



**South  
Derbyshire  
District Council**

# **Licensing Act 2003**

## **Statement of Licensing Policy**

**Version 4**

## Contents of Policy

Reference	Detail	Page
1.	<b>Introduction</b>	3
2.	<b>Aim of the Policy</b>	4
3.	<b>Purpose of the Policy</b>	4
4.	<b>Application Process</b>	5
5.	<b>Right to make Representations and Consultations</b>	6
6.	<b>Cumulative Impact</b>	7
7.	<b>Licensing Hours</b>	9
8.	<b>Use of Standard Conditions</b>	9
9.	<b>Prevention of Crime and Disorder</b>	9
10.	<b>Public Safety</b>	10
11.	<b>Prevention of Public Nuisance</b>	11
12.	<b>Protection of Children from Harm</b>	12
13.	<b>Temporary Event Notices (TEN)</b>	13
14.	<b>Integrating Strategies</b>	14
15.	<b>Promotion of Equality</b>	15
16.	<b>Enforcement</b>	15
17.	<b>Designated Premises Supervisors and Personal Licence Holders</b>	16
18.	<b>Review of Premises Licence or Club Premises Certificates</b>	16
19.	<b>Fees</b>	17
20.	<b>Sexual Entertainment</b>	17
21.	<b>Early Morning Restriction Orders (EMRO)</b>	17
22.	<b>Administration and Delegation of Functions</b>	18
23.	<b>Contact Details</b>	18
<b>Appendix A</b>	<b>Map of the District</b>	19
<b>Appendix B</b>	<b>Licensing Scheme of Delegation</b>	20
<b>Appendix C</b>	<b>Responsible Authority Contact List</b>	22

## 1. Introduction

1.1 South Derbyshire District Council is the Licensing Authority under the Licensing Act 2003 (“the Act”). The Licensing Authority makes this Statement of Licensing Policy (“the Policy”) in accordance with Section 5 of the Act. It explains how the Licensing Authority will carry out its role under the Act.

1.2 In carrying out its functions, this Licensing Authority will have regard to the Section 182 Guidance issued by the Secretary of State and the Policy. This Licensing Authority will carry out its functions with a view to actively promoting the four licensing objectives:

- Prevention of crime and disorder;
- Public safety;
- Prevention of public nuisance; and
- Protection of children from harm.

Each licensing objective is of equal importance. The promotion of the licensing objectives is of paramount consideration at all times for this Licensing Authority carrying out their functions.

1.3 South Derbyshire is situated in the County of Derbyshire which includes 8 other local authorities. South Derbyshire is a mixed urban and rural district covering approximately 338 square kilometres with a population of 94,900 (2011 estimate). The town of Swadlincote is the main focus for employment, shopping and services in South Derbyshire. Hilton and Melbourne are the District’s next largest centres of population. The District includes a number of villages and settlements, such as the historically significant Repton and Shardlow and larger villages like Hatton and Willington.

1.4 A large part of the District has been included within the designated area of the National Forest. This major environmental initiative is creating a new and attractive landscape for work, recreation and wildlife. A map of the District is attached as Appendix A.

1.5 In producing the Policy, this Licensing Authority is required to consult with the following persons:

- The Chief Officer of Police;
- The Fire and Rescue Authority;
- Local Authority’s Director of Public Health in England;
- Other Responsible Authorities;
- Bodies/persons representative of local premises licence holders;
- Bodies/persons representative of local club premises certificate holders;
- Bodies/persons representative of local personal licence holders;
- Bodies/persons representative of businesses and residents in the area.

1.6 This Licensing Authority carried out an 8 week consultation period with the above persons. In addition, the Policy was placed on the Council’s website for consultation. The views of all persons have been given appropriate weight and all comments considered in an objective and reasoned way.

1.7 The Policy comes into effect on 7<sup>th</sup> January 2016 until 7<sup>th</sup> January 2021. During this period, this Licensing Authority will keep the Policy under review and make any changes as it thinks appropriate following consultation with the above persons.

## **2. Aim of the Policy**

2.1 In addition to the four licensing objectives, this Licensing Authority will seek to promote the following aims and objectives so long as they do not conflict with the four statutory licensing objectives:

- secure the safety and amenity of our communities;
- facilitate a safe and sustainable licensed trade that contributes to the economy and vibrancy of the District through minimising the regulatory burden on businesses, encouraging innovation and supporting responsible premises;
- reflect the needs of the community in relation to its cultural needs and diversity by supporting licensable activities, including live music, dancing, theatre and the other cultural experiences offered by such activities;
- effectively manage the night time economy and take action against those premises that are causing problems.

2.2 To achieve these aims, this Licensing Authority is committed to promoting best practice and to working in partnership with Derbyshire Constabulary, Derbyshire Fire and Rescue Service, other Responsible Authorities, local licensing authorities, local agencies, the licensed trade, other local businesses and local communities to promote the objectives as set out in the Policy.

## **3. Purpose of the Policy**

3.1 The Policy is concerned with the administration of the licensing functions required of this Licensing Authority under the Act. The Act regulates the following licensable activities:

- The sale by retail of alcohol;
- Supply of alcohol by or on behalf of a club, or to the order of a member of the club;
- Regulated entertainment;
- Late night refreshment.

