

Licensing Statement of the Licensing Authority for the Swindon Borough Council area, Licensing Act 2003

About this Statement

This is the formal policy statement of the Licensing Authority for the Swindon Borough Council area, showing how it will pursue the 'licensing objectives' defined by the Act. This version covers the period from 7 January 2008 to 6 January 2011.

The formal powers of the Licensing Authority are limited to securing the licensing objectives, which are ~

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm

Licensing cannot address issues such as the collection of tax revenues, employment rights and working times, discrimination against people with disabilities etc. These are important issues but other legislation exists to deal with them. Race relations matters for example are addressed by the Race Relations Act 1976 and Swindon Borough Council has published a Race Equality Scheme. The Licensing Act is only one of many mechanisms for regulating the leisure, hospitality and retail economy and maintaining public order. Planning controls, partnerships, routine police enforcement and controls over street drinking are just some examples. This policy does not reflect every shade of opinion but all views expressed during consultation have been taken into account. It is a policy for Swindon, so although there is a lot of common ground it is not the same as the policy adopted by any other council.

Statutory guidance

This policy was drawn up within limitations dictated by the 'Guidance issued under section 182 of the Licensing Act' issued by the Secretary of State for Culture, Media and Sport. Some of the content of the Licensing Statement is dictated by the Guidance.

Our general approach

1. Swindon Borough Council is committed to building and maintaining a diverse, thriving, vibrant and sustainable leisure and hospitality economy. We value the contribution which this sector of the economy makes to the economic well being of Swindon and to the quality of life of those who live here and those who visit us.

2. This Licensing Statement reflects the need to regulate licensable activities in order to limit any adverse impact of those activities.

3. Licensing does not offer a universal remedy for anti-social behaviour or nuisance. The Licensing Authority will not hold a licence holder to account, where there is really nothing they could have done to prevent a particular problem. Where they bear direct or indirect responsibility the Licensing Authority will use its extensive powers to put things right.

4. This Licensing Statement applies to all of the workings of the Licensing Act 2003.

5. Market need is not a Licensing matter.

6. Where the proper management of premises is diluted or abandoned as a consequence of financial difficulties, the Licensing Authority will focus on the harm being done to the community and will not suspend its expectation that standards should be maintained, in the hope that the financial situation will improve if the problems are temporarily ignored.

6. Applicants for premises licences are advised to think carefully about any aspect of their proposal which might raise concerns and then explain in their application how they plan to prevent any problems. This will increase the chance that the licence will be issued without the need for a hearing.

7. Various official bodies (the police, fire officers, noise control officers etc.) can comment on new applications and ask for review of an existing licence. Local businesses and residents can do the same. Informal dialogue with these people at an early stage will often clear up any misunderstandings.

8. Where there are no representations on an application, the Licensing Authority cannot add anything to the process, for example by imposing conditions on the licence. Only where representations are made can the Licensing Committee impose safeguards.

9. The Licensing Committee will consider any relevant representations on their merits. As an example a venue where families are sat at tables eating will not pose the same issues as a bar of the same size, with standing crowds consuming large volumes of alcohol. Where there is a cluster of bars, the situation will be different again.

10. When a Licensing Panel imposes a condition, following a hearing, a brief opportunity will be given for the premises licence holder and any technical advisers to seek clarification.

11. Additional conditions applied to a licence at a hearing will be set out in unambiguous terms and with a view to practicality.

12. Licensing panels will not include Members from the ward in which the premises under discussion are situated or from any ward within the immediate area of the premises in question.

13 The Licensing Authority will not incite opposition or support for an application but Members of the Council will not be precluded from being kept informed of Licensing matters which affect those they represent.

Concentrations of licensed premises

1. Licensing authorities are able to introduce a 'cumulative impact policy' where a cluster of late night bars are causing anti-social behaviour and high levels of crime, including violent crime. The effect of such a policy is to prevent new 'high risk' premises such as bars opening and to contain hours of opening, by imposing a presumption against longer opening hours.

