



Licensing Act 2003

Statement of Licensing Policy

Effective from: 7 January 2016



Walsall Council

Table of Contents

	<u>Page No's</u>
Introduction	3
1. Licensing Act 2003	3
2. Scope of the Policy	4
3. Duplication	6
4. Partnership Working and Integrating Strategies	6
5. Licensing Process	7
6. Review of licences	8
7. Responsible Authorities and Other Persons	9
8. Hours of Trading	14
9. Temporary Event Notices	15
10. Adult Entertainment	15
11. Cumulative Impact	16
12. Late Night Levy	17
13. Early Morning Alcohol Restriction Orders	17
14. Children	17
15. Live Music and Regulated Entertainment	19
16. Licensing and Planning	20
17. Conditions attached to Premises Licences and Club Premises Certificates	20
18. Removal of DPS requirement	21
19. Enforcement	22
20. Equal Opportunities	22
21. Delegations	22
22. Register of Licences	24
23. Comments on licensing policy	25
Appendix 1 Cumulative Impact Area	26
Appendix 2 Definitions	27

Walsall Metropolitan Borough Council

Statement of Licensing Policy

INTRODUCTION

Walsall MBC is situated in the West Midlands, which contains seven Metropolitan Councils in total. The Council area has a population of 269,300 (2011 Census) making it the fourth largest in the County in terms of population. In terms of area Walsall covers 40.02 square miles, meaning it is neither the largest nor smallest district in the West Midlands. The Council area is mainly urban covering an area of 24.83 square miles.

The towns of Willenhall and Darlaston, 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; 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, the district and local centres, and key transport corridors have and are transforming the borough's new economic well-being.

Through its statement of licensing policy, the licensing authority will strive to ensure its core values of Honesty and Integrity, Fairness and Equality, Value for Money, Innovation and Collaboration and Listening and Responding are sustained.

1. Licensing Act 2003

This Licensing Policy Statement is intended to meet the Licensing Authority's obligations under Section 5 of the Licensing Act 2003 (referred to as "the Act").

The Licensing Authority (referred to as "the Authority") will carry out the licensing function 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.
- the protection of children from harm.

These objectives will be treated as having equal importance.

2. Scope of the Policy

Section 5 of the Act requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years.

The policy was approved by Council on the 16 November 2015.

The policy will be kept under review and the licensing authority may make such revisions to the policy as it considers appropriate. Where revisions to the policy are made, they shall be done so in accordance with statutory requirements, and the licensing authority shall publish a statement of such revisions, or a revised licensing policy statement.

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 Secretary of State under Section 182 of the Act (referred to as “the guidance”).

The guidance makes it clear, and the Authority recognises that licensing should not be seen as the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and therefore beyond the direct control of those with responsibility for managing and controlling licensed premises. Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. Individuals who engage in anti-social behaviour are accountable in their own right. However, the Authority may reasonably impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet when leaving the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby.

However, licence holders should take all reasonable steps to prevent the occurrence of crime and disorder and public nuisance.

Licensing will however, be one of the key factors in managing the evening and night time economy particularly in town centres and any other places as identified ‘high risk’ areas in partnership with the police and other responsible authorities.

The Local Authority recognises its duty under Section 17 of the Crime and Disorder Act 1998 with regard to the prevention of crime and disorder in its area and will continue to work in partnership with the police, responsible authorities as defined by the Act, local businesses, local people and others towards the promotion of all the licensing objectives.

The licensing authority will only make decisions in relation to licensable activities, qualifying club activities, temporary events and personal licences. In determining applications the council will have to apply and have full regard to the Licensing Act 2003, secondary legislation, and regulations issued from time to time by the Secretary of State, Home Office and this policy statement.

In producing its reviewed policy statement, the licensing authority will consult in accordance with the statutory provisions as required by the 2003 Act, and will also seek to achieve full integration with local policies for crime prevention, community safety, planning, transport, tourism and child protection procedures.

The policy will continue to encourage and further enhance partnership working with the police, local businesses, performers and local people.

The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives. It is the licensing authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of premises on local residents. The licensing authority wishes to encourage licensees to provide a wide range of entertainment activities during their opening hours and to promote live music, dance, theatre etc, for wider cultural benefit. These activities are a factor in maintaining a thriving and sustainable community.

