

Merton Council

Licensing Committee

Membership

Jeff Hanna (Chair)

David Simpson CBE (Vice-Chair)

Stan Anderson

Michael Bull

Tobin Byers

Pauline Cowper

Joan Henry

Philip Jones

John Sargeant

Linda Taylor OBE

Gregory Patrick Udeh

Jill West

A meeting of the Licensing Committee will be held on:

Date: 20 October 2015

Time: 7.15 pm

Venue: Committee rooms C, D & E - Merton Civic Centre, London Road, Morden SM4 5DX

Merton Civic Centre, London Road, Morden, Surrey SM4 5DX

This will be followed by a meeting of the Licensing Committee (miscellaneous) to deal with any licensing matters which are not within the scope of the Licensing Act 2003.

This is a public meeting and attendance by the public is encouraged and welcomed. For more information about the agenda and the decision making process contact democratic.services@merton.gov.uk or telephone 020 8545 3616.

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Licensing Committee

20 October 2015

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Note on declarations of interest

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. If members consider they should not participate because of a non-pecuniary interest which may give rise to a perception of bias, they should declare this, withdraw and not participate in consideration of the item. For further advice please speak with the Assistant Director of Corporate Governance.

All minutes are draft until agreed at the next meeting of the committee/panel. To find out the date of the next meeting please check the calendar of events at your local library or online at www.merton.gov.uk/committee.

LICENSING COMMITTEE

9 JUNE 2015

(19.15 - 20.33)

PRESENT Councillor Jeff Hanna (in the Chair), Councillor David Simpson, Councillor Stan Anderson, Councillor Michael Bull, Councillor Tobin Byers, Councillor Pauline Cowper, Councillor Joan Henry, Councillor Philip Jones, Councillor John Sargeant, Councillor Linda Taylor, Councillor Gregory Udeh and Councillor Jill West

ALSO PRESENT Barry Croft (Licensing Manager), Guy Bishop (Senior Solicitor - Litigation & Planning), Chris Pedlow (Senior Democratic Services Officer) (until the end of item 4), David Ryan (Street Trading Officer) ((Until the end of item 5), Lisa Jewell (Democratic Services Officer)

1 DECLARATIONS OF INTEREST (Agenda Item 1)

No Declarations of Interest were received

2 APOLOGIES FOR ABSENCE (Agenda Item 2)

No apologies for absence were received

3 MINUTES OF PREVIOUS MEETING (Agenda Item 3)

The minutes of the meeting held on 24 February were agreed as a correct record subject to a correction at Page 4, Item 6: that Siobhain McDonagh is the MP for Mitcham and Morden

4 LICENSING SUB COMMITTEE - HEARING PROCEDURE (Agenda Item 4)

The Committee received a report that set out a detailed review of the Licensing Sub-Committee hearing paperwork and procedure. The Committee discussed the draft 'Summary of Procedure' and agreed that this document is of benefit to the Licensing Sub-Committee Chairman and that officers should review the wording and layout of the document. Members requested that a process to inform them of Licensing Sub-Committee decisions be included in this review of Licensing Sub-Committee hearing procedures. Members also asked if they could be kept informed of current appeals against Sub-Committee decisions, the Legal Officer agreed to do this.

RESOLVED:

The Licensing Committee endorsed the proposed holistic review of the processes and paperwork associated with Licensing Sub Committee Hearings. This review is to be run by Democratic Services, in consultation with Legal Services and the Licensing Team and the Chair of Licensing, and

a report on the outcomes of the review and a draft amended Licensing Sub Committee Hearing procedure will be brought before the Licensing Committee on 20 October 2015

5 DESIGNATION OF LICENCE STREETS (Agenda Item 5)

The Committee received the report detailing the application from a trader interested in utilising the highway outside of 3 Church Road Wimbledon for the purposes of street trading and noted that there had been no comments from residents on this application. The Chairman asked about the basis for determining the space for such trading and heard that usually the width and length of the area, are considered.

RESOLVED:

That the Licensing Committee agrees to designate the proposed area- outside of 3 Church Road, Wimbledon, for the purposes of Street Trading.

6 UPDATE OF THE COUNCIL'S STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005 (Agenda Item 6)

The Committee received the report regarding the Statement of Principles under the Gambling Act 2005, and noted that there was a statutory requirement to for the Council to review and republish this Statement every 3 years. Members noted that there would be a public consultation on this Statement which was proposed to run from 22 June to 14 September 2015.

RESOLVED:

The Licensing Committee approved the recommended amendments to the revised Statement of Principles under the Gambling Act 2005 (Gambling Policy) before the start of the public consultation

7 UPDATE OF THE COUNCIL'S STATEMENT OF LICENSING POLICY AND PROPOSED CIZ FOR MITCHAM TOWN CENTRE (Agenda Item 7)

The Licensing Manager introduced the updated version of the Council's Statement of Licensing Policy and asked members to note that the document included the amendments discussed at the Licensing Committee on 24 February 2015. The Licensing Manager asked the Committee to note that the 'model pool of conditions' referenced in the report would be available from the Institute of Licensing prior to the next Committee meeting on 20 October 2015 and could form an annexe to the Statement of Licensing Policy.

The Committee considered the model conditions document of Westminster Council as an example of what such a document might look like. Members discussed how the Sub-Committee could use these model conditions when making decisions. It was noted that this was potentially a lengthy document and that it would be for members to refer to during their decision making closed session, but that they could still request guidance from the legal representative at an appropriate time. The Senior

Lawyer advised against any form of checklist being created as any prior consideration of conditions could be deemed to be pre-determination.

Members hoped that the Institute of Licensing model conditions would be indexed or grouped for ease of use. The Licensing Manager reported that a lot of work had gone into the Institute of Licensing document and that he would circulate it when it became available. The Committee agreed to wait for the Institute of Licensing model conditions and to review this document at the next Committee Meeting, if acceptable it would be added to the Council's Statement of Licensing Policy as an annexe.

The Committee noted the addition of the Health and Wellbeing Strategy to the Statement of Licensing Policy and asked the Senior Lawyer to give advice, at the next meeting, on how much weight should be given to this strategy in comparison to the guidance from other organisations.

The Committee discussed the proposed Cumulative Impact Zone (CIZ) for Mitcham Town Centre and the surrounding area. It was noted that there were two amendments required in the report on page 60 when describing the boundaries of the proposed CIZ, the second bullet point should read London Road to Seely (not Steel) Road and Tooting station should be described as a National Rail Station (not overground). The Licensing Manager explained that the CIZ proposed covered areas where problems had been reported, and that the views of local businesses and residents gained from the consultation would provide the evidence to inform future decisions. He confirmed that there was some flexibility in moving/extending the area covered depending on the evidence gained from the consultation.

The Committee were asked if, for the purposes of the consultation, they wanted to include all licensed premises in the CIZ or just those with off sales. The Committee concluded that they would like to see all premises included, at this stage, and then review this decision based on the evidence gained from the consultation.

Members asked what residents could do about premises that they believed caused problems. The Licensing manager urged residents to report any incidents to the Police or Trading Standards particularly if it involved sales of alcohol to underage people. He also added that there were separate powers to deal with street drinking but it had to be reported in order to be dealt with. Members asked about drinking in parks and heard that this also can be dealt with by the authority, under the designated dispersal zone, and the Police if reported. The Licensing manager reminded members that they could report incidents to him and that his email address was:

Barry.Croft@merton.gov.uk

RESOLVED:

- A. The Licensing Committee approved the recommended amendments to the revised Statement of Licensing Policy, with amendments following the responsible authorities meeting, and the previous Licensing Committee meeting, which took place on 24 February 2015, before the start of the public consultation.

- B. The Licensing Committee discussed the recommendations contained within the report in respect of the proposed Cumulative Impact Zone (CIZ) Mitcham Town Centre, including the roads and areas as discussed by Members during the Licensing Committee meeting, which took place on 24 February 2015. And that these recommendations will be part of the public consultation processes for the revised Statement of Licensing Policy.

Committee: Licensing Committee

Date: Tuesday 20 October 2015

Wards: All

Subject: Licensing Sub-Committee – Updated Hearing Procedures, Processes and Paperwork

Lead member: Councillor Jeff Hanna – Chair of Licensing Committee

Contact officer: Chris Pedlow – Senior Democratic Services Officer 0208 545 3616

Recommendations:

To seek approval from the Licensing Committee on the refreshed Licensing Sub-Committee process and procedure.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to present Members with the proposed updated Licensing Sub-Committee Hearings processes. This follows the holistic review of the processes and paperwork associated with Licensing hearings, which was agreed by the Sub-Committee at their last meeting on 9 June. The proposed refreshed processes and procedures are contained within the appendices to this report.

2 BACKGROUND

- 2.2. Following concerns raised by Licensing Committee over the consistency of arrangements and procedures relating to Licensing Sub-Committee Hearings, a report was brought before Members at their meeting of 9 June 2015. It sought support for an holistic review of all the procedures and paperwork, both internal and public, used by Democratic Services with regards to Licensing Sub-Committee Hearings.
- 2.3. As part of the review a scope was created that included; comparing Merton processes against other local Councils and can we learn anything from them. The scope also sought a re-examination of the regulations to review the statutory requirements especially regarding the hearing procedures and publication requirements. It also highlighted that currently large amounts of paperwork are being duplicated.
- 2.4. Members requested that as part of the review a clear 'Chair's procedure note' be produced and that a process be agreed on informing all Licensing Committee Members of the decisions made at Sub-Committees and the result of any hearing that arose from those decisions.

3 REFRESHED PROCEDURES

- 3.1. Following the review five changes to the procedures and paperwork have been identified: the Notice Pack (including hearing procedure), the Agenda Pack, a Chair's Checklist for hearings, the Democratic Services Procedures for Licensing Sub-Committees with regards to Licensing Members, and the Decision Notice.
- 3.2. Below lists a brief description of the significant changes proposed:

The Notice Pack (including hearing procedure) – (Appendix A)

Improvements have been made to the letter and reply slip to push communications with Interested Parties to an electronic format. The Rights of the Parties at hearings and Hearing Procedure have been revised to be clearer and more accurate, whilst still meeting our legal requirements. The notice will also now contain details of who the Responsible Authorities and what the Licensing Objectives are.

The Agenda/ Report Pack

The amended report template will now always contain, as the recommendation, the list of possible decisions that the Sub-Committee make as defined under the Act, to help Members with their decision. Also the report has been streamlined with the removal of the duplicated information which is contained with the notice pack and the removed Licensing Committee Hearing Guide. The Guide itself, was a duplication information which is already available, in the packs and on the Council's website. A hyperlink to the new Licensing Policy will be included in the report as background information, once Council has agreed the new Policy.

The agenda pack will be now published simultaneously with the Notice Pack at 10 days before the hearing. By doing this it means we do not have to publish the application and the interested parties' representations, twice once with the Notice Pack and once with the Agenda, which is currently the case. A copy of the new hearing procedure will still be included in the agenda for those members of the public or councillors interested in the Hearing.

Chair's Procedure For Licensing Sub-Committees (Appendix B)

As requested by Members, and based on the new procedure, this is a checklist to help the Licensing Sub-Committee Chair, manage the hearing. This has been trialled at Sub-Committee on 25 September 2015, and received positive feedback from Councillor Taylor, who also suggested minor amendments, which have since been incorporated into the checklist.

Democratic Services Procedures for Licensing Sub-Committees with regards to Licensing Members - (Appendix C)

As requested by Members a clear written procedure of how and what Democratic Services will do in regards to Licensing Members and Sub-Committee has been produced. It identifies aspects of the procedure including Selecting Panel Members, disseminating paperwork, including decision notices, and how Members will be kept up to date with licensing appeals.

Decision Notice

The template used to publish the Licensing Sub-Committee decisions has been amended, to make Members' decisions much clearer for the Applicant and the interested Parties to understand.

- 3.3. All the changes identified have been created in consultation with the Council's Licensing and Legal teams to ensure all statutory requirements have been met.

4 ALTERNATIVE OPTIONS

- 4.1. The alternative option is to remain with the current processes used for Licensing Sub-committee Hearings.

5 CONSULTATION UNDERTAKEN OR PROPOSED

- 5.1. Consultation has occurred between Democratic Services, Legal Officer, and the Chair of the Licensing Committee.

6 TIMETABLE

- 6.1. That the new processes and paperwork come into effect on 21 October 2015.

7 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 7.1. The proposal should lead to a small saving for Democratic Services through the reducing the duplicated paperwork being printed and in the cost of postage. There are no property implications.

8 LEGAL AND STATUTORY IMPLICATIONS

- 8.1. The Council has a legal and statutory responsibility to deal with all matters related to the Licensing Act 2003

9 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 9.1. Not applicable.

10 CRIME AND DISORDER IMPLICATIONS

- 10.1. Not applicable.

11 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 11.1. Not applicable.

12 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- The Notice Pack (including hearing procedure) – (Appendix A)
- Chair's Procedure For Licensing Sub-Committees (Appendix B)
- Democratic Services Procedures for Licensing Sub-Committees with regards to Licensing Members - (Appendix C)

13 BACKGROUND PAPERS

- 13.1. Licensing Committee report from 9 June 2015 - Licensing Sub-Committee - Hearing Procedure
- 13.2. The Licensing Act 2003
The Licensing Act 2003 (Hearings) Regulations 2005,
The Licensing Act 2003 (Hearings) (Amendment) Regulations 2005,
The Licensing Act 2003 (Hearings) (Amendment) Regulations 2014



Democratic Services
London Borough of Merton
Merton Civic Centre
Morden, Surrey SM4 5DX
Direct Line: 020 8545 3616/3356
Email: democratic.services@merton.gov.uk

Date: 00/00/20??

NOTICE OF LICENSING SUB-COMMITTEE HEARING

1. DATE OF HEARING:

2. SUBJECT OF HEARING:

3. WHAT IS INCLUDED IN THIS NOTICE PACK:

The enclosed papers are being sent to you as you are a party to the licensing hearing due to be held to consider this application. These two packs contain all the hearing documents; a guide to Rights of the Parties to a Hearing, Procedure to be followed at Licensing Hearing, the agenda pack which includes the application, and related representations.

4. WHAT YOU NEED TO DO NOW:

Please respond to the questions set out on the reverse of this letter and return to the email/ phone/ address given above, **five** days before the hearing.

5. IF YOU HAVE ADDITIONAL DOCUMENTS FOR CONSIDERATION BY THE SUB-COMMITTEE

If you have any additional documents which you wish the sub-committee to consider at the hearing, please send them to the above email /address to arrive at least 24 hours before the hearing. If any additional information is received by the Authority this will be sent on all parties, (via email where possible) and additional copies will be available at hearing.

Yours

Democratic Services Officer

London Borough of Merton



Your Name:

Your Email address (where possible):

If you wish to withdraw any representations you have made please notify us as soon as possible.

You are required to give the following information to us by the date specified in the letter:

- 1) Do you intend to attend the hearing? **Yes/No**
- 2) Do you intend to be represented or assisted at the hearing? **Yes/No**
- 3) Do you consider a hearing to be unnecessary? (If all parties agree that a hearing is unnecessary the sub-committee may dispense with the hearing and determine the matter on the basis of the written application, notices and representations) **Yes/No**
- 4) Do you wish to request that any other person(s) be given permission to attend the hearing to assist the sub-committee in relation to the matter under consideration? **Yes/No**

Please give the name(s) of any such person(s) and brief details of the points on which you feel they may be able to assist the sub-committee in relation to the matter under consideration.

Please return this form to Democratic Services, Civic Centre, London Road, Morden SM4 5DX or telephone 020 8545 3616 or email the information to democratic.services@merton.gov.uk

Rights of the Parties to a Hearing

This document forms part of the Notice of Hearing.

The hearing will be conducted by a three member sub-committee of Merton's Licensing Committee.

You have the right to attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. **You should notify us if you wish to be represented or assisted in this way on the accompanying response form.**

You may also request that other persons be permitted to appear at the hearing to assist the sub-committee on particular points relating to the matter under consideration. You should notify us of any persons you wish to attend on the accompanying response form.

At the hearing you are entitled to:

- a) respond to any points of clarification detailed in the Notice of Hearing; and give further information in support of the application, representations or notice
- b) if given permission by the sub-committee, ask questions of other parties; and
- c) address the sub-committee.

If you do not attend the hearing the sub-committee may proceed in your absence or it may adjourn to another specified date and time. If the hearing proceeds in your absence any application, notice or representation you have made will be considered by the sub-committee. It would be helpful if you could notify us as soon as possible if you are not going to attend the hearing.

Please complete and return the accompanying response form by the response date shown on the Notice of Hearing. Post or send an email with the relevant information to:

democratic.services@merton.gov.uk

Procedure to be followed at Licensing Hearing

1. The Chair will welcome all parties and will confirm the sub-committee hearing procedures, a copy of which was included in the notice and agenda packs sent to all parties.
2. All present will be introduced/introduce themselves
3. The Chair will ask the Legal Adviser to inform those present that the sub-committee had a briefing prior to the hearing to confirm the procedure and for clarification on any aspect of the application, if necessary.
4. The Chair will confirm the process for the hearing. This will involve presentations by each party and subsequent questioning by the sub-committee and other parties.
5. The Chair will ask the Licensing Officer if there are any technical issues they feel should be brought to their attention (i.e. withdrawal of a representation / agreed conditions). The Chair will ask whether there have been any requests for an adjournment or late submissions.
6. The Applicant will present their case. Questions can then be asked of the Applicant by the Licensing Sub-Committee, the Responsible Authorities and Interested Party.