3.2 The above licensable activities are authorised by premises licence, club premises certificate and/or temporary event notices. In addition, this Licensing Authority is responsible for personal licences.

3.3 With the introduction of the Live Music Act 2012 and the deregulation of what is classed as regulated entertainment, this Licensing Authority will determine what is regulated entertainment on a case-by-case basis based on the information provided by the applicant or existing licence holder. Any applicant or existing licence holder is advised to contact this Licensing Authority for further advice in order to discuss their proposed event/activities.

3.4 The Policy is designed to provide guidance for all parties involved or affected by the above licensable activities with the District. This includes:

- Applicants;
- Licence holders;
- Organisations or individuals planning events;
- Statutory agencies;
- Residents and business in the neighbourhood;
- Licensing decision makers.

- 3.5 As this Licensing Authority does not operate in a vacuum, there will be a high degree of overlap between licensing and other areas of regulation such as planning, building control, noise nuisance and health and safety, etc. However, this Licensing Authority can only deal with licensing issues and will not duplicate the requirements of other legislation. This Licensing Authority will not attach conditions to any premises licence or club premises certificate which are already provided for in other legislation. However this Licensing Authority would consider attaching appropriate conditions, for the promotion of the licensing objectives, if other legislation does not cover the unique circumstances of the proposed licensable activities.
- 3.6 This Licensing Authority recognises that the Act is not a mechanism for the control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business, which holds the licence, certificate or notice. However, licensing is a key aspect for the successful control and management of the leisure and night-time economy in town centres therefore this Licensing Authority would expect all licensees to be responsible for minimising the impact of their activities and the behaviour of their patrons on others within the vicinity of the premises.
- 3.7 The Policy will not undermine the right of any individual to apply for a variety of permissions and to have any such application considered on its individual merits, nor will it override the right of any person to make a representation on an application or seek review of a licence where provision has been made for them to do so in the Act.

#### **4. Application Process**

- 4.1 Applicants should set out the steps they intend to take to promote the licensing objectives in their operating schedule on the application form. This Licensing Authority would expect an applicant to carry out a full risk assessment of the premises and proposed licensable activities in producing the operating schedule. Any steps identified in the operating schedule will become a condition on the licence or certificate if granted.
- 4.2 Applicants are urged to discuss their proposals with this Licensing Authority and the Responsible Authorities prior to submitting an application. This will enable them to seek advice when formulating their operating schedule and may avoid the need for a hearing in response to relevant representations from a Responsible Authority.
- 4.3 Under the Act, the applicant is responsible for submitting a copy of the application on the Responsible Authorities unless the application is submitted online. If the application is submitted online, this Licensing Authority will forward a copy of the application to the Responsible Authorities.
- 4.4 Unless relevant representations are received from Responsible Authorities or other persons, there is no provision for this Licensing Authority to impose conditions on a licence and/or certificate other than in accordance with the operating schedule and relevant mandatory conditions. If no representations are made in respect of an application, this Licensing Authority is obliged to issue the licence and/or certificate on the terms sought.
- 4.5 Applications will not be valid unless properly made in accordance with the Act.
- 4.6 As part of the application procedure for a new or variation premises licence or club premises certificate, this Licensing Authority requires the applicant to provide a copy of the newspaper notice, to include the name of the newspaper and the date the notice appeared, in order to satisfy this Licensing Authority that the requirements of the Act have been complied with.

4.7 In addition, this Licensing Authority will check the notice displayed at the premises during the 28 days representation period. If the notice is not displayed at the time of the check, this Licensing Authority will notify the applicant and will commence the 28 days representation period from the day after the notice was displayed. A further check will be then carried out to ensure that the notice is displayed.

## **5. Right to Make Representations and Consultation**

5.1 Responsible Authorities are public bodies that must be notified of applications and are entitled to make representations in relation to the application for the grant, variation or review of a premises licence or club premises certificate.

5.2 Responsible Authorities include:

- This Licensing Authority;
- The Chief Officer of Police;
- Fire and Rescue Authority;
- Health and Safety Enforcing Authority under the Health and Safety at Work etc. 1974;
- Environmental Health;
- Planning Authority;
- Body representing those who are responsible for matters relating to the protection of children from harm;
- Local Authority's Director of Public Health in England;
- Trading Standards.

5.3 There may be additional Responsible Authorities that must be served notice of the application e.g. vessels. The applicant is advised to contact this Licensing Authority for further advice.

5.4 This Licensing Authority designates the Derbyshire Safeguarding Children Board as the body representing those who are responsible for matters relating to the protection of children from harm.

5.5 This Licensing Authority can act as a Responsible Authority in its own right. This Licensing Authority will determine when it is appropriate to act in its capacity as a Responsible Authority. This decision will be made with a view to promoting the licensing objectives and having regard to this Policy and the Guidance issued under Section 182.

5.6 This Licensing Authority will not act as a Responsible Authority on behalf of other parties i.e. local residents, local councillors or community groups. Such parties can make representations in their own right. However, if these parties have failed to act and this Licensing Authority is aware of relevant grounds to make a representation, it may choose to act in its capacity of a Responsible Authority.

