited a personal licence in the five year period prior to their application being made
 - e. must be free of any conviction for any relevant offence or any foreign offence or required to pay an immigration penalty
- 24.5 Walsall Council will reject an application if the applicant fails to meet one or more of the requirements set out in (a) to (d) above.

- 24.6 Where the applicant meets the requirements in (a) to (e) but does not meet the requirements of (e), Walsall Council will give the Chief Officer of Police for its area a notice to this effect. Having received such a notice, if the Chief Officer of Police is satisfied that the granting of the application would undermine the crime prevention objective, within 14 days he must within give Walsall Council a notice to that effect.
- 24.7 Where the applicant fails to meet the requirements of (e), as a result of a conviction for an immigration offence or because they have been required to pay an immigration penalty, Walsall Council will give a notice to the Secretary of State for the Home Department to that effect. The Home Office may object to an application on grounds that granting the personal licence would be prejudicial to the prevention of illegal working in licensed premises.
- 24.8 Where an objection to the grant of a personal licence is received from either the Chief Officer of Police or the Home Office, the applicant will be entitled to a hearing. If no objections are received, Walsall Council will grant the application.
- 24.9 At a hearing to determine a personal licence application, to which the Chief Officer of Police or Home Office have objected, Walsall Council will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
 - The duty to promote the crime prevention objective
 - The objection notice given by the Police or Home Office
 - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
 - The seriousness of the relevant offence
 - The sentence or penalty imposed on the applicant for the relevant offence
 - Any representations made by the applicant
 - Any other evidence as to the previous character of the applicant
- 24.10 If, having considered all of the circumstances, Walsall Council considers that it is appropriate for, either, the promotion of the crime prevention objective or for the prevention of illegal working in licensed premises to reject the application, it must do so. In all other cases the application must be granted.
- 24.11 If an application is refused, the applicant has a right of appeal against the decision. Similarly, if the application is granted, despite a police objection notice or an objection from the Home Office, the Chief Officer of Police or Home Office has a right of appeal against the Authority's determination. Walsall Council will therefore record in full the reasons for any decision.

25 Personal Licences – Suspensions and Revocations

- 25.1 Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 and granted Licensing Authorities the power to suspend or revoke personal licences issued by it, with effect from 6 April 2017.
- 25.2 When Walsall Council becomes aware that a person, to whom it has granted a personal licence, has been convicted of a relevant offence, convicted of a foreign offence, or has been required to pay an immigration penalty, it will consider whether to revoke the licence or suspend the licence for a period of up to six months.
- 25.3 This applies to convictions and civil immigration penalties imposed upon the licence holder at any time before or after the licence was granted, as long as the conviction was received after 6 April 2017; or if the requirement to pay the civil penalty arose after 6 April 2017. Only a Magistrates' Court has the power to order the forfeiture or suspension of a personal licence for convictions received prior to 6 April 2017.
- 25.4 The prescribed process for the suspension or revocation of a personal licence by the Authority is set out at Section 132a of the Licensing Act. Only the Licensing and Safety Committee or Sub-Committee have the power to revoke or suspend a personal licence; however, a Licensing Officer may make the actions preceding a final decision.
- 25.5 Walsall Council will not take action if the licence holder has appealed against the conviction or the sentence imposed in relation to the offence, until the appeal is disposed of. Where no appeal is made, the Authority will not take action until the time limit for making an appeal has expired.
- 25.6 If Walsall Council is considering revoking or suspending a personal licence, it will give notice to the licence holder. This notice must inform the licence holder of their right to submit representations about the conviction, any decision of a court in relation to the licence, or any decision by an appellate court if the licence holder has appealed such a decision. The licence holder may also decide to include any other information, for example, about their personal circumstances.
- 25.7 The licence holder must be given 28 days in which to make a representation, beginning on the day the notice was issued. The Authority does not need to hold a hearing to consider the representations. Before deciding whether to revoke or suspend the licence, the Authority will consider any representations made by the licence holder, any decisions made by the court or appellate court in respect of the personal licence of which Authority is aware, and any other information the Authority considers relevant.
- 25.8 Walsall Council may not be aware of whether the court previously considered the possible revocation or suspension of, and there is no obligation on it to find this out before making a decision.