7. The Responsible Authorities will present their case. Questions can then be asked of the Responsible Authorities by Licensing Sub-Committee, the Applicant and the Interested Party.
8. Presentation by any Interested Party. Questions can then be asked of the interested party by Licensing Sub-Committee, the Applicant and the Responsible Authorities
9. The Chair will ask the Licensing Officer for any comments / clarifications
10. The Chair will ask the Legal Adviser for any comments / clarifications
11. The Chair will invite closing statements by the Responsible Authorities
12. The Chair will invite closing statements by the Interested Parties
13. The Chair will invite closing statements by the Applicant
14. The Chair will announce that the Licensing Sub-Committee are retiring for private session. The Legal Officer and Clerk will be invited to also retire.
15. In closed session the Licensing Sub-Committee will make their decision. They may ask the Legal Officer for advice during this session.
16. The Licensing Sub-Committee will return and re-open for public session.
17. The Chair will invite the Legal Officer to present the advice provided during private session, if necessary.
18. The Licensing Sub-Committee's decision will be read out either by the Chair or the Chair will invite the Legal Officer to do so.
19. The Chair will inform those present that all parties should receive a written copy of the decision notice within 5 working days, and then close the Hearing

Licensing Objectives

Decisions will be made with respect to upholding the four licensing objectives:

- Prevention of Public Nuisance
- Prevention of Crime and Disorder
- Protection of Children from Harm
- Promotion of Public Safety

Responsible Authorities

These statutory bodies are called "Responsible Authorities" and are given responsibility to make representations if the licensing objectives are under threat.

- The Chief Officer of Police
- The Local Fire Authority
- The Local Enforcement Agency for Health & Safety At Work Act 1974
- The Local Authority with Responsibility for Environmental Health
- The Local Planning Authority
- Local Licensing Authority or any Licensing Authorities
- A body representing those interested in the protection of children and recognised by the council (Local Safeguarding Children Board).
- The Local Public Health Authority

CHAIR'S PROCEDURE FOR LICENSING SUB-COMMITTEES

	Item	tick
1	I confirm that this hearing is recorded.	
2	No fire drills are scheduled today. If the alarm is heard the exits are at (point)	
3	Introductions of those present	
4	Declarations of Interest	
5	Inform all parties that the Licensing Sub-Committee will follow the Council's hearing procedures, a copy of which was included in the notice packs sent to all parties.	
6	Ask Legal Adviser to inform those present that the Licensing Sub-Committee had a briefing prior to the hearing to confirm the procedure and for clarification on any aspect of the application	
7	This hearing is an informal process unlike a Court hearing, but the Licensing Sub-Committee can allow cross examination. Otherwise the process of presentations and questioning for clarification, is the process arising under the Licensing Act 2003. Ask all parties to confirm whether there have been any requests for adjournments or late submissions.	
8	The Licensing Officer is asked to confirm if there are any technical issues they feel should be brought to the attention of the Licensing Sub-Committee(i.e. withdrawal of objection / agreed conditions etc)	
9	Presentation by the Applicant <ul style="list-style-type: none"> a) Questions by the Licensing Sub-Committee of the Applicant b) Questions by Responsible Authorities and then Interested Parties to the Applicant 	
10	Presentation by each Responsible Authorities (this will need repeating each authority) <ul style="list-style-type: none"> a) Questions by the Licensing Sub-Committee of the Responsible Authorities b) Questions by the Applicant and then Interested Parties to Responsible Authorities 	
11	Presentation by any interested parties (based on agenda order, unless changed by Chair) (this will need repeating for each party) <ul style="list-style-type: none"> a) Questions by the Licensing Sub-Committee of other Interested Parties b) Questions by the Applicant and then Responsible Authorities to the Interested Parties 	
12	Ask Licensing Officer for any comments/ clarification	
13	Ask Legal Adviser for any comments/clarifications	
14	Closing statements by the Responsible Authorities	
15	Closing statements by the Interested Parties	
16	Closing statements by the Applicant	
17	The Licensing Sub-Committee is retiring to closed session and invites the Legal Adviser and Committee Clerk to join them to provide advice only.	
	<i>Closed session with Panel/Legal Adviser/Clerk</i>	
18	Re-open for public session	
19	The Legal Officer is asked to present any advice provided during private session	
20	Licensing Sub-Committee's decision to be read out either by the Chair or the Chair to invite the Legal Officer to explain the conditions made in their decision. Chair to inform those present that all parties should receive a written copy of the decision notice within 5 working days	

21	Close Hearing	
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Democratic Services Procedures for Licensing Sub-Committees with regards to Licensing Members

Selecting Panel Members

- Only members from the Licensing Committee will be used for a Licensing Sub-Committee hearing, once they have been appropriately trained.
- Ward members will not be selected to serve on a hearing relating to a premise(s) in their ward.
- Three members will be sought and this will be normally done via email. The email will contain the name and address of the application(s) including the ward(s) that it / they are in and the proposed date(s) and time(s) of the hearing. It will also include the time of a pre-meeting in case that is required.
- Democratic Services will try and vary the time and day of hearing, to enable all Licensing Committee members to serve on Licensing Sub-Committees across the year.
- Members are requested to respond regarding their availability, as soon as practicable and notify Democratic Services immediately if they have to withdraw.
- No substitutes will be sought. The reason for this is as there are only 11 Licensing Committee members and if a substitute was sought for each hearing it would put more pressure on Members' availability. (NOTE: Legislation allows for a maximum of 15 members)
- In selecting the panel, Democratic Services will in principle, seek for a mixed political make-up and also try to rotate the use of Councillors on hearings so that all members serving on the Licensing Committee, are used on the Licensing Sub-Committee hearings.
- In confirming the panel membership, Democratic Services will email all Licensing Committee members so that all are aware of the selected panel and the confirmed date / time.

Paperwork

- Licensing Sub-Committee members will receive the appropriate agenda pack 10 days before the hearing, as will the Interested Parties involved in the hearing. All Licensing Committee members will receive (via modern.gov) a link to the agenda pack.
- If additional information is received from any party to the hearing, the Democratic Services Officer will send it electronically to the Licensing Sub-Committee members and a hard copy will be also left in the councillors' pigeonholes, so it can be either picked up by the councillor or delivered via the normal courier. Depending on the time available before the hearing, the additional information should be placed on the Council's website and if possible hardcopies sent to the parties to the hearing. This may not be possible just before a hearing.
- Additional spare copies of any additional information would be taken to the hearing by Democratic Services officer.

Other Information at Hearing

- The Democratic Services Officer at the hearing / pre-meeting will have a copy of the Chair's checklist, copies of the latest Section 182 guidance, a copy of the Council's Licensing Policy and any model conditions and the Council's Constitution.
- A party may provide additional evidence to the Licensing Sub-Committee at any time up to the Meeting. Any evidence submitted to the Licensing Sub-Committee meeting will require the approval of the Licensing Sub-Committee and the consent of the other parties.

Decision Notice

- Once the Decision Notice has been produced and cleared by the Legal Adviser for technical issues, it will be sent to the Applicant and Interested Parties and then published on the Council's website.
- Following the publication of the Decision Notice (within 5 days of the hearing) this will be sent from Democratic Services to all Licensing Committee members, for their Information.

Minutes of the Sub-committee

- Once the minutes of the hearing have been produced and cleared by the Legal Adviser for technical issues, they will be sent to the Chair of the appropriate Licensing Sub-Committee for their approval. Once the approval has been gained, these will then published on the Council's website.

Appeal

- Legal Adviser to send Licensing Committee members update on appeals

Payment for Chair

- Licensing Sub-Committee chairs are awarded a payment of £246. The Democratic Services Officer sends an email to Frances Cockerton, copying in the Chair, and Julia Regan, giving the date of the meeting and requesting payment. NB the Chair of Licensing already gets an SRA, so is not paid for chairing Licensing Sub-Committee Meetings.

Committee: Licensing Committee

Date: 20 October 2015

Wards: All.

Subject: Update of the Council's Statement of Licensing Policy, proposed Cumulative Impact Zone for Mitcham Town Centre and the surrounding area post public consultation.

Lead officer: Chris Lee, Director of Environment and Regeneration.

Lead member: Councillor Nick Draper, Cabinet Member for Community and Culture.

Forward Plan reference number: N/A

Contact Officer: Barry Croft, Licensing Manager, London Boroughs of Merton and Richmond upon Thames Joint Regulatory Services Partnership and Guy Bishop Senior Lawyer Litigation and Planning Team.

Recommendations:

- A. To consider the comments received during the public consultation process, which took place between 22 June and 14 September 2015;
 - B. To discuss, debate, recommend or refuse to approve the proposed Cumulative Impact Zone (CIZ) for Mitcham Town Centre and the surrounding area based on the evidence obtained during the public consultation period;
 - C. To approve delegated authority to the Licensing Manager, in consultation with the Chairman of the Licensing Committee, to approve any amendments to the Statement of Licensing Policy following the Committee meeting and prior to submission to Council for adoption on 18 November 2015; and
 - D. To approve the draft Statement of Licensing Policy subject to the above paragraph and recommend it for adoption by full Council on Wednesday 18 November 2015.
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 There is a statutory requirement under section 5 (1) of the Licensing Act 2003 (as amended) for the Council to review and re-publish its Statement of Licensing Policy every five years.

- 1.2 Combined with the review and re-publication of the Council's Statement of Licensing Policy, consideration is to be given to the adoption of a new Cumulative Impact Zone (CIZ) for Mitcham Town Centre and the surrounding area as discussed during the meetings which took place on the 24 February and the 9 June 2015. Members are asked to consider the type of licensed premises the CIZ is to cover and to recommend or refuse the proposal for adoption by full Council on 18 November 2015.

2. DETAILS.

2.1 Review of the Statements of Licensing Policy for the London Borough of Merton.

- 2.2 At the Licensing Committee meeting on Tuesday 9 June 2015 the draft Statement of Licensing Policy for public consultation was presented showing the proposed changes to the document brought about by updates to legislation, and suggested changes put forward by the legal advisor to the Licensing Sub-Committee, Mr Gary Grant Counsel appointed to check the draft Statement of Licensing Policy and the Licensing Manager. An updated copy of the draft Statement of Licensing Policy with proposed track changes and comments can be found at **Appendix "A"**.

- 2.3 The public consultation of the draft Statement of Licensing Policy took place between 22 June and 14 September 2015. An electronic copy of the draft document was published on the Council's website. All responsible authorities, a number of interested parties, residents associations and Ward Councillors who receive a weekly e-mail notifying them of applications received by the Licensing Authority were notified of the public consultation. The Council's consultation team also circulated details of the public consultation.

- 2.4 During the consultation period the Licensing Authority received thirteen responses, nine of which were received from local residents, one from a local licensed premises operator, one from a local club premises certificate holder, one response from Live Well Merton and one from Public Health (including a Healthy High Street Consultation and a Youth Inspectors High Street Survey) as a responsible authority. Copies of the consultation responses can be found at **Appendix 'B'**. Members of the Licensing Committee are asked to consider the points highlighted in each of the letters and to consider, if necessary, to make further changes to the draft Statement of Licensing Policy before adoption by full Council. Legal advice will be offered by the legal advisor to the Licensing Sub-Committee and the Licensing Manager during the open debate and discussion.

2.5 Consideration of a proposed Cumulative Impact Zone (CIZ) to be introduced for Mitcham Town Centre and the surrounding area.

At the previous Licensing Committee meetings held on the 24 February 2015 and on the 9 June 2015 a section of the reports published covered a proposal to introduce a Cumulative Impact Zone (CIZ) for Mitcham Town Centre and the surrounding area.

The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

There are currently two CIZs in the borough, one in Wimbledon Village, the other in the Wimbledon town centre area.

The adoption of a CIZ requires that it be included in the Statement of Licensing Policy, following the procedure described in this report, meaning that the matter must effectively be decided by Full Council.

The steps that must be followed when considering the adoption of a CIZ are governed by Chapter 13 of the Guidance issued under Section 182 Licensing Act 2003. Those steps are as follows:

1. Identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm;
2. Consider whether there is good evidence 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;
3. 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;
4. Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise); and

Consult those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation, include and publish details of the special policy in the licensing policy statement.

Paragraph 13.23 stipulates that “ ... *There must be a clear evidential basis for the decision to include a special policy within the statement of licensing policy ...*” The Guidance then goes on to list the information from which the necessary evidence can be gleaned, which includes crime and disorder statistics; complaints made to the police and local authorities regarding anti-social behaviour and environmental health issues; complaints made to the local authority by local residents; residents’ questionnaires; evidence from local councillors and evidence obtained from local consultation.

The Guidance also states that the authority can also take into consideration such matters as trends in licensing applications, for example the type of application and terminal hours; changes in terminal hours to premises and the capacity of premises at various times of the day.

The Guidance also states that where the local authority believe that where there are problems in an area resulting from the cumulative impact of licensed premises, and where the information to support that assertion is insufficient or not readily available, it can consider undertaking or commissioning a specific study to assess the position.

The consultation process involves contacting various parties, namely:

- The Chief Officer of Police for the Licensing Authority's area;
- The Fire and Emergency Planning Authority for that area;
- Such persons as the Licensing Authority considers to be representative of holders of premises licences issued by that authority;
- Such persons as the Licensing Authority considers to be representative of holders of club premises certificates issued by that authority;
- Such persons as the Licensing Authority considers to be representative of holders of personal licences issued by that authority; and
- Such other persons as the Licensing Authority consider being representative of business and residents in its area.

During the twelve week (three months) public consultation process a number of residents wrote in support and offered comments for the proposed introduction of a CIZ for Mitcham Town Centre and surrounding areas. The Public Health Team have provided as part of their submission evidence, which includes a Health High Street Consultation document and a Youth Inspectors High Street Survey, which may help Members with their deliberation when make a decision to recommend or refuse the adoption of the proposed CIZ for the Mitcham Town Centre and surrounding areas. Attached to this report at **Appendix "C"** is a map showing the proposed area of the CIZ for Mitcham Town Centre, the surrounding area as well as the roads which are proposed to be covered, these include:

- London Road (north) to junction of Armfield Crescent to include retail premises on Monarch Parade;
- London Road to Steel Road as far as Tooting Over Ground Station and borough boundary;
- London Road south from Raleigh Gardens up to Mitcham Tram Stop;
- Western Road and Church Road;

- Streatham Road Shopping Parade between Rustic Avenue and Elmhurst Avenue (one side) and Ashbourn Road and St Barnabas Road;
- Gorringe Park Avenue and Seely Road at the junction of Eastbourne Road;
- Holborn Way; and
- Upper Green.

Members are asked for their views on this proposal to ensure the area and roads suggested to be covered by the Mitcham Town Centre and surrounding area CIZ (revised following the meetings which took place on 24 February 2015 and on the 9 June 2015). Members should also note the map attached at **Appendix “C”** shows a dotted line for the following roads:

- Cricket Green;
- Madeira Road;
- Common Side West; and
- The top end of Streatham Road where it joins Seely Road.

Officers have indicated these possible changes to join the road and areas to complete the proposed Mitcham Town Centre and surrounding area CIZ.

Members are also asked to consider, if the decision is to recommend the adoption of the proposed CIZ for Mitcham Town Centre and the surrounding area to full Council, what licensable activities the CIZ is to cover. For example the CIZ could cover premises which sell alcohol for consumption off the premises (off licensed premises) only or it could cover all types of licensed premises including pubs, bars, restaurants and late night refreshment premises.

3. Alternative options.

- 3.1 Members may choose not to implement or agree to the proposed Cumulative Impact Zone for Mitcham Town Centre and surrounding area at this time.

4. Consultation undertaken or proposed.

- 4.1 A twelve week (three month) public consultation was undertaken on the proposed revisions to the Statement of Licensing Policy and the proposed Cumulative Impact Zone for Mitcham Town Centre and surrounding area.

5. Timetable.

- 5.1 Statement of Licensing Policy under the Licensing Act 2003 to go to Full Council meeting for adoption on Wednesday 18 November 2015.

6. Financial, resource and property implications.

- 6.1 None for the purposes of this report.

- 7. Legal and statutory implications.**
- 7.1 None for the purposes of this report.
- 8. Human rights, equalities and community cohesion implications.**
- 8.1 These are statutory functions and are applied globally.
- 9. Crime and Disorder Implications.**
- 9.1 The service has a statutory duty to contribute to the reduction of crime and disorder within the London Borough of Merton under Section 17 Crime and Disorder Act 1988. The prevention of crime and disorder is also one of the licensing objectives as defined in the Licensing Act 2003 and in the Council's current Statement of Licensing Policy.
- 10. Risk management and health and safety implications.**
- 10.1 All risk and health and safety implications have been considered when compiling this report. None are apparent.
- 11. Appendices – the following documents are to be published with this report and form part of the report.**
- 11.1 **Appendix “A”** Draft revised Statement of Licensing Policy showing proposed changes using track changes and Counsels opinion.
- 11.2 **Appendix “B”** Copies of the responses received during the public consultation period from local residents, one local business, one club premises certificate holder, Public Health as a responsible authority under the Licensing Act 2003 and a response from Live Well Merton.
- 11.3 **Appendix “C”** A map showing the proposed area (revised following the comments received during the meeting on 24 February 2015 and 9 June 2015) of the Cumulative Impact Zone for Mitcham Town Centre and surrounding area.
- 12. Background Papers – the following documents have been relied on in drawing up this report but do not form part of the report.**
- 12.1 The Licensing Act 2003; and
- 12.2 Revised guidance issued under section 182 of the Licensing Act 2003.