5.7 This Licensing Authority will expect other Responsible Authorities to intervene where the basis for the intervention falls within the remit of that other Responsible Authority e.g. the Police should make representations on issues that undermine the crime and disorder licensing objective. This Licensing Authority will work with other Responsible Authorities to provide relevant intelligence that may provide more information in relation to their own evidence.

5.8 In acting in its role as Licensing Authority and Responsible Authority, this Licensing Authority will ensure that there is a clear separation of responsibilities to ensure procedural fairness and

eliminate conflicts of interest. The Officer advising the Licensing and Appeal Sub-Committee will be a different Officer to the Officer who is acting as the Responsible Authority.

- 5.9 In addition to Responsible Authorities, any other persons which include any individual, body or business is entitled to make a representation in relation to an application to grant, full variation, minor variation or review of a premises licence or club premises certificate regardless of their geographical proximity to the premises. Any other person may seek the review of a premises licence or club premises certificate in their own right.
- 5.10 In accordance with the Act for premises licenses and a club premises certificate, this Licensing Authority must consider relevant representations as part of the licensing process. 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. In addition, a representation must not be frivolous or vexatious. The Licensing Authority will decide if a representation is frivolous or vexatious on the basis of what might ordinarily be considered to be frivolous or vexatious.
- 5.11 This Licensing Authority will notify the person making the representation of the decision that a representation is not relevant as soon as practicably possible in order to provide that person with the opportunity to make a relevant representation before the end of the 28 days representation period. This will depend when the initial representation was received as there may not be the chance to provide an opportunity to make a relevant representation if the representation was received towards the end of the representation period.
- 5.12 This Licensing Authority is required to provide the applicant with copies of any relevant representations that have been made. This will include the name and address of the person making representations. This Licensing Authority will only consider withholding some or all of the person's personal details if the circumstances justify the action i.e. a genuine and well-founded fear of intimidation. The personal details of any person making a representation will be redacted in the report that is prepared for the Licensing and Appeals Sub-Committee held to determine the application.

## **6. Cumulative Impact**

- 6.1 In certain situations, the number, type and density of premises selling alcohol may be associated with serious problems of nuisance and disorder. Where a significant number of licensed premises concentrated in one area are having a negative impact on the licensing objective, this Licensing Authority may consider that an area has become saturated. In these circumstances, where evidence is brought to the attention of this Licensing Authority which supports the need for a special policy, it will consider the evidence and, if satisfied, where appropriate and necessary, will include an approach to cumulative impact in the Policy.
- 6.2 This Licensing Authority has received no evidence that would make it consider that the adoption of a saturation policy is currently necessary for South Derbyshire.
- 6.3 This Licensing Authority will review the requirement for a saturation policy in line with the 5 year review of the Policy. However, this does not prevent any Responsible Authority presenting evidence to this Licensing Authority at any time to request the consideration of adopting a saturation policy.
- 6.4 If any evidence is received, this Licensing Authority will take the following steps in considering whether to adopt a saturation policy within the Policy:

- identification of concern about crime and disorder, public safety, public nuisance or protection of children from harm;
- consider whether it can be demonstrated that crime and disorder or nuisance are occurring or whether there are activities which pose a threat to public safety or the protection of children from harm;
- if such problems are occurring, identify whether these problems are being caused by the customers of licensed premises or that the risk of cumulative impact is imminent;
- identify the boundaries of the area where problems are occurring;
- consult with those specified by Section 5(3) of the Act and, subject to the outcome of the consultation, include and publish details of the saturation policy in the Policy.

6.5 The absence of a saturation policy does not prevent any Responsible Authority or other persons making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

6.6 This Licensing Authority regards the adoption of a saturation policy as being exceptional. Many other mechanisms exist outside the licensing regime that are available to address such issues. For example:

- planning controls;
- positive measures to create a safe and clean town and village centres environment in partnership with local businesses, transport operators and other departments of the Council;
- the provision of CCTV surveillance in town and village centres, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of the Council to designate parts of the District as places where alcohol may not be consumed publicly;
- the confiscation of alcohol from adults and children in designated areas;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- the prosecution for the offence of selling alcohol to people who are drunk (or allowing such a sale);
- the power of Derbyshire Constabulary to instantly close down, for up to 24 hours (extendable to 48 hours), any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
- the power of the Police, other Responsible Authorities or other persons to seek a review of a licence or certificate;
- raising a contribution to policing the late night economy through a late night levy;
- early morning alcohol restriction orders.

6.6 This Licensing Authority does not intend to use alternative measures such as fixed closing times, staggered closing times and zoning within the area. Each case will be decided on its own merits based on the representations received. Each decision made will be made in accordance with what is appropriate to promote the licensing objectives.

6.7 There can be confusion between the 'need' for premises and the 'cumulative impact' of premises on the licensing objectives. 'Need' concerns the commercial demand for a premises. This Licensing Authority will not consider the question of 'need' in determining an application as it falls outside of the remit of the licensing regime.

