



Statement of Licensing Policy for Licensing Act 2003

CONSULTATION DRAFT: July 2020

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1. Foreword by Cllr Christine Martin

I am pleased to introduce Cannock Chase Council's Licensing Policy 2021-2025. This Policy has been prepared in accordance with the Licensing Act 2003 and Guidance issued under Section 182 of the Act. The Policy sets out how the Council administers its licensing functions under the Act, and how decisions will be made. The Policy is valid for a period of 5 years and will be subject to review and further consultation prior to any substantial changes.

The general principles of the Policy focus on the Licensing Act's four licensing objectives, namely:

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

Whilst promoting Public Health is not a specific licensing objective, the Council recognises that the Licensing function has a role to play in reducing the harms caused by excessive alcohol consumption. The Council will therefore seek to work with partners and operators wherever possible to achieve better local health outcomes.

The Council recognises that well run licensed premises make our town centres and wider environment safe and enjoyable places to visit, whilst also making a valuable contribution to the local economy. We will therefore ensure that responsible operators receive the right guidance and help to promote the licensing objectives.

We are also aware that some licensed premises, particularly those offering late night / early morning entertainment and alcohol / refreshment can be associated with crime and disorder. The Council will use its powers under the Act to ensure our District is free from nuisance and crime and, particularly for our more vulnerable visitors and residents, kept safe.

Whilst the licensing function is one means of promoting the above objectives, it should not be seen as the solution for all problems within the community. The Council will therefore continue to work with partners and all responsible authorities to ensure the Licensing Act objectives are effectively promoted.

I hope you will find the Policy useful and informative.



Councillor Christine Martin
Cabinet Member for Health & Wellbeing

2. Introduction

Consultation

- 2.1 The policy consultation will take place between 27 July and 30 August 2020 and follow the Cabinet Office Guidance on Consultation Principles first published in July 2012 and last updated in March 2018.

This document is available at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

- 2.2 The Council then intends to approve and adopt this Statement of Principles at full Council. The finalised document will be published via the Council's website at: www.cannockchasedc.gov.uk
- 2.3 Should you have any comments on this draft statement of principles, please email licensingunit@cannockchasedc.gov.uk or write to the Council's Licensing Unit address:

Licensing Unit
Cannock Chase District Council
PO Box 28
Beecroft Road
Cannock
Staffordshire
WS11 1BG.

Phone 01543 462621

- 2.4 The Council consults widely upon policy statements before finalising and publishing. A list of persons and agencies consulted during this 2020 consultation exercise is provided within paragraph 3.6 below.
- 2.5 The Council will continue to monitor the effectiveness of this policy and will consider changes to the policy in the light of any new legislation and/or developments affecting the local area. It will consult with stakeholders at the time it is considering any such changes. The Council must review and publish this statement of principles at least every 5 years.

Confidentiality

- 2.6 Cannock Chase Council will use your consultation response to help us finalise the policy document and we may publish details of your response in the public domain. This will include publication on our website.

- 2.7 If you do not wish your response to be made public or if there are any restrictions on the use of information submitted, you should provide us with an explanation as to why it should be kept confidential. We will take your reasons into account, but you should be aware that there may be circumstances in which we will be required to disclose this information to third parties on request.
- 2.8 This is in order to comply with our obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations. Please note, if your computer automatically includes a confidentiality disclaimer, this will not be treated as a confidentiality request.

Commencement

- 2.10 This policy will come into force in January 2021

Future Changes

- 2.11 The Council will continue to monitor the effectiveness of the policy in promoting the licensing objectives and will consider further reviews as and when appropriate.
- 2.12 The Council will also consider changes to the policy in the light of new legislation and developments affecting the local area, and will consult with stakeholders at the time it is considering such changes.

Data Protection

- 2.13 The Licensing Authority will exchange information with bodies responsible for auditing and administering public funds and for the prevention and detection of crime, such as the Home Office, other Government agencies, public bodies such as the Staffordshire Police and Staffordshire Fire & Rescue Service, other Council departments and Enforcement agencies when appropriate and the National Fraud Initiative.
- 2.14 The information that you have provided will be used by Cannock Chase Council, which is the data controller, to allow it to carry out its statutory obligations in relation to the administration, compliance and enforcement of the licensing function within the District. We will share your information with agencies involved in licence processing or licensing enforcement where the law requires or permits us to do so. For further information, please see the Council's Fair Processing Notice at Annex 1 of this document or: <https://www.cannockchasedc.gov.uk/council/about-council/data-protection/data-protection-privacy-notices>
- 2.15 While certain information may be disclosed under the Freedom of Information Act, and some information will be held on a publicly available register, and may be posted onto the Council website, personal data will be protected

unless it is also official business data (e.g. a trader whose registered business address is also his home).

Equality and Diversity

- 2.16 Through policies and service delivery, the Council's main aims for ensuring equality and diversity are to:
- Eliminate unlawful discrimination
 - Promote equality of opportunity
 - Promote good relations between diverse communities
- 2.17 A link to the Council's Equalities and Diversities Policy can be found here-
<https://www.cannockchasedc.gov.uk/council/about-council/equality-and-diversity>

Crime and Disorder Act 1998

- 2.18 Under section 17 of the Crime and Disorder Act 1998 the Council is under a statutory duty to do all that it can to prevent crime and disorder within its area and is mindful of concerns about criminal activity such as fraud and money laundering.
- 2.19 The Council will work in partnership with licence holders, local businesses, responsible authorities, councillors and local people with the aim of promoting awareness of such matters.
- 2.20 The Council will look to the Police as the main source of advice on crime and disorder. The Council will also liaise with our Partnerships and Community Safety Department in respect of issues related to anti-social behaviour and crime and disorder.