The Authority 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 and to ensure all persons are safe and secure. These factors will be taken into account where applications will increase the concentration of entertainment uses, and or, lengthen hours of operation in a way that would materially impact on the local area.

This policy statement sets out the general approach the council will take as the licensing authority when it determines applications for licences. It will not undermine the right of any individual to apply for a variety of permissions, and to have any such application considered on its merits. Nor will it override the right of any 'other person' to make representations on an application or seek a review of licence where provision has been made for them to do so under the Act.

The policy relates to all 'licensable activities' as defined by the Act, namely:-

Retail sale of alcohol.

Supply of alcohol to club members.

Provision of 'regulated entertainment' – to the public, to club members or with a view to profit including the following:

A performance of a play.

An exhibition of a film.

An indoor sporting event.

A boxing or wrestling entertainment.

A performance of live music.

Any playing of recorded music.

A performance of dance; and

Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

Further information on these provisions can be found at paragraph 15.

The supply of hot food and/or hot drink from any premises between 11pm and 5am.

Each application for the grant, variation or review of a licence will be considered and determined on its individual merits. The Authority when making a decision will consider its licensing policy along with the statutory guidance and if the Authority departs from either of those, reasons will be given as to why.

In addition the Act also covers:

The licensing of individuals for the sale or supply of alcohol ('Personal Licences');

The permitting of certain licensable activities on a temporary basis ('Temporary Event Notices').

3. Duplication

The Authority recognises that the licensing process should not duplicate powers, provisions or restrictions provided for in other legislation, and will in so far as possible 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
- The Clean Neighbourhoods and Environmental Act 2005
- The Regulatory Reform (Fire Safety) Order 2005
- The Health and Safety at Work etc. Act 1974
- The Equality Act 2010
- Anti Social Behaviour Policing & Crime Act 2014

4. Partnership Working and Integrating Strategies

The Authority acknowledges the importance of securing proper integration with local crime prevention strategies as well as public health, planning, transport, tourism, equality schemes and cultural strategies.

Many strategies are not directly related to the promotion of the licensing objectives, but, they may impact upon them and therefore such strategies are important to the Authority.

5. Licensing Process

The Authority's licensing function will be carried out by the Licensing and Safety Committee, supported by licensing sub-committees, and by one or more officers acting under delegated authority.

Where there are no perceived areas of contention it is considered that many of the 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 will be 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.

Applicants are also encouraged to make themselves aware of and be able to demonstrate when setting out the steps they propose to take to promote the licensing objectives, that they understand the layout of the local area and 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.

Where there are relevant representations from a responsible authority or other persons in relation to an application, the application will be dealt with by a Licensing and Safety Sub Committee, as will any application for the review of a licence.

According to 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.

The outcome of any hearing before a Licensing and Safety Sub Committee will be relayed to all parties verbally at the hearing and in writing as soon as practicable.

The Act requires the Authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due (On the anniversary of grant of the original licence). The Act provides for a grace period of 21 days in cases of an administrative error or where there is a dispute over liability for the fee, after which the licence/certificate will be suspended.

The Authority has to give a minimum 2 days notice of the licence/certificate being suspended if payment is not made. The Authority, in this case, considers that 7 days notice is more appropriate.

6. Reviews

An application for review of a licence will follow the receipt of relevant representations. For example, from a responsible authority such as the police or the fire authority or an 'other person'.

Any of these groups may appoint a representative to make representations on their behalf, including a ward councillor. 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 an other person will disqualify him or herself from any involvement in the decision making process affecting the application in question. Local councillors can also, as elected members, make representations in their own right if they have concerns about any premises, regardless of whether they live or run a business in the vicinity of those premises

Where possible, the licensing authority 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 licensing authority, the licence holder and the relevant responsible authorities or other persons, in respect of relevant representations. The licensing authority will attempt to encourage a dialogue, and mediate between the relevant parties to achieve this, which may prevent a review application being served.

In the first instance the licensing authority will decide whether or not any complaint or representation made by an other person is relevant, vexatious, frivolous, or repetitious. This will be determined on the facts of each individual case, and should be supported by proper evidence. This decision will be taken by officers under delegated powers.