LONDON BOROUGH OF MERTON



STATEMENT OF LICENSING POLICY

(Draft) 6th JANUARY 2016 (post public consultation version)



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* Page numbers in this index need to be checked and updated before submission to full Council for adoption and publication.



1. The Licensing Act 2003 – Policy and Scope

- 1.1 The Licensing Act 2003 (“the Act”) gained Royal Assent on 10 July 2003 and established a single integrated scheme for licensing premises which are used for the sale or supply of alcohol, to provide regulated entertainment, or to provide late night refreshment. These activities are known as “licensable activities”. The Act came into force in November 2005.
- 1.2 Merton Council became the Licensing Authority responsible for authorising and regulating licensable activities in the London Borough of Merton. All licence applications received under the Act are published on Merton’s website (www.merton.gov.uk/licensing). For the purposes of this policy, reference to Merton is in relation to its function as a licensing authority unless otherwise specified.
- 1.4 The London Borough of Merton is situated in the South West of Greater London. Merton is generally “greener” and more suburban than most other London Boroughs. The Borough is predominantly a residential area. Its properties are both wide ranging in character and often of a high quality. The Council’s strategic objectives include improving the quality of life for residents and businesses alike. They will benefit from a cleaner and more attractive physical environment and improved access to high quality housing, transport systems, learning opportunities and jobs. The Council will also maintain our current position as a low crime Borough and our residents will continue to see Merton as a safe place to live, work and learn. Relationships between Merton’s many diverse communities will be positive.
- 1.5 The Borough has five principal areas namely Raynes Park, Colliers Wood, Mitcham, Morden and Wimbledon. At present, the Council is responsible for the licensing of some 500 premises for the sale or supply of alcohol (e.g. off-licences, restaurants, public houses, bars, registered clubs etc). In addition, the licensing authority is responsible for granting personal licences to individuals wishing to sell or supply alcohol. Some licensed premises are in residential areas. A greater number are located in town centres which are often on a single main road with commercial uses backing onto residential streets. In addition, town centre buildings may contain flats on their upper floors. Customers of licensed premises may often park their vehicles in residential streets.
- 1.6 The busiest of these areas is Wimbledon (comprising the Town Centre and Village, the former being approximately twice the size of the latter), which has the highest density of leisure and entertainment venues in the Borough.
- 1.7 Of paramount importance, the Act requires the Licensing Authority to carry out its various licensing functions with a view to promoting the following licensing objectives:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.



Each of these licensing objectives is of equal importance.

- 1.8 Under the Act, the Licensing Authority is required to publish a Statement of Licensing Policy with respect to the exercise of its licensing functions. The London Borough of Merton's first Statement of Licensing Policy was prepared in accordance with the provisions of the Act and with regard to the Secretary of State's Guidance issued under Section 182 of the Act. It was adopted by the Council on 05 January 2005. In accordance with the Act, our Policy was reviewed and re-adopted by the Full Council in ~~November 2015~~ ~~December 2007~~. ~~This document is the second review of the London Borough of Merton's Statement of Licensing Policy.~~
- 1.9 Licensing law and policy recognises that in a modern and vibrant society the licensable activities covered by the Act require a responsive and flexible system that balances the interests of commerce and its customers with the rights of residents to enjoy their homes and locality without being unreasonably disturbed. One of the purposes of this Policy is to ensure that local people and visitors to the London Borough of Merton will have better opportunities to enjoy their leisure time safely without fear of violence, intimidation or disorder. Another intention of the policy is to ensure that local residents are not unreasonably disturbed, whether in the street or at home, by activities within licensed premises or by customers arriving at, or leaving, licensed premises.
- 1.10 An effective Licensing Policy, alongside other initiatives, can work towards promoting positive aspects of the licensed economy, such as increasing the leisure industry provision for the community, encouraging regeneration of town centres and providing communal hubs, as well as controlling the negative impacts which affect residents, such as an increase in noise, nuisance, anti-social behaviour and crime and disorder.

2. Types of Licences

- 2.1 The types of licences and authorisations available under the Licensing Act 2003 include:
- premises licences;
 - club premises certificates;
 - temporary events notices (standard and late);
 - provisional statements; and
 - personal licences in respect of the sale and/or supply of alcohol.



3. The Policy

3.1 This Statement of Licensing Policy serves 4 main purposes:

- To guide elected Members sitting on the Licensing Committee and Sub-Committees, as well as Officers with delegated authority, on the boundaries and powers of the Licensing Authority, and to provide them with guidance when making decisions. Members and officers should be able to test any application against the criteria set out in this Policy;
- To inform and assist potential applicants for a licence of the expectations of the Licensing Authority and factors that will be considered when making licensing decisions;
- To inform and assist responsible authorities and other persons (including residents and residents' bodies) of the parameters under which the licensing authority will make licence decisions, and therefore how their needs and concerns can be addressed; and
- To inform a Court of Law of the policy considerations taken into account by the Licensing Authority when making a decision if it is challenged.

3.2 The Act covers these licensable activities:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- The provision of regulated entertainment; and
- The provision of late night refreshment;

3.4 Regulated entertainment is defined as follows:

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;
- A boxing or wrestling entertainment (indoor and outdoor);
- A contest, exhibition or display which combines boxing or wrestling with one or more martial arts ("combined fighting sports");
- A performance of live music;
- Any playing of recorded music;
- A performance of dance; and
- Entertainment of a similar description to performance of live music, any playing of recorded music or the performance of dance.



The Legislative Reform (Entertainment Licensing) Order 2014 came into force on 6th April 2015. Further de-regulation (in addition to the Live Music Act 2012) of regulated entertainment came into force after this date with changes as follows:

Comment [BC1]: The following information set out below is a change from the previous version which was presented before the Licensing Committee on the 9 June 2015. Changes made at the recommendation of Counsel GG.

Live Music

- Live unamplified music deregulated between the hours of 08:00 and 23:00 on any premises.
- Live amplified music deregulated between the hours of 08:00 and 23:00 on any premises provided the audience does not exceed 500 persons.
- Live unamplified and amplified music can become licensable for on-licensed premises covered by a premises licence, if the Licensing Authority removes the effect of deregulation following an application for review, which is determined by a Licensing Sub-Committee.

Recorded Music

- Recorded music deregulated between the hours of 08:00 and 23:00 for on-licensed premises covered by a premises licence provided the audience does not exceed 500 persons.
- Recorded music can become licensable for on-licensed premises covered by a premises licence, if the Licensing Authority removes the effect of deregulation following an application for review, which is determined by a Licensing Sub-Committee.
- Unlike live music, deregulation of recorded music does not apply to workplaces.

Local Authority Live and Recorded Music

- Live and recorded music played between the hours of 08:00 and 23:00 at a non-residential premises of a local authority is not a licensable activity provided that:
 - The audience does not exceed 500 persons; and
 - The organiser gets consent for the performance on the relevant premises from the local authority concerned.
- Any regulated entertainment provided by or on behalf of a local authority on their own premises is deregulated between the hours of 08:00 and 23:00.

Health Live and Recorded Music

- Live and recorded music played between the hours of 08:00 and 23:00 on hospital premises is not a licensable activity provided that:
 - The audience does not exceed 500 persons; and



- The organiser gets consent for the performance on the relevant premises from the health care provider concerned.
- Any regulated entertainment provided by or on behalf of a health care provider on their own hospital premises is deregulated between the hours of 08:00 and 23:00.

Schools Live and Recorded Music

- Live and recorded music played between the hours of 08:00 and 23:00 on school premises not a licensable activities provided that:
 - The audience does not exceed 500 persons; and
 - The organiser gets consent for the performance on the relevant premises from the owner of the school.
- Any regulated entertainment provided by or on behalf of a school proprietor on their own school premises is deregulated between the hours of 08:00 and 23:00.

Community Premises Live and Recorded Music

- Live and recorded music played between the hours of 08:00 and 23:00 in a:
 - Church Hall;
 - Village Hall; or a
 - Community Hall or other similar premises is not a licensable activity provided that the premises are not licensed to sell alcohol and the following:
 - The audience does not exceed 500 persons; and
 - The organiser gets consent for the performance from a person who is responsible for the premises.

Travelling Circuses

- Any entertainment is deregulated and no longer a licensable activity (excluding films, boxing or wrestling) when taking place at a travelling circus, provided:
 - It takes place within a movable structure that accommodates the audience; and
 - That the travelling circus has not been located on the same site for more than twenty-eight consecutive days.

Olympic Wrestling Disciplines

- A contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling deregulated between the hours of 08:00 and 23:00, provided that the audience does not exceed 1000 persons.



Incidental Film

- Incidental film – an exhibition of moving pictures if it is incidental to some other entertainment activity.

Exhibition of Films in Community Premises

- A premises licence will not be required for “not for profit” film exhibition held in a community premises between the hours of 08:00 and 23:00 provided that the audience does not exceed 500 persons and the organiser:
 - Gets consent to the screening from a person who is responsible for the premises; and
 - Ensures that each such screening abides by age classification ratings.
- Community premises are defined as:
 - Church Hall;
 - Village Hall; or a
 - Community Hall or other similar premises

The following will still be a licensable activity:

- Any entertainment activity which takes place after 23:00 hours;
- Most forms of entertainment activity which takes place before an audience of more than 500 persons (with a few exceptions); and
- Any sexual entertainment.

3.5 Main Principles

The following are the main principles underpinning this Policy:

- Nothing in this Policy restricts any person from making an application under this Act;
- Each application will be judged on its individual merits, having regard to this Policy, the Secretary of State’s Revised Guidance issued under section 182 of the Licensing Act 2003 and the law of England and Wales;
- Nothing in this Policy restricts the right of any person to make relevant representations in response to an application or to seek a review of a premises licence or club premises certificate because of a matter arising at the premises in connection with any of the four licensing objectives;
- As well as responsible authorities, any person, body or business is entitled to make representations to the licensing authority in relation to applications for the the grant, variation, minor variation or review of a premises licence or a club premises certificate, regardless of their geographical proximity to the premises. Appropriate weight will be given to all relevant representations by persons unless they are deemed



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frivolous, vexatious or repetitious by an officer of the Licensing Authority or the Licensing Sub-Committee;

- Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in the London Borough of Merton.
- Conditions will only be imposed on a licence or other authorisation if they are appropriate for the promotion of the licensing objectives and are proportionate. Since licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events, any conditions attached will be focussed on matters that are within the control of individual licence holders (i.e. the premises and its vicinity). Conditions will be tailored to the size, type, location, characteristics and activities taking place at the premises concerned and will be determined on a case-by-case basis. Standardised conditions will be avoided, although selection may be made from pools of conditions. All conditions must be expressed in unequivocal, enforceable, and unambiguous terms.

3.6 This policy will be reviewed at regular intervals and, in accordance with the Act, no later than five years after the current policy has been adopted by the Council.

3.7 Consultation on Policy Document

Section 5(3) of the 2003 Act prescribes that the following must be consulted:

- The Borough's Chief Officer of Police;
- The Fire and Rescue Authority;
- The local authority's Director of Public Health;
- Persons/bodies representative of local premises licence holders;
- Persons/bodies representative of local club premises certificates holders;
- Persons/bodies representative of local personal licences holders; and
- Persons/bodies representative of businesses and residents in the area.

3.8 The following organisations or individuals have been consulted:

- Safer Merton;
- British Transport Police;
- Local Accident & Emergency Hospital Departments;
- The Musician's Union & Equity;
- Local Childrens Safeguarding Board;
- The Area Forums;



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- All Ward Councillors; and
- Local Pubwatch organisations and local business organisations.

3.9 In addition, the Policy will be available on the Internet on the London Borough of Merton's web site (www.merton.gov.uk/licensing).

3.10 In determining this Policy appropriate weight will be given to the views of the persons and bodies consulted.

3.11 Duplication

3.11.1 This Policy seeks to avoid duplication with other regulatory regimes so far as is possible. This policy statement is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators in respect of employees or members of the public (e.g. Health & Safety at Work etc. Act 1974, Environmental Protection Act 1990, disability discrimination and equality legislation, Anti-Social Behaviour Act 2003, Anti-Social Behaviour, Crime and Policing Act 2014 and Fire Safety legislation).

3.11.2 Conditions will only be attached to licences if they are appropriate for the promotion of the licensing objectives and are proportionate. If a requirement is already imposed by other legislation, it will not generally be considered to be appropriate in the context of licensing law. However, the fact that a matter is covered by other legislation does not always mean that a condition will not be appropriate for the purposes of licensing. It may be that current legislation or regulations might not cover the particular circumstances that arise out of the type of activity at specific premises. In those situations it may be appropriate for conditions to be attached that reflect those particular circumstances. However, the licensing authority will not seek to duplicate a condition which is already provided for under other legislation.

4. Integrating Strategies

4.1. There are many organisations and bodies whose policies and strategies impact on, or involve, one or more of the licensing objectives. Where necessary, the Licensing Authority will liaise with such organisations to ensure proper integration of local crime prevention, planning, transport, tourism, equality schemes, economic development, cultural strategies and alcohol harm reduction initiatives.

4.2.1 Alcohol Harm Reduction Strategy

In 2004, the Government published its 'Alcohol Harm Reduction Strategy for England' ("the Strategy") in which they identified the problems associated with the consumption of alcohol and suggest measures to tackle those problems.

In June 2007, the government published a further report identifying the Next Steps in the National Alcohol Strategy. This strategy, known as "Safe. Sensible. Social", builds upon the foundations, which have been laid, and the lessons



learnt since 2004. It will forge a clearer national understanding of what is acceptable drinking behaviour, in order to reduce the amount of harm that alcohol causes to individuals, families and communities. Safe, Sensible, Social outlines a concerted approach to support a change in drinking culture and shows how the police, local communities, local authorities, the NHS, voluntary organisations, the alcohol industry and others all have a role to play.

The key measures contained within the policy are:

- Working with the drinks industry to ensure that advertising does not promote or condone irresponsible or excessive drinking. This would include creating a Social Responsibility Charter for drinks producers requiring them to put “sensible drinking” messages on packaging; information about units of alcohol on bottles and cans and ensuring that products are not created to appeal to under-age drinkers.
- The strategy states that at local level, there will be new “code of good conduct” schemes for retailers, public houses and clubs, which would be run locally by a partnership of the industry, police and local authorities. These will ensure that industry works alongside local communities that are of concern such as: underage drinking and making town centres safer and more welcoming at night. However any such scheme would be voluntary.
- The strategy contains measures for combating alcohol related disorder in town and city centres. These include an increase in the use of exclusion orders and fixed penalty fines and better enforcement of existing rules governing under-age drinking and serving people who are already drunk.
- The strategy identifies the social and health problems associated with the consumption of alcohol and propose to combat them by promoting greater awareness among health service workers, in schools and by information campaigns.

When carrying out its licensing functions, Merton will endeavour to complement the Governments Alcohol Strategy and the following are examples of how this may be achieved:

- monitoring the sale or supply of alcohol to minors
- where there are relevant representations the licensing authority may attach conditions requiring licensees to require customers who appear to be under 18 to provide evidence of their age

4.2.2 Crime and Disorder Strategy

The Crime and Disorder Act 1998 (as amended) places a duty on Local Authority Chief Executives and Borough Police Commanders, in partnership with other agencies, to work together to reduce crime and disorder in the Borough. Merton’s Crime and Disorder Strategy



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complements central Government strategies and other initiatives, as well as the plans of the other member agencies.

The Safer Merton group has agreed seven key objectives for the Merton Crime and Disorder Strategy (available at www.safermerton.org.uk or on request at the Civic Centre), and the licensing authority's Licensing Policy will integrate with those objectives in the following ways:

- promotion of the four statutory licensing objectives namely prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm
- where there are relevant representations, providing a pool of appropriate conditions to new licences or reviewing existing licences
- monitoring licensed and unlicensed activities
- prosecution of offences in accordance with the enforcement concordat and any other policies that may relate to enforcement
- the review of the licensing policy itself will also enable Merton to respond to changes in the types of crime and disorder in the Borough and take into account changes in this Council and central Governments strategies.

4.2.3 Metropolitan Police Drugs Strategy

- The Metropolitan Police drugs strategy has two strands, namely reducing supply and reducing demand, and this will be achieved by forging a partnership approach between the Police, Merton Council and the local community.
- The Police strategy supports the development, and use of, intelligence garnered from appropriate sources to target those involved in any form of drug dealing.
- The use, and sharing of, intelligence provided by all relevant organisations is emphasised as necessary to identify those areas of drug misuse that cause particular concern to the community.
- Merton is developing a protocol with the Metropolitan Police with regard to enforcement and part of the protocol will relate to the sharing of information generally and specifically in the area of misuse of drugs.
- Merton Council through the promotion of the licensing objectives and the carrying out of its licensing function will contribute to achieving the aims stated in this section.