3. The Licensing Objectives, Responsible Authorities & Licensable Activities

The Licensing Act 2003

- 3.1 The Licensing Act 2003, its explanatory notes and any statutory instruments made under it may be viewed online at www.legislation.gov.uk The statutory instruments include regulations setting out the content and format of application forms and notices.

Statutory Guidance Published Under Section 182 Licensing Act 2003

- 3.2 The Home Office publishes statutory guidance for the Licensing Act 2003, which is updated from time to time and can be found by searching for "section 182 guidance" at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

Licensing Objectives

3.3 Whenever the Council acts as the Licensing Authority it must ensure it promotes the four licensing objectives of the Act. These objectives are:-

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

3.4 The Act makes it clear that none of these objectives are to be given priority over the others. All four objectives should be considered to have equal importance.

3.5 Further details on the Licensing Objectives can be found in the statutory guidance for the Licensing Act at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

Responsible Authorities

3.6 The following organisations are Responsible Authorities (RAs), and may make representations where appropriate in cases where licensable activities may impact on the promotion of the licensing objectives -

- This Council
- Staffordshire Police
- Staffordshire Fire & Rescue Service
- Staffordshire County Council Trading Standards
- The Council as Local Planning Authority
- The Council's Environmental Protection Team
- The Council's Health & Safety Team (or the Health & Safety Executive)
- Staffordshire County Council Children Services
- Health Authority
- Home Office Immigration Service

3.7 A number of these organisations meet on a regular basis as part of the Council's Responsible Bodies Group. At times, they will also meet as the core members of the Council's Event Safety Advisory Group (SAG).

3.8 Contact details for all of the authorities can be found at

https://www.cannockchasedc.gov.uk/sites/default/files/responsible_authorities_licensing_act_as_o_march_2020.pdf

Licensable Activities

3.9 The definition of the “licensable activities” is set out in the Act. The Council is required to regulate all licensable activities, and such activities will require the benefit of an appropriate authorisation obtained from the Council - either a Premises Licence, a Club Premises Certificate or a Temporary Event Notice.

3.10 Licensable activities are defined by the Act as:-

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- the provision of late night refreshment between 11pm and 5am.
- the provision of regulated entertainment

3.11 A further explanation of licensable activities is available at-

<https://www.gov.uk/alcohol-licensing>

4. How to Use This Policy Statement

Licensing Act 2003

4.1 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act. The Licensing Act 2003 and the statutory guidance issued under section 182 of the Act provide for fundamental principles of licensing. The Council’s Statement of Licensing Policy is intended to add to these fundamental principles and to give general guidance as to how it will approach issues arising under the Act. No part of the Council’s Statement of Licensing Policy is intended to be inconsistent with or to undermine the provisions of the Licensing Act 2003.

Decision Making

4.2 This policy is to be taken into account when the Council makes decisions relating to the Act, although the Council will also have regard to the Act and the guidance issued by the Secretary of State under Section 182 of the Act. The Policy is intended to show how decision making will be approached, and how the Council will work with others to promote the Licensing Objectives. The Policy is taken into account when decisions are made by the Licensing Committee, the Licensing Sub Committee and authorised officers.

4.3 Nothing within this Policy is intended to remove the discretion of the Licensing Sub Committee once engaged. Any application, review or representation will be considered on its own merit.

Applications and Representations

- 4.4 Applicants, Responsible Authorities and other parties should refer to this policy when making applications or representations under the Act. A Glossary of terms, and their definitions, is included at Chapter 11.

Contents of This Policy

- 4.5 The first part of this policy details the Council's vision, and explains some of the matters that have to be considered when applications are made under the Licensing Act 2003. The policy then goes on to explain how to make applications and how people can raise concerns. The latter part of the Policy explains how certain issues are to be considered, including the admission of children to premises, the licensing of petrol stations and the licensing of premises that provide adult entertainment. The last two parts of the Policy address some wider licensing considerations and explain how the Council delegates responsibility for the functions it has to carry out under the Act.

5. Our Vision

The Licensing Authority

- 5.1 Under the Licensing Act 2003 the Council is called the "Licensing Authority". As Licensing Authority the Council is responsible for the licensing of restaurants, pubs, cafes, and takeaways etc. Throughout this document, all references to Licensing Authority mean the Council.

Responsibilities for Functions

- 5.2 The Licensing Authority's functions are carried out by the Licensing Committee, the Licensing Sub Committee and authorised officers of the Council. Some of the most important functions and details of the persons with responsibility for the functions and decision making are set out in Chapter 10.

Training of Members

- 5.3 Before sitting as members of the Licensing Sub Committee Council members will need to attend a Licensing Act 2003 training session with officers from Legal Services and the Licensing Unit . Members will need to attend refresher training every year that they remain as a member of the Licensing Committee.