- 25.9 Where the court has considered the personal licence and decided not to take action, this does not prevent the Authority from deciding to take action. Licensing Authorities have different aims to courts and must fulfil their primary statutory duty, the promotion of the licensing objectives. Therefore, it is appropriate for Walsall Council to follow due process and reach its own independent decision in respect of the licence holder's suitability to hold a personal licence.
- 25.10 If Walsall Council has considered the possibility of suspension and/or revocation, together with all relevant information available at the time, and proposes not to revoke the licence it will give notice to the Chief Officer of Police, and invite the Chief Officer to make representations about whether the licence should be suspended or revoked, having regard to the prevention of crime.
- 25.11 The Chief Officer may make representations within the period of 14 days from the day they receive the notice from the Authority.
- 25.12 Any representations made by the Chief Officer of Police will be taken into account by the Authority in deciding whether to suspend or revoke the licence.
- 25.13 Convictions may come to light via police in another area, for example if the personal licence holder no longer lives in the area of the issuing authority, or if the offence took place in another police force area. In this instance it would be good practice for the police providing the information to notify the police force in the Licensing Authority area, because it is the local Chief Officer who must provide representations if the Licensing Authority proposes not to revoke the licence.
- 25.14 Where the licence holder is convicted of immigration offences, or has been required to pay a civil penalty for immigration matters, Walsall Council will notify the Home Office Immigration Enforcement service and allow representations to be made in the same way.
- 25.15 In deciding whether to suspend or revoke a personal licence, Walsall Council will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
 - The duty to promote the licensing objectives
 - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
 - The seriousness of the relevant offence
 - The sentence or penalty imposed on the licence holder for the relevant offence
 - Any representations made by the Police or Home Office Immigration Enforcement

- Any representations made by the licence holder
- Any evidence as to the previous character of the holder of the licence.

- 25.16 Walsall Council will notify the licence holder and the Chief Officer of Police of the decision made (even if the police did not make representations). The licence holder may appeal the Authority's decision to revoke or suspend their personal licence. A decision to revoke or suspend the licence does not take effect until the end of the period allowed for appealing the decision (21 days); or if the decision is appealed against, until the appeal is disposed of.
- 25.17 If the personal licence holder is a DPS, the will notify the premises licence holder once the decision is made to revoke or suspend the licence, if it becomes necessary to do so in order for the Authority to be able to carry out its functions.
- 25.18 The Licensing Authority may also notify any person who has declared an interest in the premises under section 178 of the 2003 Act, if it becomes necessary to do so in order for the Licensing Authority to be able to carry out its functions.

26 Immigration Act 2016 – Entitlement to Work

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

26.2 The licensing objective of ‘prevention of crime and disorder’ includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The Council will work with the Home Office (Immigration Enforcement) and Police, in respect of these matters.

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

- Premises licenced to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;
- Licences issued to those with limited permission to be in the UK automatically lapse upon the expiry of their right to remain or work in the UK.
- Immigration offences, including civil penalties, are ‘relevant offences’ as defined by the 2003 Act;
- The Home Secretary (in practice Home Office (Immigration Enforcement)) was appointed a responsible authorities under the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences), applications to transfer premises licences, and, in some limited circumstances, personal licence applications. As a responsible authority the Home Secretary (Home Office (Immigration Enforcement)) to make appropriate representations and objections to the grant of licences; and
- Immigration officers have a right of entry to premises they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.
- The Licensing Authority must have regard to any guidance issued by the Home Office in relation to the immigration related provisions now contained in the Licensing Act 2003.
- The Licensing Authority will also work in partnership with the Home Office (Immigration Enforcement) and West Midlands Police, with a view to preventing illegal working in premises licensed for the sale of alcohol or late night refreshment.

