

# **Licensing Act 2003**

## **Statement of Licensing Policy**

**Approved by Full Council on the 26<sup>th</sup> November 2020.**

**To take effect from the 7th January 2021.**



## **1. Introduction**

Telford & Wrekin Council is situated in the County of Shropshire which contains one other Unitary Council. The Council area has a population of 173,600 living in 73,414 households making it the smallest in the County in terms of population. In terms of area it is the smallest, covering 112 square miles. The Council area is a mixture of urban and rural districts; which includes the market town of Newport on the north-east corner of the borough, the Ironbridge World Heritage Site to the west of the borough, seven conservation areas in the borough, and the central retail area of Telford town centre.

Telford & Wrekin is a place of socio-economic contrasts with parts of the borough amongst the most deprived nationally - comparable with inner cities – and other areas amongst the least deprived nationally.

More information on Local Area Profiles can be found on the [Council's website](#).

Telford & Wrekin Council is a Co-operative Council, working with local communities to create “Telford & Wrekin – the Place of Partnership, Enterprise and Innovation”. More information on the Council's Plan and Priorities can be found [here](#).

Licensed entertainment makes a valuable contribution towards the continuing development of Telford and Wrekin and provides a vital boost to the local economy of the area through tourism and cultural development. However it is also recognised that such entertainment can lead to increased noise, nuisance and crime and disorder if not properly controlled.

The aim of this policy is to find a balance between securing the safety and amenity of the residential and business communities in Telford & Wrekin while responsibly maintaining and developing entertainment and cultural facilities in the Borough.

## **2. Purpose and Scope of the Policy**

Under Section 5 of the Licensing Act 2003 (the Act), Telford & Wrekin Council, (the Licensing Authority) must publish a statement of its licensing policy every five years. This policy will explain how the Licensing Authority intends to exercise its licensing functions under the Act.

This version will remain in force until 2026, when it will be subject to review and further consultation as laid down by the legislation, unless such review or consultation is required in the interim.

This policy sets out how applications will be looked at and determined under the Licensing Act 2003. It also sets out the expectations of the Licensing Authority on the ways that the Licensing Authority and licensed premises can work together with other partners to improve the licensing economy of the Borough, both during the day and night.

The Act provides for four different types of authorisation as follows:

- Personal licences – to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.
- Premises licences – to use a premises for licensable activities
- Club premises certificates – to allow a qualifying club to engage in qualifying club activities.
- Temporary event notice (TENs) – to carry out licensable activities at a temporary event

The Licensing Authority is responsible for the administration and determination of applications for the above types of authorisation.

In carrying out its functions the Licensing Authority will have regard to this policy and to Home Office Guidance issued under [section 182 of the Licensing Act 2003](#).

The Licensing Authority will at all times take into account the four licensing objectives. These are –

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

This policy cannot detail all factors that influence the achievement of the licensing objectives, or all control measures that may be appropriate. This policy covers a wide variety of premises and associated activities including theatres, cinemas, restaurants, public houses, nightclubs, private members clubs, village halls, community centres and public open spaces, as well as shops, stores and supermarkets, off licences, late night food premises, and vehicles selling late night refreshment.

The Licensing Act 2003 is not a mechanism for the control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and beyond the direct control of those responsible for managing such premises. There are a number of other mechanisms available for addressing problems away from a licensed premises. These include but are not restricted to:

- Planning control;
- Provision of CCTV surveillance in town and district centres;
- Taxi ranks and transport links to enable departure from centres;
- Powers of local authorities to deal with statutory nuisance;
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices.

Unless relevant representations are received from Responsible Authorities or other persons, there is no provision for a licensing authority to impose conditions on a licence other than according to the voluntary steps which the applicant proposes to make in their application. These will be attached to the licence once granted together with the mandatory conditions and will be worded so that they are precise and enforceable.

If no representations are made in respect of an application, this Licensing Authority is obliged to issue the licence on the terms sought and the licence will be deemed as granted by the Licensing Act 2003.

### **3. Duplication**

This Licensing Authority recognises that the licensing process should not duplicate statutory requirements, powers, provisions or restrictions provided for in other legislation and will avoid duplication of this kind. Legislation that may be relevant is set out below:

- Gambling Act 2005
- Environmental Protection Act 1990
- Noise Act 1996
- Clean Neighbourhoods and Environmental Act 2005
- Regulatory Reform (Fire Safety) Order 2005
- Health and Safety at Work Act 1974
- Anti-social Behaviour, Crime and Policing Act 2014
- Equality Act 2010

### **4. Night Time Economy and Integrated Strategies**

The night-time economy encompasses a range of activities for inhabitants of and visitors to the Borough. It comprises pubs and clubs, cinemas, theatres, cafés and restaurants etc. It is supported by public transport, taxis, and many public services such as the police, council services such as cleaning, refuse collection, planning, and licensing, community safety and partners such as Street Pastors and the Town Centre Management. It also impacts upon the health service.