The licensing authority will not permit more than one review 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.

Where the licensing authority decides to hold a review of a licence, the hearing will follow the process prescribed in regulations. The licensing 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 said allegations or representations in order that they or their legal representatives have the opportunity of rebutting such allegations.

On determining a review, the licensing authority may choose to exercise a wide range of powers as permitted by the Act and which it considers proportionate and necessary for the promotion of the licensing objectives. In deciding which of these powers to invoke, the licensing authority will so far as is possible seek to establish the cause or causes of the problem which has been substantiated on the evidence before them. The remedial action taken

will be directed at those causes. These powers include;

- i) Taking no action;
- ii) Issuing an informal written warning to the licence holder and/or recommending an improvement within a specified period of time;
- iii) Attaching conditions to the licence either temporarily, for a period of up to three months, or permanently;
- iv) Exclusion of a licensable activity from the scope of the licence, either temporarily, for a period of up to three months, or permanently;
- v) Removal of the designated premises supervisor if applicable;
- vi) Revocation of licence

Where representations are received and withdrawn, or agreement is reached prior to hearing (by all parties concerned), the licensing authority 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.

The licensing authority will give comprehensive written reasons for any decision taken. On making finding of facts and giving reasons, the licensing authority will ensure that it addresses the standard that it has adopted. The reasons will also address the extent to which the decision has been made in accordance with the licensing authority's statement of policy. 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.

7. Responsible Authorities and Other Persons

Any responsible authority and/or other person 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. The main responsible authorities that are relevant to this Licensing Authority are set out below. The list of all responsible authorities is published on the Council's website.

The relevant Licensing Authority and any other Licensing Authority in whose area part of the premises is situated.

The Authority will determine when it considers it 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.

The Authority will not normally make representations or request a review of a licence when other responsible authorities should intervene, as the basis for the 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.

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
- exclude offensive weapons

The police may consider making representations and suggesting that conditions be imposed on a licence, based on past history of individual premises and may also take into account decisions of the Magistrates' Courts. Depending on the location and style of a particular venue and the activities carried on there, the police may look to licence holders to use polycarbonate drinking containers in cases where it may be appropriate and proportionate to do so, in order to promote public safety or prevent crime and disorder.

Any incidents of crime or disorder which occur at, or can be linked to 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.

The police are expected to be the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective.

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

West Midlands Fire and Rescue Authority

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

The Fire Safety Order covers “general fire precautions” and other fire safety duties which are needed to protect “relevant persons” in case of fire in and around “most premises”. The 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. Responsibility for complying with the Order rests with the “responsible person”, who 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 is intended to identify risks that can be removed or reduced and to decide the nature and extent of the general fire precautions that need to be taken including where necessary, capacity limits.

The Local Fire and Rescue Authority will enforce the Order in most premises and have the power to inspect the premises to check the responsible person is complying with their duties under the Order. 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.

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. However, if no safe capacity has been imposed through other legislation, the responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. A capacity limit should not be imposed as a condition of the licence on fire safety grounds (unless the Authority and the enforcing authority for fire safety purposes are the same) since, and Article 43 of the Fire Safety Order, it would have no effect and so would be not enforceable.

Director of Public Health

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.

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. Where a responsible authority, or other person, presents evidence to the licensing authority linking 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 should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, the licensing authority will consider what conditions may be appropriate to ensure that this objective is promoted effectively.

Evidence relating to under 18s alcohol-related emergency department attendance, 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 evidence to lead or support representations in relation to this objective. 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) and to suggest measures which retailers might be able to take to ensure, as far as possible, that they are not knowingly selling alcohol to an adult who is buying on behalf of a person aged under 18. 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.

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 location of the assault – i.e. the name of the pub, club or street where the incident occurred. 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

The sale of age restricted products, in this case alcohol, remains a priority for Trading Standards. It is imperative as a local service that they recognise the priorities of the Local Authority and partners, such as Police, Licensing, Public Health and the Community Alcohol Partnership, and that they assist them in achieving their aims and objectives. Their goal is to 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. That non-compliant licensed premises are helped to achieve compliance.
3. That there is restricted access to cheap alcohol by removing from sale counterfeit, illicit and non-duty paid alcohol.

