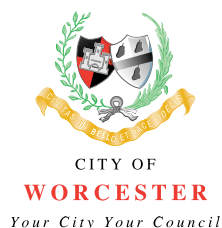


Licensing Act 2003

Memorandum of Understanding & Joint Enforcement Protocol

Nov 2005



LICENSING ACT 2003

Memorandum of Understanding and Joint Enforcement Protocol signed between:

Wychavon District Council, Malvern Hills District Council and Worcester City Council (as the Licensing Authorities)

West Mercia Constabulary

Hereford and Worcester Fire & Rescue Service

Worcestershire County Council Trading Standards Service

Environmental Services' at Wychavon District Council, Malvern Hills District Council and Worcester City Council (as Responsible Authorities)

1. The above statutory organisations, as Licensing Authorities and Responsible Authorities respectively (as defined by the Licensing Act 2003) are the parties to this Memorandum of Understanding and joint Enforcement Protocol.
2. Wychavon District Council, Malvern Hills District Council, Worcester City Council, West Mercia Constabulary, Hereford and Worcester Fire & Rescue Service and Worcestershire County Council aim to provide safe environments for the people of Worcestershire.
3. The Licensing Act 2003 introduces a regime to licence a variety of activities, including sale or supply of alcohol and provision of entertainment. The Licensing Authorities and Responsible Authorities, together with licence and certificate holders, are required to promote the four licensing objectives set out in the Act.

The licensing objectives have equal importance and are listed below.

- The prevention of crime and disorder
 - The promotion of public safety
 - The prevention of public nuisance
 - The protection of children from harm
4. Each party to this agreement has enforcement responsibilities in relation to premises licensed under the Act. We recognise that effective liaison between partners is vital to ensure that premises licence holders, designated premises supervisors, personal licence holders and club premises certificate holders understand and comply with the law.
 5. The purpose of this document is to ensure efficient and effective co-operation between agencies when dealing with areas of mutual interest, to secure:
 - Clear and open communication between agencies at all levels,
 - Clear lines of responsibility for enforcement of the law, and
 - Sharing of intelligence, where appropriate, enabling effective enforcement.
 6. Good inter-agency communication will ensure that information of mutual interest is shared effectively within the time constraints imposed by the Act. A list of contact points and preferred communication methods to facilitate this process is attached as an appendix – this list will be updated and re-issued from time to time.
 7. The parties to this agreement will share information in such a way as to enable the effective operation of the licensing process. This agreement automatically enables the sharing of information by all parties in accordance with section 185 of the Licensing Act 2003 and in accordance with the laws relating to data protection, freedom of information and protection of human rights.
 8. Enforcement action under legislation other than the Licensing Act 2003 will remain the

responsibility of the relevant enforcing authority. The outcome of relevant legal proceedings, whether prosecution, formal cautions or the exercise of prohibition or closure powers, should be shared by parties to this agreement as appropriate to promote the licensing objectives.

9. Each party to this agreement has the responsibility for enforcing a variety of legislation in licensed premises and club premises. The Licensing Act 2003 does not transfer from or to the Police or the Fire and Rescue Service powers of enforcement from other legislation. However from time to time it may be expedient for joint inspections to be carried out by officers from the Licensing Authority and officers from one or more of the relevant Responsible Authorities.
10. Joint inspections will normally be prioritised on the basis of risk, or in response to specific complaints. Responsibility for seeking a joint inspection will rest either with the Responsible Authority with the expertise in dealing with the issue in question, or the investigating authority for a particular complaint.
11. Each party to this agreement acknowledges the relationship between the following pieces of legislation:

Licensing Act 2003

- Promotion of the four licensing objectives; simplification of the licensing process with new freedoms for licensees that are countered with sanctions where the licensing objectives are not met.

Police Act 1996

- Imposes a primary responsibility on the Police Authority to maintain an adequate and effective Police Force.

Fire & Rescue Services Act 2004

- Places a duty on the Fire Authority to provide efficient arrangements for the giving, when requested, of advice in respect of buildings and other property as to fire prevention, restricting the spread of fires and means of escape in case of fire.

Crime & Disorder Act 1998

- Places a statutory requirement on Police Services, local authorities and other agencies to tackle crime and disorder by working in partnership.

12. Section 186 of the Licensing Act 2003 provides that proceedings for offences under the Act may be instituted by the:

- Licensing Authority
- Director of Public Prosecutions
- Local Weights and Measures Authority (Trading Standards) for S146 & S147 offences.

It is expected that the Police and the Weights & Measures Authority will normally bring proceedings (including the issue of formal cautions) as a result of their own investigations. Exceptionally, in the case of some minor offences, the Licensing Authority may do so on their behalf (for example, as part of a wider prosecution).

In all other cases, the Licensing Authority will be the prosecuting authority.