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- In this way, Merton's Licensing Policy will integrate with both the Police and Courts in seeking to properly address the "Crime & Disorder" objective of the Licensing Act 2003.

4.2.4 Door Supervisors

The Security Industry Authority (SIA) exists to manage the licensing of the private security industry as set out in the Private Security Industry Act 2001 ("PSIA 2001"). Their aims include:

- Increasing public confidence in the private sector security industry
- Improving training, standards and professionalism
- Promoting and spreading best practice
- Strengthening the Metropolitan Police and other enforcement agencies by encouraging and supporting further engagement of the private security industry

Under the PSIA 2001, door supervisors are required to be licensed by the SIA. Door supervisors are employed at many licensed premises in Merton, either by the proprietor or when conditions have been attached to a licence by Merton with regards to the provision of door supervisors. Merton's Licensing Policy integrates with and is compatible with the SIA strategy by requiring such persons to be SIA licensed.

4.2.5 Health and Wellbeing Strategy (Public Health).

Merton's Health and Wellbeing Strategy is developed and updated by the Health and Wellbeing Board (HWB) as part of its statutory function, facilitating partnership working between the London Borough of Merton, Merton Clinical Commissioning Group and the voluntary and community sector. Updated in 2015, the strategy sets out a clear vision to create opportunities for all Merton residents enjoy a healthy and fulfilling life.

The strategy has five key themes:

- Best start in life;
- Good Health;
- Life skills, lifelong learning and good work;
- Community participation and feeling safe; and
- A good natural and built environment.

Creating an environment and culture that prevents problem drinking and tackling the harms resulting from alcohol misuse is central to achieving the



outcomes of the strategy. Promotion of the licensing objectives therefore has a direct impact on the strategy's aims in the following ways:

- The prevention of alcohol-related crime and anti-social behaviour and the protection of public safety all contribute to the building of strong communities in Merton, enabling individuals to feel safe and engage fully with local activities, increasing community cohesion across the borough.
- Protecting children from alcohol-related harm is vital if we are to ensure that every child has the best start in life. To achieve this aim, we need to address factors that contribute to the misuse of alcohol by parents in Merton, in addition to the problem of underage drinking.

4.5 The "Merton Partnership" brings together a range of key players from the public, private and voluntary sectors in Merton, including the council, health bodies, and police, to co-ordinate the delivery of local services.

Merton Partnership brings together a range of key players from the public, private and voluntary sectors in Merton, including the council, health and police, to co-ordinate the delivery of local services.

The Partnership developed a Community Plan in 2009 setting out the overall direction and vision for the Borough until 2019, and a set of commitments and activities to achieve this vision. The Community Plan was refreshed in 2013 to take into account demographic, legislative and policy changes. It now sets out a vision, and pledges to deliver the vision with details of achievements to date, under the following six key headings:

- Merton: A place to work;
- A healthy and fulfilling life;
- Better opportunities for youngsters;
- Keeping Merton moving;
- Being safe and strong; and
- Contributing to your community.

Underpinning all this is the concept of 'Bridging the Gap', that is to say to address the significant differences between those living in the east and west of our Borough, for example average salary, life expectancy or educational attainment.

The Community Plan sits above each partner's own Business Plan and sets the context for how each organisation delivers its business.

~~The Partnership is made up of three tiers:~~

~~The Merton Partnership — this is the full partnership body that provides the governance, overall leadership and representation to ensure that the Partnership delivers the community's priorities. It is chaired by the Leader of the Council, the~~

Comment [GG2]: Do we really need all this detail about the organisational pyramid of the Partnership? I wouldn't have thought it would interest many/any licensees or residents? Perhaps consider deleting this section from "The Partnership" down to "Sustainable Communities and transport"?



~~person with the clearest democratic authority in the Borough. It provides the strategic direction for the work of the Partnership.~~

~~**The Executive Board**—this is the decision making body that provides the governance, overall leadership and representation to ensure that the Partnership delivers the community’s priorities. The Executive Board meets every two months and brings together the organisations with the most significant budgets in the Borough. It ensures the Partnership is given the leadership and capacity it needs to do its job. The Executive Board is committed to sharing information and resources, and to implementing cross-cutting projects to achieve the aspirations set out in the Community Plan.~~

~~**Thematic Partnerships**—four thematic partnerships co-ordinate the work of different partners to ensure that specific activity takes place to deliver the Community Plan. The thematic partnerships are the:~~

- ~~• Children’s Trust;~~
- ~~• Health & Wellbeing Board;~~
- ~~• Safer & Stronger Communities;~~
- ~~• Sustainable Communities & Transport; and~~
- ~~• Sustainable Communities.~~

The Director of Public Health became a Responsible Authority in 2012 following changes to the 2003 Licensing Act. In this role, the Public Health team is consequently able to bring data and evidence from the health sector and on the wider determinants of health into the licensing process in order to support the promotion of the licensing objectives. In Merton, the Director of Public Health now chairs bi-monthly partnership meetings that bring together all Responsible Authorities, providing a forum for the sharing of data and the discussion of best practice in the licensing process.

Notwithstanding other Council objectives set out in separate Plans, Policies and Strategies, the Licensing Objectives are overriding objectives in the context of this Policy Statement. The Licensing Authority, in promoting the four Licensing Objectives, may also take into account the Council’s policy on neighbourhood renewal. Examples of how this can be achieved are:

- attaching conditions to licences which are appropriate and proportionate, subject to evidence to support such conditions; and
- reviewing the Policy and reflecting changes in Council and central Government strategies concerning renewal.

4.6 Test Purchases for the Sale by Retail of Alcohol.

A Code of Best Practice concerning test purchases has been compiled by the Department of Business Innovation and Skills, Better Regulation Delivery Office, Code of Practice on Age Restricted Products This Code has been approved by Central Government and this Council has signed up to this code as a means to



gather evidence and prosecute persons for unlawful sales of alcohol where appropriate. The Code (published in April 2014) can be accessed here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299373/13-537-code-of-practice-age-restricted-products.pdf

5. Promotion of Equality

- 5.1. The Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. This Policy complies with that legal obligation.

In complying with our Equality Duty, this Statement of Licensing Policy will be taken into account.

6. Live Music, Theatre & Dancing

- 6.1. In its role of implementing local authority cultural strategies, the Council recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community. The Council is particularly concerned to increase cultural opportunities for children.
- 6.2. When considering applications for such events and the imposition of conditions on licences or certificates, the Licensing Authority will carefully balance the cultural needs with the promotion of the licensing objectives.
- 6.3. Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused.
- 6.4. As a Local Authority, the London Borough of Merton, has been granted premises licences for a number of properties and sites owned by the Council. The granting of such premises licences means that those individuals or organisations who may wish to use these venues to provide regulated entertainment have been relieved of the requirement to apply for a licence or other authorisation. Further information can be found at www.merton.gov.uk
- 6.5. The Licensing Authority will monitor the impact of licensing on regulated entertainment, particularly music and dancing, to ensure that inappropriate restrictions are not being placed on the development of entertainment activities in the Borough.

Comment [GG3]: These following Acts have all been repealed so I have deleted them: Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000 and the Sex Discrimination Act 1975, as amended by the Disability Discrimination Act 1995. The relevant Act is the Equality Act 2010. I have taken this paragraph from the s 182 guidance as reflecting current law. We are supposed to indicate HOW we will comply with our Equality Duty – I suggest you investigate this with the appropriate department and complete the next paragraph appropriately?



7. Cumulative Impact

- 7.1 The Council as licensing authority cannot take 'need' (i.e. commercial demand) into account when considering an application for a premises licence or a club premises certificate..
- 7.2. Cumulative impact means the potential impact upon the promotion of the licensing objectives by a significant number of licensed premises concentrated in one area. The Council recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder outside and within the locality of these premises. In such circumstances the impact of those premises when taken as a whole can be far greater than that arising from individual premises and it may not be possible to distinguish a specific premises as being the sole cause, or even a major contributing factor of a particular problem. It is acknowledged that it is the "Cumulative Impact" of all of the premises that causes problems for a wider area.
- 7.3 It may become apparent to the Council by way of representations made to it by responsible authorities and/or other persons or bodies that an area has or is becoming saturated with premises, making it a focal point for many/or large groups of people to gather and circulate around the locality or further away from the licensed premises, creating exceptional problems of disorder and nuisance over and above the impact from the individual premises.
- 7.4 In these circumstances the Council may consider that the attachment of conditions is unlikely to address these problems and it may then consider the adoption of a special policy of refusing new premises licences or club premises certificates because the area is saturated with licensed premises and the granting of any more would undermine one of the licensing objectives.
- 7.5 When consulting upon its original Statement of Licensing Policy, the Council took the following steps in considering whether to adopt a special policy:
- Identification of concern about crime and disorder or public nuisance;
 - Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises and if so identifying the area from which the problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
 - Consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole statement of licensing policy;



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- Subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of the Guidance in the statement of licensing policy;
- Publication of the special policy as part of the statement of licensing policy as required by the Act.

The Council still considers these steps to be appropriate for reviewing existing Special Policy areas and for contemplating new ones.

- 7.6 In 2005, the Council considered that the evidence available justified two specific areas in Merton where a special policy was appropriate and necessary. Those areas were Wimbledon Town Centre (part of this area is also a Controlled Drinking Zone) and Wimbledon Village. Having regard to the evidence currently available the Council considers that it is appropriate to continue the special policies in these two areas and add a further special policy for Mitcham Town Centre. The evidence has been examined, indicating that the special policy is working and ought to be continued.

Wimbledon Town Centre

There has been a significant increase in the number and scale of licensed premises in Wimbledon Town Centre over recent years. This has resulted in a significant number of alcohol related crimes and of complaints being made to the Council concerning nuisance. The Police have provided evidence regarding alcohol related crime and disorder and the connection between the offences and licensed premises. Anti-social behaviour has led to the Metropolitan Police designating part of the town centre as a dispersal area under the Anti -Social Behaviour Act 2003. Residents and Residents Associations in Wimbledon Town Centre have made representations that the Town Centre is at saturation point. The Police support the designation of Wimbledon Town Centre as a cumulative impact zone.

Wimbledon Village

Wimbledon Village has not experienced the same development pressures as Wimbledon Town Centre. However, the usage and opening hours of existing public houses and conversion of shops to restaurants has impacted on the locality. There are fewer crimes recorded in the Village as compared to the Town Centre. However, it is clear from the significant number of responses received from residents and Residents Associations to the original consultation that many people experience regular disturbance and nuisance as a result of the proximity of a large number of licensed premises. The Police again supported the designation of Wimbledon Village as a cumulative impact zone. By designating these areas as cumulative impact zones, the Council is promoting the licensing objectives and complying with its statutory duty under Section 17 of the Crime and Disorder Act 1998 to prevent crime and disorder in its area.



Mitcham Town Centre

There has been a significant increase in the number and scale of licensed premises in Mitcham Town Centre over recent years. This has resulted in a significant number of alcohol related crimes and of complaints being made to the Council and/or Police concerning disorder and nuisance involving street drinkers, litter, urination in the street, and the proliferation of alcohol off licence premises. The Police have provided evidence regarding alcohol related crime and disorder and the connection between the offences and licensed premises. The Public Health Team has also undertaken research on these issues by way of a survey which supports a special policy.

7.7 The areas subject to the special policy are as shown in the plans attached to this policy.

The Wimbledon Town Centre cumulative impact zone applies to the following roads and areas:

- Wimbledon Hill Road from the junction with Mansel Road and Woodside Road to the Broadway including Wimbledon Bridge;
- The Broadway to its junction with Merton Road;
- Kings Road from its junction with The Broadway to South Park Road;
- Stanley Road from its junction with The Broadway to South Park Road;
- Merton Road from its junction with The Broadway to its junction with Griffiths Road and Quicks Road;
- Hartfield Road from its junction with Wimbledon Bridge to Sir Cyril Black Way;
- Sir Cyril Black Way;
- Gladstone Road from its junction with The Broadway to Sir Cyril Black Way;
- The forecourt and platforms of Wimbledon Station;
- Hartfield Crescent to number 31 – commercial premises;
- Worple Road from Wimbledon Hill Road to its junction with Raymond Road and Francis Grove; and
- Centre Court Shopping Precinct.

Comment [BC4]: Members are asked to consider, based on the evidence provided, which types of licensed premises are to be covered by the proposed CIZ.

Comment [GG5]: Subject to evidential justification for this new CIP in Mitcham Town Centre and whether it will be only applicable to off or all licences?



The Wimbledon Village cumulative impact zone applies to the following roads:

- High Street (including Hampton House), from its junction with Marryat Road to Wimbledon Hill Road
- Church Road from its junction with the High Street to its junction with Belvedere Square; and
- The Ridgway from its junction with the High Street to its junction with Hillside including 120 Wimbledon Hill Road (120 Wimbledon Hill Road has frontage on the Ridgway).

The Mitcham Town Centre and surrounding area cumulative impact zone applies to the following roads:

- London Road (north) to junction of Armfield Crescent to include retail premises on Monarch Parade;
- London Road to Steel Road as far as Tooting Over Ground Station and borough boundary;
- London Road south from Raleigh Gardens up to Mitcham Tram Stop;
- Western Road and Church Road;
- Streatham Road Shopping Parade between Rustic Avenue and Elmhurst Avenue (one side) and Ashbourn Road and St Barnabas Road;
- Gorringe Park Avenue and Seely Road at the junction of Eastbourne Road;
- Holborn Way; and
- Upper Green;

Comment [BC6]: This information to be inserted if approved by Members on the 20 October for adoption by full Council on 18 November 2015.

7.8 The Council considers that it is appropriate and proportionate to continue a special policy within the designated cumulative impact zones and add an additional cumulative impact zone for Mitcham Town Centre. Where relevant representations have been received the policy will affect applications for new premises licences or club premises certificates or variations of existing licences or certificates. It will be for applicants to show in their operating schedules that their proposals will not add to the cumulative impact already being experienced. Failure to provide such information to the Council is likely to result in a refusal of the application if the matter proceeds to a hearing before the Licensing Sub-Committee. Responsible authorities and/or other persons will need to consider the steps proposed by an applicant in order to decide whether to submit representations. The effect of the cumulative impact policy is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant



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representations, unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives. However, the process allows applicants to rebut the presumption of refusal in their applications, and to make the case before a Licensing Sub-Committee why their application should be granted as an exception to our cumulative impact policy. Where an application engages the special policy the burden of proof lies on the applicant to rebut the presumption.

- 7.9. The presumption of a refusal does not, however, relieve responsible authorities or other persons of the need to make a relevant representation, as the special policy can only lawfully be considered by a Licensing Sub-Committee, which has been convened in response to valid representations made in relation to the specific application. If no representations are received then it would remain the case that any application must be granted in terms that are consistent with the application and operating schedule submitted.

Responsible authorities, such as the Police, or other persons, can make a written representation maintaining that it is appropriate to refuse the application in order to promote the licensing objectives. In doing so they may wish to refer to the special policy and, if appropriate, any other relevant information supporting the representation.

- 7.10 This special policy is not absolute. The circumstances of each application will be considered on its own individual merits. Where the applicant can demonstrate that their proposed operation will have no negative impact on any of the licensing objectives then it is possible for licences and certificates to be granted. As a consequence of the presumption that underpins the special policy applications must directly address the underlying reasons for this policy in order to demonstrate why an exception should be made in any particular case. Following receipt of representations in respect of a new application for, or a variation of, a licence or certificate, the Licensing Authority will consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. Notwithstanding the significance of the special policy the Licensing Sub-Committee must give reasons for any decision to refuse or grant an application. An exception may be made where the application proposes, for example:

- To substitute one type of premises with another which is likely to have a lesser impact on the licensing objectives;
- To substitute one licensable activity with another of less or equal impact;
- To effect a real reduction in capacity;
- To replace vertical drinking with seated consumption and/or condition alcohol sale or supply as ancillary to substantial food;
- To make alterations to the premises that maintain the status quo or enhances the premises without negatively impacting on the licensing objectives; or
- Where a reduction in hours of operation is proposed.

This list is not intended to be an exhaustive or prescriptive list of when exceptions may be found as each case will be determined on its individual merits. There are other factors that might contribute to an application being



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considered as an exception, such as the licensable activities sought, the hours of operation, management standards applied or to be applied to the operation inside and outside of the premises, including door supervision, acoustic controls, CCTV coverage inside and outside the premises, smoking controls, safe capacities, management of exterior spaces, and neighbour considerations.

- 7.11 This special policy cannot be used at a review hearing as a ground for revoking an existing licence or certificate when relevant representations are received about problems with those premises.
- 7.12 The special policy relating to cumulative impact deliberately does not include provisions relating to any specific terminal hour in a particular area. The Council does not intend to attempt to fix a terminal hour in any area which may undermine a key purpose of the 2003 Act.
- 7.13 This special policy does not seek to impose quotas either on the number of premises or the capacity of those premises. Quotas that indirectly have the effect of pre-determining the outcome of any application will not be used because they have no regard to the individual characteristics of the premises concerned. Public houses, night clubs, restaurants, hotels, theatres, concert halls and cinemas all could sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be given to those differences and the differing impact they will have on the promotion of the licensing objectives.
- 7.14 If the Licensing Sub-Committee decides that an application should be refused it will still need to conclude that in light of the cumulative impact policy the grant of the application would undermine the promotion of one or more of the licensing objectives and that the imposition of conditions would be ineffective or disproportionate in preventing any cumulative impact.
- 7.15 Notwithstanding the special policy the Council will continue to work with all appropriate partners to help meet the licensing objectives through local initiatives and good practice, including the provision of CCTV surveillance, police enforcement of general law, ongoing measures to create a safe and clean environment, and working in partnership with licensees.
- 7.16 This special policy will be reviewed to assess whether it is needed any longer or whether it needs expanding.

