

LICENSING COMMITTEE - 9 NOVEMBER 2020

Chair - Councillor A P Edgeller

A G E N D A

- 1 Apologies
- 2 Officer's Reports

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	REPORT OF THE HEAD OF OPERATIONS	

Membership

Chair - Councillor A P Edgeller

C A Baron	D McNaughton
J A Barron	A M Loughran
A R G Brown	M Phillips
A P Edgeller	R M Sutherland
M Green	

Report of:	Head of Operations
Contact Officer:	Julie Wallace
Telephone No:	01785 619605
Ward Interest:	All
Report Track:	Licensing 9/11/2020 Council 24/11/2020

LICENSING COMMITTEE

9 NOVEMBER 2020

Draft Local Authority Statement of Licensing Policy 2020 – 2025

1 Purpose of Report

- 1.1 Cabinet is asked to consider the draft “Statement of Licensing Policy” and to note its contents.

2 Relationship to Corporate Business Objectives

- 2.1 To improve the quality of life of local people by providing a safe, clean, attractive place to live and work and encouraging people to be engaged in developing strong communities that promote health and wellbeing.

3 Report Detail

- 3.1 A requirement of the Licensing Act 2003 is that all local authorities (or Licensing Authorities as they are known under the Act) must draft, consult on and publish a “Statement of Licensing Policy”. The Statement of Licensing Policy must have regard to the content of a set of guidance notes published by the Secretary of State.
- 3.2 The Act requires each Authority to review its Statement of Licensing Policy whenever necessary and, in any case, every five years. The current Statement of Licensing Policy was reviewed and approved in 2015, and therefore a new statement is required to be in place by the end of November 2020.
- 3.3 The new Statement of Licensing Policy has been produced in partnership with Cannock Chase District Council. The reason for this is that Cannock Chase District Council share the same Legal Service with Stafford and the statutory and legal principles are the same. A further reason is that both Councils have the same partner organisations that are “Responsible Authorities” under the Act. The draft Statement of Licensing Policy is attached as **APPENDIX 1**.

- 3.4 The content of the Policy follows the statutory guidance set out by the Secretary of State and is supported with local content which is appropriate and relevant for each authority.
- 3.5 The intention is for the Policy to be overarching and therefore a number of links are included to other relevant information which is likely to be subject to minor change within the next 5 years. Any changes in legislation or other fundamental issues will lead to the Council reviewing the Policy as a whole.
- 3.6 This draft Policy has highlighted a number of key areas for the Council and other Responsible Authorities to embrace, which have gained in emphasis since the last Policy was approved:
- Safeguarding and the Prevention of Child Sexual Exploitation
 - The importance of promoting and supporting licensed premises and the night time economy
 - The need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the local community
 - The importance of licensing public spaces owned by the Council
- 3.7 The draft Policy was out for consultation from 24 August to 5 October 2020. The draft Policy was sent to the following statutory consultees:
- The Chief Officer of Police
 - The Fire and Rescue Authority
 - The Local Authority's Director of Public Health
 - Persons/bodies representative of premises licence holders
 - Persons/bodies representative of club premises certificate holders
- 3.8 In addition the consultation included:
- General public consultation by advert and a web based survey,
 - Consultation with other Responsible Authorities, eg Safeguarding, Trading Standards,
 - Focus Groups with the business community, eg Pub Watch, Local Responsible, Bodies Group, Town Centre Partnership,
 - Consultation with disability and equality groups,
 - Consultation with Stafford and Surrounds Health and Wellbeing Group,
 - Reference to the consultation was included on all Licensing communications with the trade.
- 3.9 The Council received no specific consultation responses. As a result it is proposed that the draft Statement of Licensing Policy be implemented as drafted, save for changes to the Foreword by the Cabinet Member and an update to the Consultation paragraph at section 2.

4 Implications

4.1 Financial	Nil
Legal	Set out in the body of this report.
Human Resources	Nil
Human Rights Act	A Community Impact Assessment has considered the Human Rights Act.
Data Protection	Nil
Risk Management	The report ensures that our Licensing Policy is up to date and encompasses guidance and best practice.

4.2 Community Impact Assessment Recommendations	<p>The Borough Council considers the effect of its actions on all sections of our community and has addressed all of the following Equality Strands in the production of this report, as appropriate:-</p> <p>Age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.</p>
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Previous Consideration - Nil

Background Papers – File available in Operations

Statement of Licensing Policy for Licensing Act 2003

November 2020

Draft



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1. Foreword by Councillor Jonathan Price.