2. Even in the town centre, Swindon has figures at or below the national average for alcohol related disorder. There are problems but they are not exceptional. That said, it is always of the highest importance that we reduce levels of crime, disorder and anti-social behaviour, whatever their level. The only area in which we have a problem substantially worse than elsewhere is where the harm to young men brought about by alcohol requires them to attend a hospital. This is not specifically a 'night economy' problem, as much of the alcohol which does that damage comes from off licences and supermarkets rather than bars.

3. In Swindon, crime data shows unambiguously that the Fleet Street and Bridge Street area is a hot spot for trouble, especially after midnight. This is not surprising, since the total capacity of the bars in that small area is around 8,500, sufficient to accommodate a very large proportion of Swindon's 18-30 generation.

4. Tight Planning controls now exist in this area and these have been shown to be very effective in curtailing further A5 (pub and bar) development and even in preventing the reinstatement of bars. It is not clear what a cumulative impact policy would add.

5. Licensed premises in the area generally shut well before the time officially allowed, so it seems there is no pent up desire to extend hours, so there is no strong case for a special policy to thwart that. The Fleet Street and Bridge Street area requires a lot of attention and support but the Licensing Authority has not taken the view that a cumulative impact policy would be useful. Review procedures already offer powerful controls.

6. Cumulative impact policies apply only to premises selling alcohol. The

Licensing Authority notes however that late night mobile fast food traders in town centres frequently act as a magnet for disorder, simply by their presence. They can encourage crowds to form and they impede dispersal in the early hours of the morning, when disorder peaks. When representations trigger a hearing, the Licensing Authority will be unsympathetic to any future applications from mobile traders who wish to use the town centre late at night. Similarly, it will not welcome applications for town centre take-aways in poorly lit areas or where there is a proposal to use a serving hatch, to pass food to customers queuing in the street.

7. The Licensing Authority notes that the street environment, including such matters as lighting, graffiti removal, the placing of street furniture etc. can have a dramatic effect on the achievement or otherwise of the licensing objectives and it is committed to the principle of 'joined up working' to enable Licensing to stand alongside other enforcement and improvement mechanisms.

8. The police are entitled at any time to make written representations to the Group Director of Environment and Resources, making links between transport infrastructure and crime and disorder. Matters which cannot be easily resolved will be referred in the first instance to the appropriate Lead Member. The police are guaranteed the right to insist that any transport concerns they have are put before an appropriate committee of the Council.

A vibrant leisure sector

1. One of the most desirable characteristics of urban centres and one of the key drivers in reducing disorder and antisocial behaviour is the extent of diversity in the leisure and hospitality sector. The ideal is that a range of facilities should provide for people of all ages and all backgrounds.

2. The Licensing Authority welcomes any general shift away from the provision of leisure premises as "places for consuming alcohol", towards businesses which "also" sell alcohol.

3. The Licensing Authority will avoid unnecessary burdens on business by taking a light regulatory touch when premises operate without problems. In particular, we will generally impose very few conditions, when licences are granted. By contrast, where serious problems do arise, we will use our powers robustly. We are committed to protecting the wider community but we also believe that it benefits all well run businesses if those which do not maintain proper standards are confronted with the consequences.

4. The 'promotion of live music' falls outside the scope of the Licensing Act 2003 but Swindon Borough Council has a strong commitment to the arts. The Licensing Committee will consider any documented representation that Licensing is adversely affecting live music and dancing in Swindon. If it can be shown that

such entertainment has declined, mainly due to Licensing interventions, the Committee will consider what remedies are available.

5. The Licensing Authority welcomes reports from those council officers who manage Swindon's tourism, cultural and economic strategies.

6. Member training will aim to make clear the distinctions between Planning and Licensing processes and the impact of one on the other, in order to ensure a proper awareness of how Planning or Licensing determinations are made and to avoid confusion and duplication.

7. The Licensing Authority acknowledges that the potential for disorder increases if there is a sudden influx of people onto the street or if queues form for food and transport. Particularly in the town centre, anything which promotes peaks of movement (for example, a universal 'last admissions time' or standard opening hours will be resisted. Conversely, the Licensing Authority will promote as far as possible any measures which assist in effective dispersal.

8. The Licensing Authority will only limit the hours during which licensable activities can take place where there is a good reason for doing so. In view of the practical difficulties when a shop or supermarket is open for business but alcohol on display cannot be sold because the licensed hours are restricted, we will where practicable ensure that the opening hours and licensed hours are the same. Securing the licensing objectives will however always come first.