8. The Prevention of Crime and Disorder

- 8.1 Under section 17 of the Crime and Disorder Act 1998, the London Borough of Merton, as a Local Authority, has a duty to do all that it reasonably can to prevent crime and disorder within the Borough. As previously stated the prevention of crime and disorder is also one of the four licensing objectives that this Licensing Authority has a duty to promote.



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- 8.2 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a significant source of crime and disorder.
- 8.3 In determining licence applications where relevant representations have been made, it will be the policy of the Council to consider the adequacy of measures proposed to deal with the potential for crime and disorder having regard to all the circumstances of the case. In particular the authority may consider the following:
- the levels of crime and disorder in and around the venue;
 - the level of compliance with conditions on existing licences;
 - the measures to be put in place to prevent underage drinking;
 - the measures proposed to prevent the consumption or supply of illegal drugs, including search procedures, provision of CCTV, design of premises, monitoring of toilets, surrender and seizure procedures;
 - the measures proposed to discourage binge drinking and drunkenness and to promote sensible drinking including the use of low % ABV conditions on licences or certificates;
 - the measures proposed to prevent violence on the premises, including the threat of violence to staff and the use of polycarbonate drinking vessels to avoid injury to staff and customers;
 - whether door supervisors are to be provided and, if so, how many and the hours of employment;
 - measures to be put in place to react to any situations of disorder should they occur;
 - in the case of premises selling alcohol on the premises, any measures to be put in place to prevent glass or bottles from being taken into the street;
 - any steps that are to be taken to reduce thefts from patrons using the premises; and
 - for new applications, the extent to which the layout has been designed to minimise crime and disorder; and any steps that are to be taken to reduce the risk of spiking of drinks.
- 8.4 The London Borough of Merton will expect an applicant's operating schedule to satisfactorily address these issues from the design of the premises through to the daily operation of the business.
- 8.5 Applicants are recommended to seek advice from the Council's Licensing Officers and the Metropolitan Police, as well as taking into account, as



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appropriate, local planning policies, tourism, cultural and crime prevention strategies, when preparing their plans and operating schedules. In general, conditions will, so far as possible, reflect local crime prevention strategies.

- 8.6 The London Borough of Merton, where appropriate, will consider attaching conditions to licences to deter and prevent crime and disorder both inside and within the locality of the premises, and these may include use of the model conditions that are in the Schedule of Model Conditions available on the Council's website.
- 8.7 The London Borough of Merton also recognises that there are a number of other mechanisms available to address the impact of crime and disorder and anti-social behaviour. Examples of these are as follows:
- ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments;
 - designation of the Borough as a place where alcohol may not be consumed publicly where people are causing, or likely to cause, a nuisance, It should be noted that the whole Borough is currently designated as a Controlled Drinking Zone;
 - regular liaison with local Metropolitan Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk; confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of likely or imminent disorder, or excessive noise nuisance from the premises;
 - the power of the police, other responsible authorities, Ward Councillors or a local resident, as well as operators of local or businesses, to seek a review of the licence or certificate; and
 - Similar liaison is also available via Safer Merton who are the co-ordinating body in respect of the Merton Crime and Disorder Strategy.

9. Public Safety

- 9.1 The Licensing Act 2003 covers a wide range of premises that require the authorisation of a premises licence or a club premises certificate, including, cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants and fast food outlets/takeaways.
- 9.2 These types of premises present the potential for a variety of safety concerns, some of which are common to all premises and others that may be unique to specific operations. It is essential that premises are constructed or adapted and operated so as to address potential and identified risks and safeguard occupants against them.



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- 9.3 The Council will expect the applicant's Operating Schedule to fully address these issues. Applicants are advised to seek advice from the Council's Licensing team, Building Control Officers, the London Fire and Emergency Planning Authority, the Police, Public Health Merton, and Health & Safety (both the Executive and the Council's department) before preparing and submitting their application, plans and supporting documents.
- 9.4 The London Borough of Merton, as the Licensing Authority, will consider attaching conditions to licences to promote public safety where appropriate, and these may include conditions that are listed in the Schedule of Model Conditions or from other sources or officers.

10. The Prevention of Public Nuisance

- 10.1 Licensed premises, especially those operating late at night and in the early hours of the morning, may cause a range of public nuisances impacting on people living, working or sleeping in the locality of the premises.
- 10.2 The concerns often relate to noise nuisance, light pollution and noxious smells. The London Borough of Merton will expect applicants' operating schedules to address these issues. Applicants are advised to seek advice from the Environmental Health Pollution Team before preparing their plans and supporting documents.
- 10.3 The Council recognises that it is necessary to actively protect residents, members of the public and businesses in the locality of licensed premises from disturbances linked to licensed premises or their customers that amount to a public nuisance. Such a nuisance can impact on the quality of life of residents and the ability of other businesses to operate effectively. The applicant must demonstrate within their operating schedule how they intend to promote the licensing objective relating to the prevention of public nuisance.
- 10.4 The London Borough of Merton, where appropriate and necessary, will consider attaching conditions to licences to promote avoidance of public nuisance, and these may include conditions that are listed in the Schedule of Model Conditions or from other sources or officers.
- 10.5 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. The following are some examples of problems that may give rise to concern and should be addressed where appropriate:
- noise and vibration escaping from the premises, including
 - music, noise from ventilation equipment, and human voices;
 - disturbance by customers arriving at or leaving the premises;



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- queuing, either by pedestrian or vehicular traffic;
- parking by patrons and staff;
- the provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
- the level of likely disturbance from associated vehicular movement;
- the use of licensed premises' gardens and other open-air areas;
- littering or glass dispersal in the immediate vicinity;
- the delivery and collection areas and times e.g. early morning refuse collection;
- the siting of external lighting, including security lighting that is installed inappropriately;
- the impact on refuse storage and litter (including fly posters and illegal placards);
- the generation of odour, e.g. from the preparation of food; and
- any other relevant activity likely to give rise to nuisance.

11. The Protection of Children from Harm

11.1 Access to Licensed Premises

11.1.1 The wide range of premises that require a licence means that children and young persons may visit many of these, sometimes on their own, for food and/or entertainment.

11.1.2 The Licensing Act 2003 creates, among others, the following two offences:

- to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under authorisation of a premises licence, club premises certificate etc.
- to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate etc. Outside these hours, this offence does not prevent the admission of unaccompanied children under 16 to various types of premises where the consumption of alcohol is not the exclusive or primary activity at those venues. It should also be noted that between 5am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and those pubs where the main



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activity is the consumption of both food and drink.

- 11.1.3 Subject to the provisions of the Licensing Act 2003 and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The Licensing Authority will not attach conditions requiring the admission of children.
- 11.1.4 The Licensing Authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.
- 11.1.5 Each application will be considered on its merits. However, there may be particular areas of concern in respect of children including the following examples:
- premises where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
 - premises with a known association with drug taking or dealing;
 - premises where there is a strong element of gambling on the premises (but not, for e.g. the simple presence of a small number of fruit machines, slot machines or any other cash prize gaming machines);
 - premises where entertainment or services of an adult or sexual nature are commonly provided; and
 - premises where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided.
- 11.1.6 The following options are possible alternatives which the The Licensing Authority may consider attaching as conditions for limiting the access of children where it is appropriate for the prevention of harm to children:
- Limitations on the hours when children may be present;
 - Limitations on ages below 18;
 - Limitations or exclusion when certain activities are taking place;
 - Requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult);and
 - Full exclusion of people under 18 from the premises when any licensable activities are taking place.
- These alternatives can be adopted either individually or in combination in order to promote this licensing objective.
- 11.1.7 The Licensing Authority recognises the Safeguarding Children Board as being competent to act as the responsible authority in relation to the



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protection of children from harm objective and can make relevant representations. As a responsible authority, the applicant is required to copy details of their applications to the Safeguarding Children Board when an application is made. The Board may be contacted at Children, Schools & Families Department, London Borough of Merton.

11.2 Access to Cinemas.

- 11.2.1 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups.
- 11.2.2 In the past, films that have been shown at cinemas or film exhibitions in the London Borough of Merton have been classified by the British Board of Film Classification (BBFC). It is not anticipated that this will change.
- 11.2.3 Applicants for licences in relation to premises showing film exhibitions will be expected to address arrangements for restricting children from viewing age-restricted films (as classified by the BBFC) in their operating schedules.
- 11.2.4 The Licensing Act 2003 also provides a mandatory condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to the exhibition of any films to be restricted in accordance with the recommendations given to films by the BBFC or the licensing authority if it so desires.

11.3 Children and Public Entertainment.

- 11.3.1 Many children go to see and/or take part in an entertainment arranged especially for them, for example children's film shows and dance or drama school productions.
- 11.3.2 In order to promote the protection of children, the Licensing Authority may attach conditions where it is appropriate and necessary to safeguard them whilst they are on the premises.

Examples of such conditions may be:

- concerning the presence of adult staff at places of public entertainment to control the access and egress of children and to protect them from harm; and
 - age restrictions of children or young persons if unaccompanied by a responsible adult.
- 11.3.3 The Licensing Authority expects, where relevant, that submitted operating schedules will address the licensing objective relating to the protection of children and public safety.
 - 11.3.4 The Licensing Authority will consider attaching Conditions to licences and permissions to promote these licensing objectives and these may include



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include conditions that are listed in the Schedule of Model Conditions or from other sources or officers.

11.3.5 The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks is commended.

The following are conditions that this Licensing Authority may also attach where it is appropriate:

- (i) Where a regulated entertainment is specially presented for children, the Council may require the following arrangements when necessary in order to control their access and egress and to ensure their safety:
- Age restrictions attached to children being admitted to any entertainment unless such child is accompanied by and is in the charge of a responsible adult person
 - no child unless accompanied by an adult to be permitted in the front row of any balcony
 - no standing to be permitted in any part of the auditorium during the performance
 - an adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof

In addition to the staff members required to be stationed at any exit or head of any staircase there shall be on duty no less than 2 other attendants who shall take charge of and safeguard young children who are not accompanied by a responsible adult and as far as conditions allow, shall arrange for such young children to sit together in groups

- attendants wearing a conspicuous white armband not less than 4" wide with the wording "CHILDRENS ATTENDANT" marked thereon
 - Police checks of staff that are dealing with children for relevant offences that may make them unsuitable to be dealing with children.
- (ii) The following are also conditions that may be attached with regards to prevention of harm to children
- Limitations on the hours when children may be present
 - Limitations on ages below 18
 - Limitations or exclusion when certain activities are taking place
 - Requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult)



Full exclusion of people under 18 from the premises when any licensable activities are taking place.

12. Tourism, Employment, Planning & Building Control

- 12.1 Planning, Building Control and the Licensing functions will be properly separated in order to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice-versa.
- 12.2 However, it should be noted that under the Licensing Act 2003, the local Planning Authority is a “responsible authority” that must be notified of licensing applications and is entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate.
- 12.3 Arrangements will also be made for the Licensing Committee to receive reports where appropriate on the following matters to ensure members are aware of them when making decisions:
- the needs of the local tourist economy and cultural strategy for the Borough; and
 - the employment situation in the Borough and the need for investment and employment.

13. Licensing Hours

- 13.1 In the Secretary of State’s Guidance, the Government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application
- 13.2 Fixed trading hours within designated areas (Zoning) will not be adopted in this Borough. One reason for this is that it could lead to significant movements of people to areas within the Borough at particular times either seeking premises or going to premises that have longer opening hours and provide either alcohol and/or other regulated entertainment. This movement of people may give rise to a concentration of disturbance and noise.
- 13.3 ~~The Licensing Authority recognises that hours of trading are a critical factor in assessing adverse and beneficial impacts in its area. Whilst the Borough~~

~~does not generally have a problem, outside a particular CIP, with small numbers of customers leaving licensed premises at the same time there is a problem with noise and anti social behaviour which affects local residents.. Noise can come from within premises, a potentially controllable source, and from revellers in the street.~~

Comment [GG7]: Reconsider this sentence.

13.4 All applications will be considered on their merits. In considering whether to restrict licensing hours in order to promote the licensing objectives, the Licensing Authority will consider the following matters (among others):

- whether the licensed activity is likely to result in an increase in crime, disorder or anti-social behaviour in the area;
- whether the licensed activity is likely to lead to a public nuisance disturbing residents or other businesses in the vicinity, and what measures will be put in place to prevent it;
- whether there will be an increase in any cumulative adverse effect from the activity on local residents or other businesses in the vicinity; and
- the level of public transport accessibility to and from the premises for the hours requested, or whether other effective methods of dispersal will be put in place that will prevent the licensing objectives being undermined..

13.5 The Licensing Authority will consider the imposition of conditions in relation to the design, operation and management of premises which reflect any licensing hours allowed. In particular consideration may be given to imposing stricter conditions in respect of noise control where premises are below or adjacent to residential premises.

13.6 Particular areas of concern that may be taken into account by the Licensing Authority when considering appropriate operating hours include:

- Noise emanating from the premises itself, including external areas, that may affect residents;
- Noise caused by patrons leaving the premises;
- Noise caused by patrons queuing at the premises prior to admission;
- Behaviour of patrons in the vicinity that may result in public nuisance and/or crime and disorder; and
- Noise caused by delivery vehicles, waste vehicles and operatives collecting empty bottles and other waste products.

Shops, Stores and Supermarkets

13.7 Shops, stores and supermarkets will normally be permitted to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing



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objectives, for restricting those hours. e.g. police representations relating to crime and disorder and/or representations relating to public nuisance.

- 13.8 If there is more than one business trading from the same premises (e.g. hypermarkets, malls etc) which require separate premises licences the Licensing Authority, where appropriate, will assign a nominal unit number or sub-division of the address to accommodate and individually identify such premises and issue a premises licence accordingly.

14. Conditions

14.1 Mandatory Conditions

- 14.1.1 Section 19, 20 and 21 of the Act, provides for certain mandatory conditions to be included in a premises licence.
- 14.1.2 Under section 19, the Licensing Authority will be required to attach to any premises licence authorising the supply of alcohol the conditions that at any time when such supplies under the premises licence are made
- There must be a 'designated premises supervisor' who is the holder of a valid personal licence, and
 - Every supply of alcohol under the premises licence must be made by a personal licence holder (although not necessarily by the designated premises supervisor) or an individual authorised by a personal licence holder.
- 14.1.3 Where a premises licence authorises the exhibition of a film, section 20 makes it mandatory for a condition to be included in the premises licence requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the licensing authority itself. When the Licensing Act 2003 was passed the only body designated under section 4 of the Video Recordings Act 1984 was the British Board of Film Classification.
- 14.1.4 Section 21 applies where the provision of door supervision is a requirement of the premises licence. It requires the licence to provide that anyone carrying out such a security function must be licensed by the Security Industry Authority established under the Private Security Industry Act 2001. However, s.21(2) specifies some exceptions to the requirement (e.g. theatres). The provisions of the Private Security Industry Act 2001 are amended by paragraph 118 of Schedule 6 to the Act.
- 14.1.5 In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –
- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to –



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- i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii. drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –

- (a) a holographic mark, or
- (b) an ultraviolet feature.

The responsible person must ensure that –

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply



in a securely closed container) it is available to customers in the following measures -

- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of the condition set out in paragraph 1—

- (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

Where –

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence,
- or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

“relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

“value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that



sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

The admission of children to the exhibition of any film is to be restricted in accordance with any recommendation made by the relevant film classification body or relevant licensing authority.

No condition may be attached to the licence as to the nature of the plays which may be performed, or the manner of performing plays, under a licence that permits the performance of plays.

14.2 Prohibited conditions

14.2.1 Under section 22, in the case of any premises licence authorising the performance of a play, the Licensing Authority will not be able to attach conditions relating to the nature of the play performed or the manner of its performance, unless they are justified as a matter of public safety.

~~14.3 Standard Conditions~~

~~14.3.1 Conditions may only be imposed on licences and certificates where they are appropriate for the promotion of one or more of the four licensing objectives and are proportionate. Standard conditions will be avoided. The Licensing Authority may include conditions that are listed in the Schedule of Model Conditions or from other sources or officers.~~

Comment [BC8]: Counsel GG recommended removal of this paragraph.

15. Applications for Premises Licences

15.1 Any person (if an individual, aged 18 or over) who is carrying on or who proposes to carry on a business which involves the use of premises (which includes any place including one in the open air) for licensable activities may apply for a premises licence either on a permanent basis or for a time limited basis.

15.2 Furthermore, a wide range of other individuals and bodies set out in section 16 of the 2003 Act may apply for this type of licence e.g. government departments, local authorities, hospitals, schools and police.