I am pleased to introduce Stafford Borough Council's draft Licensing Policy 2020-2025. 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 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, therefore, will seek to work with partners and operators wherever possible to achieve better local health outcomes.

We want to encourage businesses to come to our Borough. We want to give them clear advice and help so they know what their responsibilities are. We want to make sure that all businesses, new or established, maintain the standards required of them by law. In doing this we can help businesses flourish while protecting our residents and visitors to the Borough.

This document will inform the work of the Council for all matters related to the Licensing Act 2003. It should be considered by all those carrying out licensable activities in the Borough.

I welcome the draft publication of this policy and hope it will contribute to the prosperity of our communities, the success of local businesses, and improve the safety of and the quality of life for local residents and visitors to our area.



Councillor J Price
Cabinet Member for Environment

2. Introduction

Consultation

- 2.1 The Council carried out a statutory consultation exercise before implementing this policy. The Council circulated the draft policy to local stakeholders / partners, including Responsible Authorities and the local trade representatives, seeking contributions, feedback and comments. The consultation was open for six weeks, from 24 August 2020 through to 5 October 2020.
- 2.2 The Council introduced the policy to local working group meetings, including the Town Centre Partnership and the PubWatch groups in Stafford and Stone.
- 2.3 The Council highlighted the consultation on the Council's website and placed an advertisement in the Staffordshire Newsletter, inviting comments and contributions for the draft policy.

Commencement

- 2.4 This policy will come into force on 24 November 2020.

Future Changes

- 2.5 The Council is aware that the Government may from time to time amend the Licensing Act 2003, subordinate legislation and statutory guidance. The Council does not intend to automatically revise this policy document because of any such amendments and readers of this document are advised to check on the Home Office/Gov.uk website to ensure they have the latest information.
- 2.6 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.
- 2.7 The Council will 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

- 2.8 The Licensing Authority will exchange information with bodies responsible for auditing, 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 Fire and Rescue Service, other Council departments and Enforcement agencies (when required and is necessary) and the National Fraud Initiative.

2.9 Any information provided will be used by Stafford Borough 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 Borough. The Council will share information with agencies involved in licence processing, or licensing enforcement where the law requires or permits us to do so. For further information, see the following <https://www.staffordbc.gov.uk/licensing-excluding-taxi-licensing-how-we-use-your-personal-information>

2.10 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

2.11 Through the Council's policies and service delivery the Council's main aims for equality and diversity are to:

- Eliminate unlawful discrimination
- Promote equality of opportunity
- Promote good relations between diverse communities

2.12 A link to the Council's Equalities and Diversities Policy can be found <https://www.staffordbc.gov.uk/equalities-and-diversity1>

Crime and Disorder Act

2.13 Under section 17 of the Crime and Disorder Act 1998 the Council is required to promote the prevention of crime and disorder within its area. The Council works closely with Responsible Authorities to ensure that the Licensing Objectives are promoted and seeks to ensure that Council decisions are proportionate and appropriate.

2.14 The Council will work in partnership with licence holders, local businesses, Responsible Authorities, Councillors and local people with the aim of promoting the licensing objectives.

2.15 The Licensing Authority should look to the Police as the main source of advice on crime and disorder. The Council will also liaise with its Corporate Business and Partnerships Team.

2.16 A map of Stafford Borough and its Wards can be viewed <https://www.staffordbc.gov.uk/DemServWards> .

3. The Licensing Objectives, Responsible Authorities and 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://www.gov.uk/government/organisations/home-office>

Licensing Objectives

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

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- 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 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, 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 and Stoke-on-Trent Fire and Rescue Service
- Staffordshire County Council Trading Standards
- The Council as the Local Planning Authority
- The Council's Environmental Health Service

- Health & Safety (either this Council or the Health and Safety Executive)
- Staffordshire County Council Children Services
 - Health Authority
 - Home Office

3.7 Contact details for all of the authorities can be found at:
<https://www.staffordbc.gov.uk/responsible-authorities>

Licensable Activities

3.8 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 - a Premises Licence, a Club Premises Certificate or a Temporary Event Notice.

3.9 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

3.10 A further explanation of licensable activities is available
<https://www.gov.uk/guidance/beer-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 considered 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 considered when decisions are made by the Licensing Committee, the Licensing Sub Committee and authorised officers.

Applications and Representations

- 4.3 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 are included in **Section 11**.