Responsible trading

1. The Licensing Authority has no direct control over the price at which alcohol is sold and generally cannot ban even reckless promotions. Nevertheless, evidence of irresponsible trading will weigh heavily with the Licensing Committee at a review hearing.

2. The Licensing Authority does not oppose offers of benefit to the consumer provided that they do not undermine the licensing objectives.

Outdoor events

1. The Licensing Authority considers that well managed outdoor festivals and events enrich the life of the community and should be facilitated rather than discouraged.

2. Generally speaking, large outdoor events occur seldom but usually at the same limited selection of venues. Such events always bring some inconvenience in the form of noise and disruption but that is generally outweighed by their positive contribution to the life of the community.

3. It is accepted that it will not always be appropriate to impose the sort of limitations (particularly in relation to noise) which would be right for fixed premises with very regular entertainment. This does not mean that the Licensing Authority will tolerate gratuitous nuisance, inconsiderate behaviour or breaches of public safety.

4. Outdoor events rely on building the infrastructure and assembling the right people, over a very short period. It is impossible to inspect the result until the last minute. For this reason, evidence of the competence of the organiser will be paramount when deciding whether to issue a licence. Documents to show that the event has been competently planned are essential. Whilst it is accepted that a very competent organiser with a call on the best specialist contract support can put together a well run event in a very short space of time, it is generally the case that if planning (including discussions with the responsible authorities) has been left until late, the competency of the organiser will be in doubt. Meeting the licensing objectives is our paramount concern and in view of the uncertainties inherent in temporary activities, the Licensing Authority will refuse a licence or scale an event down substantially, if preparations appear inadequate.

5. The emergency services will need time to prepare for an event, to play their proper part.

6. Community groups often present small scale events. Many of these are covered by temporary event notices and not constrained by licensing conditions. Within the limits of ensuring public safety and preventing unreasonable disturbance, the Licensing Authority will take a sympathetic approach to low risk events which attract perhaps one or two thousand people.

7. By the time attendance reaches around 10,000 the logistics are those of a 'large' event and the regulatory approach must reflect that. Documentation of a professional standard and adequate preparation with the responsible authorities will be expected. The Licensing Authority expects timely notice of unusual risks (such as firework displays) or changed features (celebrity guest appearances, stage configuration etc.) and may make a decision to limit the licence in such a way as to rule out all or any of the proposed changes if it is felt that the lateness of the decision to introduce these new features to the entertainment is likely to be prejudicial to the attainment of the licensing objectives.

Joined up government

1. This Licensing Statement does not stand in isolation. In the course of its preparation, views have been sought from the Community Safety Team, lead officers in Planning, representatives from the Transport Working Party, the Tourism Development Officer and the Social Inclusion Working Party. It is informed by and has informed a range of other policies.

2. Good day-to-day communication is key to the effective integration between service areas. It enables a timely and flexible response to shared challenges. The Licensing Authority does not believe that better communication means more working parties.
3. Regular meetings between the Licensing Officers for the local authorities within the Wiltshire area will continue when the Wiltshire Unitary Authority comes into being . These meetings provide a mechanism for sharing best practice.
4. Contact with partner agencies is ongoing around particular issues but also promotes best practice, influences regeneration policies and shares knowledge. A Joint Enforcement Protocol guides the statutory bodies, particularly the police and council licensing officers. All joint work between police and local authorities takes place against the requirement in Section 17, Crime and Disorder Act 1998, that we co-operate to reduce crime and disorder.
7. Licensing Officers and Planning Officers regularly discuss matters of common interest and share information about applications.
8. Following representations, when the Licensing Committee is formulating conditions to be attached to a premises licence, it will have regard to the effect of those conditions on other enforcement regimes.
9. In order to avoid duplication and to safeguard the rights of applicants, the Licensing Authority will endeavour to ensure, so far as possible, that Planning and Licensing determinations are distinct from each other.