Decision Making

- 5.4 In carrying out its functions under the Act, the Licensing Authority will seek to ensure that any decision it makes is evidence based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

- 5.5 It should be noted that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 5.6 Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy.
- 5.7 The Council will take account of the statutory guidance when it makes decisions under the Act. The Council will also seek to take decisions that help to advance the following issues –
- Improving the quality of life for local residents through a reduction of the crime and disorder
 - The protection of children from sexual exploitation
 - Reducing anti-social behaviour in and around licensed premises
 - Encouraging responsible retailing and consumption of alcohol and preventing alcohol related health issues
 - Encouraging more family-friendly premises
 - Improving quality of life by bringing greater choice to residents, consumers, tourists and businesses about where, when and how they spend their leisure time
 - Developing a culture of live music, theatre and sport
 - Encouraging a diverse range of premises for both the day time and night time economy
 - Giving licence holders greater flexibility to meet their customers' needs and expectations
 - Encouraging responsible retailing and consumption of alcohol by helping to prevent underage sales and alcohol related health issues
- 5.8 The Council recognises that its decisions can have significant effects on local businesses, local communities and individuals. The Council will often have to assess competing interests and will have to try to make a decision that is balanced and fair to all parties involved.
- 5.9 The Council is therefore keen to encourage a dialogue not only with local licence holders and Responsible Authorities, but also with community groups and individuals. The Council supports local partnership working and is keen to encourage regular liaison between the licensed trade, local communities and Responsible Authorities. If there is a regular forum for discussion between these groups of people then it is more likely that people will have their voices heard.

Licensed Venues and Local Communities

- 5.10 Whilst it is important to support a vibrant economy, the balance has to be struck between an uncontrolled expansion of licensed premises and the need to ensure public safety and quality of life for local people

- 5.11 The Licensing Policy will respect the individual characteristics of all premises and recognise that pubs, nightclubs, restaurants, hotels, theatres, and other clubs may all wish to sell alcohol and serve food to patrons with contrasting characteristics and different styles of entertainment. Proper regard will be given to those differences and the differing impact they are likely to have on the promotion of the licensing objectives.
- 5.12 The Licensing Authority will seek to encourage the provision of a wide range of high quality and well-managed venues in the Cannock Chase District. The Licensing Authority will seek to ensure that premises are safe, vibrant meeting places for people who live, work and visit the area.
- 5.13 The Council recognises that a thriving well managed night time economy can bring many benefits and wishes to create a vibrant prosperous economy that encourages growth as well providing a safe and healthy environment that people want to be a part of.

Links With Other Policies

- 5.15 This Licensing Policy is intended to help ensure the proper integration of the licensing policy with local crime prevention, planning, transport, tourism, equality schemes, cultural strategies and any other plans introduced for the management of town centres and the night-time economy.
- 5.16 The Council will ensure that from time to time it is kept informed on issues relating to all these matters in order that they can be reflected within their considerations.

6. How to Make An Application

Applications

- 6.1 Applicants cannot assume that their applications will be successful as applications under the Licensing Act 2003 have to be considered in terms of whether the Operating Schedule contained with the application is appropriate and that the Licensing Objectives are promoted. In many cases the suitability of an applicant and the suitability of premises are part of such considerations.

On Line Applications

- 6.2 Applications can be made using the forms on the Home Office website.
<https://www.gov.uk/alcohol-licensing>
- 6.3 Online applications can also be made via the government website
www.gov.uk.

6.4 The Council's web site has links to these government web sites

www.cannockchasedc.gov.uk

On Line Payments

6.5 In order to fulfil its obligations under the Provision of Services Regulations 2009 (and the EU Services Directive) the Council supports and encourage applications and payments made online.

Personal Licences

6.6 Applicants for personal licences must be free from police objection and be able to demonstrate that they have the right to live and work in the UK.

6.7 Between 2005 and 2015, personal licences were issued for a period of 10 years. However, in 2015 the law was changed so as to ensure that personal licenses no longer expire. In consequence, personal licences no longer need to be renewed.

6.8 Licence holders must however, contact the Licensing Unit for a replacement licence where there has a been a change of circumstances in respect of the licence holders name or address, or they have committed a relevant offence. It is also necessary to replace an old or lost licence.

Minor Variations

6.9 Licence holders can apply to make small changes to premises licences or club premises certificates through the minor variation process. This process is cheaper, easier and quicker than the full variation process.

6.10 A minor variation is defined as one that will not impact adversely on any of the four licensing objectives.

6.11 The Minor Variations process cannot be used to add the sale or supply of alcohol to a licence.

6.12 The minor variation application form and further guidance on minor variations can be found on the Home Office website at:

<https://www.gov.uk/government/publications/minor-variations-to-premises-licence-application-form>

Temporary Event Notices

6.13 The Licensing Act 2003 provides that a Temporary Event Notice (TEN) can temporarily authorise licensable activities upon premises, such as the sale or supply of alcohol, the provision of regulated entertainment or the supply of late night refreshments which are not already authorised by either a premises

licence or a club premises certificate. The TEN process is one of notification to the licensing authority and the police by the giver of the notice.

- 6.14 It should be noted that temporary event notices (TEN's) do not seek permission to carry on licensable activity and nor do they make application for it. TENs are a system of notification which the s182 guidance confirms is a light touch process.
- 6.15 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; a late notice is given not before nine and not later than five working days before the event.

www.gov.uk/government/collections/alcohol-licensing-temporary-events-notices

Standard Temporary Event Notices

- 6.16 "Ten working days" (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event. A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year, will be returned as void and the activities described in it will not be authorised.
- 6.17 The Police and the Council's Environmental Health Service (EHS) are the only bodies that can object and make representations regarding standard temporary event notices.
- 6.18 The Police and the EHS have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives. At any time before a hearing is held or dispensed with, the Police or Environmental Health Department may, with the agreement of the premises user, modify the temporary event notice by making changes to it.

Late Temporary Event Notices

- 6.19 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified are not exceeded. There is no right of appeal in respect of police or EH objections relating to a late TEN.