15.3 An application for a premises licence or a club premises certificate must be on the prescribed form and served on this Licensing Authority and be copied to each of the responsible authorities (see Section 13 of the 2003 Act) or online where it will be copied to this Licensing Authority and each of the



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Responsible Authorities (that are listed in Appendix 1) and it must be accompanied by:

- The required fee;
- An completed operating schedule (see below);
- A plan of the premises in a prescribed form to which the application relates or to a scale agreed by the licensing authority; and
- If the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the designated premises supervisor.

- 15.4 If the application form is not completed correctly the application may be returned to the applicant.
- 15.5 Further, the Licensing Authority will not determine an application which has not been properly made, for example by failing to provide material information requested by the form, or failing to advertise or notify responsible authorities as required by regulations.
- 15.6 The Licensing Authority recommends that applicants for premises licences, club premises certificates or for major variations of such licences to conduct a thorough risk assessment with regard to the licensing objectives when preparing their applications.
- 15.7 The Licensing Authority Merton has a policy whereby valid applications will automatically be referred to the Building Control, Health & Safety or other appropriate departments and it will be for them to decide whether an inspection of the premises is required. If any breaches are found these will be dealt with under other relevant legislation.
- 15.8 There will not be a routine inspection of premises carried out by Officers of the Licensing Authority but inspections may take place for example in the following circumstances:
- Where applications are received for new premises where there are concerns that arise out of the operating schedule;
 - Where there have been complaints raising concerns with regard to the promotion of the licensing objectives;
 - If there is a level of risk associated with the type of entertainment to be offered at the premises;
 - In situations where relevant representations have been received to cause the London Borough of Merton's confidence in the management of the premises to be questioned;
 - The history of the premises;
 - Any other relevant factor; and



- Where other regulating authorities (internal or external) recommend action.

16. Operating Schedule (Licensed Premises and Registered Clubs)

- 16.1 As part of an application for a premises licence (or club premises certificate) an operating schedule must be submitted. The operating schedule is required to include information that is necessary to enable the Licensing Authority (or an interested party/responsible authority) to assess whether the steps to be taken to promote the licensing objectives are satisfactory. The following are a few examples of the type of information that would be useful:
- Descriptions of the style and character of the business to be conducted on the premises (e.g. supermarket, bar, restaurant etc.);
 - If alcohol were being sold for consumption on the premises, it would be valuable for the applicant to indicate the extent of seating available as research has shown that the amount of seating can be relevant to the prevention of crime and disorder; and
 - The type of activities available in the premises whether licensable under the 2003 Act or not e.g. if there is dancing it would be helpful for a brief description to be given of the type of dancing and whether it is members of the public or professional performers.
- 16.2 An applicant is required to ensure that the operating schedule sets out the following details:
- the relevant licensable activities to be conducted on the premises;
 - the times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year);
 - any other times when the premises are to be open to the public;
 - where the licence is required only for a limited period, details of that period;
 - where the licensable activities include the sale or supply of alcohol, the name and address of the individual (who must hold a valid personal licence) to be specified as the designated premises supervisor ("DPS"). (The main purpose of the DPS is to ensure that there is always one specified individual who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder in a manner that promotes the licensing objectives);



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- where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both
 - the steps which the applicant proposes to take to promote the licensing objectives; and
 - Such other matters as may be prescribed.
- 16.3 Applicants are reminded that the Licensing Act 2003 provides that where an operating schedule (or club operating schedule) has been submitted with an application and there are no relevant representations made with regards to the application, the premises licence or club premises certificate must be granted subject only to such conditions as are consistent with the operating schedule accompanying the application and any mandatory conditions required by the Licensing Act 2003.
- 16.4 Therefore, it is important that all schedules should be precise and clear about the measures that it is proposed to take to promote each of the licensing objectives, in particular in relation to the protection of children.
- 16.5 It is also important for the applicant to ensure that the steps suggested by the operating schedule are realistic and within the control of the applicant and management of the premises. If a premises licence or club premises certificate is granted with conditions attached requiring the implementation of such steps, a failure to comply with the condition may amount to a criminal offence.
- 16.6 Applicants for new premises licences/club operating schedules and those seeking variations to existing premises licences, are advised to consult with the following organisations before preparing their schedules or at the earliest possible stage in order to avoid disputes:
- Police and local authority community safety officers in relation to crime and disorder;
 - Local community groups- nuisance especially in relation to noise;
 - Local environmental Health officers – nuisance including noise;
 - Fire brigade – fire precautions and public safety;
 - Health & Safety Team of the London Borough of Merton – public safety; and
 - Any other organisations or groups interested in the promotion of the licensing objectives in the area concerned.

17. Enforcement

- 17.1 The Council has a enforcement policy, based around the principles of consistency, transparency and proportionality set out in the Department of



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Trade and Industry's Enforcement Concordat which also takes into account the Attorney General's Guidelines to Crown Prosecutors for bringing prosecutions.

- 17.2 Enforcement decisions will be taken in line with the principles contained in the concordat and our Enforcement Policy.
- 17.3 The Council will comply with all laws and standards that govern the way enforcement action is to be dealt with. (e.g. Licensing Act 2003 & Guidance, Police and Criminal Evidence Act 1984, Criminal Procedure and Investigations Act 1996, Data Protection Act 1998, Human Rights Act 2000, Regulation of Investigatory Powers Act 2000 etc).
- 17.4 The Licensing Authority will work in partnership with the Metropolitan Police on enforcement issues to ensure an efficient deployment of Police and Officers of the Licensing Authority engaged in enforcing licensing laws and inspecting licensed premises. This will provide for the targeting of agreed problems and high-risk premises that require greater attention. In turn a lighter touch will be adopted in respect of low risk premises.

18. Applications for Personal Licences to Sell or Supply Alcohol

- 18.1 In order to obtain a personal licence under Part 6 of the Licensing Act 2003 the requirements are that the applicant:
- Must be aged 18 years or over;
 - Must possess a licensing qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent) or is a person of a description prescribed by the Secretary of State by regulations;
 - must not have forfeited a personal licence within five years of his or her application;
 - must produce a Criminal Record Bureau certificate;
 - must not have an objection notice from the police about the grant of a personal licence following notification of any unspent relevant offence or foreign offence;
 - must show that any unspent relevant offence should not be considered on crime and prevention grounds if an objection is received by the police; and
 - must pay the appropriate fee to the Council.
- 18.2 Applicants with unspent criminal convictions for relevant offences set out in the Licensing Act 2003 are strongly advised to first discuss their intended application with the Police and the Licensing Team before making an application.



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- 18.3 A personal licence is valid for an indefinite period. A designated premises supervisor must hold a personal licence.
- 18.4 Further information about personal licences can be found on the London Borough of Merton's website (www.merton.gov.uk/licensing) in the Borough's Public Libraries or by contacting the Licensing team at the London Borough of Merton.

19. Temporary Event Notices

- 19.1 If the Licensing Authority receives a standard or late Temporary Event Notice ("TEN") and there are no representations made against it by the Police or Commercial Environmental Health department, then the Licensing Authority is obliged to issue the TEN subject to the statutory limits being complied with. Only the Police and Commercial Environmental Health team can object to a TEN and can do so in relation to any or all of the licensing objectives.
- 19.2 A **standard** TEN must be given to the licensing authority no later than 10 working days before the day on which the event period begins, and must be accompanied by the prescribed fee. An objection to a standard TEN must be made up to 3 working days following receipt by the Police or Commercial Environmental Health Team. If an objection is made to a standard TEN then the objection notice will be considered at a hearing and the licensing sub-committee will consider whether to issue a counter-notice.
- 19.3 A **late** TEN must be given to the licensing authority no later than 5 working days, but no earlier than 9 working days, before the day on which the event period begins, and must be accompanied by the prescribed fee. If the Police or Commercial Environmental Health Team object to a late TEN then a counter-notice must be issued without a hearing. This counter-notice must be issued at least 24 hours before the beginning of the event.
- 19.4 The working days run from the day after the notice is received by the Licensing Authority, as the day the notice is received is deemed to be day zero. Public holidays and weekends are not counted, as they are not working days. For example, if a TEN was served on Tuesday, 13 November, the working days would begin to run from Wednesday, 14 November to Tuesday, 27 November and the event could be no earlier than Wednesday, 28 November.
- 19.5 The Licensing Authority may attach conditions to a TEN, where there is an unwithdrawn objection and where it is appropriate for the promotion of the licensing objectives, but only if the conditions to be applied are already on a Premises Licence or Club Premises Certificate relating to the premises where the event will take place and are not inconsistent with the TEN. In any event, the notice giver is responsible for ensuring that the event complies with all relevant legislation, including the avoidance of a statutory nuisance, and that the event complies with all health and safety requirements.
- 19.6 Further information on temporary event notices can be found on the Merton web site (www.merton.gov.uk/licensing), in leaflets and in the guidance.



20. Registered Clubs

- 20.1 Part 4 of the 2003 Act deals with registered clubs.
- 20.2 The Licensing Authority can grant a Club Premises Certificate for the sale of alcohol and regulated entertainment to qualifying clubs.
- 20.3 There are various conditions that have to be complied with for a club to qualify e.g.
- Forty–eight hour wait before becoming a member; and
 - Club having at least 25 members.
 - There are also requirements concerning the supply of financial information to members and the keeping of financial records. The club also has to be managed by an elected Management Committee.
- 20.4 The provisions with regards to making an application for the Club Certificate are similar to those for a premises licence.
- 20.5 Further information can be found on the Merton web site www.merton.gov.uk/licensing, in leaflets at public libraries and in the guidance issued by the Government.

21. Reviews and dealing with complaints about premises

- 21.1 After the grant of a premises licence or a club premises certificate, responsible authorities (e.g. police, fire brigade, environmental health) and other persons (e.g. residents) may wish to make complaints about problems associated with crime and disorder, public safety, public nuisance or the protection of children.
- 21.2 The Licensing Act 2003 provides for a process whereby responsible authorities and/or other persons can make an application for a review of the licence and provide their written representations.
- 21.3 Written representations may be amplified upon at a subsequent hearing or may stand in their own right. However, generally, new representations in addition to those already made in writing may not be heard at a subsequent hearing. Therefore it is important that any representation made is clear, comprehensive, and to the point.
- 21.4 Furthermore, these representations must relate to particular premises for which a premises licence is already held and must be relevant to the promotion of one or more of the licensing objectives. The review process is not an opportunity to revisit the earlier representations made to the Licensing Authority when the original application for a premises licence was determined.
- 21.5 Representations from other persons will be considered by the Licensing Team to decide if they are frivolous, vexatious or repetitious. If it is determined that such representations fall within one of these categories then the application for review will not be accepted.



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- 21.6 A representation is repetitious when it is identical or substantially similar to a representation made on a previous review or when the application for the licence was itself determined, and a reasonable interval has not elapsed since that time. In considering whether a reasonable interval has elapsed, the Licensing Authority will have regard to whether operation of the premises has begun or changed since the previous representation was made.
- 21.7 On receiving applications for a review from responsible authorities and/or other persons that are relevant, the Licensing Authority will arrange a hearing before the Licensing sub-committee in accordance with the regulations made under the Licensing Act 2003.
- 21.8 In circumstances where there are complaints by other persons (e.g. residents) the Licensing Authority will seek to encourage alternative methods of resolving the complaints before an application is made for a review. However this does not override the right of any person to seek a review of a licence or certificate.
- 21.9 In the first instance, persons are encouraged to raise the complaint directly with the licensee or business concerned. Responsible authorities are also encouraged to give licence holders early warnings of their concerns and of the need for improvement.
- 21.10 The Licensing Authority will take a particularly serious view where the grounds for review are substantiated and relate to the use of the licensed premises:
- for the sale and distribution of drugs and the laundering of the proceeds of drugs crimes;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music;
 - for the illegal purchase and consumption of alcohol by minors;
 - for prostitution or the sale of unlawful pornography;
 - for unlawful gambling;
 - as a base for organised criminal activity, particularly by gangs;
 - for the organisation of racist, homophobic or sexual abuse or attacks;
 - for the sale or storage of smuggled tobacco and alcohol;
 - for the sale of stolen goods;
 - for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter.



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- where Police are frequently called to attend to incidents of crime and disorder;
- where there has been prolonged and/or repeated instances of public nuisance;
- where there are serious risks to public safety and the management is unable or unwilling to address these matters; and
- serious risks to children.

This is not an exhaustive list and only provided by way of example.

21.11 Where the Licensing Authority considers that action under its statutory powers is appropriate it may take any of the following steps:

- to take no action and/or issue a warning
- issue a letter confirming an offence has been committed and agree a formal caution
- in a Review to modify the conditions of the premises licence;
- in a Review to exclude a licensable activity from the scope of the licence;
- in a Review to remove the designated premises supervisor;
- in a Review to suspend the licence for not more than 3 months;
- to prosecute; and
- in a Review to revoke the licence.

Review proceedings may take place in addition to criminal proceedings for any offence that arises out of the complaint that led to the review application. Review proceedings do not need to be delayed pending the outcome of those criminal proceedings.



22. Administration, Exercise and Delegation of Functions

- 22.1 A scheme of delegation has been agreed by the Licensing Committee and can be accessed on the website www.merton.gov.uk in the Council's Constitution.
- 22.2 The Licensing Committee may receive regular reports on decisions made by officers so that they maintain an overview of the situation.

Publication of the policy

The Licensing Policy is available on the Merton website: www.merton.gov.uk/licensing

The Licensing Policy will be available upon request in large type and audio. The Licensing Policy will be available upon request in the following languages:

- Albanian
- Arabic
- Bengali
- Chinese
- Farsi
- French
- Greek
- Gujarati
- Hindi
- Italian
- Korean
- Polish
- Punjabi
- Somali
- Spanish
- Tamil
- Turkish
- Urdu

The Council will endeavour to make the Licensing Policy available in other languages upon request.



Appendix 1 – Responsible Authorities Contact details

The Chief Officer of Police, PS P Sparham, Wimbledon Police Station, 15 Queens Road, London, SW19 8NN

London Fire & Emergency Planning Authority, Fire Safety Regulation: South West Area 4, London Fire Brigade, 169 Union Street, London, SE1 0LL

Planning Manager, 14th Floor Merton Civic Centre, London Road, Morden, SM4 5DX

Merton Local Safeguarding Children Board, 10th Floor Merton Civic Centre, London Road, Morden, SM4 5DX

Chief Inspector of Weights and Measures, Trading Standards Service, 14th Floor Merton Civic Centre, London Road, Morden, SM4 5DX

Environmental Health (Commercial) Manager, 14th Floor Merton Civic Centre, London Road, Morden, SM4 5DX

Environmental Health (Pollution) Manager, 14th Floor Merton Civic Centre, London Road, Morden, SM4 5DX

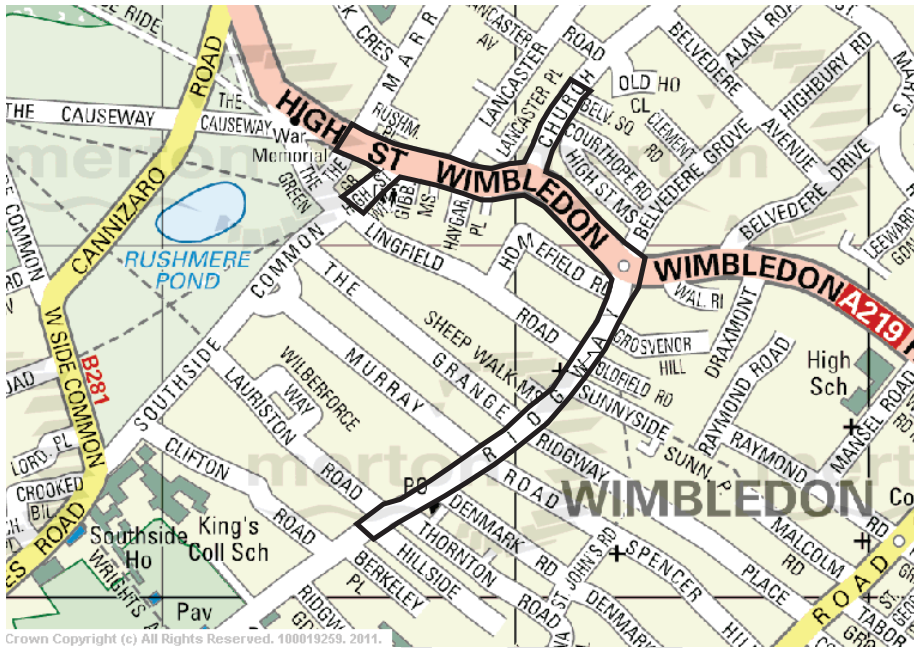
Environmental Health (Licensing) Manager, 14th Floor Merton Civic Centre, London Road, Morden, SM4 5DX

Director of Public Health, 3rd Floor Merton Civic Centre, London Road, Morden, SM4 5DX

Any other licensing authority (Local Council), other than the relevant licensing authority, in whose area part of the premises is situated. (This would only apply to premises located on the boundary between Merton, Wandsworth, Kingston, Croydon, Lambeth or Sutton)

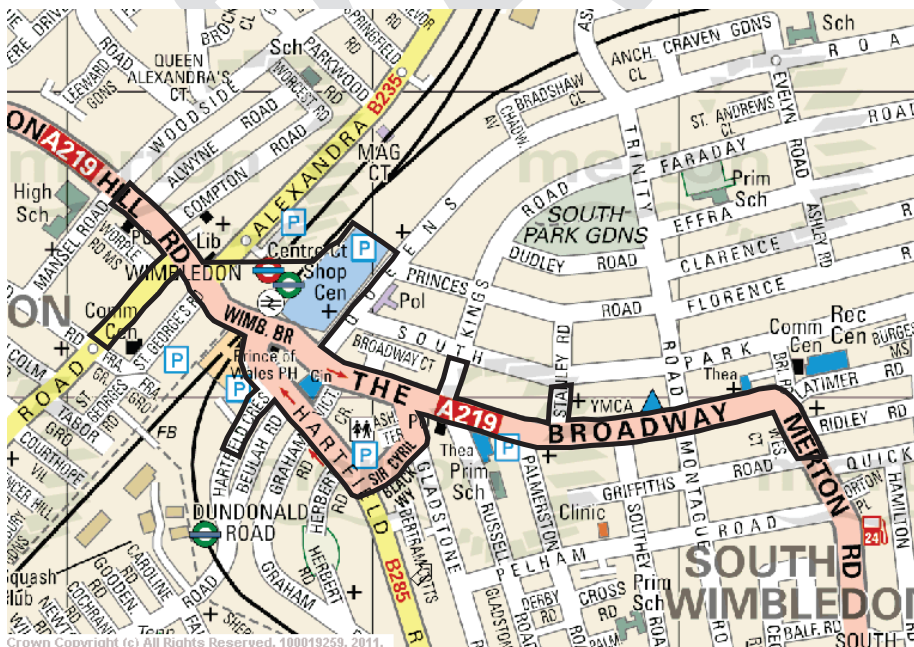
*[Health & Safety at Work Act 1974 matters are already covered by your sending a copy of the application to the Environmental Health (Commercial) Manager]
The addresses and contact details above are subject to change and an up to date version is available on the website www.merton.gov.uk/licensing.*

Appendix 2 – Maps showing Cumulative Impact Zone Boundaries



Comment [BC9]: A map showing the roads and areas to be covered by the proposed Mitch Town Centre and surrounding area CIZ to be incerted here before the draft SoLP is adopted by full Council on the 18 November 2015.