Licensing and Planning

1. The Planning Authority is consulted about Licensing applications and can make representations on them. The Licensing Authority has no statutory right to comment on Planning applications but it can do so. For initial soundings, it is best to approach Planning and Licensing simultaneously about new proposals. No Planning decision can limit a Licensing decision or vice versa. The considerations are different. Duplication or mixed messages will be avoided where possible but on noise, for example, Planning and Licensing do overlap.
2. In any case where proposed Licensing conditions would fall foul of Planning laws (for example, sound-proofing a Listed building), alternatives will be sought.
3. The Planning process is concerned with establishing whether a building can be used for a broadly specified purpose, at a particular location. Its visual impact and the demands on local infrastructure are key considerations. Unlike Licensing permissions, Planning authorisations are generally irreversible.

4. There is overlap between the Planning and Licensing processes and residents can make similar representations about noise and disturbance under both.

6. Where a proper opportunity has been given to make a case against a proposal which is covered by both Planning and Licensing, the impact of the argument may be less, if presented to a second committee.

The prevention of crime and disorder

Public disorder

1. The central concern of licensing in relation to the crime and disorder objective is violent and anti-social behaviour caused by consumption of alcohol.

2. Those most at risk from alcohol fuelled violence are young men, so they are the main beneficiaries of any reduction in violence.

3. Licensing is not concerned with generic crime prevention in buildings or with the detection of crime unrelated to licensable activities.

4. The behaviour of customers beyond the immediate area of licensed premises can cause problems but the Act restricts potential objectors to commenting on impacts in the 'vicinity' of the licensed premises.

5. Anyone selling alcohol has a responsibility to control who purchases alcohol and how much they drink on site. On review, a licence may be revoked if that responsibility has not been properly discharged.

6. Groups of revellers celebrating special occasions are sometimes particularly motivated to drink to excess. Not all premises have the resources to deal with this and admission policies should reflect the capacity to manage their presence.

7. The Licensing Authority welcomes the creation of pavement cafes in the town centre and their operation well into the evening. They make a positive contribution to the Streetscene, increasing 'eyes and ears' on the street, reducing pedestrian movements and representing a shift away from 'vertical drinking'.

8. The Licensing Authority notes that the primary arguments for the use of polycarbonate drinking vessels are the economic case and the reduction in minor injuries to staff – neither of which are Licensing considerations. Where there is a cluster of town centre pavement enclosures which are primarily given over to the consumption of alcohol rather than outdoor dining, the balance of risk may lead to the Licensing Authority responding positively to an representation from the police, that glassware should not be permitted in a particular pavement area, after some time determined by the Licensing Panel which hears the

representation, where it appears that the only other option would be closure or refusal of a licence.

Closed circuit television

1. In high risk circumstances, notably where there is a substantial consumption of alcohol and in an area where levels of disorder are relatively high, it may be appropriate to respond to representations asking for CCTV cameras and video recording. By contrast, for a rural public house with a mature clientele, the provision of CCTV is a matter for the proprietor, unless significant crime and disorder problems can be demonstrated. In all cases, risk assessment should dictate the extent and sophistication of any CCTV considered appropriate.

2. Even in the town centre there is no insistence on 'state of the art' facilities. Installations should simply reflect the technology available at the time for a moderate outlay i.e. the system should be colour not monochrome; resolution should be sufficient to enable a face to be recognised without undue difficulty from a still image; coverage should be good; camera views should not be fatally compromised by bright lights; recordings should be kept within Data Protection Act guidelines but sufficient to respond to any police request for data, made within a reasonable time.

3. Provided that the video data is accessible to authorised officers on request, no requirement will be imposed that recording equipment shall be compatible with that of enforcement bodies. Nevertheless, if there are no cost implications and no unreasonable diminution in the potential choice of equipment suppliers, the Licensing Authority will sympathetically consider representations that a new CCTV system should be compatible with a district CCTV system.

Door supervision

1. Where premises are situated within areas of stress, making it likely that they will be challenged on a regular basis by individuals who are under age, inebriated, believed to be potentially violent or intent on trading in drugs the Licensing Authority will favour a formal condition, requiring sufficient provision of door supervisors. Outside of those stress areas, the Licensing Authority may impose such a condition where a review indicates that additional management controls are needed.