27 Appendix 1 - Definitions

28.1 In this Policy, the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the 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.

28.2 ‘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 licensing authorities’ 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.

28.3 ‘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.

28.4 ‘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.

28.5 ‘Closure Order’

Powers for the police and courts to close premises. The 2003 Act significantly extends the existing powers of the police to serve 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.

28.6 ‘Club Premises Certificate’

A certificate which licenses 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.

28.7 **'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. 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.

28.8 **'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. They must also be a personal licence holder.

28.9 **'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.

28.10 **'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.

28.11 **'Licensing Authority or Authority'**

Walsall Metropolitan Borough Council

28.12 **'Licensing Objectives'**

The objectives, as set out in the Act, are:

- 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.

28.13 'Licensed Premises'

Includes club premises and events unless the context otherwise requires.

28.14 'Mandatory Conditions'

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

28.15 'Objection Notice'

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

28.16 'Operating Schedule'

A document (this is in effect the completed application form) 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.

28.17 Other Persons

Person(s) who live or are involved in a business and are likely to be affected by the premises.

28.18 '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 has no expiry. It ceases to have effect when revoked, forfeited, surrendered or suspended. A personal licence holder is not required where the premises concerned do 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.

28.19 **'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.

28.20 **'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. Where a provisional statement is made, subject to limited exceptions, the full licence must normally be granted once the premises are completed.

28.21 **'Qualifying Club'**

Club Premises Certificates will be issued to Qualifying 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).

28.22 **'Regulated Entertainment'**

- A performance of a film.
- An exhibition of a film.
- An indoor sporting event.
- A boxing or wrestling entertainment (indoor or outdoor).
- 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.

28.23 **'Relevant Representations'**

The 2003 Act does not use the term "objections". Instead 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.

28.24 ‘Review of Licence’

Where a premises licence is in force any 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 three months; or the revocation of the licence.

28.25 ‘Responsible Authority’

- The Chief Officer of Police in the area where the premises are situated.
- The Fire Authority in the area where the premises are situated.
- The Licensing 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.
- The enforcing authority for Health and Safety at Work.
- The local Planning Authority.
- Trading Standards, local weights and measures.
- Director of Public Health.
- In relation to a vessel, a navigation authority, the Environment Agency, or the British Waterways Board

28.26 ‘Statement of Licensing Policy’