Event Management

- 6.20 It is the policy of Cannock Chase District Council to provide a forum within which the local authority and other agencies may develop a co-ordinated approach to public safety when the local authority becomes involved in, or is made aware of, certain large scale or high risk events. In liaison with the

Council's Parks & Open Spaces Manager, this may include events which take place on land owned by the Council.

- 6.21 The local authority will maintain the Safety Advisory Group (SAG) with the intention of upholding reasonable standards of public safety and to encourage the wellbeing of the public, operatives and competitors.
- 6.22 Determining whether or not to refer an event to a SAG requires a risk-based approach and be determined by considering a combination of:
- Numbers attending (at any one time);
 - Levels of risk with the event: and
 - Events of an unusual nature
 - Other events at the same time that may increase the impact and risk
- 6.23 Events which include White Collar Boxing are of concern to the SAG and organisers must advise the Council's Licensing Unit in good time of any proposed event. The owners of the venue, even if it is hired out to the promotor of the event, also have a duty to assess the risk of the event and ensure that it can take place safely.

7. How to Raise Concerns

Contact the Council

- 7.1 Anyone with concerns about premises or a particular event can contact the Council. It may also be advisable to speak to their local councillor if they have such concerns.
- 7.2 If you have concerns regarding premises, or a new application for a specific event or premises you should contact the Council's Licensing Unit, who will be able to advise you.

Advice for Residents

- 7.3 Government have published a Factsheet for local residents concerned about problem premises. The Factsheet can be found at:
www.gov.uk/government/uploads/system/uploads/attachment_data/file/118372/advice-local-residents.pdf

Child Sexual Exploitation

- 7.4 Licensing authorities must consider the need to protect children from sexual exploitation when undertaking licensing functions. If members of the public have concerns about child sexual exploitation in connection with premises licensed under the Act then they should contact the Police in the first instance, also notifying the child protection department of Staffordshire County Council.

The local Safeguarding Board also provides advice on how to prevent child sexual exploitation. The Staffordshire Safeguarding Children Board web site provides safeguarding information for the public, parents and carers and is at: <http://www.staffsscb.org.uk/Home.aspx>

Problem Premises

- 7.5 The expectation of the Council is that licensed premises shall be well run and well managed. The emphasis of the policy is on ensuring the promotion of the licensing objectives and proper management and control of licensable activities.
- 7.6 The focus of the policy is:-
- to ensure that the licensing objectives are met;
 - to ensure individual licensees have proper control over the premises;
 - on the suitability of premises or places being used for licensable activities;
 - on the direct impact of licensable activities on those living, working or otherwise engaged in the area concerned; and,
 - on the impact of those activities on the amenity of the immediate residential area and the wider community.
- 7.7 The transfer of a Premises Licence from one operator to another is a simple and inexpensive process. However, the prospective licence holder must be aware that an original Premises Licence was tailored for the business activity of the previous operators and may not accurately reflect the new operators requirements.
- 7.8 Licence holders must ensure that a simple change of management does not lead to a change in the complexion of the premises. Intensification of the use of the premises or of the licensable activities may lead to complaint and a possible breach of the licence conditions.

Enforcement Principles

- 7.9 The Council will engage with the licensed trade in tackling under age sales and we will help to ensure that there are robust age verification schemes in place at venues that sell alcohol, tobacco or provide adult entertainment. The Council will discourage irresponsible advertising and drinks promotions, in a way that is consistent with the mandatory conditions referred to in Chapter 11 of the statutory guidance.
- 7.10 In carrying out its enforcement duties with regard to the licensable activities and the powers to institute criminal proceedings under the above Act, the Council will have regard to the Regulators' Code. <https://www.gov.uk/government/publications/regulators-code>

7.11 The Council will aim to be:

Proportionate:

Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised.

Accountable:

Regulators must be able to justify decisions, and be subject to public scrutiny.

Consistent:

Rules and standards must be joined up and implemented fairly.

Transparent:

Regulators should be open and keep regulations simple and user friendly.

Targeted:

Regulation should be focused on the problem and minimise side effects.

7.12 The Council will endeavour to avoid duplication with other regulatory regimes.

7.13 The Council will also have regard to any guidance issued and keep itself informed of developments regarding the work of the Regulatory Delivery Division of the Department of Business Innovation and Skills in its consideration of the regulatory functions of local authorities.

7.14 The Council's Enforcement Policy, which explains how the Council makes decisions in the event of non-compliance and criminal offences can be found at: www.cannockchasedc.gov.uk/ehenforcementpolicy

7.15 The Council will continue to monitor the effectiveness of this policy and will consider changes to the policy in the light of any new legislation, case law, statutory guidance and best practice. It will consult with stakeholders at the time it is considering any such changes.

Risk Based Inspections

7.16 Although the Act does not require premises inspections to be undertaken, they will take place at the discretion of the licensing officers charged with this role as judged necessary using a risk based approach.

7.17 This will ensure that the Licensing Authority manages its resources efficiently and that effective enforcement is directed at problem premises.

Reviews

7.18 Ready access to the review process provides a key protection for the local community where a licensed premises is undermining the licensing objectives. This essential safeguard can allow the licensing authority to apply a light touch bureaucracy to the grant or variation of a licence or certificate but sanction a more robust approach if problems arise at a later date.

- 7.19 At any stage following the grant of a premises licence or a club premises certificate, a Responsible Authority, or any other person, may ask the Licensing Authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 7.20 The Licensing Authority will accept initial email applications for reviews from responsible authorities. This does not however, negate the requirement to serve paper copies on all parties, including the licensing authority.