## **7. Licensing Hours**

- 7.1 This Licensing Authority will determine licensing hours on the individual merits of each application, but the presumption will be to grant the hours requested unless there are specific objections to those hours raised by Responsible Authorities or any other persons on the basis of the licensing objectives. If such objections are raised, the hours will be decided at a hearing of the Licensing and Appeals Sub Committee. This Licensing Authority recognises that longer licensing hours for the sale of alcohol can avoid large numbers of people leaving premises at the same time. This in turn can reduce the friction at late night fast food outlets, provision of private hire vehicles and other sources of transport, which can lead to disorder and disturbance. This Licensing Authority will not impose conditions known as zoning that artificially fixes opening hours for any premises or area of the District.
- 7.2 This Licensing Authority may impose stricter conditions with regard to noise control in areas, which have denser residential accommodation, although this will not prejudice consideration of individual applications where the licensing objectives are observed.
- 7.3 With regard to shops, stores and supermarkets, this Licensing Authority will allow the sale of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless to do so would undermine the licensing objectives.

## **8. Use of Standardised Conditions**

- 8.1 Conditions (other than mandatory conditions and those attached in accordance with the operating schedule) may only be attached to a premises licence or club premise certificate if relevant representations are received and it is satisfied, as a result of a hearing (unless all parties agree that a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the licensing objectives. Any such conditions will be tailored to the individual style and characteristics of the premises and events concerned.
- 8.2 Standardised or blanket conditions will be avoided. However, this Licensing Authority may draw from the Licensing Authority's Pool of Model Conditions on the Council's website to ensure that all conditions attached are clear, enforceable and expressed in plain language capable of being understood by those expected to comply with them.
- 8.3 Applicants are recommended to identify key issues in their operating schedules so to reduce the likelihood of representations from Responsible Authorities and/or other persons.

## **9. Prevention of Crime and Disorder**

- 9.1 This Licensing Authority is committed to reducing crime and disorder across the District through its statutory duty under the Crime and Disorder Act 1998. In addition, this Licensing Authority is committed to further improving quality of life for the people of South Derbyshire by continuing to reduce crime and the fear of crime.
- 9.2 This Licensing Authority will expect applicants to detail in their operating schedule the reasonable steps that they propose to take to deter and prevent crime and disorder.
- 9.3 This Licensing Authority will work in partnership with local Pub Watch schemes operating in the District in order to support licence holders to actively prevent crime and disorder issues and to form strategies to reduce current levels. Examples of strategies would address matters such as underage sales, problems associated with drunken behaviour of groups or individuals, prevention of the use of drugs, along with violent and anti-social behaviour.

- 9.4 As the lead body on crime and disorder, this Licensing Authority works very closely with Derbyshire Constabulary on tackling problem premises as well as working together to provide advice and guidance to all licensed premises. In addition to this, this Licensing Authority is an active member of the South Derbyshire Violence, Alcohol Harm and Licensing Group set up in order to tackle problem premises through joint working with all other relevant agencies.
- 9.5 This Licensing Authority recommends that applicants consider the following when preparing their operating schedule:
- The capability of the person who is in charge to run the premises;
  - The applicant's intention to engage with recognised local liaison groups, such as Pub Watch, other groups/organisations such as the Council, the Parish Council, Derbyshire Constabulary, the Community Safety Partnership and other agencies working to promote the licensing objectives in the District. Applicants might make clear their intention to adopt reasonable safeguards promoted by the recognised groups/organisations;
  - Acknowledgement and implementation of the Code of Practice produced by the Portman Group, which seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older;
  - Provision of CCTV and recording equipment for inside and outside the premises;
  - Radio network communication;
  - Search facilities;
  - Use of safety and shatter-resistant glasses and receptacles;
  - Drug prevention policy;
  - Signage and crime prevention notices;
  - Door supervision;
  - Recording of incidents;
  - Capacity limits;
  - Staff training;
  - Any other relevant matter(s)
- 9.6 Even though this is not an exhaustive list of measures, applicants should only consider those measures they feel are appropriate to their premises and locality. Conditions (other than mandatory conditions) will only be attached to a licence which are consistent with their operating schedule, unless representations are received and additional conditions are considered appropriate to promote the licensing objectives.
- 9.7 A written proof of age policy implemented at the premises and responsible pricing policies are extremely important in promoting this licensing objective. Both are covered by the mandatory conditions that are attached to any licence therefore an applicant would not be expected to include these measures in their operating schedule.
- 9.8 There are a number of offences within the Act and other legislation that relate to crime and disorder. This Licensing Authority expects licensees to be familiar with these offences and to take action to prevent any offences occurring. These offences stand in their own right and will not be duplicated as conditions on any licence.

## **10. Public Safety**

- 10.1 Members of the public have the right to expect when visiting licensed premises that due consideration has been taken with respect to their physical safety. Licensees must be able to demonstrate that they

have considered and put into effect measures to protect members of the public and the commercial interests of neighbouring premises.