13. The parties agree that the prime responsibility for enforcing the offences under the Act should lie as follows:

LA = Licensing Authority
 CPC = Club Premises Certificate
 DPS = Designated Premises Supervisor

RRA = relevant responsible authority
 PLH = Premises Licence Holder
 AO = Authorised Officer

Section	Offence	Authority
33 (6)	Failure to notify LA of change of name or address PLH or DPS	LA
40 (2)	Failure to notify existing DPS of variation to premises licence to exclude them	LA
41 (5)	Failure to provide premises licence to LA upon removal of DPS	LA
46 (4)	Failure to notify DPS of application for transfer of premises licence	LA
49 (5)	Failure to notify DPS of grant of interim authority notice	LA
56 (3)	Failure to provide premises licence at request of LA for amendment	LA
57 (4)	Failure to keep or display premises licence on premises	LA
57 (7)	Failure to produce premises licence to an AO for examination	LA or RRA
59 (5)	Obstruction of an AO entering premises to inspect before grant of a licence, review or a statement	LA or RRA
82 (6)	Failure to notify of change of name or alteration of rules of a club	LA
83 (6)	Failure to notify a change of registered address of club	LA
93 (3)	Failure to produce CPC for amendment within 14 days of LA request	LA
94 (5, 6, 9)	Duty to keep, display and produce CPC at premises	LA
96 (5)	Inspection of premises before grant etc of CPC	LA
108 (3)	Obstruction of an AO in inspecting temporary event premises	LA
109 (4)	Failure to keep or display temporary event notice on premises	LA or Police
109 (8)	Failure to produce temporary event notice to an AO or constable	LA or Police
123 (2)	Failure to notify LA of conviction for relevant offence during application or renewal period	LA
127 (4)	Failure to notify LA of change of name or address of personal licence holder	LA
128 (6)	Failure to notify court of personal licence or "notifiable event" when being dealt with for a relevant offence	Police or LA
132 (4)	Failure to notify LA of conviction for relevant or foreign offence	LA
134 (5)	Failure to produce personal licence within 14 days to LA for updating	LA
135 (4)	Failure to produce personal licence to a constable or AO whilst on premises to sell or authorise sale of alcohol	LA or Police
136 (1)	Allowing licensable activities otherwise than in accordance with an authorisation	LA or Police
137 (1)	Unauthorised exposure for retail sale of alcohol	LA or Police
138 (1)	Unauthorised possession of alcohol with intent to sell or supply	LA or Police
140 (1)	Allowing disorderly conduct on licensed premises	Police or LA
141 (1)	Sale or supply of alcohol to person who is drunk	Police or LA
142 (1)	Obtaining alcohol for a person who is drunk	Police or LA

143 (1)	Failure to leave licensed premises following a request from a police officer or other specified person (see 143(2))	Police
144 (1)	Keeping unlawfully imported goods on relevant premises	Police or LA
145 (1)	Allowing unaccompanied children under 16 on relevant premises when alcohol is being supplied	LA or Police
146 (1, 2, 3)	Sale or supply of alcohol to children under 18	LA, Police or Trading Standards
147 (1, 3)	Allowing sale or supply of alcohol to children under 18	LA, Police or Trading Standards
148 (1, 2)	Sale or supply of liqueur confectionery to children under 16	LA or Police
149 (1, 3, 4)	Purchase or supply of alcohol by or on behalf of children under 18	LA or Police
150 (1, 2)	Consumption on relevant premises of alcohol by children under 18, or knowingly allowing it to occur	LA or Police
151 (1, 2, 4)	Delivering or permitting others to deliver alcohol to children under 18	LA or Police
152 (1)	Sending a child under 18 to obtain alcohol for consumption	LA or Police
153 (1)	Permitting children under 18 to sell or supply alcohol children	LA or Police
156 (1)	Sale of alcohol in or from a moving vehicle	Police
158 (1)	False statement in connection with a licensing application	LA
160 (4)	Keeping premises open in contravention of an area closure order	Police or LA
161 (6)	Permitting premises to be open in contravention of a premises closure order	Police or LA
165 (7)	Permitting premises to be open in contravention of a Magistrates' closure order	Police or LA
179 (4)	Obstructing entry by a police officer or an AO to premises to check on the carrying out of licensable activity	LA or RRA

14. When the Licensing Authority or a Responsible Authority has become aware of an offence and would like another more appropriate Responsible Authority, or the Licensing Authority, to take formal action, they will take the following steps:

- Initiate an early discussion with the appropriate Responsible Authority and/or the Licensing Authority.
- Supply the relevant authority in a timely manner with all of the relevant evidence (whether subsequently used or unused), and
- Set out in writing details of the offence and request that the relevant authority takes action.

In cases of emergency action being required any or all of the required information may be made available orally, by fax, email or other agreed means.