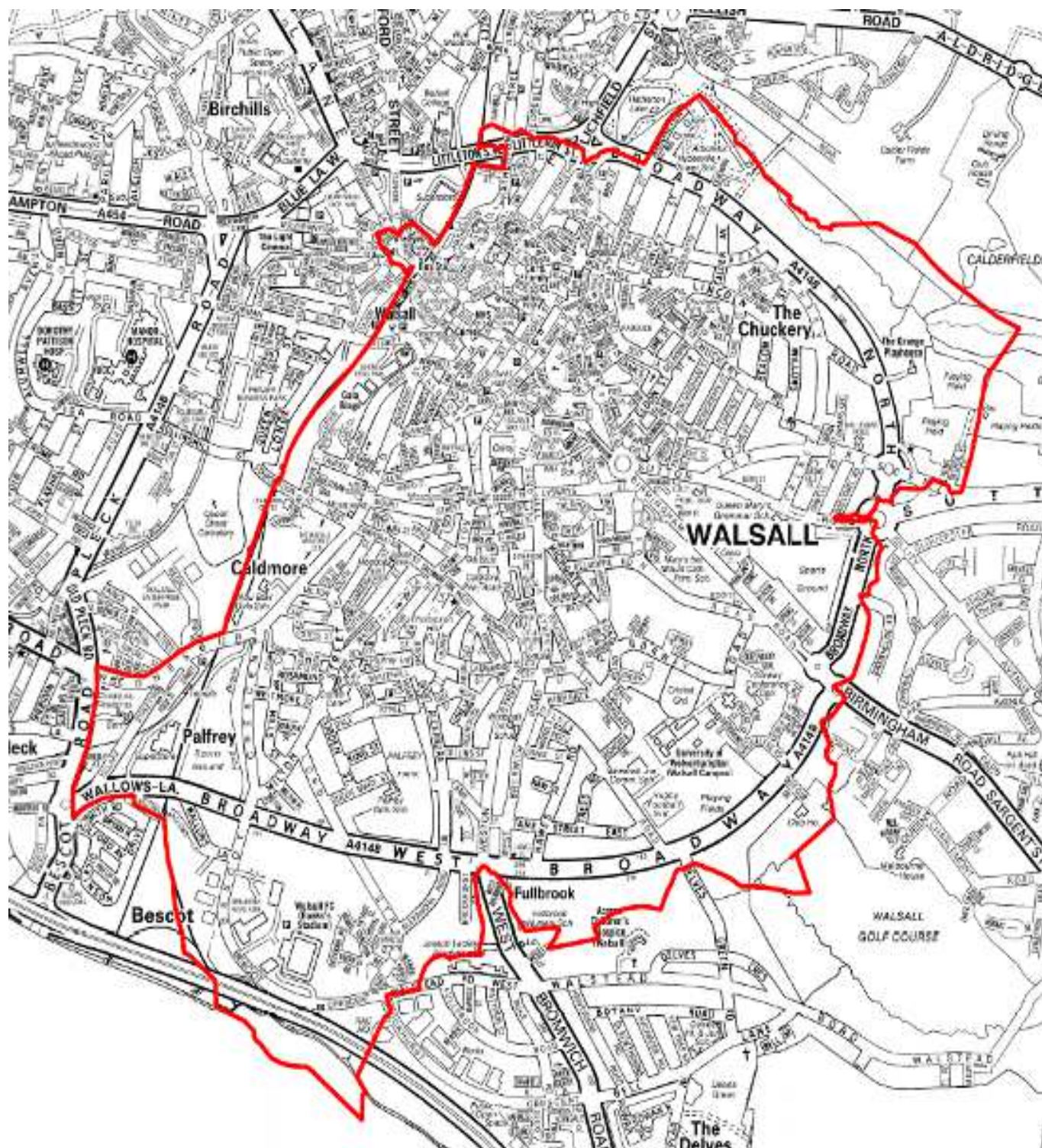
Each Licensing Authority must every five years determine and publish a statement of licensing policy. There is a requirement to consult on the policy and keep it under review.

28.27 ‘Temporary Event Notice’

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

28.28 **'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 should be made to transfer the premises licence to the new owner (subject to any outstanding annual fee payments).



Comments

1The Statement of Licensing Policy will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

Licensing Unit
Walsall M.B.C
Civic Centre
Darwall Street
Walsall
WS1 1TP

Telephone Number: 01922 653050

Fax Number: 01922 653070

e-mail: licensing@walsall.gov.uk

website : www.walsall.gov.uk

Appendix 2 EMRO Process Flowchart

1. There are recurring alcohol-related problems between midnight and 6am in a particular area.
2. Licensing authority considers that an EMRO may be a solution.
3. Informal discussions with businesses that may be affected could be held at this stage. [If this option addresses the problems within the area; no EMRO is necessary.]
4. An EMRO is seen as the best option to address the problems within an area.
5. Licensing authority ensures it has the necessary evidence to demonstrate that the EMRO is appropriate for the promotion of the licensing objectives. (17.7)
6. Licensing authority decides on the details of a proposed order, including area, days and times. (17.10)
7. Licensing authority sets out details of the proposed order in a document which is posted on the licensing authority website. The EMRO must be advertised for at least 42 days on its website and in a local newspaper or circular. (17.11)
8. Licensing authority notifies directly all responsible authorities and affected parties. They must also take all reasonable steps to display a notice in the area in which it would apply. (17.12)
9. Affected persons have 42 days to make any representations regarding the order. (17.14)
10. Licensing authority considers representations made. This can be through an informal discussion if the authority and people who have made representations agree that a hearing is not necessary. If a hearing is required, authorities must ensure it is held in accordance with the law. (17.17-17.21)
11. Either:
 - Licensing authority decides that making the order is not appropriate and uses other tools.
 - Making the order in its original form is considered appropriate. The final order is approved in full.
 - Amendments to the order are considered appropriate. If the amendments would change the days or the areas to which the order applies from those covered in the original order, then return to step 7. If the amendments are minor and no more detrimental to business than the original order then the final order is approved in full.
 - The licensing authority decides on a start date for the order, notifies affected premises and advertises the order for at least 28 days on its website and in the area affected by the order.
12. The EMRO begins to apply