The growth of the night time economy as a whole has been taken into account in the revision of this policy, and in particular the continuing expansion of various areas of the Telford & Wrekin area, such as the Southwater Development.

There is a wide range of related legislation, and local and national policies, strategies, responsibilities and guidance documents which complement this Licensing Policy and should be taken into account when reading this policy.

The Licensing Authority is committed to working in close partnership and to share information with the Responsible Authorities which are laid down in the Licensing Act 2003, with The Safer Telford & Wrekin Partnership, with licence and certificate holders and with other relevant parties to realise its aim to make the Borough a safer place to live, work and visit.

Many integrating strategies may not be directly related to the promotion of the licensing objectives, but may impact, indirectly, upon them. Therefore the co-ordination and integration of policies, strategies and initiatives is vital to support and uphold the licensing objectives.

Telford & Wrekin Council strategies and policies are available to view either on the Council website [www.telford.gov.uk](http://www.telford.gov.uk) or by contacting the relevant team within the Council.

This Policy is part of Telford & Wrekin Council's wider corporate vision, of a community in which everyone's quality of life is improved in a responsible way, which takes account of the effects on future generations, and where no individual, family, group or area is so excluded as to be unable to participate in its economic, social, political, physical and cultural life.

The Council's Licensing Committee will receive reports, when appropriate, on the strategic issues facing other relevant services including: -

- The needs of the local tourist economy
- The cultural strategy for the local area
- The employment situation in the area and the need for new investment and employment where appropriate
- Planning and transport.
- Impact of alcohol on the health of the residents in the borough

#### **4.1 Alcohol Harm Reduction Strategies**

The Licensing Authority supports and encourages applicants to adopt the provisions of the Telford & Wrekin Drug and Alcohol Strategy produced by the Community Safety Partnership and the Government Alcohol Harm Reduction Strategy.

#### **4.2 Planning Policy and Strategy**

Page 122 of Telford & Wrekin Council's Local Plan 2011 2031 demonstrates that there is no significant adverse impact on nearby properties by noise, dust, odour or light pollution or that new development does not prejudice or undermine existing surrounding uses.

[https://apps.telford.gov.uk/downloads/localplan/Telford\\_and\\_Wrekin\\_Local\\_Plan\\_2011\\_2031\\_adopted\\_Jan\\_2018.pdf](https://apps.telford.gov.uk/downloads/localplan/Telford_and_Wrekin_Local_Plan_2011_2031_adopted_Jan_2018.pdf)

### **5 Good Practice**

National and local crime and health statistic evidence shows that the consumption of alcohol is a significant contributory factor to levels of crime and disorder and it affects public health. Good management and practice procedures in licensed premises can and do make an important contribution to lessening that impact.

The Licensing Authority will encourage licence and certificate holders to work together to share good practice and information to help them achieve the licensing objectives.

### **5.1 Pubwatch**

Membership of schemes such as Pubwatch will be actively promoted and supported by both the Licensing Authority and the Police.

### **5.2 Good Practice Guides**

Licence and certificate holders will also be encouraged to take into account the wide range of initiatives detailed in the various good practice guides published by trade associations and other interested bodies such as the The Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.

### **5.3 Accredited Proof of Age Cards and Challenge Schemes**

It is a mandatory condition for photographic proof of age evidence to be requested by licence holders and all other relevant employees, from any person who appears to be under 18 years of age and is seeking access to premises or seeking to purchase or consume alcohol on the premises.

Such acceptable evidence shall include a photograph of the customer, and will be either a passport, photographic driving licence, MOD90 (military ID) or proof of age card carrying a "PASS" (Proof of Age Standards Scheme) hologram logo.

The Licensing Authority is in favour of such schemes as Challenge 21 and Challenge 25, which are voluntary measures to challenge all persons who appear to be under 21 or 25 respectively when seeking access to premises or seeking to purchase or consume alcohol.

### **5.4 The British Beer and Pub Association (BBPA)**

The BBPA have consolidated good practice, including good practice on combating violence in licensed premises, into a number of guides to assist the trade on the following subjects:

- Managing Safety in Bars, Clubs and Pubs
- Security in design
- Drugs and pubs
- Control of Noise at Work

This information and materials on responsible drinking and the Proof of Age Standards Scheme (PASS) can be downloaded or accessed from their website at [www.beerandpub.com](http://www.beerandpub.com). This website also has links to a large number of other useful websites.