In 2014 the Better Regulation Delivery Office published their Code of Practise 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. 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'.

Licence holders may receive advisory visits from Trading Standards giving information and advice regarding the steps to be taken in order to avoid selling alcohol to children.

In relation to licensing reviews, Trading Standards will ensure that any conditions requested on review are appropriate and necessary.

The sale of counterfeit and non-duty paid alcohol and tobacco products are having a very 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. 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.

Consumption of illicitly or informally produced alcohol could have additional negative health consequences due to a higher ethanol content and potential contamination with toxic substances, such as methanol.

Licence holders found to be selling illicit alcohol will be liable to prosecution and could have their licence to sell alcohol reviewed by the Licensing and Safety Committee or one of its sub committees.

Health and Safety

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.

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.

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.

Environmental Health

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.

Applicants should note, however, when preparing operating schedules 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, especially where there has already been a history of problems associated with a particular premises.

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

8. Hours of trading

The Authority wishes to emphasise that consideration will always be given to the individual merits of any application. At the same time, it is clear that in some circumstances more flexible licensing hours with regard 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 lead to disorder and disturbance.

The Authority 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. This should always be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents.

Each application will always be considered on its own individual merits but 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.

Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on licensing objectives, for restricting those hours.

9. Temporary Event Notices (T.E.N.)

There are two types of temporary event notice (T.E.N.) which can be given to the Authority; standard and late.

Anyone wishing to give a standard T.E.N. to the Authority must do so at least 10 clear working days prior to the event in question.

If it is not possible to give 10 working days notice then a late T.E.N. may be given as long as at least 5 working days notice is given.

If an objection to a standard T.E.N. is made by the police or Environmental Health and they wish to impose conditions on that notice, if all parties agree that a hearing is not necessary, the Authority will not normally hold a hearing.

If, the police or Environmental Health object to a late T.E.N. then the event cannot go ahead.

Regulations control the number of T.E.N.s that can be held at any premises in a calendar year.

10. Adult Entertainment

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)

This 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.

There is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 that allows premises to provide sexual entertainment on no more than 11 times per year and no more frequently than monthly. For further information on S.E.V's, please contact the licensing unit.

11. Cumulative Impact

Walsall town centre has been identified as being saturated with licensed premises ('on licences') creating a significant cumulative effect. This has undermined the licensing objectives.

West Midlands Police produced evidence to support the case for Walsall town centre to be designated as a cumulative impact area. The defined area is known as 'Walsall town centre neighbourhood'. A map of the area is given in **Appendix 1**.

The Council, having regard to the statutory guidance issued under the Licensing Act 2003, consulted on the issues and took into account the views of respondents and considered all the evidence presented to it.

The Authority in light of the above therefore, adopted a cumulative impact policy in respect of applications relating to the sale or supply of alcohol 'on the premises' in a defined area of Walsall town centre. In this area new applications/variations will be refused whenever relevant representations are received about the cumulative impact on the licensing objectives and which the Licensing Authority concludes after hearing those representations, should lead to refusal.

The cumulative impact policy was initially introduced on the 8 September 2008 and reaffirmed as part of the consultation process in 2010 and 2015.

The effect of this policy is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations which relate to the sale or supply of alcohol (on the premises) and are likely to add to the existing cumulative impact will normally be refused, unless it can be shown that the premises concerned, will not add to the cumulative impact.

The licensing authority recognises that any special policy regarding cumulative impact is not absolute and where licence applications will not add to cumulative impact and following no relevant representations having been made, the licence/certificate will be granted as requested.

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, the licensing authority must grant the application on the terms that are consistent with the application.

In determining an application, the licensing authority will have particular regard to the licensing objectives and the cumulative effect and adverse impact that may arise from the saturation of premises in the defined area.

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 but only where the variation is directly relevant to the policy and the refusal is strictly necessary for the promotion of the licensing objectives.

The licensing authority recognises the difference between cumulative impact and the commercial need for premises in an area. Need and market forces are not matters for the licensing authority to consider as part of its licensing function.

The licensing authority will not operate a quota of any description. Each application must always be considered on its merits.