Powers of Licensing Sub Committee on a Review

- 7.21 The Licensing Sub-Committee must, under section 52(4) of the LA03 having had regard to the representations, take such steps as it considers appropriate for the promotion of the licensing objectives namely;
- a) to modify the conditions of the licence
 - b) to exclude a licensable activity from the scope of the premises
 - c) to remove the Designated Premises Supervisor
 - d) to suspend the licence for a period not exceeding 3 months
 - e) to revoke the licence.
- 7.22 It should be noted that there are certain criminal activities that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- For the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - For the sale and distribution of illegal firearms;
 - For the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - For the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - For prostitution or the sale of unlawful pornography;
 - By organised groups of paedophiles to groom children;
 - As the base for the organisation of criminal activity, particularly by gangs;
 - For the organisation of racist activity or the promotion of racist attacks;
 - For employing a person who is disqualified from that work by reason of their immigration status in the UK;

- For unlawful gambling; and
 - For the sale or storage of smuggled tobacco and alcohol
- 7.23 Where sanctions have been imposed by the Council following review of the Premises Licence and the same operator applies some time later for the grant of a new premises licence or a variation to an existing licence, the applicant must be able to demonstrate that there has been a significant change to the management structure of the business operation or that the application includes significant positive steps that will improve the promotion of the licensing objectives and effectively prevent the recurrence of the problems that arose previously. If the applicant cannot demonstrate such changes or improvements, then the application may be refused.
- 7.24 Any conditions offered by the applicant in support of their application must also demonstrate that sufficient changes have been made to the business operation and where there has been a previous revocation of the premises licence, that the new applicant is not connected to the holder of the previous premises licence. If the applicant cannot demonstrate such changes, or improvements then the application may be refused.
- 7.25 In serious cases of crime or significant mismanagement of premises, the licensing authority and their responsible authorities are also likely to require that the premises has a new designated premises supervisor and new licence holder who are not associated to the previous licence holder.
- 7.26 The Licensing Act 2003 defines associate as:
- A relative or business partner;
 - The spouse or civil partner of that person;
 - A child, parent, grandchild, grandparent, brother or sister of that person;
 - An agent or employee of that person; or
 - The spouse or civil partner of a person listed in either of the two preceding bullet points.

Adjournments of Sub Committee Hearings

- 7.27 On occasion, applications are made to the Council that have particularly pressing time limits – for example temporary event notices and premises licence review applications.
- 7.28 In some cases a party will ask for additional time to consider their position and sometimes all parties make a request for an adjournment of the Licensing Sub Committee hearing.
- 7.29 In consequence the Council's Head of Law and Administration in consultation with the Chairman of the Licensing & Public Protection Committee, has delegated powers to make certain decisions where it is in the public interest to do so. These are:

- To adjourn hearings
- To extend time limits
- To dispense with the need for some hearings where all parties have agreed to this ; and
- To take steps to address any irregularities arising from failure to comply with regulations made under the Act.

8. Premises Licences and Club Premises Certificates

Conditions

- 8.1 The licensing regime established by the Licensing Act 2003 is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events.
- 8.2 As Licensing Authority the Council wishes to emphasise that any conditions that are attached to various authorisations should be focussed on matters which are within the control of individual licence holder. The Council will seek to avoid attaching blanket conditions or conditions which duplicates other regulatory regimes. The Council will seek to ensure that conditions applied to licences are appropriate, necessary and proportionate.
- 8.3 The Institute of Licensing has previously produced a consultation document on licence conditions. Applicants and licence holders may find the document helpful. This can be found at:
- [https://www.cannockchasedc.gov.uk/sites/default/files/04-iol_consultation_guidance_on_premises_licence_conditions_rpt_-_lppc_230915.pdf](https://www.cannockchasedc.gov.uk/sites/default/files/04-<u>iol_consultation_guidance_on_premises_licence_conditions_rpt_-_lppc_230915.pdf</u>)
- 8.4 Premises that hold a Club Premises Certificate under the Act must ensure that they comply with their own club rules; the statutory general conditions in respect of qualifying clubs and general admissions to the premises.

The general conditions are outlined in the legislation as follows:

- (1) The general conditions which a club must satisfy if it is to be a qualifying club in relation to a qualifying club activity are the following.
- (2) Condition 1 is that under the rules of the club persons may not—
 - (a) be admitted to membership, or

(b) be admitted, as candidates for membership, to any of the privileges of membership,

without an interval of at least two days between their nomination or application for membership and their admission.

(3) Condition 2 is that under the rules of the club persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission.

(4) Condition 3 is that the club is established and conducted in good faith as a club (see section 63).

(5) Condition 4 is that the club has at least 25 members.

(6) Condition 5 is that alcohol is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club.

Mandatory Conditions

8.5 The Licensing Act 2003 states that there are certain mandatory conditions. These have to be included in every licence and/or club premises certificate in specified circumstances. Some of the mandatory conditions relate to premises licences that authorise the sale of alcohol, while others relate to conditions for door supervisors and exhibition of films. Details of these mandatory conditions can be found at:

<http://www.legislation.gov.uk/ukxi/2014/2440/resources> and

<http://www.legislation.gov.uk/ukxi/2014/1252/schedule/made>

Licensing Hours

8.6 The Licensing Authority acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The Licensing Authority will consider the individual merits of any application or representation. It is clear that longer licensing hours with regard to the sale of alcohol may be an important factor in avoiding a concentration of customers leaving premises simultaneously, however, it must also be recognised that even smaller numbers of patrons leaving licensed premises over a longer period of time, may still lead to significant and persistent problems of disorder and/or public nuisance.

