

Summary of main changes (Licensing Policy)

New Paragraph

- 5.5** Where a matter is appearing before the Licensing Committee and an applicant decides to amend their application prior to the hearing then the Committee clerk should be informed prior to the commencement of the hearing so that the Committee are afforded the necessary time to consider it.

Reason: This is a new paragraph and is to assist the Committee members

Amended paragraph:

6.6 Relevant Representation

A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives and the steps proposed by the applicant to promote the licensing objectives are considered to be inadequate. In other words, representations should relate to the impact of licensable activities carried on from premises on the licensing objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

Replaces:

6.6 Relevant Representation

~~A relevant representation has been defined in a number of stated cases which have appeared before the High Court and which are binding on the Licensing Authority. Of particular note is the case of *Daniel Thwaite's Plc v Wirral Borough Magistrates' Court* and *The Sauehall Massie Conservation Society and*~~

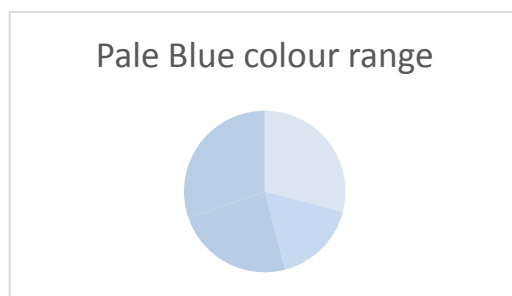
~~Wirral Metropolitan Borough Council [2008] EWHC 838 (Admin). In brief it was said that a licensing authority should look for some real evidence to support the representation made. Fears and speculation as to what might happen will not be enough. Whilst this case remains relevant, Herefordshire Council will expect a representee to give evidence to substantiate a conclusion that the application as applied for is unlikely to promote the licensing objectives.~~

Reason: The new paragraph follows the Section 182 Guidance

New Paragraphs

- 7.4** The act also requires that the applicant satisfies the Licensing Authority that they have complied with the legislation in respect of the notices, the requirements which are laid out in the regulations.
- 7.5** No licence will be issued until the Licensing Authority is in receipt of the newspaper advert. The onus is on the applicant to supply this prior to the end of the consultation period. Any delay by the applicant will result in a delay in issuing the licence.
- 7.6** In respect of the notices to be displayed at the premises, again the onus is on the applicant to demonstrate to the authority that the regulation have been complied with. The Licensing Authority requires evidence to demonstrate that the notices have been in place for the required time and in the correct locations. Whilst the method of evidencing compliance rests with the applicant, photographic evidence will only be accepted if it correctly dated within the required period. It is suggested that evidence should be dated on the first, last and at weekly periods throughout the period. This evidence will not be checked until the 28 day consultation period has concluded as the authority must be satisfied that the requirement includes the full period.

- 7.7** Where an applicant decides to amend their application prior to the end of the consultation period then the Licensing Authority requires the applicant to amend the site notice and their application form to reflect this.
- 7.8** Prior to the consultation process, the applicant should inform the Licensing Authority where they propose to place the notices so that the Authority are satisfied that members of the public will see them. For the avoidance of doubt, a clear location map/plan should show the proposed locations of notices, particularly for those premises which require additional notices, due to the size of the premises being applied for.
- 7.9** In accordance with the guidance the authority reserves the right to conduct random and unannounced visits to premises to confirm that notices have been clearly displayed on pale blue paper and include relevant and accurate information. Pale blue is defined within the chart below:



Reason: All of the above have been included to provide guidance in respect of meeting the legislative requirements of the Act.

New Paragraphs

- 7.17** Where an application is found to be defective after the consultation period has started the applicant will be informed. The applicant can then either wait for the end of the consultation period in which case their application will not be determined or can withdraw the application.
- 7.18** Any further application submitted will attract the full fee and no refunds will be given.

7.22 Where temporary events notice are given and found to be defective or for some reason the event does not take place, no refund will be given. The Licensing Authority will not permit TEN's to be moved to different dates.

Reason: these paragraphs have been included so the Licensing Authority can operate on a full cost recovery basis.

New paragraphs

8.1 New Applications

It is expected that prior to application an applicant will contact the responsible authorities before submitting their operating schedule with their application.

8.2 The applicant should also make contact with local residents who may be affected by the application before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application.

8.3 The application form should include sufficient information to enable the Licensing Authority, any other person and any responsible authority to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area and are expected to make it clear why the steps they are proposing are appropriate for the premises. A description of the business to be conducted on the premises must also be included in the application form.