12. Late Night Levy

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.

13. Early Morning Restriction Orders (EMRO)

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.

14. Children

The Authority recognises the great variety of premises for which licences and certificates may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-aways, community halls, church halls and schools. However, in the case of premises which are used exclusively or primarily for the supply of alcohol to be consumed on those premises it is an offence to allow anyone under the age of 16, unaccompanied by an adult, to be present on such premises.

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.

Other than these two restrictions there is no presumption in favour of giving access to children under 18 generally, or indeed, preventing their access. The Authority, 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. 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.

Applicants seeking premises licences and club premises certificates should include in their operating schedule any prohibitions or restrictions in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

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.

In the case of premises which are 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.

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.

In cases where it is considered necessary, options available for limiting access by children could include –

Restrictions on the hours when children may be present

Restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place

Restrictions on the parts of the premises to which children may have access

Age restrictions (below 18)

Restrictions or exclusions when certain activities are taking place

Requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult)

Full exclusion of people under 18 from the premises when any licensable activities are taking place

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.

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.

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.

15. Live Music and Regulated Entertainment

The Authority 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.

In determining what conditions maybe attached as appropriate for the 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.

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 S.182 guidance issued by the Home Office.

It is still possible however, for a premises licence or club premises certificate to be reviewed if there are appropriate grounds to do so. In determining a review application the Authority is allowed, if it is considered appropriate, to lift the suspension of such restrictions/conditions that apply to such venues/times and give renewed effect to an existing condition.

16. Licensing and Planning

The Authority recognises that planning permission, building control approval and licensing regimes should be properly separated to avoid duplication and inefficiency.

Licensing applications are not to be seen as a re-run of the planning application process and the licensing committee will not be bound by decisions of the planning committee and vice versa. However, where applications are made simultaneously to both the licensing authority and the planning authority the two will work together with a view to agreeing consistent operating hours.

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 would be liable to prosecution under planning law.

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.

17. Conditions attached to premises licences and club premises certificates

The Authority will only be able to attach conditions (other than mandatory conditions) to a premises licence or club premises certificate (and in certain circumstances Temporary Event Notices) if they are part of an applicant's operating schedule (including any conditions which may be subsequently volunteered by an applicant as a result of mediation following a representation), or by a decision of the licensing sub committee at a formal hearing.

Any conditions which are attached to licences, certificates and other authorisations will 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.

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 process 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.

When submitting operating schedules applicants are required by the Act to outline the measures which are being taken in order to meet the licensing objectives. These measures are likely to form the basis of conditions which will be attached to the grant of a premises licence or club premises certificate. However, only those conditions which are considered appropriate 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.

The responsible authorities identified in this statement may also propose conditions of their own by making representations to a grant or variation application. However, these cannot be over burdensome or disproportionate and will only be imposed by the Authority in cases where it is considered appropriate to meet the licensing objectives and where they have been evidence based.

Any conditions proposed by a responsible authority and agreed by an applicant in such cases can be attached to the premises licence without the need for a formal hearing 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.

Duplication with other statutory or regulatory regimes will be avoided as far as possible. In circumstances where existing legislation already effectively promotes the licensing objectives it is likely that no additional conditions will be necessary. For this purpose each case will need to be assessed on its own individual merits.

18. Removal of DPS requirement at Community Premises

Instead of being required by way of a mandatory condition, to appoint an individual as a designated premises supervisor, (DPS), volunteer committees managing community premises are now allowed to take joint responsibility for the sale of alcohol in community premises.

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.

'Community premises' will include church halls, chapels, community and village halls and similar buildings. If there is any doubt as to whether a building is a community premises or not, the Authority will deal with such matters on a case by case basis with the main consideration being how the premises are being predominantly used, for example :

- are they genuinely made available for community benefit most of the time?
- are they accessible by a broad range of persons and sectors of the local community?
- are they being used for purposes which are beneficial to the community as a whole?

Applicants will be required to set out exactly how the premises are managed, its committee structure and how alcohol sales are to be properly supervised within the committee/management structure.

19. Enforcement

This Authority embraces the Department for Business Innovation and Skills “Regulators Code” which came into force on the 6 April 2014, and its standards have been integrated into our regulatory culture and processes. 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.