Contents of This Policy

- 4.4 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 later 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, the sale of alcohol in retail premise, cafes, and takeaways. 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 Section 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 Licensing. 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 in town and city centres.
- 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 crime and disorder
 - The protection of children from sexual exploitation
 - Reducing anti-social behaviour in and around licensed premises
 - 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 daytime and night-time economy
 - Giving licence holders greater flexibility to meet their customers' needs and expectations
 - Encouraging responsible retailing and consumption of alcohol by preventing underage sales and alcohol related health issues.
- 5.8 The Council recognises that its decisions can have significant effects on residents, customers and local businesses. 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 The Licensing Authority will seek to encourage the provision of a wide range of high quality and well-managed venues in the Borough of Stafford. The Licensing Authority will seek to ensure that premises are safe, vibrant meeting places for people who live, work and visit the area.
- 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 with contrasting types of patrons, styles of entertainment and characteristics. 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 Council's Economic Growth Strategy aims to develop a high value, high skill, innovative and sustainable economy and maximising our visitor offer in Stafford, the market towns of Stone and Eccleshall and villages across the Borough is a key delivery priority.
- 5.13 As we strengthen and grow our economy, we must also ensure that we continue to provide a safe and healthy environment that people want to be a part of.
- 5.14 It's important that supporting a vibrant economy is balanced with a controlled expansion of licensed premises and what follows, and the need to ensure public safety and quality of life for local people.

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 future local economy plans.
- 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 Licensing Objectives are promoted. In many cases the suitability of an applicant and the suitability of premises are part of such considerations.

Online Applications

- 6.2 Applications can be made using the forms on the Home Office website. <https://www.gov.uk/guidance/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 <https://www.staffordbc.gov.uk/responsible-authorities>

Online Payments

- 6.5 In order to fulfil its obligations under the Provision of Services Regulations 2009 (and the EU Services Directive) the Council will support 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 Prior to 2015, personal licences were issued for a period of 10 years. In April 2015, the law was changed and personal licenses no longer expire. Consequently, there is no longer a need to renew a personal licence.
- 6.8 Licence holders must contact the Licensing Section for a replacement licence where there has been a change of circumstances in respect of the licence holders name or address, or they have committed a relevant offence. It is also possible 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, which is cheaper, easier and quicker than the full variation process.

- 6.10 A minor variation is defined as one that could not impact adversely on any of the four licensing objectives. (These are: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.)
- 6.11 The Minor Variations process cannot be used to add the retail 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
<https://www.gov.uk/government/publications/minor-variations-to-premises-licence-application-form>

Temporary Event Notices

- 6.13 The Licensing Act 2003 provides that Temporary Event Notices (TENs) 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 Temporary Event Notices (TEN's) do not seek permission to carry on licensable activity and do not make application for it. TEN's 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; and 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 are the only bodies that can make representations regarding standard temporary event notices.

- 6.18 The Police and Environmental Health Service have a period of three working days from when they are given the notice to object to it based on any of the four licensing objectives. At any time before a hearing is held or dispensed with, the Police or Environmental Health Service 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 Environmental Health Service objections relating to late TENs.

Event Management

- 6.20 It is the policy of Stafford Borough Council to provide a forum within which the local authority and other agencies may develop a coordinated approach to public safety when the local authority becomes involved in, or is made aware of, certain large scale or high risk events this includes events which take place on local authority land..

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.

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

- 6.21 Events which include White Collar Boxing are of concern to the SAG and organisers must advise the Council's Licensing Team 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.

- 6.22 Please see:
<https://www.staffordbc.gov.uk/Safety-Advisory-Group-Terms-of-Reference>

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 section, which will be able to advise you.

Advice for Residents

- 7.3 The Home Office and the Institute of Licensing have published a Factsheet for local residents concerned about problem premises. The Factsheet can be found at:
<https://www.staffordbc.gov.uk/Advice-for-Local-Residents-Premises-Licence-Reviews>

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 First Response, Staffordshire County Council's child protection service. The local Safeguarding Board also provide advice on how to prevent child sexual exploitation. The Staffordshire Safeguarding Children Board web site provides safeguarding information for the public, parents and carers
<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. The prospective licence holder however must be aware that an original Premise Licence was tailored for the business activity of the previous operators and may not accurately reflect the new operator's requirements.

7.8 The licence holder and the Designated Premises Supervisor must ensure that a 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 complaints and possible breaches of the licence conditions.

Enforcement

7.9 It is the intention of the Licensing Authority to work proactively with all Responsible Authorities and Licence holders. The Licensing Authority will try to ensure proportionate targeting of agreed problem premises and focus on high-risk licensed activities. There will be a corresponding lighter touch for well run, lower risk premises.