### **5.5 Responsible Management**

The Licensing Authority seeks to promote the responsible and professional management of premises and events by licence or certificate holders as it recognises that effective control and supervision of premises and events is a key factor in achieving all the licensing objectives.

## **5.6 Designated Premises Supervisor**

The sale of alcohol, because of its wider impact on the community, carries with it a greater responsibility than that associated with the provision of entertainment and late night refreshment. The main purpose of a Designated Premises Supervisor (DPS) is to ensure that there is always a named individual who can be readily identified at the premises.

This person will play a pivotal role in terms of management and supervision of the premises, although they are not legally required to be on the premises at all times.

It is good practice, when a DPS is not at the premises, for them to provide written authority to staff detailing that sales are authorised. Where possible, it is also good practice to have more than one personal licence holder amongst the staff. If a DPS leaves a premises, it is important for the Premises Licence Holder to apply to vary the DPS at the premises as soon as possible so that the Licensing Authority and other responsible authorities can identify the person in day to day control at the premises.

It should be noted that this does not remove any criminal liability for staff for offences under the Act, such as serving under age persons, or persons already intoxicated.

## **5.7 Supervision and training**

The Licensing Authority also recognises the importance of good supervision and training of both staff and management and will encourage the gaining of qualifications from relevant accredited associations such as the British Institute of Inn Keeping Awarding Body and others.

## **6. Cumulative Impact**

The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Licensing Authority can consider. This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is therefore a matter for planning consideration or for the market to decide.

Where there is a significant amount of licensed premises concentrated on an area, the cumulative impact of those premises on the promotion of the licensing objectives is something which the Licensing Authority may take into account. A Cumulative Impact Policy will only be considered after assessing the available evidence from relevant Responsible Authorities and after consultation with relevant individuals and organisations. This will be kept under review.

## **7. Early Morning Restriction Order and Late Night Levy**

At this time, Telford & Wrekin Council has made the decision that there is no evidence that an Early Morning Restriction Order (EMRO) should be introduced in any part of its area. If evidence is received that an EMRO would be the appropriate measure to tackle alcohol related problems in the area, then that evidence will be placed before Full Council.

Telford & Wrekin Council has decided that the introduction of a Late Night Levy is not appropriate at this time.

## **8. Licensable Activities**

This policy relates to all '**licensable activities**' as defined by the Act, namely:

- sale by retail of alcohol
- supply of alcohol to club members
- provision of regulated entertainment
- provision of late night refreshment (the supply of hot food and/or hot drink from any premises between 11pm and 5am).

### **8.1 Sale by retail of alcohol and supply of alcohol to club members**

All sales of alcohol or supply of alcohol to members of a club or their guests must be licensed under the authorisation of a premises licence, a club premises certificate or a temporary event notice.

#### **8.1.1 Garages and service stations:**

Applications for the sale of alcohol at such premises should include evidence of primary use. This is to enable the Licensing Authority to determine the nature of the premises in light of Section 176 of the Act which prohibits the sale or supply of alcohol from premises that are used primarily as a garage, or are part of a premises used mainly as a garage.

If there is insufficient evidence to establish primary use the Licensing Authority may defer determining the application until such time as primary use issues may be resolved to their satisfaction.

### **8.2 Regulated entertainment**

The descriptions of entertainment in the Licensing Act are:

- a performance of a play
- an exhibition of a film
- an indoor sporting event



- boxing or wrestling entertainment (which includes a contest, exhibition or display which combines boxing or wrestling with one or more martial arts (“combined fighting sports”))
- a performance of live music
- any playing of recorded music
- a performance of dance  
or entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

When considering whether an activity constitutes the provision of regulated entertainment each case will be treated on its own merits. Organisers of events should check with the Licensing Authority if in doubt.

### **8.2.2 Live Music, Dancing and Theatre**

The Licensing 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. It will carry out its licensing functions in accordance with the Live Music Act 2012.

In carrying out its licensing functions, care will be taken by the Licensing Authority to avoid measures which might deter live music, dancing or theatre by imposing indirect costs of a disproportionate nature.

In order to encourage the growth of cultural diversity within the Borough of Telford & Wrekin, the Council, acting separately from the Licensing Authority, may consider whether to apply for a premises licence in its own name for public areas such as market squares, village greens, parks, public buildings etc.