Public Spaces Protection Order
Number 1 of 2020 "Walsall Town Centre"

Walsall Metropolitan Borough Council in exercise of its powers under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014, having had particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention, makes the following order:

Public Spaces Protection Order: Section 59 Anti-social Behaviour, Crime and Policing Act 2014

PUBLIC SPACES PROTECTION ORDER

Section 59 Anti-social Behaviour, Crime and Policing Act 2014

Date 22 September 2020

The restricted area covered by this Public Spaces Protection Order is edged in red on the map attached to this Order. All the provisions of the Order, save for prohibition 2, apply throughout the restricted area. Within the restricted area is an area shown hatched in blue which is the market place. Prohibition 2 of the Order applies to the area hatched in blue.

It is ordered that in this restricted area:-

1. No person shall remain in a shop, betting office, or food outlet so as, without reasonable excuse, to cause harassment, alarm, or distress.
2. No person shall remain at Walsall Market, shown hatched in blue on the map so as, without reasonable excuse, to cause harassment, alarm, or distress.
3. No person without reasonable excuse shall in a public place use a hypodermic needle to inject themselves or another.
4. No person shall, without reasonable excuse, throw down, drop or otherwise deposit and leave in any public place a hypodermic needle or other drug paraphernalia.
5. No person shall beg in a manner so as to cause harassment alarm or distress.
6. No person shall remain in a bus station, a bus shelter, at the cenotaph or in the doorway of any building so as, without reasonable excuse, to cause harassment, alarm, or distress.
7. No person shall consume alcohol.
8. No person shall consume any psychoactive substances.
9. No person shall, except in a lavatory, urinate or defecate in a public place.

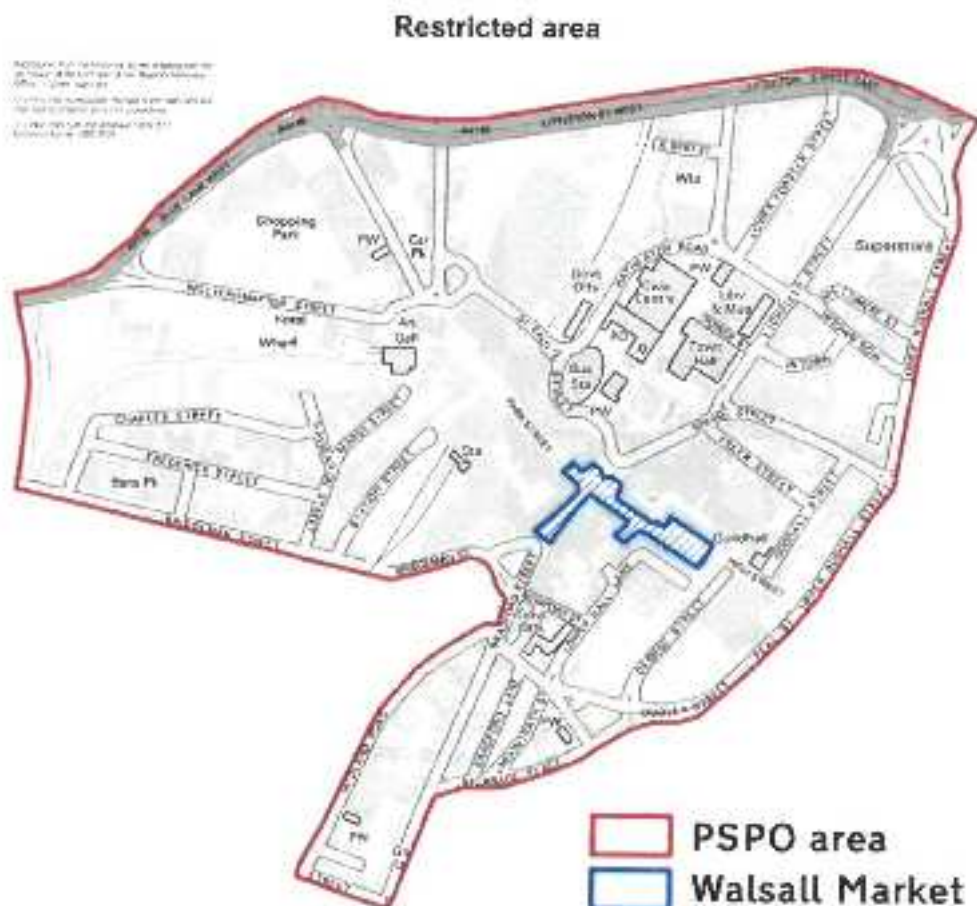
It is ordered that the following specified things are done by persons carrying on specified activities in this restricted area