8.4 The Licensing Authority requires applicants, to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physically environment crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;

- any risk posed to the local area by the applicants' proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

8.5 Where application is made for live or recorded music, on a premises licence, an applicant is required to state the maximum capacity of the premises, as this is relevant in respect of whether the activity applied for is licensable and whether conditions may be required to promote the licensing objectives.

8.6 In addition to the requirements under the legislation in respect of plans, the Licensing Authority requires applicants to show on their plan the location of CCTV cameras and the area of coverage.

Reason: These paragraphs meet the requirements of Section 182 of the Act

New Paragraph

8.18 It is expected that there shall be on site, a written authorisation, from either the designated premises supervisor or a personal licence holder allowing other members of staff to sell alcohol on their behave. This is to meet with the mandatory condition.

Reason: These paragraphs meet the requirements of Section 182 of the Act

New paragraph

8.22 Delivery Services

Persons who run premises providing 'alcohol delivery services' should notify the licensing authority that they are operating such a service in their operating schedule. This ensures that the licensing authority can properly consider what

conditions are appropriate. Premises with an existing premises licence, which choose to operate such a service in addition to their existing licensable activities, should contact the licensing authority for its view on whether this form of alcohol sale is already permitted or whether an application to vary the licence will be required.

Reason: This has been included due to the rise in delivery services as a result of the pandemic

Amended paragraph

8.26 Petrol Stations

There are restrictions of the sale of alcohol from petrol stations. The Licensing Authority expects an applicant to demonstrate the primary use of the premises in order to establish whether the premises licence should be rejected. An applicant will be required to supply the data to demonstrate that the primary use of the premises is not a garage. Each case will be judged on the individual circumstances of the application.

Replaces

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~~There are restrictions of the sale of alcohol from petrol stations. The Licensing Authority expects an applicant to demonstrate the primary use of the premises in order to establish whether the premises licence should be rejected. Each case will be judged on the individual circumstances of the application.~~

Reason: The paragraph provides greater clarity in respect of the requirements of the Licensing Authority

New paragraph

- 18.4** The Licensing Committee may decide to suspend a licence for a short period of time as a means of deterring the holder from allowing the problems that gave rise to the review to happen again.

Reason: This paragraph meet the requirements of Section 182 of the Act

Amended paragraphs

18.10 Reviews launched by members of the public

The Licensing Authority will expect members of the public to bring to the attention of the licensed premises, at an early stage, any issues they have in relation to those premises so that the premises have an opportunity to address the issues.

- 18.11** Where a member of the public is uncomfortable with doing this then they should contact their local elected Councillor who will be able to address the issues with the premises in the first instance.

- 18.12** Where these methods have been tried and failed then the issues should be reported to the responsible authorities, to afford them the opportunity to work in partnership with the premises, the person(s) raising the issue and themselves to address the problems at the premises prior to a review being launched.

- 18.13** Members of the public will be expected to produce some form of evidence supporting their reason for calling the review. This evidence should show the time and date of the incidents which occurred together with the outcome.

- 18.14** Other than in exceptional circumstances the Licensing Authority will not permit more than one review originating from a person, other than a responsible authority, in relation to a particular premises, on similar

grounds, unless 12 months have passed since the previous review. This is to give the premises an opportunity to address the issues.

Replaces

~~18.9~~ **Reviews launched by members of the public**

~~The Licensing Authority will expect members of the public to bring to the attention of the responsible authorities issues concerning licensed premises at an early stage, to afford those responsible authorities the opportunity to work in partnership with the premises, the person(s) raising the issue and themselves to address the problems at the premises prior to a review being launched.~~

~~18.10~~ Members of the public will be expected to produce some form of evidence supporting their reason for calling the review. This evidence should show the time and date of the incidents which occurred together with the outcome.

~~18.11~~ It must be stressed that the licensing authority may reject applications from members of the public for a review or representations, if the Licensing Authority considers them to be frivolous, vexatious or repetitious. In the case of being repetitious this means that, in the opinion of the Licensing Authority, a reasonable period of time has not lapsed since an earlier representation or review application.

~~18.12~~ Members of the public may also make a complaint against premises regardless of whether they have previously made representations or called for a review of an existing licence. The complaints may in the first instance be made to the Licensing Team who will forward it to the relevant responsible authority (e.g. In the case of crime the complaint will be forwarded to the police).