2. A quiet country pub has no need of door supervisors and a town centre bar is unlikely to need them in the early part of the week or when serving lunches. A heightened risk of disorder (e.g. from a 'local derby' football match) may result in a temporary need for door staff. This will not normally be covered by a licence condition but failure to make suitable arrangements may have consequences if there is a licence review.

3. Events primarily aimed at unaccompanied children need greater supervision. The same is true of pole dancing establishments, since additional supervision is required in the performance area. Formal requirements for door supervision will generally be framed in terms of risk assessment rather than numbers and times but where remedial measures are imposed at review, an explicit specification may be imposed.

4. Door supervisors are expected to prevent customers from departing premises with bottles or drinking vessels. In areas covered by Designated Public Place orders, it may be appropriate to advise customers that consuming alcohol outdoors other than in a beer garden or pavement café may leave them open to challenge by the police.

5. Door supervisors must be dressed in a way which distinguishes them from customers and the circumstances (e.g. a concentration of bars in a small area) may make it appropriate for them to wear high visibility clothing. The Licensing Committee will favourably consider representations for formal conditions to this effect.

Illegal drugs

6. The Safer Clubbing Guide mainly addresses the use of Ecstasy tablets by those attending night clubs. The content is now very dated but it contains some useful insights. Of course, the distribution and consumption of unlawful drugs is by no means limited to licensed premises.

7. Licensed premises are also sometimes used for illicit trade in stolen or contraband goods. Proper standards of management greatly reduce both risks. The Licensing Authority will respond positively to representations from the police, where measures are needed to control such activities.

Occupancy

1. Occupancy limits designed for fire safety cannot be placed on a licence but they can be used to address the crime and disorder consequences of crowding. Even where customers can get to a place of safety within a reasonable period, there may be significant effects from overcrowding. In circumstances such as a celebrity appearance, a special promotion or an emergency, gross overcrowding can generate resigned, collaborative behaviour which maintains order but in a crowded bar on Saturday night, the results may be frustration at not being served, arguments over invasion of personal space and an obstacle to door supervisors speedily defusing conflict. All of these problems are able (and likely) to occur long before the 'official' fire safety limit is reached. The Licensing Authority may therefore impose occupancy limits where representations describe these problems, irrespective of any ruling by the Fire Brigade on what is a safe

limit for their purposes.

Public safety

1. The Licensing Act 2003 complements but does not duplicate legislation such as the Health and Safety at Work etc. Act 1974. Detailed safety requirements will always fall to those other legal frameworks. The Licensing Act is nevertheless concerned with 'broad brush' public safety, in deciding whether premises satisfy the licensing objectives.

2. Licences are specific permissions for an activity, rather than universal sets of rules. Licensing can assist by agreeing in advance e.g. a particular arrangement of linked seats or a particular number of stewards.

3. A feature of leisure businesses is that the co-operation between them is often as important as the way they are managed individually. Consistent policies on the admission of known troublemakers, competition for taxi services and networked radio systems illustrate this. What the Licensing Act does well is to address these networking and sharing issues and it can be used to bring irresponsible premises into line.

4. Participation in Pubwatch etc. is voluntary but failure to participate in schemes designed to maintain public order would weigh heavily, on licence review, as would evidence of a failure to engage with police officers or the Licensing Authority.

5. Detailed fire safety shortcomings cannot be remedied by Licensing but gross fire safety failings would determine whether premises are suitable for licensable activities. Similarly, the experience of Fire Officers when dealing with a particular business may inform the Licensing Authority when it has to make a determination at a hearing. Evidence of an unco-operative approach or of incompetent management would have a bearing on the usefulness or otherwise of, for example, imposing additional conditions.

Prevention of public nuisance

1. The most obvious aspect of public nuisance is noise, the primary source of which is amplified music, either uncontained outdoors or emanating from poorly insulated premises.

2. As customers leave licensed premises, the sound of their conversation and car doors can disturb residents. Potentially greater problems arise when customers congregate outside the licensed premises. The licence holder has a direct responsibility for that and Licensing can be used to deal with those problems.

3. Disturbance caused some distance away is difficult to relate back and

generally falls outside the scope of the Licensing Act.

