

Tunbridge Wells



Partnership

EXCLUSION POLICY

There is a need for a united approach in tackling business crime in Tunbridge Wells and this initiative has been established as part of the crime reduction strategy of the Tunbridge Wells Safe Town Partnership (TWSTP).

1. Introduction

- a) The scheme is a civil agreement between businesses within the TWSTP area of operation where persons who have been charged or summonsed with, accepted a caution for, or have been issued with (and paid) a Penalty Notice for Disorder for an offence linked to a member's premise will receive a collective ban from all members' premises.
- b) The scheme operates by utilising either the day or night-time business community as one voice thereby sending a strong message to those who commit offences or instances of disorder or nuisance in members' premises by telling them that we know who they are and that their behaviour and actions are not welcome in Tunbridge Wells.
- c) It must be stressed that for the scheme to be successful, all members must be prepared to deter an excluded person from entering their premise and to eject an excluded person immediately and on every occasion they enter, despite the fact that the individual may not have committed an offence against their business.
- d) The scheme will be run on a day-to-day basis by the Business Crime Manager and overseen by the Board of Management (BoM).
- e) In addition to administering the scheme, the Business Crime Manager will be responsible for liaising with members and outside agencies and organisations.

2. Objectives

- a) To take a collective approach in dealing with offenders by excluding them from members' premises.
- b) To reduce the opportunity for crime and anti-social behaviour to take place.
- c) To protect staff from physical violence and verbal abuse.
- d) To reduce the incidents of crime and the fear of crime for the benefit of staff and the public.

- e) To create and promote the area of operation as a safer place in which to shop, socialise and work.

3. Exclusion Notice Definition

- a) There is a presumed invitation by the owners or managers of businesses, to allow members of the public to enter their premises. An exclusion notice withdraws that invitation to the recipient.
- b) The decision to issue an exclusion notice concerns a private civil right i.e. the right to revoke the implied permission of customers to enter and remain in shops. It does not concern the exercise of a public function. Domestic law, supported by European Court of Human Rights permits the revocation of the implied licence by a business owner whether the grounds are reasonable or otherwise.
- c) The decision to issue an exclusion notice is not a determination of an excluded person's civil rights because the excluded person has no civil right to enter and remain in any business covered by this policy: they have an implied permission which may be revoked at any time.
- d) Some businesses already operate similar notices, but only in relation to their own premises. This scheme applies to all businesses that are members of Tunbridge Wells Safe Town Partnership – Safe Town or Pubwatch, and who have confirmed their involvement in the scheme and have signed the relevant partnership protocols and agreements.
- e) Notices are applied for and issued on behalf of members by the Business Crime Manager

4. Exclusion Notice Procedures

- a) Where an individual commits an offence that requires an immediate and appropriate response (such as violence, drugs or high value theft) the notice will be served as a result of that one incident.
- b) Where an individual commits an offence that does not require an immediate response but their continued criminal behaviour, documented by incident reports, has reached the stage where an exclusion notice is appropriate.
- c) Where a warning notice has been previously issued (see Section 6) and a further offence has been committed within the warning notice period.
- d) An exclusion notice can be issued for any offence type committed against a member, their customers or staff or the public in general. These offences will generally involve:

- i. Theft
 - ii. Violence
 - iii. Drugs
 - iv. Damage
 - v. Drunkenness
 - vi. Weapons
 - vii. Disorder
- e) A member must complete an incident report and submit it to the Business Crime Manager
- f) The Business Crime Manager will assess the incident report and if the circumstances satisfy the criteria for an exclusion notice, pass the details of the reported incident to the police partnership liaison officer and request disclosure of the offender's details using the designated form if the offender's details are not known.
- g) Upon receipt of the data from police, or if the offender details are already known, the Business Crime Manager will have the decision to issue an exclusion notice ratified by the BoM, either at the next BoM meeting or by contacting individual members of the board. A quorum of 4 members must provide ratification and in the event of a split decision, the Chair will hold the casting vote. A record will be kept of the decision including the date and details of the board members involved.
- h) Once the request to issue an exclusion notice has been ratified, if an image cannot be sourced from a member or social media, the Business Crime Manager will submit a request to the police for the release of a convicted image of the individual concerned using the designated form.
- i) Upon receipt of the data, the Business Crime Manager will issue the exclusion notice. The notice will be accompanied by a list identifying members' premises and a covering letter outlining the reason for exclusion and review date.
- j) The Business Crime Manager will be responsible for serving the exclusion notice by recorded delivery to the recipient's home address and circulating the details to the members. Only the individual's name, photograph and relevant warning markers will be disclosed.
- k) A copy of the exclusion notice will be retained by the Business Crime Manager and the police will be notified.
- l) The Business Crime Manager will be responsible for updating the Tunbridge Wells Safe Town Partnership website and ensuring that all data is relevant, accurate and up to date.