Comment [GG10]: Need to add Mitchan Town Centre map if approved as a CIP area.



Draft Statement of Licensing Policy – Consultation Responses Received During the Public Consultation Processes.

NAME	STATUS	COMMENTS
AMY POTTER	PUBLIC HEALTH CONSULTANT	SEE ATTACHED REPORTS
OLD WIMBLEDONIANS ASSOCIATION	MEMBERS CLUB	SEE ATTACHED LETTER
SIERIEN RAZAK	PUBLIC HEALTH CONSULTANT (HOUNSLOW)	SEE ATTACHED LETTER
TOM WILKES	DPS OF NIGHTCLUB	<p>Dear Sirs.</p> <p>We write with reference to the current consultation about a new Statement of Licensing Policy under the Licensing Act 2003.</p> <p>We are the operators of The Watershed, 267 Broadway, Wimbledon, London SW19 1SD.</p> <p>We wish to make the following submissions:</p> <p>Cumulative Impact Zones in Wimbledon and Wimbledon Village</p> <p>These Cumulative Impact Zones should remain: there are many more licensed premises than there used to be in Wimbledon and the cumulative impact of the ones who operate late into the night because they can, rather than they should, is often clear to see.</p> <p>Late Night Levy</p> <p>Further, we would also suggest that London Borough of Merton consider a Late Night Levy on all licensed premises opening after midnight. We understand from anecdotal feedback that such schemes have been beneficial in other areas and helped to cover costs of policing and organising the night-time economy.</p>

Draft Statement of Licensing Policy – Consultation Responses Received During the Public Consultation Processes.

		<p>Links to more information:</p> <p>http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN07100</p> <p>http://researchbriefings.files.parliament.uk/documents/SN07100/SN07100.pdf</p> <p>Yours sincerely, Tom/Richard</p>
SUE COOPER	RESIDENT	<p>Dear Sir</p> <p>I would like to register my support for the proposed Cumulative Impact Zone relating to alcohol sales in the central Mitcham area and give Merton Council my absolute support in this.</p> <p>My neighbours and I, resident in the Three Kings area, where the pond became a magnet for drinkers, have experienced problems due to late night drinking on many occasions, and have had to contact the police many times in the early hours due to alcohol-fueled disturbances of noise and anti-social behaviour, witnessing activities such as fighting, use of the pond and any vegetation in the area as a lavatory (one neighbour trimmed back vegetation, so disgusted was he with its use as a lavatory at all times of day), and the garbage left by these people. It has been stressful and vile.</p> <p>This behaviour has not been limited to night time, as on several occasions drunken individuals have been seen in the day, around the pond and in the town center, including vomiting and urination etc. On a few occasions the state of the perpetrators has been so bad that ambulances have had to be called by the police, placing yet more strain on an already stretched NHS.</p> <p>The supermarkets already sell the brands of beer and spirits favored by these individuals, but these outlets close relatively early. Other stores are open later, for example the 'convenience stores' which can provide late night drinkers with alcohol supplies after the</p>

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		<p>supermarkets have closed, and we are aware that certain enterprises would stay open throughout the night if allowed. Noting an burgeoning business opportunity, other stores have applied for new alcohol licenses, for example one food store clearly seeking to exploit its position close to Three Kings Pond, which, thankfully, and after protests from local residents, was refused.</p> <p>As a positive note, the situation, particularly around the pond appears to have improved considerably recently. Whether this will continue we do not know, but actions from the Council and the Police have been very effective so I would like to thank both parties for their efforts.</p> <p>To increase the opportunity to purchase drink, would surely increase the attractiveness of Mitcham to those people who abuse it, and further problems would ensue. Therefore - and particularly as somebody who has previously sustained Actual Bodily Harm from a drunk who was vandalizing my car, I would totally support the introduction of a CIZ in central Mitcham. On speaking to neighbours, they are almost entirely in agreement with the CIZ proposal, so any steps the council take to lessen the endless drinking that goes on around here will be generally well received.</p> <p>Yours sincerely, Sue Cooper</p>
OWEN JAMES	RESIDENT	<p>Dear Sir,</p> <p>I write with regard to the above Public Consultation.</p> <p>CUMULATIVE IMPACT ZONE FOR MITCHAM</p> <p>I wish to add my wholehearted support to the proposals to restrict the sale of alcohol in the Mitcham and Graveney area.</p> <p>I have lived on Links Road, SW17 for c.10 years and during that time I have seen a huge rise in the problems of street drinking, much of it associated with the huge rise in EU</p>

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		<p>migrants into the area during this period of time.</p> <p>Problems associated with this street drinking include the following:</p> <ul style="list-style-type: none">- a huge increase in litter, including broken bottles- the intimidating atmosphere created by young men standing around in large groups, getting drunk on the street- regular instances of street-drinkers urinating in residential areas- instances of aggression from street drinkers to members of the public (including myself, and I have reported instances of this aggression to the police in the past). <p>I firmly believe that restricting both new AND CURRENT off-licenses in the area from selling alcohol would make an important contribution to reducing what has become a high volume, highly visible and pernicious problem in the area.</p> <p>There are so many off-licenses in my local area that I feel firm action is required as soon as possible. And to reiterate, it is my strong belief that this CIZ should operate to restrict existing licenses to sell alcohol, as well as new ones, because the concentration of existing off-licenses is already far too high.</p> <p>For the avoidance of doubt, my concerns do not extend to the sale of alcohol for consumption on licensed premises in pubs, cafes and restaurants. On the contrary, I feel such local businesses should be supported to the extent they encourage people to consume alcohol in a social environment, somewhere other than residential street corners and public highways.</p> <p>The implementation of a CIZ would support our pubs and restaurants by restricting the sale of cut-price alcohol elsewhere, and this is another reason why I support the proposals.</p> <p>Yours faithfully, Owen James, 51 Links Road, London SW17 9EE</p>
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<p>SUE THOMAS</p>	<p>RESIDENT</p>	<p>I have received the information regarding the draft changes to the licensing policy and as a resident would like to offer my full support.</p> <p>I have lived in Melrose Avenue for over 30 years and have seriously contemplated moving because of the lack of control over street drinkers in the area. Both my daughter and my mother (aged 89) as pedestrians, have constantly witnessed the street drinkers at the top of Melrose Avenue, Streatham Road and a Elmhurst Avenue, whilst walking home in the early afternoon and evening. They do not consider going out at night without us arranging to pick them up, purely because of the intimidation by the drinkers who buy their alcohol and openly consume it along Streatham Road.</p> <p>It has always been a mystery to me how Tescos, co.op, general grocers shops, newsagents and even the post office have received a license to sell alcohol, when they are all in such close proximity to each other.</p> <p>As a resident I am constantly picking up empty cans and quarter vodka bottles from the pavement, kerbside and around trees and putting them in my own household rubbish. Cans and bottles are always left in Edgehill Road outside the 2 garages and the gates which join Garden Ave. The drinkers also gather in the North Mitcham playground area where young children play.</p> <p>I personally witnessed a drunk who was urinating, quite openly, leaving nothing to the imagination, the other Sunday morning at 11:30am, at the top of Links Road SW17. The 2 men and a woman were absolutely 'legless' and one man and the woman looked on laughing whilst the other man openly urinated. Again they had purchased alcohol, whilst already drunk, from the local grocers and were openly drinking and staggering along the road.</p> <p>This level of anti social behaviour is totally unacceptable in a residential area and I am unaware what impact the CDZ has had in terms of prosecution, but I have not noticed any changes.</p> <p>At least a Cumulative Impact Zone (CIZ) for Mitcham and all roads leading into Mitcham,</p>
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		<p>would have some control over the refusal of further applications for licenses to sell alcohol.</p> <p>I would also like it to have some impact where licenses come up for renewal, again, due to the close proximity to the shops who all sell alcohol.</p> <p>Please do not hesitate to contact me if there is any way I can give any further support to the proposal, or you need any further information.</p> <p>Susan Thomas</p>
MR & MRS RYAN	RESIDENTS	<p>Dear Sir/Madam,</p> <p>We have lived in Mitcham for over 38 years and are appalled at the state of the streets due to the increase of street drinking.</p> <p>The drinkers make the streets dirty, not only with bottles and cans but by urinating and defecating here there and everywhere. It is very intimidating to anyone walking past as they are usually in big groups. We are also on a school route so not a good thing for children to have to see. We have no problem with restaurants having a licence to sell drink with meals as people are inside and not making a nuisance of themselves in the street. We would like to see the whole of Mitcham a CIZ zone as only having it on main roads just pushes them into the side roads and outside peoples houses.</p> <p>Mr & Mrs Ryan - Elmhurst Avenue.</p>
D HILDRETH	RESIDENT	<p>Dear Councillors,</p> <p>As you aware, We have a no drinking zone in place for Figges Marsh but this is still flouted on a regular basis by the non English speaking communities.</p> <p>Until you can enforce the laws already in place I don't see how bringing new ones will help reduce the problem.</p> <p>Regards,</p>

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		Mrs D.Hildreth, 12 Manship Road Mitcham CR4 2AY
ZUL HANAFIAH	RESIDENT	<p>Dear Merton council</p> <p>I live in Garden Avenue. There are many local shops selling alcohol near my house. There are also the COOP and Tesco's.</p> <p>As a result, in the evenings, there are groups of 10 or more Sri Lankan youths hanging around the street corners, drinking or dealing drugs. Although they are not violent to me, they are intimidating.</p> <p>If you can reduce the number of small off-licences in the area, that may help solve a lot of problems.</p> <p>Kind regards, Zul hanafiah</p>
WALTER PICANO	RESIDENT	<p>To whom it may concern,</p> <p>I'm in favour of allowing local restaurants to serve alcohol with food, but revoke all those that sell alcohol as a spin-off to boost their sales. Off licence shops are ok with me. We have enough premises that sell alcohol, in fact alcohol is more freely available than petrol in Mitcham.</p> <p>Regards Walter Picano Chairperson - Merton NHW Association</p>

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<p>MIKE NELSON</p>	<p>RESIDENT</p>	<p>I am a resident of Graveney ward and have noticed a huge increase in anti-social behaviour related to drinking. We already have a no drinking zone, but this is impossible to police and we suffer from cans and bottles of beer and spirits being discarded on walls and in our gardens. My 25 years old son recently experienced racist abuse from drunk eastern Europeans in the shop at the end of our road and called me to meet with him as he was fearful of being attacked. The 2 very drunk individuals, who had been allowed to purchase even more alcohol, despite staggering, threatened both of us when we indicated we would call the police. All of this at 2pm on a Sunday afternoon!</p> <p>The problem certainly seems more pronounced at weekends during the day and we would urge Merton to implement a Cumulative Impact Zone for Mitcham as identified on the published map.</p> <p>Best Regards Mike Nelson</p>
<p>MAGS ALEXANDER</p>	<p>RESIDENT</p>	<p>Hi</p> <p>I have been lobbying my Councillors for many years regarding this issue.</p> <p>I live in Montrose Gardens, Mitcham which is the only residential road to run directly on to the Fair Green. We are never free of alcohol related problems. These include, anti-social behaviour such as shouting, swearing and fighting and urination due to too much alcohol and no public toilet.</p> <p>Barclays Bank has a small wall around its Car Park. This wall is used daily by men as a meeting area. They sit on the wall, drink and then leave the containers strewn all over the pavement. Often they will sit with outstretched legs and refuse to move for pedestrians attempting to walk by – I have often been forced into the road!</p> <p>Groups stand around drinking and shouting, often just at each other, but it is intimidating</p>

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		<p>especially for older and more vulnerable people and creates an atmosphere of unpleasantness particularly at evening time.</p> <p>I believe that alcohol is too freely available at all hours of the day and night. I have tenants in the house opposite me who go out at 7:00 am and return with carrier bags full of cans. It seems unbelievable that people can buy beer at this time of the day. There is no reason for so many of the retail outlets to have alcohol licences at all and CCTV should be used far more to monitor and prosecute anti-social alcohol related behaviour.</p> <p>I am more than happy to be contacted again.</p> <p>Mags Alexander 33 Montrose Gardens CR4 2PJ</p>
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Dear Licensing team,

Please find attached the Public Health response to the Statement of Licensing Policy consultation.

Also attached are:

- Healthwatch Merton 'healthy high streets' consultation report
- Youth Inspectors 'healthy high streets' survey report (a summary of the alcohol-related data from this report is provided in Appendix C of the PH Response – this is the full report which includes findings about fast food, litter etc)

Many thanks to Caroline Land and the Youth Inspectors, and to Healthwatch for their support in developing this Public Health response.

Amy

Amy Potter | Consultant in Public Health – Prevention & Health Intelligence
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Morden | SM4 5DX
Phone: 020 8545 4755 | Mobile: 07814 634659 | email: amy.potter@merton.gov.uk



MERTON STATEMENT OF LICENSING POLICY REVIEW 2015 – LB MERTON PUBLIC HEALTH RESPONSE

Having reviewed the proposed changes to the Statement of Licensing Policy document, we are pleased to see a number of additions that acknowledge the impact of alcohol on health as it relates to the licensing objectives and the role that Public Health now plays in the licensing process. In particular, we welcome the inclusion of;

- Reference to the national Alcohol Harm Reduction Strategy (4.2.1)
- Reference to the Merton Health and Wellbeing Strategy and the influence of the licensing process on the strategy's aims (4.2.5)
- Reference to the role of the Director of Public Health as a responsible authority and the regular partnership meetings now held (4.5)

We support the additions in Section 8.3 (Consideration of adequacy of measures to deal with crime and disorder) as we believe this will serve to encourage consideration of responsible practice by applicants.

Similarly we are also pleased to note the reference to the Schedule of Model Conditions in Section 3.5. We believe this is likely to improve the quality of applications and further support applicants to consider adoption of responsible practices that promote the licensing objectives. We strongly recommend that the full Schedule is made available and a link to the Schedule is provided in the policy document for ease of reference. If the Schedule is not available at the time of publishing, we recommend including a locally developed set of conditions based on best practice. The Public Health team would be happy to liaise with the Licensing Authority and other Responsible Authorities to agree this list.

Additional points for consideration

Further to the proposed changes, we strongly suggest the Committee to consider the inclusion of a number of additional points and believe that the revision of the SLP presents an opportunity to be more ambitious in setting the context for licensing practice in Merton, with appropriate regard for the legal framework underpinning the policy;

"The SLP provides the vision for the local area and a statement of intent that can provide a clear way forward to guide practice... [the SLP] can invite [applicants] to consider local issues and set out how they can contribute to positively addressing them... [and provides] an important opportunity to incorporate relevant local public health concerns within the wider policy context of the local licensing authority."¹

We believe that the policy should set out a clear Merton vision for balancing a vibrant local economy while prioritising the health and wellbeing of residents, which it does not currently do. This could be in the form of an introductory vision statement for the approach to licensing in Merton, developed jointly by the Responsible Authorities. As an example, the Merton Public Health team currently includes the following text as part of our representations to the Licensing Committee, setting out our framework for alcohol:

Tackling alcohol misuse is central to achieving the outcomes in Merton's Health and Wellbeing Strategy: giving every child a healthy start in life, supporting people to improve their health, improving wellbeing, resilience and connectedness, and reducing the gap in life expectancy between the east and west of the borough. We want to create an environment and a culture in the borough that prevents problem drinking from starting and provides early help for people who are struggling. One of the ways we will be doing this is ensuring health and wellbeing considerations are presented for consideration in licensing decisions, in order to tackle alcohol-related crime and anti-social behaviour, ensure public safety and prevent harm to children.