8.7 The Licensing Authority acknowledges that greater consumer choice and flexibility is an important consideration when it comes to encouraging a thriving night time economy. This is important for local investment and employment opportunities. However longer licensing hours should not be

permitted if evidence demonstrates that there would be an adverse impact upon the promotion of the licensing objectives.

- 8.8 In some circumstances flexible licensing hours for the sale of alcohol can help to ensure that large numbers of customers do not leave various premises simultaneously, and this can help to promote the Licensing Objectives.

Capacity within Licensed Premises

- 8.9 Capacity and fire safety issues are covered in a useful guide found at:

- Fire Safety Risk Assessment - Small to Medium Places of Assembly
<https://www.gov.uk/government/publications/fire-safety-risk-assessment-small-and-medium-places-of-assembly>
- Fire Safety Risk Assessment - Larger Places of Assembly
<https://www.gov.uk/government/publications/fire-safety-risk-assessment-large-places-of-assembly>
- Fire Safety Risk Assessment - Theatres, cinemas and similar places
<https://www.gov.uk/government/publications/fire-safety-risk-assessment-theatres-cinemas-and-similar-premises>
- Fire Safety Risk Assessment - Open air events and venues
<https://www.gov.uk/government/publications/fire-safety-risk-assessment-open-air-events-and-venues>

Alcohol Sold for Consumption at “Off Licence” Premises

- 8.10 Licence holders and DPS' with particular responsibility for town centre Off Licence premises are reminded of their responsibility in ensuring that sales of alcohol from their premises do not create a direct link to town centre anti-social behaviour or crime and disorder.
- 8.11 In particular, the sale of single cans of alcohol to those who have a tendency to drink alcohol in the street or within our town centres should be avoided. Where a direct link can be established between sales of alcohol from a premises and any anti-social behaviour or crime and disorder caused by those to whom the alcohol has been sold, then formal action may be taken against the licence holder.
- 8.12 Licence holders and DPS are also reminded that it is an offence under Section 141 of the Act to knowingly sell alcohol or allow alcohol to be sold to a person who is drunk.

Children in Premises

- 8.13 The Council recognises the great variety of premises for which a Premises Licence may be sought and wishes to make it clear that there are a range of

alternatives available for limiting the access of children where that is appropriate for the objective of the protection of children from harm.

- 8.14 Measures that may assist in the promotion of the objective relating to the protection of children from harm 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 (under 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); and,
 - full exclusion.
- 8.15 The admission of children into licensed premises will normally be at the discretion of the licence holder/management and this should be reflected in the operating schedule submitted to the Council upon application.
- 8.16 The Council will not seek to limit the access of children to any premises unless it receives representations to that effect. However, where premises give film exhibitions, the licensing authority will expect licence holders or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification, or the licensing authority itself.
- 8.17 The Council will engage with the licensed trade in tackling under age sales and we will help to ensure that there are robust age verification schemes in place at venues that sell alcohol, tobacco or provide adult entertainment. The Council will discourage irresponsible advertising and drinks promotions, in a way that is consistent with the mandatory conditions referred to in Chapter 11 of the statutory guidance.

Live Music

- 8.17 As a result of recent changes made to the Act no licence is required for the following activities -
- A performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - A performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - A performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.

- A performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
- A performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

Adult Entertainment

- 8.18 Adult entertainment is only authorised where the Premises Licence or Club Premises certificate (CPC) clearly states that such entertainment is permitted. New applicants must make clear on the application form that adult entertainment may take place at the premises.
- 8.19 Existing licence holders should be aware that if adult entertainment is not mentioned within their current Premises Licence or CPC, then a variation to the licence or a Temporary Event Notice (TEN) will be required before adult entertainment can take place. The TEN form makes specific reference to the provision of adult entertainment.
- 8.20 The Council has adopted a Sex Establishment Policy which deals with the interface between the adult entertainment and the Licensing Act 2003. The provision of adult entertainment within the Licensing Act 2003 licensed premises can only take place in accordance with the exemptions stated within the Council's Sex Establishment Policy.
- 8.21 This exemption permits adult or "relevant entertainment" to take place only on an "infrequent basis". "Infrequent" means on no more than 11 occasions in any 12 month period; is no more frequently than once a month and with each event lasting no longer than 24 hours.
- 8.22 The Council's Sex Establishment Policy can be found at
https://www.cannockchasedc.gov.uk/sites/default/files/microsoft_word_-_9b-sev_policy_document_final.pdf

Suspension of Licence/Certificate

- 8.23 Premises Licence or Club Premises Certificate annual fees are due to be paid to the Licensing Authority on the anniversary of the grant of the said authorisation.

- 8.24 When annual fees fail to be paid, the Licensing Act 2003 requires licensing authorities to suspend the Premises Licence or Club Premises Certificate.
- 8.25 The Premises Licence or Club Premises Certificate is to be suspended unless the holder has failed to pay the fee at the time it became due because of an administrative error, or before or at the time the fee became due, the licence holder notified the authority in writing that the licence holder disputed liability for, or the amount of, the fee.
- 8.26 The suspension can only take place after a 21 day period of grace is afforded to the licence holder which begins on the day after the fee became due. After that 21 day period expires a suspension notice will be served by the licensing authority giving at least two working days' notice of the suspension.
- 8.27 The suspension notice will be lifted on the day that the annual fee is paid.