This would mean that performers or entertainers wishing to perform in such places would no longer have to apply for a licence themselves although permission would still be required from the Council as the licence holder for any proposed regulated entertainment in the areas identified.

As the owners of the public spaces, the Council service that deals with such areas may wish hirers for events to comply with terms and conditions of hire.

It should be noted that these terms and conditions are outside the control of the Licensing Authority and are a matter for the parties involved.

### **8.2.3 Sexual Entertainment**

Telford & Wrekin Council has a Policy in place regarding Sexual Entertainment Venues (SEVs) which can be accessed on the

Council website, [www.telford.gov.uk](http://www.telford.gov.uk). A premises can provide sexual entertainment no more than eleven times within 12 months, not longer than 24 hours on each occasion and more than one month between each event before requiring a Sex Establishment Licence for an SEV.

Where a premises holds a Sex Establishment Licence which has similar conditions to those on the premises licence, then the more rigorous conditions will apply.

#### **8.2.4 Films**

The public exhibition of all films must either be classified by the British Board of Film Classification (BBFC) or authorised by the Licensing Authority under the powers of the Licensing Act 2003. If you wish to show a film at a venue in Telford & Wrekin and the film is not already classified by the BBFC then you must in the first instance email [licensing@telford.gov.uk](mailto:licensing@telford.gov.uk) in order to apply for the film to be classified by Telford & Wrekin Council. Films are classified in accordance with the Council's Policy for Determining Film Classifications

### **9. Completing Operating Schedules**

As part of the application process applicants will be expected to address each of the licensing objectives in their operating 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.

The Licensing Authority expects applicants to undertake risk assessments as part of the considerations when completing their operating schedules around how to mitigate and manage the risks to the promotion of the licensing objectives around their licensed premises. Whilst there is no requirement to do so under the Act, applicants may find it useful to share this risk assessment with Responsible Authorities before submitting their application.

Applicants are 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.

Additional measures may be appropriate on occasion, such as a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions), which may attract larger, different audiences and which may impact on the licensing objectives.

Reference should be made in an applicant's operating schedule, where applicable, to such occasions and any additional measures planned to achieve the licensing objectives. Addressing key issues within the operating schedule on

the application form can help alleviate concerns of responsible authorities and other persons and may make the application less likely to attract representations.

Each application made to the Licensing Authority under the Licensing Act 2003 will be considered on its own merits in the context of the four licensing objectives.

## **9.1 The Prevention of Crime and disorder**

The promotion of this objective places a responsibility on licence/certificate holders to become key partners in achieving a positive outcome. Following the carrying out of a risk assessment, applicants will be expected to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained, to minimise or prevent crime and disorder, in and around the vicinity of their premises.

The emphasis should be on deterring and preventing crime and disorder to provide a safe environment for both customers and staff.

In addition to responsible management and supervision, appropriate training with regard to the responsibilities under the Licensing Act 2003 and the adoption of good practice set out above, the Licensing Authority expects applicants to consider and address the following specific control measures.

This should be done within the operating schedules where these are relevant with regard to their particular premises and/or activities and where existing legislation does not provide adequately for the prevention of crime and disorder;

- number of people attending the premises
- customer profile, including age of patrons and potential for underage drinking
- condition, design and layout of the premises
- potential for misuse of drugs and abuse of alcohol including drunkenness
- potential for anti-social behaviour
- nature of the activities to be provided
- the hours of operation and hours of opening if different
- the location of the premises including proximity to other licensed premises
- physical environment of the premises including both internal and external elements, e.g. external lighting and litter bins. This is particularly relevant when planning the design of new premises or the refurbishment or alteration of existing premises.
- provision of effective CCTV in and around the premises
- documentation in relation to admission to premises and/or age related sales
- the employment of Security Industry Authority licensed door staff, including female door staff, where appropriate.
- provision of toughened glass or plastic glasses and bottles
- provision of bottle bins within premises

- the provision of secure deposit boxes for confiscated items
- provision of appropriate communication systems including links to the police and other licence or certificate holders e.g. the use of text/radio pagers
- prohibition on the removal of alcohol in open containers from the premises
- the setting of maximum occupancy levels
- the proper use of point of sale promotions
- the provision of appropriate signage
- the provision of appropriate furniture for patrons
- relevant control measures as contained in the Safer Clubbing guidance e.g. various drug control measures, provision of safe transport home.

This list is not intended to be an exhaustive list but is indicative of matters that may be relevant.

## **9.2 Public Safety**

The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised.

Following the carrying out of a risk assessment an applicant will be expected to demonstrate, in their operating schedule, that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety both in and around the vicinity of their premises. Such measures should be relevant to the individual style and characteristics of their premises and activities.