10.2 This Licensing Authority would expect any applicant to consider the following points to promote this licensing objective by ensuring:

- Appropriate access for emergency services;
- Good communication with local authorities and the emergency services;
- The presence of trained first aiders on the premises and appropriate first aid kits;
- The safety of people when leaving the premises i.e. providing information for local taxi companies and adequate lighting on paths and car parks, etc.;
- Appropriate and frequent waste disposal;
- Appropriate limits on the maximum capacity of the premises;
- Consideration of the use of CCTV in and around the premises;
- Any other relevant matter(s).

10.3 The list is not exhaustive and the measures may not apply in all cases. It is the responsibility of the applicant and licence holder to implement measures to promote this licensing objective based on their individual premises and locality.

10.4 Due to the Regulatory Reform (Fire Safety) Order 2005, no conditions relating to fire safety can be attached to any licence even if deemed appropriate. The Order requires the person responsible for the control of the premises to comply with the Order and to carry out a written fire risk assessment for the premises. This Licensing Authority would expect applicants and licence holders to comply with this Order and implement any measures identified in the risk assessment.

10.5 Applicants and licence holders should be aware of the mandatory condition, attached to all on alcohol licensed premises, that requires free potable water is supplied to customers.

## **11. Prevention of Public Nuisance**

11.1 The applicant/licence holder will only be expected to prevent public nuisance that is under their direct control. However for the effective management of the night time economy, this Licensing Authority will expect applicants/licence holders to be responsible for minimising the impact of their activities and behaviour of their patrons on people living and working within the area of their premises.

11.2 In considering the promotion of this licensing objective, this Licensing Authority will focus on the effect of the licensable activities at the specific premises on person living and working (including those carry on a business) in the areas around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise, nuisance, light pollution, noxious smells and litter.

11.2 In order to promote this licensing objective, the applicant should consider the following as part of their application and ongoing promotion of the licensing objectives:

- Prevent noise and vibration escaping from the premises, such measures may include sound proofing, air conditioning, acoustic lobbies and noise limiters;
- Keeping doors and windows closed after a certain time;
- Not permitting people to be in the beer garden after a certain time;

- Prevent disturbance by customers arriving at, or leaving the premises, which is usually of greater significance later into the evening and in the early morning. Operating schedules may need to address the potential disturbance caused by queuing;
- Prevent potential litter problems in the area of the premises caused by their business activity. These could include the distribution of flyers, fly posting, food packaging left by customers from late night refreshment premises;
- The generation of odour, for example from the preparation of food;
- Measures to control light pollution;
- Any other relevant matter(s).

11.3 The list is not exhaustive and the measures may not apply in all cases. It is the responsibility of the applicant and licence holder to implement measures to promote this licensing objective based on their individual premises and locality.

11.4 Any conditions appropriate to promote this licensing objective will be tailored to the type, nature and characteristics of the specific premises and its licensable activities.

## **12. Protection of Children From Harm**

12.1 Protecting from children from harm is one of the fundamental licensing objectives. This Licensing Authority will endeavour to ensure that issues relating to the protection of children are fully taken into consideration by all parties involved in the licensing system.

12.2 The protection from children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives. This Licensing Authority will also consider the need to protect children from sexual exploitation when undertaking licensing functions.

12.3 The Safeguarding Children Board is the lead authority for child protection issues in relation to applications, licences and notices issued under the Act. The Police and Trading Standards are also expected to be responsible for protecting children from harm under the Act. Unless a relevant representation is made, this Licensing Authority cannot go beyond what the applicant proposes in their operating schedule. This Licensing Authority will therefore expect one of the Responsible Authorities to make representations in relation to any application where they have any concern for the welfare or protection of children.

12.4 This Licensing Authority recognises the great variety of premises for which licences may be sought, for instance theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. This Licensing Authority will not impose conditions that restrict access to children to any type of premises unless it is considered appropriate to protect them from physical, moral or psychological harm where relevant representations are received.

12.5 This Licensing Authority would strongly consider conditions restricting the access of children to premises in circumstances where:

- entertainment or services of an adult or sexual nature are commonly provided;
- in some cases, the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises;
- there have been convictions of members of the current staff at the premises for serving alcohol to minors or in premises with a reputation for underage drinking;
- there is a known association with drug taking or dealing;
- it is known that unaccompanied children have been allowed access.

- 12.6 It would be unusual for this Licensing Authority to completely prohibit access of children to any premises. This Licensing Authority may use the following options in order to protect children from harm:
- restrictions on the hours when children may be present;
  - age limitations;
  - limitations or exclusions when certain activities are taking place;
  - restrictions on the parts of the premises to which children may have access;
  - requirements for an accompanying adult;
  - full exclusion of people under 18 years old from the premises when certain licensable activities are taking place.
- 12.7 This Licensing Authority will not impose any condition which requires the admission of children to any premises.
- 12.8 Where this Licensing Authority imposes no restriction on access by children, it is for the discretion of the licence holder to ensure the licensing objectives and the offence provisions under the Act are observed.
- 12.9 This Licensing Authority will liaise with Derbyshire Constabulary and Derbyshire County Council's Trading Standards about the extent of unlawful sale and consumption of alcohol to minors and, as appropriate, will be involved in strategies to control or prevent these unlawful activities and to pursue prosecutions.
- 12.10 This Licensing Authority will expect the licensee to have a Child Protection Policy in place for any licensable events that have a significant number of unaccompanied children. The policy should include the requirement for suitable checks to be carried out on staff before they take up employment. In addition, the licensee should ensure that there will be an adequate number of adult staff present to control the access, egress and safety in and around the premises. The number of staff required should be assessed by the licence holder, taking into account the number of children to be present, the type of entertainment, the characteristics of the premises and any other relevant factor. It is recommended that any premises which have internet access facilities should have adequate control settings in place so that web sites which are not suitable for use by children are permanently blocked.
- 12.12 In the case of premises showing films, this Licensing Authority expects licence holders to have arrangements for ensuring compliance with the mandatory film condition which restricts children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or other approved body.