7.10 The Council's Enforcement Policy can be found <https://www.staffordbc.gov.uk/enforcement-policy>

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 used friendly.

Targeted:

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

- 7.12 The Council will engage with the licensed trade in tackling underage sales ensuring that there are stringent 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 line with the statutory guidance published under Section 182 of the Act.

Risk Based Inspections

- 7.13 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 and will take place as judged necessary on a risk-based approach.
- 7.14 This will ensure that the Licensing Authority manages its resources efficiently and that 'effective enforcement' is directed at 'problem premises'.

Reviews

- 7.15 The availability of a review of licences or club certificates provides a key protection for the community where the Licensing Objectives are being undermined. The review system should allow the Licensing Authority to apply a light touch bureaucracy to the grant or variation of a licence or certificate. The Licensing Authority may then take a more robust approach when problems relating to the Licensing Objectives arise later in respect of any premises.
- 7.16 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.
- 7.17 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

- 7.18 The Licensing Sub-Committee must, under section 52(4) of the Licensing Act 2003 having full 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.

7.19 It should be noted that there is certain criminal activity 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

7.20 Where a premises licence has been revoked or other sanctions imposed by the Council and the same operator applies some time later for the grant of a new premises licence or variation of 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.

7.21 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 a premise 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.

7.22 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 have a new designated premises supervisor and new licence holder or the premises who are not associated to the previous licence holder. The Licensing Act 2003 defines associate as:

7.23 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

7.24 On occasion applications are made to the Council that have particularly pressing time limits - for example temporary event notices and premises licence review applications.

7.25 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.

7.26 In consequence the Council's Head of Law and Administration, in consultation with the Chairman of the Licensing 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.

7.27 Where a premises licence has been revoked by the Council, or other sanctions/conditions have been imposed, and the same operator applies some time later for the grant of a new premises licence, the applicant must be able to demonstrate that there has been a significant change to the management structure of the business operation.

7.28 Any conditions offered by the applicant in support of their application must also demonstrate sufficient changes have been made to the business operation and that the new applicant is not connected to the holder of the previous premises licence.

7.29 In serious cases of crime or previous mismanagement of premises, the licensing authority and their responsible authorities are also likely to require that the premises have a new designated premises supervisor and new licence holder of the premises who are not associated with the previous licence holder.

8. Premises Licences and Club Premises Certificates

A premises licence authorises the premises to be used for one or more of the following licensable activities:

- The sale of alcohol by retail
- The provision of regulated entertainment
- The provision of late-night refreshment

A premises licence is used where a premises is open to the general public.

A club premises certificate authorises qualifying clubs to be used to supply alcohol to members only; the general public cannot gain access to the premises and cannot just 'walk in' and buy a drink, as with a normal premises licence.

In licensed club premises, it is important to note that the premises are not open to the general public. Clubs must ensure they adhere to the club rules regarding admission to non-members.

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 focused on matters which are within the control of the individual licence holder. The Council will seek to avoid attaching blanket conditions or conditions that duplicate 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 produced a helpful document in respect of licence conditions, this can be found at:
https://www.acs.org.uk/sites/default/files/lobbying/the_institute_of_licensing_consultation_on_guidance_on_premises_licence_conditions.pdf

Premises that hold a Club Premises Certificate under the Act must ensure that they comply with their own club rules; the statutory conditions in respect of remaining a qualifying club, and general admission to the premises.

The general conditions

- 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:
- Condition 1 is that under the rules of the club persons may not be admitted to membership, or 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.
- 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.
- Condition 3 is that the club is established and conducted in good faith as a club (see section 63).
- Condition 4 is that the club has at least 25 members.
- 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

- 8.4 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. Details of these mandatory conditions can be found at
<https://www.legislation.gov.uk/uksi/2014/2440/resources> and
<https://www.legislation.gov.uk/uksi/2014/1252/schedule/made>

Licensing Hours

- 8.5 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.
- 8.6 The Licensing Authority acknowledges that greater consumer choice and flexibility is an important consideration when it comes to encouraging a thriving economy. This is important for local investment and employment opportunities. However longer licensing hours should not be permitted if evidence demonstrates that there would have been an adverse impact upon the promotion of the Licensing Objectives.
- 8.7 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

- 8.8 Capacity and fire safety issues are covered in this useful guide: <https://www.staffordshirefire.gov.uk/your-safety/business-safety/business-legislation/the-licensing-act-2003/>

Alcohol sold for consumption 'Off Premises'

- 8.9 Premises licence holders and DPS' with particular responsibility for town centre Off Licences 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.
- 8.10 In particular, the sale of single cans of alcohol to those who have a tendency to drink in the street or within our town centres should be avoided. Where a direct link is established between sales of alcohol from a premises and 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
- 8.11 Licence holders and DPS are also reminded that it is an offence under Section 141 of the Act, to knowingly sell alcohol or allow the sale of alcohol to a person who is drunk.