In addition to responsible management and supervision, appropriate training with regard to the responsibilities under the Licensing Act 2003 and the adoption of good practice set out above, the Licensing Authority expects applicants to consider and address the following specific control measures. This should be done within the operating schedules where these are relevant and having regard to their particular premises and/or activities and where existing legislation does not provide adequately for public safety;

- the provision of sufficient, suitably trained persons employed or engaged to secure the safety of the premises and patrons
- suitable facilities for disabled people and people with special needs
- provision of flame-retardant curtains, hangings, decorations and upholstery
- provision of various safety measures, including fire and electrical safety
- proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc. relevant to public safety
- the provision of crowd management measures e.g. queuing
- the provision of first aid facilities
- the use of special effects

- the provision of special measures resulting from particular types of entertainment e.g. indoor sport events, hypnotism, and facilities for dancing by patrons
- the provision of access for emergency vehicles
- relevant control measures contained in the Safer Clubbing guidance
- liaison with public transport providers
- the number of people attending the premises
- the condition, design and layout of the premises, including the means of escape in case of fire
- the nature of the activities to be provided (whether licensable or not), in particular the sale or supply of alcohol, and including whether those activities are of a temporary or permanent nature
- the hours of operation and hours of opening if different
- customer profile e.g. age, disability, special needs etc.

This list is not intended to be an exhaustive list but is indicative of matters that may be relevant

### **9.3 The Prevention of Public Nuisance**

Licensed premises have a significant potential to impact adversely on communities through the public nuisance which can arise from their operation.

The Licensing Authority recognises the need to maintain and protect the living and working amenity and environment of residents and businesses whilst balancing these against the interests of licence or certificate holders and of those attending licensed premises.

It is recognised that noise is a major concern for residents and workers in premises close to licensed premises.

The Licensing Authority recognises that different people have different levels of tolerance to the unavoidable activities involved in the everyday provision of entertainment and refreshment.

The Licensing Authority, upon receipt of relevant representations, will look carefully at the impact of licensed premises with regard to noise and disturbance in the vicinity of the premises, especially where entertainment takes place late at night and during other times when the activities may be more intrusive.

Following the carrying out of their risk assessment, applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified. These should be implemented and maintained in order to minimise or prevent public nuisance, in its broadest terms, in and around the vicinity of their premises. Such measures should be relevant to the individual style and characteristics of their premises and activities.

Applicants may also wish to consult publications such as the Institute of Acoustics' Good Practice Guide on the Control of Noise from pubs and clubs 2003 and good practice guides issued by trade associations, particularly where licensable activities are to take place between 11pm and 7am.

In addition to responsible management and supervision, appropriate training with regard to the responsibilities under the Licensing Act 2003 and the adoption of good practice set out above, the Licensing Authority expects applicants to consider and address the following specific control measures.

This should be done within the operating schedules where these are relevant having regard to their particular premises and/or activities and where existing legislation does not provide adequately for the prevention of public nuisance.

These may include:-

- the location of the premises and proximity to residential properties
- the number of people attending the premises
- the hours of operation and opening (especially between 23.00 – 07.00hrs)
- the nature of the activities to be provided, including whether they are temporary or permanent and whether they are to be held inside or outside the premises
- the design and layout of the premises and the presence of any noise limiting features
- the provision of measures to control the use of fireworks, pyrotechnics etc.
- rowdy behaviour
- disposal of waste and bottle bins, litter collection and bins
- plant and machinery
- food preparation including cleaning of premises and equipment
- use of gardens, play areas, car parks, open air areas and temporary structures
- suitability of collection and delivery points and times if these are during a period when disturbance may be caused
- the provision of measures to prevent disturbance caused by patrons, staff and vehicles, including taxis, delivery and refuse vehicles etc. arriving at or leaving the premises, especially between 23.00 and 7.00
- the need for any additional measures resulting from the proximity of the premises to residential and business properties or other noise sensitive premises, e.g. nursing homes, hospitals, hospices or places of worship
- the provision of measures to control litter, fly posting and unauthorised signs in the vicinity of the premises,
- the provision of measures to control the emission of noxious smells from the premises
- the provision of a dispersal policy

- the provision of a 'wind down period'

This list is not intended to be an exhaustive list but is indicative of matters that may be relevant.

#### **9.4 The Protection of Children from Harm.**

The Licensing Authority is committed to ensuring the protection of children from physical, moral and psychological harm, whilst recognising the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-away outlets, community halls and schools.

Each application and the situation in relation to each premises will be considered on its own merits.