<http://www.legislation.gov.uk/ukpga/2011/13/section/120/enacted>

Petrol Stations s176

- 8.28 Where a licence application is made which may be affected by the “excluded premises” section 176 of the Act, the Council will determine the application in accordance with the information and evidence provided by the applicant.
- 8.29 All premises licences issued to petrol station forecourts will have the following statement included within the licence:

“This premises licence has no effect to authorise the sale by retail or supply of alcohol on or from an excluded premises under section 176 of the Licensing Act 2003. ‘Excluded premises’ means premises used primarily as a garage or which forms part of a premises which is primarily so used. Premises are used as a garage if they are used for... the retailing of petrol or retailing of derv (section 176(4) (c) (i) and (ii))”

- 8.30 Where the applicant provides little or no evidence that the premises is not “excluded premises” under section 176 of the Act, then the Premises Licence may be granted, issued with the above statement endorsed upon it and monitored for compliance by the licensing authority and / or Police.
- 8.31 In the event of representations being made in respect of this type of application by responsible authorities then the application will be referred for determination by the Licensing Sub Committee at a hearing.

9. Wider Licensing Considerations

Reduction of Alcohol Harm

- 9.1 Health bodies have been able to act as responsible authorities under the Licensing Act 2003 since April 2012. Since the health reforms in April 2013

which saw the formal transfer of public health responsibilities to Local Authorities, health bodies are Directors of Public Health (in England) and they have unique access to data not available to other responsible authorities which may inform licensing decisions.

- 9.2 Public Health is not currently a licensing objective and there is not a specific licensing objective related directly to health within the current legislation but 'Health and Care Staffordshire' (HCS) at Staffordshire County Council has much to add in reducing health harms within the current licensing framework.
- 9.3 This licensing authority envisages an effective working relationship with the Director of Public Health (DPH) and HCS, working together to ensure that the health impacts of alcohol licensing is considered. Although the DPH will be notified of all licence applications, it is acknowledged not every application will need a response from HCS. However, any representations must be considered relevant by the licensing authority and relate to one or more of the licensing objectives.
- 9.4 Health bodies when making representation are most likely to relate such representations to the objectives on public safety and protecting children from harm but any health evidence will need to relate to a specific premises.
- 9.5 The role of the DPH is to help promote the health and wellbeing of the local populations they serve and in the DPHs annual report '*Reducing alcohol-related harm: everyone's responsibility*' 3 strategic priorities were identified:
- i) Prevention and early intervention
 - ii) Treatment and recovery
 - iii) Regulation and enforcement
- 9.6 The above three objectives are also underpinned by the cross cutting theme of 'taking responsibility' in that individuals, families, communities and organisations will all need to take various forms of responsibility if alcohol problems are to be reduced.
- 9.7 The health reforms along with the publication of '*The Governments Alcohol Strategy*' in 2012 and the development of local structures, lends itself to a joined up approach in taking the right action locally to tackle alcohol related harm. Given this, an Alcohol Strategy for the District has been developed which focuses on the harm associated with alcohol misuse to individuals, families and communities in Cannock Chase and the collective cross cutting efforts put in place to reduce these harms and improve health and wellbeing outcomes of local residents.

The Licensing Authority as a Responsible Authority

- 9.8 Although the Licensing Authority is a responsible authority, it will not usually need to duplicate representations or applications made by other responsible authorities and other persons. However, if these parties are unable to respond because they, as a single authority, have insufficient grounds to do

so, the licensing authority may, where it has relevant grounds to do so, make a representation in its capacity as a responsible authority.

- 9.9 The Licensing Authority may sometimes be in a better position than other responsible authorities position to “see the full picture” and connect apparently unrelated reports from different sources.
- 9.10 Where appropriate, the licence authority may seek to impose licence conditions onto applications for new premises licences or to amend or replace conditions on existing premises licences which are considered insufficient to deal with issues which arise at the premises. In most cases the changes to existing premises licences will be by means of Minor Variation and the Licensing Authority will encourage and support the licence holder in making such a minor application.

Planning Decisions

- 9.11 Licensing & Planning are discrete regulatory systems.
- 9.12 There are several key differences between licensing and planning control, and their respective approaches to applications. It could be said that the consideration of a planning application involves looking into how land or buildings are to be used, whereas licensing considers the behaviour of people in terms of the proposed use of the buildings or land and the impact on the licensing objectives.
- 9.13 In some cases, a premises may have different hours of operation (in particular closing times) upon its planning permission and premises licence. This is because the considerations for obtaining planning consent are different from those for obtaining an authorisation under the Licensing Act 2003.
- 9.14 The distinction between planning and licensing functions needs to be clear, but it is also important that the functions are aligned operationally to provide a joined up and customer focussed service to businesses
- 9.15 Councils are already exploring opportunities to improve customer service for businesses in this area, for example by joining up planning, licensing and other advice at an early stage through pre-application advice services.

Cumulative Impact

- 9.16 In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.
- 9.17 A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted

in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.

9.18 To date the Council has not published a cumulative impact assessment.

Early Morning Alcohol Restriction Orders (EMRO)

9.19 Under Section 172 A to E of the Act, the licensing authority has the power to make an EMRO prohibiting the sale of alcohol for a specified period between the hours of 24:00 and 06:00. They are designed to address recurring problems with licensed premises, serious public nuisance and other instances of alcohol-related anti-social behaviour which is not directly attributable to a specific premises.

9.20 It is acknowledged by the licensing authority that an EMRO may be restrictive, whilst also being a powerful tool to address recurring problems of alcohol-related crime and disorder, serious public nuisance and alcohol-related anti-social behaviour. Prior to making an EMRO the Licensing Authority will consider whether any other measures (implemented by themselves or with partners) may address the problems that have been identified .

