

An Overview of the Licensing Act 2003

Licensable Activities:

For the purposes of the 2003 Act the following are licensable activities:

- 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 regulated entertainment; and
- The provision of late night refreshment.

Licensing Objectives and Aims:

The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

The licensing objectives are:

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

THERE IS NO LICENSING OBJECTIVE RELATING TO PUBLIC HEALTH

Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times. However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

Responsible Authorities

- Staffordshire Police, Northern Licensing Unit;
- Staffordshire Fire & Rescue Service;
- Staffordshire County Council Trading Standards;
- Environmental Health Services;
- Regeneration and Development;
- District Public Health Lead (Newcastle)
Community Safety.

Authorisations or Permissions

The 2003 Act provides for four different types of authorisation or permission:

- Premise Licence – to use premises for licensable activities;
- Club Premise Certificate – to allow a qualifying club to engage in qualifying club activities;
- Temporary Event Notice – to carry out licensable activities at a temporary event;
- Personal Licence – to sell or authorise the sale of alcohol from premises in respect of which there is a premise licence.

If an application for a premises licence or club premises certificate has been made lawfully and there have been **no representations** from responsible authorities or other persons, the licensing authority **must** grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions. It is recommended that licence applicants contact responsible authorities when preparing their operating schedules.

Licence conditions – general principles

Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged.

Licence conditions:

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities
- placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;

- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

Each Application on its Own Merits

Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

Sale of alcohol to a person who is drunk – Section 141 of the Licensing Act 2003

(1) A person to whom subsection (2) applies commits an offence if, on relevant premises, he knowingly—

- (a) sells or attempts to sell alcohol to a person who is drunk, or
- (b) allows alcohol to be sold to such a person.

(2) This subsection applies—

- (a) to any person who works at the premises in a capacity, whether paid or unpaid, which gives him authority to sell the alcohol concerned,
- (b) in the case of licensed premises, to—
 - (i) the holder of a premises licence in respect of the premises, and
 - (ii) the designated premises supervisor (if any) under such a licence,

(c) in the case of premises in respect of which a club premises certificate has effect, to any member or officer of the club which holds the certificate who at the time the sale (or attempted sale) takes place is present on the premises in a capacity which enables him to prevent it, and

(d) in the case of premises which may be used for a permitted temporary activity by virtue of Part 5, to the premises user in relation to the temporary event notice in question.

(3) This section applies in relation to the supply of alcohol by or on behalf of a club to or to the order of a member of the club as it applies in relation to the sale of alcohol.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.