### **13. Temporary Events Notices (TEN)**

- 13.1 The Act allows licensable activities to be carried out in specific circumstances on a temporary basis. A TEN will relate to small scale events with a capacity less than 499 people and that lasts no longer than 168 hours. Other limits on a TEN will apply. A standard TEN must be given to this Licensing Authority and a copy served on the Derbyshire Constabulary and the Environmental Health Department, at least 10 clear working days before the temporary event can take place. The clear working days requirement does not include the day the TEN was submitted to the Licensing Authority and the day of the event. Working day means any day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday.

- 13.2 If the TEN is served electronically, it is the responsibility of this Licensing Authority to serve a copy on Derbyshire Constabulary and the Council's Environmental Health Department.
- 13.3 Derbyshire Constabulary and/or the Council's Environmental Health Department may submit an objection notice to the TEN if they are satisfied that any of the four licensing objectives may be undermined if the event took place.
- 13.4 If an objection notice is received then the TEN will be referred to the Licensing and Appeals Sub-Committee for consideration unless a modification to the TEN has been agreed by the applicant and Derbyshire Constabulary and/or the Council's Environmental Health Department. If a Sub-Committee is held then the Members may decide to allow the event to take place but may impose one or more of the existing licence conditions on the TEN if it considers that this is appropriate to the promotion of the licensing objectives. The attaching of conditions is only permitted if the premises to which the TEN relates has a premises licence or club premises certificate in place. Alternatively, the Sub-Committee may decide that the event would undermine the licensing objectives and, therefore, should not take place. In this instance, a counter notice would be served on the premises user.
- 13.5 Whilst this Licensing Authority recognises the minimum notice period given for the submission of a TEN, it recommends that the TEN is submitted at least two months prior to the date of the event. This will allow time for the premises user to act appropriately should an objection from Derbyshire Constabulary and/or the Council's Environmental Health Department lead to a serving of a counter notice by this Licensing Authority.
- 13.6 A late TEN can be given up to 5 clear working days but no earlier than 9 working days before the event is due to take place. Clear and working days have the same meaning as for a standard TEN. The number of late TENs served in a calendar year is limited.
- 13.7 A late TEN given less than 5 working days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.
- 13.8 The late TEN must be served in the same manner as a standard TEN. However, if an objection notice is received from Derbyshire Constabulary and/or the Council's Environmental Health Department then a counter notice will be served by this Licensing Authority and the activities at the event will not be authorised. There is a no scope for a hearing, the application of existing conditions or modifying the TEN.
- 13.9 This Licensing Authority would only otherwise intervene if the statutory limits on a TEN would be exceeded.
- 13.10 This Licensing Authority's Officers may visit events held under a TEN on the basis of potential risk or impact.

#### **14. Integrating Strategies**

- 14.1 This Licensing Authority will ensure its licensing function promotes the licensing objectives through its decision making process and by appropriate use of its powers, observance of its responsibilities and through liaison and partnership work.
- 14.2 This Licensing Authority will support the Council's priorities and, in particular, improving the health and well-being of residents, reducing crime, anti-social behaviour and fear, and tourism.

14.3 This Licensing Authority will seek to achieve integration with the following strategies, so far as it can, and will consult with the appropriate organisations to achieve this:

- South Derbyshire Partnership Strategy and local crime prevention strategies;
- Violence, Alcohol Harm and Licensing Action Plan;
- Local Plan;
- National Forest Destination Development Plan;
- Joint Strategic Needs Assessment produced by the Health and Well Being Board.

14.4 This Licensing Authority will ensure that planning permission, building control approvals and licensing regimes are separated to avoid duplication and inefficiency. Applications for licences will not be a re-run of the planning application and licensing decisions will not cut across decisions taken by the Planning Committee or permissions granted on appeal. This Licensing Authority will not refuse any licence application because the premises do not have planning permission.

## **15. Promotion of Equality**

15.1 This Licensing Authority recognises that the Equality Act 2010 places an obligation on all public authorities to have regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs, sex and sexual orientation.

## **16. Enforcement**

16.1 The main enforcement and compliance role for the Licensing Authority in terms of the Act is to ensure compliance with licences and notices issued by this Licensing Authority and any conditions attached to them. In addition, this Licensing Authority will take the appropriate action against any unlicensed licensable activities within the District.

16.2 In determining the most appropriate course of action to secure the licensing objectives, this Licensing Authority will take into account the Act, other separate legislation and other enforcement bodies' powers.