1. Any person in charge of a dog in a public place must keep the dog on a lead or otherwise under physical control at all times. The provisions of this Order relating to the control of dogs do not apply to any person who is registered blind in accordance with section 29 of the National Assistance Act 1948, to any person who is deaf and in charge of a dog trained by Hearing Dogs for Deaf People and to any person suffering a disability and in charge of a dog trained by a charity to assist with them.

Definition

"A public place" means any place to which the public or any section has access on payment or otherwise, as of right or by virtue of express or implied permission.

"Psychoactive substance" is any substances as so defined in the Psychoactive Substances Act 2016.



It is a criminal offence for a person, without reasonable excuse:-

- (a) to do anything, save for consuming alcohol in breach of a public spaces protection order, that the person is prohibited from doing by a public spaces protection order, or**
- (b) to fail to comply with a requirement to which the person is subject under a public spaces protection order.**

A person guilty of the above offence is liable on conviction to a fine not exceeding £1000.

Offence of consumption of alcohol in breach of prohibition in order

A constable or authorised person may require a person not to consume, in breach of a public spaces protection order alcohol or anything which the constable or authorised person reasonably believes to be alcohol.

A constable or authorised person may require a person to surrender anything in their possession which is or which the constable or authorised person reasonably believes to be, alcohol or a container for alcohol.

A person who fails without reasonable excuse to comply with a requirement made by a constable or an authorised person commits an offence and is liable on summary conviction to a fine not exceeding £500.

Walsall Metropolitan Borough Council is satisfied on reasonable grounds that the following activities carried on in the above restricted area have had a detrimental effect on the quality of life of those in the locality:-

1. Persons causing distress to others by remaining in shops, betting offices and food outlets causing harassment, alarm or distress. There are numerous reports of often intoxicated individuals behaving anti-socially in a number of retail and other premises within the prohibited area and refusing to leave. Premises which they refuse to leave include Poundland in Digbeth, B and M Bargains, Boots in Park Street, and Coop.
2. Persons Causing harassment, alarm and distress at Walsall Market Place. Significant problems have been experienced by market stallholders both during market opening hours and when they are setting up and dismantling their stalls. These include persons under the influence and who are drunk and asleep, lying on the stalls being present when market traders arrive to set up. These persons then confront the stallholders and cause them discomfort. Urine and pools of vomit have also been reported as has discarded drug paraphernalia including used which may result in injury. Traders have witnessed people under the influence of alcohol urinate on market furniture. Groups of individuals who gather and consume alcohol around the Market and a vacant stall intimidating those in the vicinity and fighting amongst themselves. Offensive weapons being seen used by individuals have also been reported. Market stallholders report feeling scared and vulnerable.
3. The injection of drugs in view of the public. Numerous reports have been received of individuals openly injecting themselves at various locations within the prohibited area. These include issues referred to

above in the Market Place where individuals have been witnessed pulling down trousers to inject themselves in their buttocks.