4. Ancillary noise from equipment directly associated with entertainment (e.g. portable generators) will be addressed when necessary through licence conditions. Licensing controls on such matters as siting, specification and times of use may be augmented by powers exercised under noise legislation.

5. Equipment there as part of the day-to-day functioning of the premises (e.g. air conditioning units) cannot be controlled by Licensing conditions.

6. The Licensing Committee will not take account of the special circumstances of individual residents when deciding what is acceptable. Shift workers or neighbours with a very exaggerated sensitivity to noise are not a reasonable benchmark. Dwellings will be treated as though they are occupied by an 'average' person, with average expectations. Where the dwelling serves a particular purpose in housing vulnerable people (e.g. a nursing home or a hostel for the homeless) the special nature of that building will be taken into account when evaluating applications. The nearness of dwellings and their construction type will be taken into account, along with the number of people potentially affected.

7. The extent of community participation in the licensed activity is also a factor in what will be seen as reasonable.

8. The frequency of relatively noisy licensable activities at a given site is a material factor. It may be that musical events should take place on a particular field no more than two or three times a year or that residents should be guaranteed relative peace from Sunday to Thursday, to make up for the impact of events or entertainment held at a public house at weekends.

11. The time of day is crucial to determining the impact of noise. Background noise falls away significantly, from the evening into the early hours. Amplified music which may not be noticed in the middle of the day may be very intrusive if it continues into the night.

12. Good neighbour practices such as keeping doors and windows closed while music is playing often make a greater contribution to avoiding nuisance than specialist technical measures. Nevertheless, more substantial sound attenuation and more robust management measures are appropriate where music is played regularly at high volume.

14. Movement in and out of a building can allow music to escape and that may lead to restrictions being imposed.

The protection of children from harm

1. The Act has inbuilt provision for the protection of children from harm. It does this by prohibiting the sale of alcohol to children and by controlling their unaccompanied access to licensed premises.
2. In most cases, these basic restrictions are adequate. Premises where children are accompanied and supervised by their parents or carers will not generally merit any special additional measures.
3. Where entertainment of an adult nature is being provided or the atmosphere within the premises is likely to be particularly boisterous, the presumption is that access by children should be restricted.
4. Where the Licensing Committee has a reasonably founded concern, based on representations made to it, that children may be exposed to an atmosphere in which drug taking is approved or that they may witness transactions of a drug related nature, it may exercise its discretion to limit access by children to those premises, without prejudice to any other formal action which might be appropriate in the circumstances.
5. Where representations are made about access by children, consideration will be given to restrictions specifying different cut off times for different ages. Restrictions may be related to particular circumstances, such as the showing of a football match on television, with an elevated consumption of alcohol.
8. Where children are old enough to be present on licensed premises without being accompanied by an adult, special restrictions will not be imposed, unless there are compelling reasons.
9. Staff at events such as youth discos, specifically targeted at unaccompanied children, may be required to submit to Criminal Records Bureau checks, as a licence condition, if representations to that effect are received.
10. The system of age classifications for films imposes controls on those who show them. The Licensing Authority will by default follow the recommendations of the British Board of Film Classification but retains the right to allocate its own classification or to modify advisory information to consumers or the manner in which it is given.
11. In matters concerning the protection of children from harm, the Licensing Authority nominates the Director of Children's Services for Swindon Borough Council as the 'responsible authority' within the terms of Section 13 (4).f of the Licensing Act.
12. When making an independent determination of the certificate to be applied to a film for local release, the Licensing Authority will broadly follow the BBFC

guidelines but will take into account the nature of the intended audience and any special circumstances which apply at the time.

Delegation

The Licensing Authority will follow the scheme of delegations outlined in paragraph 13.79 of the Guidance issued under Section 182 of the Licensing Act 2003.

Modification of this Licensing Statement

In accordance with the Licensing Act, this Licensing Statement will be reviewed to take account of legal changes as appropriate but a full review will be carried out every three years. Binding legal precedent may appear, invalidating parts of this policy. In such a case, the Statement shall stand but with the delegated deletion of the minimum amount of text necessary to restore compliance. This task only will be delegated to the Director of Law and Corporate Governance. No replacement or substitute wording will be inserted until a formal consultation accordance with the requirements of the Act, has been completed.