Bearing in mind the principle of transparency, this licensing authority’s enforcement/compliance protocols/written agreements are available upon request to: The Licensing Unit, Walsall Council, Civic Centre, Darwall Street, Walsall, WS1 1TP , E-mail Licensing@walsall.gov.uk, Website www.walsall.gov.uk.

It is intended that, 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. The Authority will also have regard to its Enforcement Policy.

20. Equal Opportunities

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. Delegations

The Act provides that the functions of the authority are to be carried out by the Licensing and Safety Committee. The Licensing and Safety Committee will delegate these functions further and where appropriate, they can be delegated to officers.

The Local Authority has a scheme of delegations in place which 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 Council	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 a 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 licence/club premises certificate		All cases	
Decision on whether a representation 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 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

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.

22. Register of Licenses

The licensing authority will keep a register in the prescribed form containing:-

- (a) a record of each premises licence, club premises certificate and personal licence issued by it,
- (b) a record of each temporary event notice received by it,
- (c) matters mentioned in Schedule 3 of the 2003 Licensing Act
- (d) such other information that may be prescribed.

The licensing register will be available for inspection during office hours by any person without payment.

If requested to do so the licensing 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.

23. Comments on licensing policy

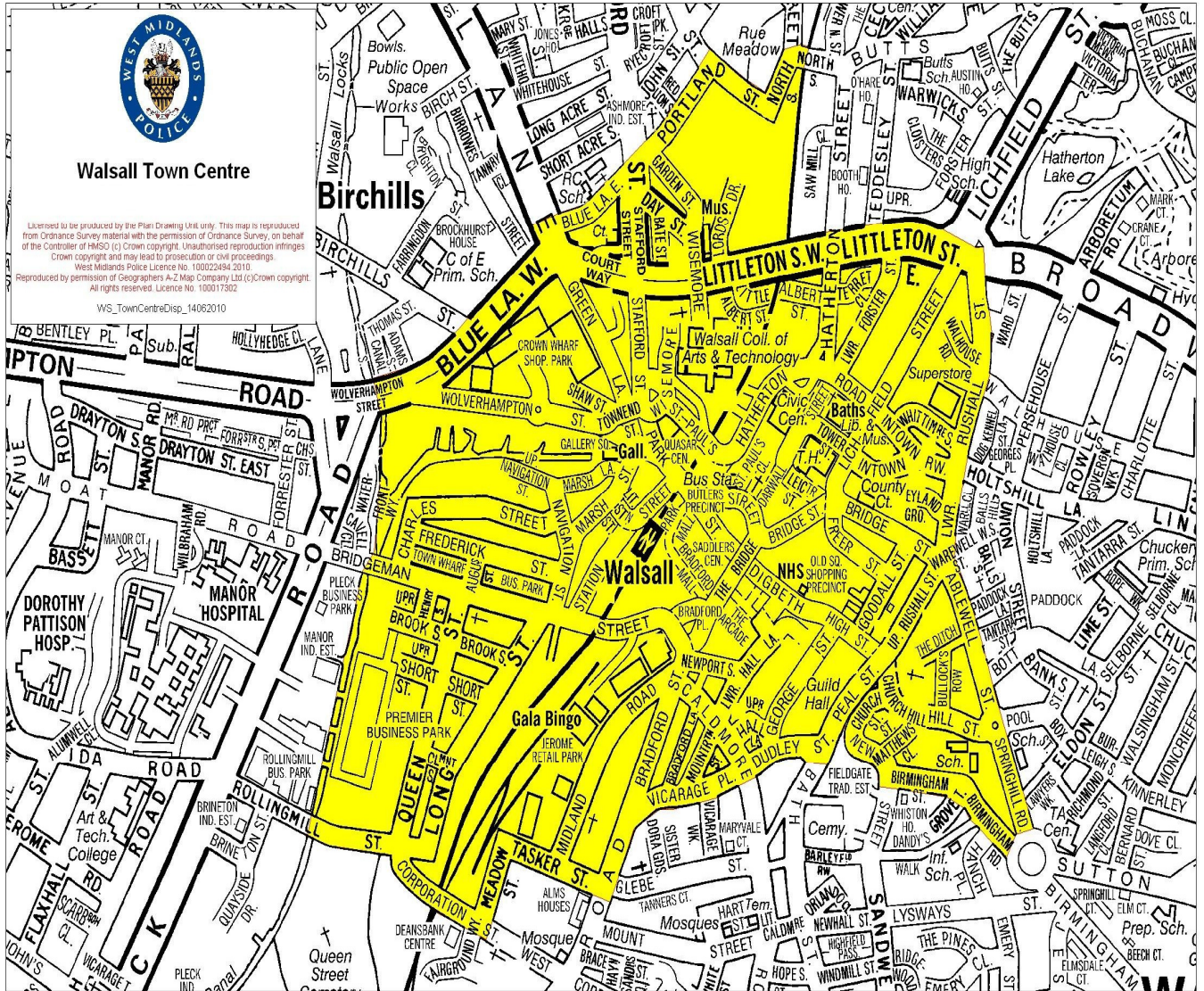
The Statement of Licensing Policy will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