16.3 The Responsible Authorities and Licensing Authorities have agreed an Enforcement Protocol; copies of the protocol can be obtained from South Derbyshire District Council. In addition, this Licensing Authority has an Enforcement Policy that will be complied with in relation to any compliance and enforcement action.

16.4 This Licensing Authority will have regard to the Regulators' Code and will adopt a risk rated approach to regulatory inspection to ensure compliance with the Act. This Licensing Authority will risk a premises based on previous compliance records and intelligence received from other Responsible Authorities and members of the public. This Licensing Authority will inspect premises where a complaint has been received, there has been a change of premises licence holder and/or designated premises supervisor and on risk-based targeted initiatives.

16.5 This Licensing Authority will promote efficient and effective regulatory approaches which improve outcomes without imposing unnecessary burdens on business.

16.6 This Licensing Authority will refer complaints, as required, about licensed premises, club premises, temporary events or licensed individuals to its own appropriate service teams such as Health and Safety or Pollution Control. It may also refer them to other agencies such as

Derbyshire Constabulary or the Derbyshire Fire and Rescue Service for their consideration, in accordance with any enforcement protocols.

## **17. Designated Premises Supervisor and Personal Licence Holders**

- 17.1 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than the provision of regulated entertainment and late night refreshment.
- 17.2 This Licensing Authority accepts that not every person selling alcohol at a premises licensed for that purpose needs to hold a personal licence, but every sale or supply of alcohol must be at least authorised by such a licence holder. Premises at which alcohol is sold or supplied should ensure that adequate risk assessments have been undertaken in order to ensure that there are adequate arrangements and numbers of personal licence holders.
- 17.3 This Licensing Authority recognises the responsibility of personal licence holders, particularly the Designated Premises Supervisor in overseeing the day-to-day sale of alcohol. This Licensing Authority expects there to be clear control in the absence of the Designated Premises Supervisor.

## **18. Review of a Premises Licence or Club Premises Certificate**

- 18.1 There is a process for reviewing licences if problems were to persist at licensed premises. This Licensing Authority recognises that it is important to work in partnership with other Responsible Authorities, the licensee and persons affected by the premises to resolve any issues at the premises. Therefore, prior to the commencement of the review process, this Licensing Authority will try to give the licensee early warning of any concerns identified at the premises. This Licensing Authority may act as a mediator in the discussions, if necessary. If this is not appropriate or unsuccessful, any Responsible Authority or other persons may apply to review a premises licence/club premises certificate.
- 18.2 The reasons for the review of a licence must relate to one or more of the licensing objectives. Any person wishing to review a licence is advised to contact this Licensing Authority to discuss the problems being caused by the premises in order for other options to be explored before a review is applied for. Further advice about how to apply for a review can be found on the Council's website.
- 18.3 Where the crime prevention licensing objective is being undermined it is expected that revocation of the licence – even in the first instance – will be seriously considered.
- 18.4 Any review application will be heard by the Licensing and Appeals Sub-Committee who may take any of the following steps:
- Modify the conditions of the licence/certificate;
  - Exclude a licensable activity from the scope of the licence;
  - Remove the Designated Premises Supervisor;
  - Suspend the licence/certificate for a period not exceeding 3 months;
  - Revoke the licence/certificate;
  - Take no action in relation to the licence/certificate;
  - Issue a warning as to further conduct.

## **19. Fees**

- 19.1 This Licensing Authority will send out invoices to all licensed premises one month prior to the due date of the annual fee.
- 19.2 If payment has not been received by the due date, this Licensing Authority must suspend the licence until the annual fee has been paid. This will mean that no licensable activities can take place on the premises whilst the licence is suspended.
- 19.3 If the annual fee has not been paid, this Licensing Authority will attempt to contact the licence holder and this Licensing Authority would expect the licence holder to make payment immediately. If payment is not received or this Licensing Authority is not able to contact the licence holder, a suspension notice will be sent to the premises licence holder at the premises address or the correspondence address on file. The suspension notice will state the date that the suspension will take effect which will be 4 days from the date of the letter to comply with the Act and to ensure the receipt of the letter.
- 19.4 If payment is received before the date on the letter, the suspension will not take effect. If payment is not received, the licence will be suspended and the Police will be notified about the suspension. This Licensing Authority will visit the premises on the date of the suspension to ensure that no licensable activities are being provided at the premises. If licensable activities are being provided whilst the suspension is in place then the appropriate enforcement action will be taken against the licence holder and/or any other person.
- 19.5 The suspension will be lifted on receipt of the annual fee. This Licensing Authority will notify the Police that the suspension has been lifted.

## **20. Sexual Entertainment**

- 20.1 Under the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”), sex establishments, including sexual entertainment venues, must be licensed by this Licensing Authority. Sexual entertainment venues may apply to premises licensed under this Act. This Licensing Authority does not currently have a policy in place regarding sex establishments but a policy is due to be implemented in 2016.
- 20.2 Once the Sex Establishment Policy has been adopted, conditions will be attached to any sex establishment licence. These conditions may be similar to conditions attached to a premises licence and/or club premises certificate. If this is the case, the most onerous conditions will have to be complied with by the licence holder.
- 20.3 There is an exemption under the 1982 Act that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly. However, if any sexual entertainment event undermines any of the licensing objectives then the premises licence may be reviewed and conditions may be attached, if appropriate, to control the sexual entertainment events.