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

- a limit on the hours when children may be present
- a limitation or exclusion when certain activities are taking place
- the requirement to be accompanied by an adult
- access being limited to parts of the premises only
- age limits.

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

#### **10. Licensing Hours**

There are no fixed restrictions on terminal hours for any particular areas of Telford & Wrekin. Such a restriction would cause the migration of customers from one area to another and create the circumstances that this legislation aims to avoid. Staggered dispersal of customers is an important factor in reducing friction at late night food outlets, taxi ranks and other sources of transport in the areas.

In general, the Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. The Licensing Authority cannot restrict opening hours unless it receives representations to an application and it is relevant to the promotion of the licensing objectives to do so, or unless it does so under the authority of an Early Morning Restriction Order (EMRO).

It is for the applicant to show in their operating schedule what measures they will take to address crime and disorder issues. They will need to ensure that they do not cause nuisance or disturbance to their neighbours in the immediate vicinity of the premises, to protect the public at their premises and to protect children from harm. The later the terminal hour applied for, the greater the need to address these issues.

When considering applications for premises licences, the Licensing Authority will take into account an applicant's request for terminal hours in the light of;

- a) environmental quality e.g. noise and light pollution
- b) residential impact and amenity
- c) the character and nature of a particular area
- d) the nature of the proposed activities to be provided at the premises

Applicants should note however, that stricter conditions, particularly in terms of licensing hours to control noise, are likely to be imposed in the case of premises situated in largely residential areas where relevant representations have been received and are suitably proven.

Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual premises which are known to be a focus of disorder and disturbance then, subject to proven and relevant representations, some limitation on licensing hours may be appropriate.

## **11. Licence Conditions**

Each application will be considered on its individual merits. Only those conditions appropriate to meet the licensing objectives will be imposed.

When submitting operating schedules, applicants will be required to outline the measures which are being taken in order to meet the four licensing objectives. These measures will then be incorporated into conditions which will be attached to a premises licence. Any conditions proposed by the applicant which duplicate other regulatory regimes or are not enforceable may not be incorporated into the conditions on the licence. When conditions are written onto the licence, they will be clear, enforceable and expressed in plain language so that they can be easily understood by those expected to comply with them.

Some licences may contain conditions which are no longer enforceable or are now covered by other legislation. These conditions can only be removed from a licence by way of a minor or full variation, and so the Licensing Authority recommends that any premises which is intending to submit a variation takes the opportunity to look at the conditions on their licence and consider the removal of any conditions which are no longer enforceable, are covered by other legislation or are no longer relevant to the operation of the premises.

Each application will be unique and any additional conditions, beyond the existing legislative requirements and those proposed on the operating schedule, will only be attached after receipt of relevant representations, and where it is



reasonable and proportionate to do so to promote the licensing objectives. Any such conditions will take into account the nature of the premises and the scale and type of activity to be provided.

## **12. Relevant Representations**

For a representation to be taken into account it must concern at least one of the licensing objectives and relate to the premises for which the application has been made. Where made by an Other Person, the Licensing Authority will determine if the representation is relevant. It may be rejected if it is considered irrelevant, frivolous and/or vexatious. Less weight may be given to any representations which are anonymous or are from a false address.

All relevant representations received from Responsible Authorities or Other Persons will be considered by the Licensing Authority. Other Persons may request a representative to act on their behalf. This could be a legal representative, a friend, an MP or Councillor. A relevant representation may be comments in support of an application as well as objections to an application.

A Councillor who is a member of the Licensing Committee will be advised not to become involved in making either written or oral representations on behalf of constituents regarding licensing matters. They may refer the person to a fellow Councillor.

The Licensing Authority **cannot** impose any conditions unless a relevant representation has been received and conditions will only be imposed a hearing of the Licensing Sub Committee where the Licensing Authority must be satisfied, that any additional conditions are appropriate for the promotion of the Licensing Objectives. Where all parties agree that a hearing of the Licensing Sub Committee can be dispensed with, the Licensing Authority will follow its **“Procedure where All Parties have Agreed to Dispense with Need for Hearing under The Licensing Act 2003.”**

## **13. Minor variations**

An application for a small variation to a premises licence or club premises certificate that will not impact adversely on the licensing objectives can be made by way of a minor variation.

Each application will be decided upon its own individual merits and the decision to consult with each Responsible Authority will be made based upon the content of the minor variation requested. These decisions will be made with regard to the Guidance issued by the Home Office under Section 182 of the Licensing Act 2003 and the minor variation guidance issued on the Home Office website [www.gov.uk](http://www.gov.uk). It is advised that an applicant reads this guidance before making an application to ensure that their licence can be changed by the minor variation process rather than applying for a full variation.