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

Telephone Number: 01922 653050
Fax Number: 01922 653070
e-mail: licensing@walsall.gov.uk
website : www.walsall.gov.uk

APPENDIX 1

CUMULATIVE IMPACT AREA



Appendix 2 - Definitions

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.

‘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 authority’s decision. On appeal a magistrates’ court may dismiss the appeal; substitute its own decision; remit the case to the licensing authority with directions; and make an order for costs.

‘Authorised Persons’

“Authorised Persons” are specified people who have statutory duties in relation to the inspection of premises, e.g. licensing officers, police, fire, health & safety, environmental health.

‘Responsible Authorities’

“Responsible Authorities” include the police, fire, enforcing authority for health and safety, planning authority, environmental health, bodies responsible for child protection and other specified authorities. Only these groups can make representations about an application for a premises licence.

‘Closure Order’

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.

‘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.

‘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.

‘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.

‘Late Night Refreshment’

The supply of hot food and/or drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00pm and 5.00am.

‘Licensable Activities’

- The sale by retail of alcohol.
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club.
- The provision of Regulated Entertainment.
- The provision of Late Night Refreshment.

‘Licensing Authority’

Walsall Metropolitan Borough Council

‘Licensing Objectives’

The objectives as set out in the Act:

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

The Licensing Authority must carry out its functions under the Act with a view to promoting the licensing objectives.

‘Licensed Premises’

Includes club premises and events unless the context otherwise requires.

‘Mandatory Conditions’

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

‘Objection Notice’

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

‘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.

‘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.

‘Premises Licence’

A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities, has effect until revoked, surrendered or on the death, insolvency etc of the holder. Applications are dealt with by the local authority licensing committee in the area where the premises are situated.

‘Provisional Statement’

A procedure by which the licensing authority can give a statement approving for licensing purposes proposals for a premises being built or in the course of being constructed. Where a provisional statement is made, subject to limited exceptions, the full licence must normally be granted once the premises are completed.

‘Qualifying Club’

Club Premises Certificates will be issued to Qualifying Clubs. To be eligible for a Club Premises Certificate the club/organisation members must have joined together for a particular social, sporting or political purpose and then have combined to purchase alcohol in bulk as members of the organisation for supply to members and their guests. Qualifying conditions are specified in Section 61 of the Act and the council must be satisfied that these conditions have been met, including evidence to support that the club is non-profit making and that there is a minimum of 48 hours delay between application and acceptance of new members. The club must be established and conducted in 'good faith' (this involves consideration of details such as club finances).

‘Regulated Entertainment’

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

‘Relevant Representations’

The 2003 Act does not use the term “objections”. Instead other persons 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 a other person must not be frivolous or vexatious. When considering an application from a other persons or responsible authority the local authority need only consider relevant representations. The making of relevant representations engages the licensing authorities discretion to take “steps” consistent with the licensing objectives when considering the application.

‘Review of Licence’

Where a premises licence is in force a other person 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.

‘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

‘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.

‘Temporary Event Notice’

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

‘Transfer’

A procedure where an application can be made to transfer the premises licence into a new name e.g. if a premises licence holder sells his premises an application may be made to transfer the premises licence to the new owner.