5. Exclusion enforcement

- a) When an excluded person is identified inside a member's premises (and not thought to have committed an offence at that stage), that person should be immediately asked to leave the premises as they are regarded as a trespasser.
- b) *The existence of an exclusion notice does not confer any additional powers for eviction and current procedures for removing unwanted persons as trespassers should continue to be exercised. (The offence is civil trespass and should the member wish to pursue a complaint, they should do this through the civil courts).*
- c) The fact that an excluded person has been ejected from a member's premises should then be communicated over the radio system to all other members.
- d) An incident report of any sighting or deter on entry of an excluded person MUST be submitted to the Business Crime Manager in order that a record of behaviour can be maintained for review purposes.
- e) If an excluded person is suspected of committing any offence within a member's premises, police should be called. When an offender has been previously issued with an exclusion notice and that person is arrested for committing another offence, the fact that they have been previously issued with an exclusion notice will be included in the evidence.
- f) If an excluded person is subsequently charged with the offence, the Business Crime Manager will arrange for a copy of the exclusion notice to be included on the prosecution file for the information of the Crown Prosecution Service (CPS).
- g) The CPS have agreed that provided the required evidential procedures have been followed, they will inform the court of the existence of the exclusion notice, at the point of conviction, as antecedents.
- h) The Chair of the Justices and the Clerk to the Magistrates' Court have been acquainted with the objectives of the scheme. They have indicated that if an excluded person is convicted of another offence against any partnership member, the existence of an exclusion notice will be considered as an aggravating fact and would be reflected in the sentence imposed by the court.

6. Reviewing Exclusion Notices

- a) Exclusion notices are issued for a period of 12 months but may be extended as set out below.
- b) If there is no new or relevant information held by the partnership, the exclusion notice will be rescinded and the individual notified in writing.

- c) If further information has been recorded that the partnership officer considers justification for extending the exclusion notice, a report will be compiled and presented to the BoM. The ratification procedure will mirror that of the initial exclusion.
- d) Justification for extending the exclusion notice rests with the BoM and a record will be kept of the decision including the date and details of the board members involved.
- e) Where an exclusion notice has been extended the offender will be notified in writing and the information circulated to all members.
- f) If an interim exclusion notice has been issued, the police partnership liaison officer will monitor the progress of any prosecution. The result will be notified to the Business Crime Manager and the exclusion notice will immediately be reviewed by the BoM to ensure that it is still appropriate. Upon review, the individual concerned will be notified of the outcome, in writing, by the Business Crime Manager.

7. Warning Notices

- a) When a member submits an incident report and the assessment process does not identify the need for an exclusion notice, the Business Crime Manager may consider issuing a warning notice to the individual concerned.
- b) The Business Crime Manager will pass the details of the reported incident to the police partnership liaison officer and request disclosure of the offender's details using the designated form.
- c) Upon receipt of the data, the Business Crime Manager will issue the warning notice.
- d) The notice will outline the reason for issue and the period of the notice (normally 6 months). It will also advise the recipient that any further offences reported to the partnership officer within the warning period, will result in them being referred for an exclusion notice.
- e) A warning notice can be served by normal post.
- f) Warning notices are reviewed in the same way as exclusion notices.

8. Appeal Procedure

- a) Upon receipt of an exclusion notice, an individual has a right to appeal.

- b) The appeals committee deals with all appeals. This committee is made up of 4 day time and 4 night-time members who are not members of the BoM and are therefore not involved in the original decision making process.
- c) Appeals must be made in writing to the partnership officer within 28 days from the date shown on the exclusion notice.
- d) Upon receiving an appeal, the Business Crime Manager will confirm receipt by return post and notify the appeals committee.
- e) Appeals will be heard by an appeal panel, comprising of 2 day time and 2 night-time members who are randomly selected from the appeal committee. A Chair will also be randomly selected from this committee.
- f) In the event that a member of the appeal committee submitted any incident report that has led to the exclusion notice being issued, that member will be removed from the pool prior to the selection process for the appeal.
- g) Appeals must be heard within 28 days of receipt.
- h) When a date has been set for the panel to convene, the Business Crime Manager will notify the appellant and offer them the opportunity to provide any further information that they wish to have presented to the panel to support their appeal.
- i) The panel will sit in a closed session. Minutes will be taken with panel members being identified by their initials.
- j) At the appeal hearing the Business Crime Manager will provide each member of the panel with a document bundle comprising copies of:
 - i. All relevant incident reports
 - ii. Exclusion notice
 - iii. Appeal letter
 - iv. Any other documents relevant to the appeal
- k) The Business Crime Manager will guide the panel through the circumstances that led to the exclusion notice being issued, making reference to the exclusion policy where appropriate.
- l) The Business Crime Manager will then read out the letter of appeal and any other supporting documents.
- m) The panel may ask questions of the Business Crime Manager relating to the procedure but not the subject.

- n) In the event of the appeal containing technical argument relating to the offence, the panel may request the presence of a police adviser. The police adviser will provide factual advice and not opinion.
- o) The panel will then consider the appeal using the exclusion criteria and procedure as detailed within the partnership's exclusion notice scheme document.
- p) The Chair will then ask for a vote on whether the appeal should be upheld. In the event of a tied vote, the Chair will have the casting vote.
- q) The appeal panel's decision will be final.
- r) The Business Crime Manager will notify the appellant of the decision within 7 days and provide them with a written explanation of the reasoning for the decision.
- s) During the appeal process the exclusion notice will remain in force.
- t) The partnership may consider the early lifting of the notice where exceptional circumstances prevail and the offender requests the lifting of the order in writing, giving reasons for the same.