## **14. Removal of Requirement for a Designated Premises Supervisor (DPS)**

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 can take joint responsibility for the sale of alcohol in community premises.

Management Committees wishing to apply for the removal of the mandatory condition will need to demonstrate clearly to the Licensing Authority how the premises is managed, its Committee structure and how alcohol sales are to be properly supervised within the Committee/Management structure.

Community Premises will include church halls, chapels, community and village halls and similar buildings. If there is any doubt whether a premises is a community premises or not, the Licensing Authority will deal with the matter on a case by case basis with the main consideration being how the premises is predominantly being 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 for the benefit of the community as a whole

## **15. Temporary Event Notices**

There are two types of Temporary Event Notices (TEN) – a standard TEN and a late TEN. If the Police or Environmental Health object to a late TEN, there is no provision for a hearing of the Licensing Sub-Committee and the licensable activities will not be authorised.

A statutory period of 10 clear working days prior to an event is the minimum notice that must be given to the Licensing Authority and the Police for a standard TEN, and between 5 and 9 clear working days for a Late TEN. This is exclusive of the day on which the notice is served and the day on which the event is to start.

Addresses for serving the Licensing Authority, the Police and Environmental Health with copies of a TEN can be found at [www.telford.gov.uk](http://www.telford.gov.uk).

The serving of a notice of a temporary event does not mean that the premises or event is exempt from the requirements of all other relevant legislation. Premises users/event organisers are required to ensure the licensing objectives are still promoted.

It should be noted that the Police and Environmental Health are the only Responsible Authorities which may make representations to a temporary event notice, and can only do so if to allow the event would undermine the licensing objectives. The Licensing Authority cannot attach any terms or conditions on such events unless a representation has been received. The only conditions which can be imposed on a TEN following receipt of a representation are those conditions which are currently on a premises licence or club premises certificate. They may only be imposed on a TEN at a hearing, unless the authority, the

premises user and the responsible authority making the representation agree that a hearing is not necessary.

## **16. Responsible Authorities and Other Persons**

Any Responsible Authority and/or Other Person may make representations about an application, variation, minor variation or a review of a premises licence or club premises certificate or grant of a provisional statement.

The following are the Responsible Authorities. Their contact details can be found at [www.telford.gov.uk](http://www.telford.gov.uk).

- The Licensing Authority
- The Chief Officer of Police (West Mercia Police)
- The Fire Authority (Shropshire Fire and Rescue)
- The enforcing authority for Health and Safety (usually Environmental Health, Telford & Wrekin Council, but this may be the Health and Safety Executive if the premise is a school or hospital or belongs to a Government Body)
- Planning (Telford & Wrekin Council)
- Environmental Health Pollution Control (Telford & Wrekin Council)
- The Local Safeguarding Children Board (Telford & Wrekin Council)
- Trading Standards (Telford & Wrekin Council)
- The local authority's Director of Public Health (Telford & Wrekin Council)
- Home Office Immigration Enforcement

This list may be amended by the Home Office through changes to legislation.

### **16.1 The Licensing Authority**

The Licensing Authority as a Responsible Authority may make representations about an application or request a review of a licence. In these circumstances, the Licensing Authority will ensure that there is a clear separation of responsibilities between the Officer making the representation and the Officer presenting the report to Committee.

The Licensing Authority would not normally make a representation or request a review of a licence where the evidence clearly shows that this could be done by another Responsible Authority or other person. An example of when the Licensing Authority might intervene in this way could be when a number of small unconnected incidents occur which on their own would not be enough for one person to make a complaint, but when taken together show breaches of licence conditions or undermine the Licensing Objectives.

### **16.2 Public Health**

Public Health is a Responsible Authority under the Act. Although "health" is not a licensing objective, health bodies hold certain information which other Responsible Authorities do not, but which would assist the Licensing

Authority in carrying out its licensing functions, especially in relation to the Public Safety and Crime and Disorder objectives.

### **16.3 Planning**

The Licensing Authority will ensure that the planning, building control and licensing regimes are properly separated to avoid duplication and inefficiency.

Applications for premises licenses for permanent commercial premises should normally be from businesses with planning consent for the property concerned.

Licensing applications should not be a re-run of the planning application, and the granting by the Council's Licensing Committee of any variation of a licence which involves a material alteration to a building will not relieve the applicant of the need to apply for planning permission or building control approval where appropriate.

Applicants are recommended to make inquiries of the local planning and building control departments where applicable.