On receipt of a written request to take action the appropriate authority will:

- Assess the facts and take appropriate action in accordance with its own enforcement policy.
- Commence an investigation in accordance with the authority's own standards of service delivery, and inform the referring authority of the action it intends to take within 15 working days of receipt of the

complaint.

- At the conclusion of the investigation and any subsequent enforcement action, inform the authority that initiated the complaint, and any other relevant authority, of the action taken, and reasons why.

15. Notwithstanding the duty of the court to notify the Licensing Authority of convictions, a prosecuting authority will use its best endeavours to inform the Licensing Authority within five working days of any conviction or caution under the Act.

The notification shall be in writing (including by email) and shall state the name and address of the person convicted or cautioned, the nature and date of the conviction or caution and the details of any conviction including any order under section 129 of the Act.

16. The Licensing Authority will maintain a record of prosecutions and formal cautions notified in accordance with paragraph 15.

17. Regular liaison meetings will take place between the Licensing Authority and the Police, and with other Responsible Authorities on a basis to be agreed. Joint meetings between all parties to this agreement and neighbouring licensing authorities may be arranged if it is felt to be necessary in the interests of consistency and/or effectiveness.

18. This document recognises the right of any Responsible Authority to apply to the Licensing Authority for a premises licence or club premises certificate to be reviewed at any time. Except in urgent cases (serious contravention of relevant legislation), the responsible authority seeking a review will be expected to:

- give an early indication to the Licensing Authority of the circumstances that may give rise to an application for review.
- seek an informal resolution to the matter if possible or appropriate.
- be able to demonstrate to the Licensing Sub-Committee determining the application that, where appropriate, alternative approaches to dealing with the situation leading to the application have first been attempted, in accordance with that authority's enforcement policy.

19. All parties to this agreement shall periodically review this document to ensure that it maintains a suitable response and working arrangement for all licensing functions and achieves necessary feedback to assist in meeting the statutory objectives. The first review should take place not later than one year after the Second Appointed Day.

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Contact points and preferred communication methods**(a) West Mercia Constabulary**

C/o Licensing Officer
West Mercia Constabulary
Police Station
Castle Street
Worcester
WR1 3AD
Phone 01905 331037 *
Fax: 01905 331018
Email: licensing.southworcs@westmercia.pnn.police.uk
Web: <http://www.westmercia.police.uk>

(b) Hereford & Worcester Fire and Rescue Service

Fire Safety Department,
The Fire Station,
Worcester Road,
Malvern Link,
Worcestershire.
WR14 1TD
Phone 01684 572948 *
Fax 01684 572190
Email Firesafetysouth@hwfire.org.uk (internal use only)
Web <http://www.hwfire.org.uk>

(c) Wychavon District Council - Environmental Services

Environmental Health
Wychavon District Council
Civic Centre
Queen Elizabeth Drive
Persore
Worcs, WR10 1PT
Phone 01386 565015
Fax 01386 561826
Email: environmental.health@wychavon.gov.uk *
Web <http://www.wychavon.gov.uk/es>

- (d) Worcester City Council - Environmental Services**
Environmental Health
Worcester City Council
The Guildhall
High Street
Worcester
Worcs. WR1 2EY
Phone 01905 723471
Fax 01905 722255
Email: envhealth@cityofworchester.gov.uk
Web: <http://www.cityofworchester.gov.uk>
- (e) Malvern Hills District Council – Environmental Services**
Environmental Health
Malvern Hills District Council
Council House
Avenue Road, Malvern
WR14 3AF
Phone 01684 862448
Fax 01684 862481
Email:
Web: <http://www.malvern hills.gov.uk>
- (f) Worcestershire County Council Trading Standards Service**
Trading Standards & Scientific Services
Worcestershire County Council
County Hall
Wildwood Way, Worcester WR5 2NP
Phone 01905 765394 *
Fax 01905 765393
- (g) Wychavon District Council - Licensing Authority**
Licensing Unit
Environmental Health - Environmental Services Department
Queen Elizabeth Drive
Persnore
Worcestershire
WR10 1PT
Phone 01386 565016
Fax 01386 561826
Email licensing@wychavon.gov.uk *
Web www.wychavon.gov.uk/lic

(h) Worcester City Council – Licensing Authority

Licensing Section
Environmental Health
Worcester City Council
The Guildhall
High Street
Worcester
Worcs. WR1 2EY
Phone 01905 723471
Fax 01905 722255
Email: licensing@cityofworchester.gov.uk
Web **<http://www.cityofworchester.gov.uk>**

(i) Malvern Hills District Council – Licensing Authority

Licensing Unit
Malvern Hills District Council
Council House
Avenue Road, Malvern
WR14 3AF
Phone 01684 862216
Fax 01684 862481
Email: licensing@malvern hills.gov.uk
Web: **<http://www.malvern hills.gov.uk>**

* preferred communication