9.21 In taking any decision to make an EMRO, the licensing authority will follow the statutory process and will invite representations. An EMRO could only be made if the evidence demonstrated that it was justified as appropriate for the promotion of the licensing objectives.

9.22 Chapter 16 of the Section 182 statutory guidance deals with EMROs. See

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

Late Night Levy

9.23 Under Section 125 of the Police Reform and Social Responsibility Act 2011 the Council can adopt a Late Night Levy, following a consultation process, outlined by the Home Office.

9.24 The Late Night Levy allows the Council to charge an additional fee to any licensed premises that has a licence for the sale of alcohol (on and off sales) between 24:00 and up to 06:00 in order to cover the additional costs associated with late night alcohol trading.

- 9.25 Legislation allows the prescribed time to start from midnight but it is up to the Council to decide when they wish to apply it.
- 9.26 The Council will consider implementing a Late Night Levy if this is shown to be justified as appropriate for the promotion of the licensing objectives.

Town Centres and Public Spaces

- 9.27 The Council has licensed some of its public spaces in order to encourage a wide range of licensable activities, subject to prior notification and agreement by the Council.
- 9.28 The public spaces which are currently licensed by the Council are listed below:
- Cannock Town Centre
 - Cannock Park
 - Rugeley Town Centre
 - Elmore Park, Rugeley
 - Ravenhill Park, Brereton, Rugeley
 - Hednesford Town Centre
 - Hednesford Park
- 9.29 Performers or entertainers who wish to use land which is licensed by the Council, will need to obtain permission to do so by contacting the Council's Licensing Unit. There is no fee payable but it will be necessary to complete a simple application form. If the proposed land is not already licensed then it will be necessary for the performers to authorise licensable activities by means of a Temporary Event Notice for which a fee may be payable.

10. Functions and Decision Making

Matters to be dealt with	Sub Committee	Officers
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	If a police objection	If no objection made
Application for premises licence / club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence / club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence / club premises certificate	All cases	
Decision on whether a 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 a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases

11. Glossary

'Responsible authorities' are public bodies, including the police and fire service etc., that must be made fully aware of applications and are entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate.

'Licensing Authority' is Cannock Chase District Council

'Designated Premises Supervisor' is the person designated as such and who is responsible for the day to day running of the premises and responsible for the sale of alcohol at the premises concerned.

'Premises Licence' is a licence granted under the Act, in respect to any premises, which authorises the premises to be used for one or more licensable activities.

'Club Premises Certificate' means a Certificate granted under the Act in respect of a premises which is compliant with section 62 of the Act and is habitually used for the purposes of a Club.

'Personal Licence' is a licence granted to an individual by the Licensing Authority that authorises that individual to sell or supply alcohol in accordance with the premises licence.

FAIR PROCESSING NOTICE

How we use your personal information:

At Cannock Chase District Council we take your privacy seriously and will only keep and use your personal information for reasons that the law requires or allows. We are a data controller for the personal information we hold about you in relation to the processing and renewals of your Licenses. In order to comply with data protection legislation we want to be sure you understand how we use this information.

The purpose for which your data will be used is to establish your identity and other necessary information about you which will help us determine your fitness, propriety and suitability to hold an licence or other authorisation with this authority.

The following is a generic, non exhaustive list of relevant legislation which may apply to your particular licensing application or renewal. The information we collect about you will permit us to process your application in compliance with the legislation.

- Licensing Act 2003
- Gambling Act 2005
- The Local Government (Miscellaneous Provisions) Act 1976 & 1982
- The Town Police Clauses Act 1847
- Animal Boarding Establishments Act 1963
- Breeding of Dogs Act 1973 & 1991
- Breeding and Sale of Dogs (Welfare) Act 1999
- Dangerous Wild Animals Act 1976
- Riding Establishment Acts 1964 and 1970
- Zoo Licensing Act 1981
- House to House Collections Act 1939
- Scrap Metal Dealers Act 2013

Cannock Chase District Council is required by law to protect the public funds it administers. We may share information provided to us with other agencies involved in licence processing or licensing enforcement where the law requires or permits us to do so.

We may share information about you for the purposes of auditing and administering public funds, preventing and detecting fraud and the prevention and detection of crime. Otherwise, we will only share your data if you ask us to.

We only keep this data for the time specified in our retention schedule or as required by law. Data protection law provides you with certain rights, however not all of these rights will be available to you in all situations, particularly where we process your information as part of one of our statutory duties. Where we are under a legal duty to use data for a particular purpose you will not have the right to prevent it being used in that way.

A full list of the rights you may have, under data protection law, is given in the 'Your Rights' section of this webpage. For specific enquiries regarding personal data which we process you can contact the Data Protection Officer on email: infomanager@cannockchasedc.gov.uk or at Civic Centre, PO Box 28, Beecroft Road, Cannock, Staffordshire, WS11 1BG.

If you wish to complain about how your personal information has been handled by Cannock Chase District Council then please contact the Data Protection Officer in the first instance using the details above. If you are not satisfied you can submit a formal complaint to the Council via our website <http://www.cannockchasedc.gov.uk/council/about-council/customer-feedback-help-us-get-it-right>

Finally you can complain to the Information Commissioner's Office at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, Tel: 0303 123 1113 or you can visit their website at ico.org.uk. You can also find details of how we handle your personal information by visiting www.cannockchasedc.gov.uk/DataProtection