It should be noted that there is no legal basis for a Licensing Authority to refuse a licence application because it does not have planning permission.

If planning permission imposes a terminal hour which is different to the licensing hours, the earlier operating time must be observed.

### **16.4 The Local Safeguarding Children Board**

Independent Safeguarding is the body deemed competent by the Licensing Authority to advise on the protection of children from harm will be given an opportunity to consider and comment upon all relevant applications under the Licensing Act 2003.

## **17 Licensing Processes**

The Licensing Authority's licensing functions will be carried out by the Licensing Committee, supported by a Licensing Sub Committee and by officers acting under delegated authority. Where there are no relevant representations made to applications, in the interests of efficiency and effectiveness, the processing of application will be carried out by officers.

## **18. Review of a Premises Licence or Club Premises Certificate**

The Licensing Authority is keen to work in partnership to achieve the promotion of the licensing objectives and Responsible Authorities will attempt to give licensees early warning of any concerns identified at their premises.

Where problems persist, a Responsible Authority or Other Person can apply for the review of a licence or club premises certificate. Other persons includes any

individual, body or business entitled to make representations. Advice on applying for the review of a premises licence can be found on the Home Office website at [www.gov.uk](http://www.gov.uk).

The Licensing Authority will administer the process and determine its outcome at a hearing where an evidential basis for the concerns and allegations made will need to be submitted.

The Act provides the Licensing Authority with a number of actions it can take when determining a review application:

- modify the licence conditions
- exclude a licensable activity
- remove the Designated Premises Supervisor
- suspend the licence for a period of up to 3 months
- revoke the licence

Any action taken by the Licensing Sub Committee will be an appropriate and proportionate response.

## **19. Non-Payment of Annual Fee**

Under the Police Reform and Social Responsibility Act 2011, the Licensing Authority must suspend premises licences and club premises certificates if the annual fee has not been paid. Whilst the licence is suspended, no licensable activities may take place at the premises, and the suspension will be lifted upon payment of the annual fee. Continuing to provide licensable activities whilst a licence is suspended is an offence and may leave the licence holder open to prosecution.

A letter will be sent to the licence holder reminding them that the annual fee is due, however it is always the responsibility of the licence holder to ensure that the annual fee is paid by the due date, regardless of whether a reminder has been received or not. If the due date has been reached, and payment has not been made, a warning letter will then be sent to the licence holder to remind them that the annual fee is still outstanding and that the licence will be suspended seven days from the date of the letter. A letter will be sent to the licence holder and to the premises after seven days to say that the licence has been suspended until payment of the outstanding fee has been received.

If the Licence Holder believes there is an administrative error related to the annual fee, or the Licence Holder wishes to dispute the annual fee, the Licence Holder must contact the Licensing Authority on or before the due date of the annual fee. If the issue of the administrative error is not resolved during the following 21 day period, the licence will be suspended.

## **20. Enforcement**

The Licensing Authority recognises the interests of both citizens and businesses, and will work closely with partners to assist licence holders to comply with the law and the four licensing objectives. However, proportionate

but firm action will be taken against those who commit serious offences or consistently break the law.

Telford & Wrekin Council has published a Public Protection Enforcement Policy which can be found on the website, [www.telford.gov.uk](http://www.telford.gov.uk) that is based around the principles of targeting, consistency, transparency and proportionality as set out in the Regulator's Compliance Code.

The approach to regulatory enforcement and inspection will be fair, proportionate and flexible enough to allow economic progress in the area. The Council will implement a compliance monitoring regime which will be based on the risk profile of the premises and intelligence received.

The Licensing Authority will continue to seek to work actively with the Responsible Authorities in enforcing Licensing legislation.

The Public Protection Officers will investigate allegations of unlicensed activities and to ensure compliance of licence conditions. It should be noted that, in some instances, the issues concerned may be better addressed by other legislation, or by a licence review. In these instances the matter will be referred to the appropriate service area or regulatory body.

### **Contact Details**

For information, advice and guidance relating to licensing and the application process please contact;

Licensing Service  
Telford & Wrekin Council,  
Telephone: 01952 381818  
Email: [licensing@telford.gov.uk](mailto:licensing@telford.gov.uk)  
Website: [www.telford.gov.uk](http://www.telford.gov.uk)

For providing assistance with completing your application form, Telford & Wrekin Council operates a "Check and Send" Service. Further information on this service is available at [www.telford.gov.uk](http://www.telford.gov.uk).

Further information on all matters relating to the Licensing Act 2003 is available on the Home Office website at [www.gov.uk](http://www.gov.uk).