Reason: These paragraphs are to provide greater clarity to members of the public.

New paragraph

20.23 HAND Scheme

The HAND scheme (Herefordshire Against Night time Disorder) operates in Hereford City and some of the other market towns. The scheme is run by the Licensees for the Licensees and is intended to reduce crime and disorder in licensed premises, by identify those members of the public who cause trouble and barring them from all premises who are members of the scheme. The scheme involves not just alcohol premises but takeaways as well and is fully supported by the police and the Licensing Authority who often attend their meetings as guests.

Reason: This has been included to assist with the prevention of crime and disorder.

New paragraph

21.11 The Licensing Authority will often request a condition be placed on a licence, for large outdoor events, requiring the premises licence holder to submit a draft Event Management Plan (EMP) 3 months prior to the event to the Safety Advisory Group for evaluation and then a final EMP a fortnight before.

Reason: This has been included to assist with public safety at events.

Amended paragraph

23.30 The recommended conditions are:

1. The premises shall operate a Challenge 25 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of an authorised person' (as defined by Section 13 of the Licensing Act 2003) or the Police or an authorised trading standards Officer of Herefordshire Council. Prominent, clear and legible signage (in not less than 32 font bold) shall also be displayed at all entrances to

the premises as well as at, at least one location behind any bar advertising the scheme operated.

2. A written register of refusals will be kept including a description of the people who have been unable to provide required Identification to prove their age. Such records shall be kept for a period of 12 months and will be collected on a daily basis by the Designated Premises Supervisor and produced to the Police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised trading standards Officer of Herefordshire Council on demand.
3. The Licensee to prominently display notices advising customers of the "Challenge 25" policy.
The following proofs of age are the only ones to be accepted:
 - UK Photo Driving licence
 - Passport
 - PASS Hologram
4. All bar staff engaged in the sale of alcohol to be trained in responsible alcohol retailing to the minimum standard of BIIAB level 1 or any other training package equivalent to BIIAB level within one month of the date that this condition appears on this licence. (Where there are existing staff this training shall be completed within 3 months of the date that this condition first appears on the licence). Training records shall be kept on the premises and shall be produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised trading standards Officer of Herefordshire Council on demand.

Replaces

~~23.30~~ The recommended conditions are:

1. ~~The Licensee to adopt a "Challenge 25" policy where all customers who appear to be under the age of 25 and attempt to purchase alcohol or other age-restricted products are asked for proof of their age.
The Licensee to prominently display notices advising customers of the "Challenge 25" policy.
The following proofs of age are the only ones to be accepted:
 UK Photo Driving licence
 Passport
 PASS Hologram~~
2. ~~Staff Competence and Training:
The Licensee to keep a written record of all staff authorised to sell alcohol, the record to contain the full name, home address, date of birth and national insurance number of each person so authorised.
The staff record to be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police.
The Licensee to ensure that each member of staff authorised to sell alcohol has received adequate training on the law with regard to age~~

~~restricted products and that this has been properly documented and training records kept. The training record to be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police.~~

~~The Licensee to ensure that each member of staff authorised to sell alcohol is fully aware of his/her responsibilities in relation to verifying a customer's age and is able to effectively question purchasers and check evidence of proof of age.~~

~~The Licensee to ensure that each member of staff authorised to sell alcohol is sufficiently capable and confident to confront and challenge under 18s attempting to purchase alcohol.~~

~~3. Refusals Book:~~

~~The licensee to keep a register of refused sales of all age-restricted products (Refusals Book).~~

~~The refusals book to contain details of time and date, description of the attempting purchaser, description of the age-restricted products they attempted to purchase, reason why the sale was refused and the name/signature of the sales person refusing the sale.~~

~~The Refusals book to be examined on a regular basis by the Licensee and date and time of each examination to be endorsed in the book.~~

~~The Refusals Book to be kept on the licensed premises and made available for inspection by the Licensing Officer, Trading Standards or the Police.~~

Reason: This now reflects the conditions often sort by Trading Standards to protect children from harm.

Removal

Appendix 1 – Special Policy (Culmaltive Impact Policy)

This has been removed from the new policy due to the COVID pandemic as premises are now struggling and it appears that the need for it no longer exists. However, should it be shown there is a need for such a policy in the future, it could be reintroduced.

There are other minor amendments where the policy has been word crafted or amended slightly to provide greater clarity or to meet the requirements of legislation.