4. The leaving of hypodermic needles and drug paraphernalia in such a way as to be a danger to others. Further to the evidence referred to above, reports have been received of discarded needles at a number of locations within the prohibited area. These include the Market Place, the customer entrance of Boots and customer toilets within Coop Coffee Shop and The Light Cinema.
5. Begging in an aggressive manner. Numerous reports have been made about individuals begging in an aggressive and intimidating manner at a number of locations within the prohibited area. Reports suggest elderly members of the public and lone females with young children are targeted. The activity reported is over and above acts of simply begging or asking for money in a way that does not cause those present to feel intimidated. Customers of B and M Bargains, Boots, CO-OP and The Light Cinema as well as the manager of the Crown Wharf Retail Park have complained to staff regarding the above behaviour.
6. Persons fighting and causing nuisance to others in the bus station, bus shelters, at the cenotaph and in shop doorways. Incidents reported include numerous problems at the bus stations at both St Pauls and Bradford Street. These are often related to individuals who are intoxicated and/or are refusing to leave. There are also significant problems reported at the Cenotaph in Bradford Street which include reports of large groups of people congregating at the Cenotaph drinking, shouting swearing and littering and people who sit in the bus shelter or on the Cenotaph benches drinking, leaving cans all over the floor and resulting in the area smelling of urine. Reports have also been made of individuals refusing to leave the doorways of various premises including Peacocks at Crown Wharf, and The Light Cinema, the .
7. Drunkenness. Incidents already referred to above highlight significant issues relating to the consumption of alcohol and there are numerous further reports evidencing that this is a significant issue at numerous locations throughout the prohibited area. Alcohol being a significant underlying factor in the behaviour which relates to many of the prohibitions contained within the order.
8. Dogs not under control have been a feature within reports relating to problems in Walsall Town Centre. These are often connected to reports relating to street drinkers and beggars who can themselves be intimidating and include evidence of residents and visitors in the town feeling intimidated by dogs that are not under any form of direct control and are often allowed to roam free.
9. Numerous reports have been received in relation to individuals urinating in public. These also include evidence of defecation. The problems occur at various locations within the prohibited area including in and around the market, St Pauls Bus Station and Bradford Place. Reports include a well known male regularly urinating and defecating within the car park for The Crown Wharf, the recess between Primark and Play Zone, Digbeth regularly used as a place to urinate and individuals under the influence of alcohol

and drugs urinating and defecating in plain view on The Fountain. This is clearly a significant problem within the prohibited area.

AND

the effect, or likely effect, of the activities—

- (a) is, or is likely to be, of a persistent or continuing nature,
- (b) is, or is likely to be, such as to make the activities unreasonable, and
- (c) justifies the restrictions imposed by this notice.

The above prohibitions or requirements are reasonable to impose in order to prevent the detrimental effect from continuing, occurring or recurring having had particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention, makes the following order:

This order comes into effect on the 28th day of September 2020 shall have effect for 3 years and shall remain in force until 27 September 2023 at 23.59 unless extended.

THE COMMON SEAL of

WALSALL METROPOLITAN BOROUGH COUNCIL

was hereunto affixed on the 22nd day of September 2020

In the presence of

Authorised Signatory



Challenging the Validity of Orders.

2262

An interested person may apply to the High Court to question the validity of this order or any variation of this order. "Interested person" means an individual who lives in the restricted area or who regularly works in or visits that area.

The grounds on which an application may be made are -

- (a) that Walsall Metropolitan Borough Council did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied);
- (b) that a legal requirement was not complied with in relation to the order or variation.

An application must be made within the period of 6 weeks beginning with the date on which the order or variation is made.