## **21. Early Morning Restriction Orders (EMRO)**

- 21.1 Under the Act, this Licensing Authority has the power to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area by way of an EMRO but only if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

21.2 This Licensing Authority does not think it is appropriate at this stage to introduce an EMRO for the whole or part of the District. If this Licensing Authority has or receives any evidence that indicates that an EMRO would be appropriate, a consultation would take place before any EMRO is introduced.

## **22. Administration and Delegation of Functions**

22.1 This Licensing Authority recognises many of the decisions and functions under the Act are purely administrative in nature. In the interest of speed, efficiency and cost-effectiveness, the delegation set out in the Council's Constitution sets out various duties of its Licensing Sub-Committee and officials. A copy of the delegation can be found at Appendix B.

22.2 In addition to the table of delegated functions, this Licensing Authority has delegated the following to Officers:

- Power to suspend a premises licence or club premises certificate for non-payment of annual fees;
- Power to specify the date on which the suspension takes effect;
- Power to make representations as a Responsible Authority.

## **23. Contact Details**

23.1 This Licensing Authority can only offer advice on the process for and progress of applications and as to whether particular activities are required to be licensed. If applicants require detailed advice on the requirements of the legislation and information as to how it may affect their premises, they may wish to seek their own independent legal advice.

23.2 Applications can be found on the Council's website along with Guidance Notes on the Application Procedure. Online applications and payments are also available on the Council's website. Contact details for this Licensing Authority and all other Responsible Authorities can be found in Appendix C.

23.3 This Licensing Authority recommends potential applicants for new or existing premises to contact the Licensing Department to discuss their application prior to submission in order to resolve potential problems and avoid unnecessary hearings. The applicant may also wish to contact the other Responsible Authorities to discuss their application.

# Appendix A Map of the District



Appendix B  
Licensing Scheme of Delegation

<b>Matter to be dealt with</b>	<b>Sub-Committee</b>	<b>Officers</b>
<b>Application for personal licence</b>	If a representation from Derbyshire Constabulary	If no representation made
<b>Application for personal licence with unspent convictions</b>	All cases	
<b>Application for premises licence/club premises certificate</b>	If a representation made	If no representation made
<b>Application for provisional statement</b>	If a representation made	If no representation made
<b>Application to vary premises licence/club premises certificate</b>	If a representation made	If no representation made
<b>Application to vary designated premises supervisor</b>	If a representation from Derbyshire Constabulary	All other cases
<b>Request to be removed as designated premises supervisor</b>		All cases
<b>Application for transfer of premises licence</b>	If a representation from Derbyshire Constabulary	All other cases
<b>Application for interim authorities</b>	If a representation from Derbyshire Constabulary	All other cases
<b>Application to review premises licence/club premises certificate</b>	All cases	
<b>Decision on whether a representation is irrelevant frivolous vexatious or repetitious</b>		All cases
<b>Decision to object when the Licensing Authority is a consultee and not the relevant authority</b>	All cases	

<b>considering the application</b>		
<b>Determination of an objection to a temporary event notice</b>	All cases	
<b>Determination of an application to vary the premises licence at a community premises to include the alternative licence condition</b>	If a representation from Derbyshire Constabulary	All other cases
<b>Decision whether to consult other Responsible Authorities on a minor variation application</b>		All cases
<b>Determination of a minor variation application</b>		All cases

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Appendix C  
Responsible Authority Contact List

<u>Licensing Authority</u>	<u>Police</u>
<p>South Derbyshire District Council Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH</p> <p>licensing@south-derbys.gov.uk</p>	<p>Derbyshire Constabulary Licensing Section Derby Divisional HQ St. Mary's Wharf Prime Park Way Chester Green Derby DE1 3AB</p> <p>derby.licensing@derbyshire.pnn.police.uk</p>
<u>Fire And Rescue</u>	<u>Health &amp; Safety Enforcement</u>
<p>Derbyshire Fire &amp; Rescue Service South Area Office Ascot Drive Community Fire Station Ascot Drive Derby DE24 8GZ</p> <p>SouthAreaAdmin@derbys-fire.gov.uk</p>	<p>South Derbyshire District Council Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH</p> <p>commercial.team@south-derbys.gov.uk</p>
<u>Planning</u>	<u>Environmental Health</u>
<p>Head of Planning Services South Derbyshire District Council Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH</p> <p>planning@south-derbys.gov.uk</p>	<p>Environmental Health Division South Derbyshire District Council Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH</p> <p>environmental.health@south-derbys.gov.uk</p>
<p><u>Derbyshire Safeguarding Children Board</u> <u>Derbyshire Trading Standards Service</u> <u>Derbyshire Public Health</u></p> <p>Chatsworth Hall Chesterfield Road Matlock Derbyshire DE4 3FW</p> <p><a href="mailto:trading.standards@derbyshire.gov.uk">trading.standards@derbyshire.gov.uk</a></p>	

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