Children in premises

- 8.12 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.
- 8.13 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 (below 18); restrictions or exclusions when certain activities are taking place; requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and full exclusion.
- 8.14 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.
- 8.15 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.

Live Music

- 8.16 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

- 8.17 Adult entertainment is only authorised where the Premises Licence 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.
- 8.18 Existing licence holders should be aware that if adult entertainment is not mentioned within their current Premises Licence 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.

Suspension of Licence/Certificate

- 8.19 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 premises licence or club premises certificate.
- 8.20 When annual fees fail to be paid the Licensing Act 2003 requires licensing authorities to suspend the premises licence or club premises certificate.
- 8.21 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.
- 8.22 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 of the suspension.
- 8.23 The <https://www.legislation.gov.uk/ukpga/2011/13/section/120/enacted> will be lifted on the day that the annual fee is paid.

Petrol Stations s176

8.24 Section 176 of the 2003 Act prohibits the sale or supply of alcohol at motorway service areas (MSA's) and from premises which are used primarily as a garage, or are part of premises used primarily as a garage. Premises are used primarily as a garage if they are used for one or more of the following:

- The retailing of petrol;
- The retailing of derv (diesel);
- The sale of motor vehicles; and
- The maintenance of motor vehicles.

8.25 It is for the licensing authority to decide, based on the licensing objectives, whether it is appropriate for that premises to be granted a licence, taking into account the documents and information listed in section 17(3) and (4) which must accompany the application.

8.26 If a licence is granted in respect of a premises and the primary use of that premises subsequently changes (for example, the primary use becomes that of a garage rather than a shop) it would no longer be legal to sell alcohol on that premises.

8.27 If a relevant representation is made, the licensing authority must decide whether or not the premises are used primarily as a garage. The licensing authority may ask the licence holder to provide further information to help establish what the primary use of the premises is.

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 'Staffordshire Public Health' (SPH) 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 SPH working together to ensure that the health impacts of alcohol licensing are considered. Although the DPH will be notified of all licence applications, it is acknowledged not every application will need a response from public health. 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:
- (a) Prevention and early intervention
 - (b) Treatment and recovery
 - (c) 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 March 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.

The Licensing Authority as a Responsible Authority

- 9.8 Although the Licensing Authority is a Responsible Authority (RA), it will not usually need to duplicate representations or applications made by other Responsible Authorities and other persons. However, if these parties do not make representations and the Licensing Authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as a Responsible Authority.
- 9.9 The Licensing Authority may sometimes be in a better position than other RAs to "see the full picture" and connect apparently unrelated reports from different sources.
- 9.10 Where appropriate, the Licencing 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 and 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, it is possible that the premises 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 than 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 focused 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 service

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.

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.

To date the Council has not consulted on or published a cumulative impact assessment.

Early Morning Alcohol Restriction Orders (EMRO)

- 9.17 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 specific premises.
- 9.18 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.
- 9.19 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.
- 9.20 Chapter 17 of the statutory 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 deals with EMROs.

Late Night Levy

- 9.21 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.
- 9.22 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.
- 9.23 Legislation allows the prescribed time to start from midnight but it is up to the Council to decide when they wish to apply it.
- 9.24 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

- 9.25 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.

9.26 The public spaces which are currently licensed by the Council are listed below:

- Stafford Town Centre
- Stone Town Centre
- Westbridge Park
- Stafford Castle
- Victoria Park
- Rowley Park

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	All cases	
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 Stafford Borough 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 Stafford Borough 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 and 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

Stafford Borough 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@staffordbc.gov.uk or at Civic Centre, Riverside, Stafford, ST16 3AQ

If you wish to complain about how your personal information has been handled by Stafford Borough 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 at: <https://www.staffordbc.gov.uk/Complaintsprocedure>

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 <https://ico.org.uk/> You can also find details of how we handle your personal information by visiting <https://www.staffordbc.gov.uk/PrivacyNotices>