This could be amended to reflect a joint vision for the borough.

¹ PHE & LGA (2013) Public Health and the Licensing Act 2013 – guidance note on effective participation by public health teams

In addition, we would like to see the following:

1) Embedding health in the policy

- We would like to see a specific section on alcohol and health, which we have drafted and include in our response for the Committee's consideration (Appendix A). This could be included as an appendix to the policy. With the significant and widely recognised impact of alcohol on health, we believe that the inclusion of this additional information would serve to strengthen the link between the SLP and the wider strategic aims of the borough. While not impacting on the legal basis of the SLP, this would enable applicants to consider the influence they have on these aims and ways in which they may act not only to reduce the negative impact of their licence on these issues but also to positively promote the strategic aims of the borough.
- We would like to see the following additions to the wording of the policy;
 - Section 1.4 – 'The Council's strategic objectives include ***promoting health and wellbeing and improving the quality...***'
 - Section 1.9 – Add to the end of the section; '***The policy therefore aims to encourage a vibrant local economy while promoting a safe, sociable and healthy environment.***'
 - Section 4.1 – 'to ensure proper integration of local crime prevention, ***health and wellbeing***, planning, transport...'
 - Section 4.2.1 – Add an additional bullet point;
 - '***utilising health and other data to inform licensing policy and decisions***'
 - Section 13.7 – 'eg. police ***or Public Health*** representations relating to crime and disorder'
 - Section 16.6 – Add
 - '***Public Health – health as it relates to the four licensing objectives***'

2) Promoting the licensing objectives

- We believe the SLP should be clearer in setting out the expectation on applicants to actively support the licensing objectives and promote a safe sociable drinking culture in Merton. Therefore we believe it would be beneficial to add a statement in Section 3.5 such as that proposed below;
 - '***The Licensing Authority expects applicants and licence holders to have due regard to the promotion of the licensing objectives and take active measures to contribute to this aim. The operating schedule should be used to set out a detailed explanation of how applicants will promote each of the four objectives. The Licensing Authority would particularly encourage active involvement in best practice initiatives such as local pubwatch schemes and proof of age schemes such as Challenge 25. We would also expect all people applying for licences to install and maintain good quality closed circuit television (CCTV) in the interests of public safety and security.***'
- We also believe that it would be beneficial to develop a 'Code of Good Conduct' for licensed premises, encouraging applicants to adopt a range of voluntary measures that promote the licensing objectives. We recognise that this may be something to explore subsequent to the publication of the revised SLP, however the intention could be referenced in an additional bullet point at the bottom of Section 4.2.1;
 - '***Explore the implementation of voluntary code of good conduct schemes with on and off licence holders***'
- We would support greater emphasis on the protection of children from harm and suggest an opening statement to Section 11;
 - '***Licensed premises may present a risk of physical, moral or psychological harm to children, therefore the Licensing Authority expects applicants to consider measures to protect children from harm where relevant to the type of premises and the activities relating to the licence.***'

We would also like to see a second statement referring to underage sales;

- ***'Where licences cover the sale of alcohol, the Licensing Authority expects strict controls to be in place to prevent underage sales. Measures that should be considered by applicants to manage this include refusal logs, training of staff on use of IDs and age verification schemes.'***

- Where the role of the DPS is mentioned in Section 16.2, we would suggest adding a short statement on recommendations of requirements for a DPS. While we recognise that the act does not place additional duties on a DPS, there is an opportunity to recommend training or measures that help to promote the licensing objectives and the responsible management of premises, such as awareness of first aid, provision and storage of CCTV and ensuring the safe departure of customers.

3) Cumulative Impact Policy

- Public Health conducted an analysis of local data in May 2015 to inform the decision both on the implementation of a new cumulative impact zone (CIZ) in Mitcham Town and the area of the zone. This analysis provides evidence to strongly support the proposal and is included as an appendix to our response (Appendix B). If the proposal is accepted, this data could be included in an appendix to the revised SLP.

Two further pieces of work were also conducted to further inform this decision

- A team of Youth Inspectors (YIs) conducted an audit of 165 shops and premises in the proposed Mitcham Town CIZ in August 2015. The YIs concluded that overall, they felt that the high streets were unhealthy due to the amount of alcohol and unhealthy food for sale in the area. A significant number of convenience stores or supermarkets in the area sold alcohol, a majority of which sold super strength alcohol (i.e. beer or cider of 6.5% ABV or more). Over four fifths of the stores also sold alcohol in single cans. Just over a third of stores had significant advertising of alcohol outside, in the window, or clearly visible from outside the store. A further summary of the research can be found in Appendix C.
- Healthwatch Merton also conducted consultation work with local residents in early September 2015 to gather people's views on the area of the proposed CIZ in Mitcham Town using an online survey, two 'pop up cafes' in Mitcham Town Centre and a drop-in at Cricket Green Medical Practice. A total of 192 people participated in the consultation through these mechanisms. One third of respondents (64) felt that Mitcham Town Centre has too many alcohol shops. Among responses directly relating to the alcohol environment were concerns about street drinkers, with reports of alcohol being consumed on the streets, giving 'Mitcham a bad name' and making 'the area look bad'. Over half of respondents also felt that the area was littered, with comments regarding broken glass and beer cans on the streets. There was significant mention of anti-social behaviour and crime and safety during the night, with 117 and 94 respondents respectively reporting these as a concern. Several respondents noted a desire for restrictions to be placed on alcohol, fast food and betting shops in the Town Centre. The Healthwatch report is included along with this consultation response.

We believe that the information gathered in both of these exercises further supports acceptance of the proposal for the CIZ in Mitcham Town Centre, showing a clear influence of alcohol on negative perceptions of the local area and a concern for many residents.

Additionally;

- We would suggest inclusion of an additional statement after Section 7.15 setting out steps that could be considered by licence holders operating within a CIZ to reduce the impact of the licence;
 - ***'There are a number of measures that licence holders of existing premises within these cumulative impact zones can take to further promote the licensing objectives. These include the use of door supervisors, radio schemes and participation in local pubwatch or responsible retailer schemes.'***

- Section 7.1 – When examining the zone, we could not find a Steel Road as referred to in the outline of the Mitcham Town CIZ. We assume this is supposed to be Seely Road. ('London Road to **Steel** Road as far as Tooting Over Ground Station and borough boundary')
- Section 7.6 – Referring to the Wimbledon Town Centre CIZ, the opening paragraph of this section states in brackets that '(part of this area is also a Controlled Drinking Zone)'. It is our understanding that the whole borough is now a Controlled Drinking Zone, therefore this statement would need to be removed.

4) Evaluation

- It is important to be able to assess and demonstrate the effectiveness of the policy in order to monitor impacts and provide evidence to support and inform future policy revisions. We would therefore recommend including a section prior to Section 22 detailing methods that will be used to evaluate the SLP. Public Health would be happy to provide support in the ongoing evaluation of the SLP using the data available to us.
- We propose the following wording for this section;
 - ***'The Licensing Authority will monitor the effectiveness of the Policy in order to provide evidence to support and inform future policy revisions. This will be done from two perspectives;***
 - ***Monitoring the process; including quality of applications, number and locations of applications received, approved and rejected, number of reviews and appeals and outcomes.***
 - ***Evaluating the impact; including data on levels of crime and disorder and numbers of complaints, and underage alcohol use through ambulance and test purchase data, particularly in relation to the Mitcham CIZ'***

11 September 2015

Consultation response prepared by Public Health Merton, on behalf of the Director of Public Health

Contact: publichealth@merton.gov.uk

Web: <http://www.merton.gov.uk/publichealth>

Appendix A – Alcohol and Health in Merton

The Public Health White Paper, *'Healthy Lives, Healthy People'* (2010) identified reducing harm from alcohol misuse and encouraging sensible drinking as important priorities. The negative health impacts of alcohol are well documented, with associations with cancers of the oral cavity and pharynx, larynx, oesophagus and liver. Excessive alcohol intake can also be directly linked to ill health and death from liver cirrhosis and circulatory disease. Alcohol misuse is also associated with a wide range of criminal offences including drink driving, criminal damage, assault and domestic violence. The availability of alcohol sales outlets, and their hours, is also linked to levels of harm. Many of these impact significantly on the health of those affected, with recent research pointing to high levels of harm in England caused to individuals by other people's drinking.² These harms include being harassed or insulted and being kept awake at night. Among young people, risky drinking behaviour is frequently linked to anti-social behaviour and teenage conceptions.

Health and the licensing objectives

The Director of Public Health (DPH) is able to make representations where they are relevant to promotion of the licensing objectives, using local health data such as that recorded by the London Ambulance Service to assess the potential impact of an application on the four objectives.

The local data available is particularly pertinent to the **prevention of crime and disorder**. A 2010 report published by NICE that looked at the prevention of harmful drinking estimated the total annual cost of crime and anti-social behaviour linked to alcohol misuse in England to be over £8billion.³ Health data indicating patterns of alcohol-related crime and disorder can therefore indicate areas where there are particularly high levels of incidents where alcohol consumption has contributed to violence and injury. Public Health will also consider evidence relating to **public safety** and the **prevention of nuisance** where these are deemed to have an impact on, or pose a risk to, the health of local residents and the environment within which they live.

The fourth objective, the **protection of children from harm**, is directly related to the strategic aims of the borough, with partners working to give every child the best start in life. A wide range of outcomes are associated with alcohol consumption among children and young people, from immediate impacts such as increased likelihood of sustaining injuries and being the victims of crime, to longer term effects such as long-lasting cognitive deficits and impacts on educational performance.⁴ Prevention of underage drinking is therefore of paramount importance alongside the consideration of the harm that may be caused to children as a result of alcohol consumption in adults with whom they have contact.

The local picture

The Local Alcohol Profile for Merton⁵ indicates that, while Merton compares favourably to local authorities nationally, there remains a significant impact of alcohol locally. Merton had an alcohol-related mortality rate of 38.3 per 100,000 people in 2013 and a total of 1,866 alcohol-related hospital admissions in 2013/14. While alcohol-related admission rates in Merton have historically been lower than rates in London and across England, these have increased in recent years, suggesting changes in drinking behaviour in Merton.

Issues relating to alcohol have also been identified as a source of worry for local residents with alcohol-related disorder representing a significant concern for participants in Safer Merton's Strategic Assessment Consultation undertaken in 2012. 27% of respondents to the 2013 Merton Annual Residents Survey felt that there were too many alcohol outlets in their local area and 41% of respondents to the 2014 survey reported being fairly or very worried about people being drunk and rowdy.

Balancing the benefits of a healthy economy with the health impacts of the alcohol environment on local residents and visitors is therefore key to the creation of a safe and sociable borough.

Further information can be found in the Merton Joint Strategic Needs Assessment, online at www.merton.gov.uk/health-social-care/publichealth/jsna/lifestyle-risk-factors/adults-substance-misuse/alcohol-jsna.htm and www.merton.gov.uk/health-social-care/publichealth/jsna/lifestyle-risk-factors/young-peoples-substance-misuse.htm

² www.ias.org.uk/uploads/pdf/IAS%20reports/rp18072015.pdf

³ www.nice.org.uk/guidance/ph24/resources/alcoholuse-disorders-preventing-harmful-drinking-costing-report2

⁴ www.ias.org.uk/uploads/pdf/Factsheets/Underage%20drinking%20factsheet%20December%202013.pdf

⁵ www.nepho.org.uk/pdfs/local-alcohol-profiles/E09000024.pdf

Appendix B – Cumulative Impact Zones

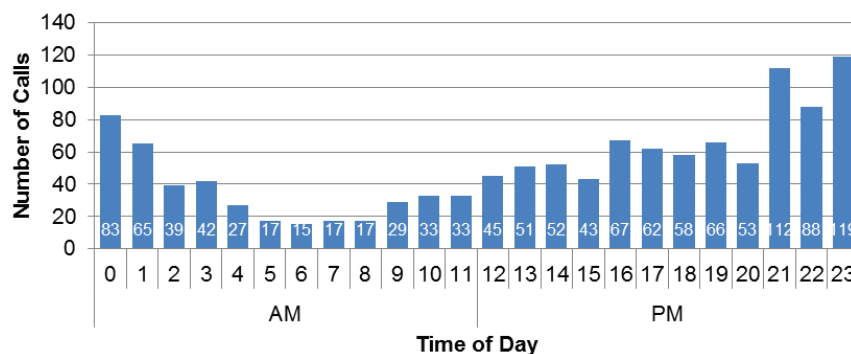
In May 2015, Public Health analysed local data to assess alcohol-related harm in Merton and the need for an additional Cumulative Impact Zone (CIZ) in Mitcham Town. The data analysed included international research evidence and local data; that recorded by the Metropolitan Police, London Ambulance Service and Transport for London in addition to local surveys of Merton residents.

A high concentration of alcohol outlets and increased hours or days of alcohol sales has been linked to higher levels of alcohol related harms. The number of alcohol –related ambulance call-outs in Merton varies by time of day, which may indicate a link with the hours of alcohol sales.

Figure 1. Number of alcohol-related ambulance call-outs in Merton by time of day, Jan-Dec 2014

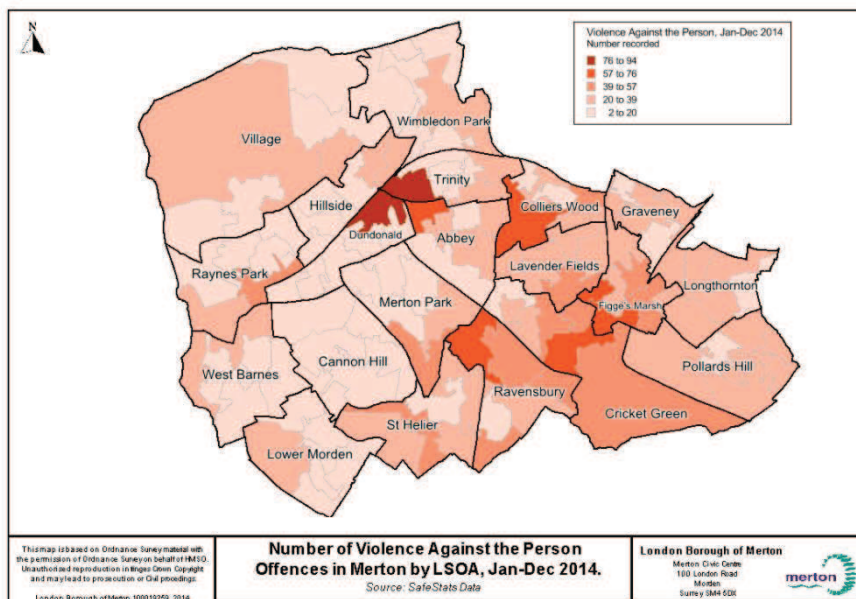
Number of Alcohol-related Ambulance Call-outs in Merton by Time of Day, Jan-Dec 2014.

Source: SafeStats Data



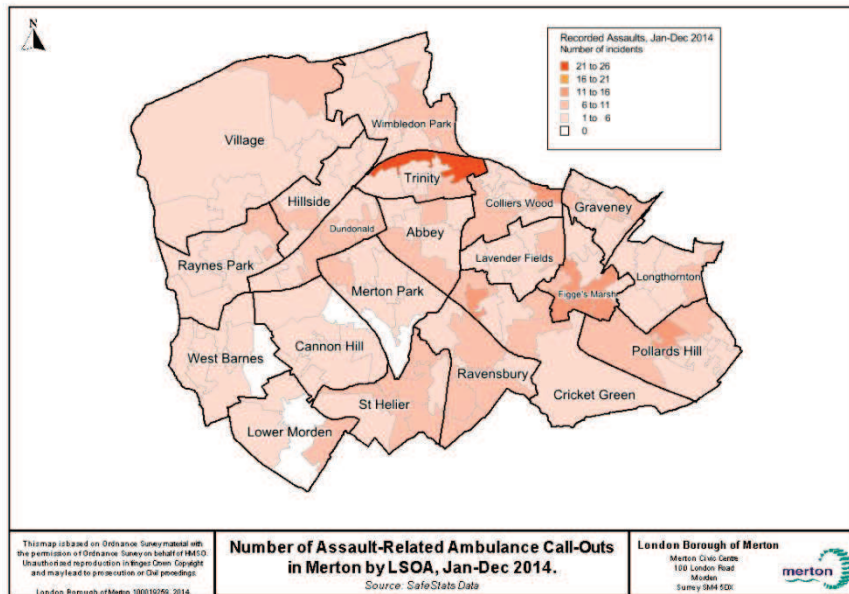
The areas of the existing Wimbledon Town Centre CIZ and the proposed Mitcham Town Centre CIZ were seen to have high levels of violence against the person offences in 2014 (Fig 2). This data included murder, common assault, offensive weapon, harassment, other violence, assault with injury and wounding/grievous bodily harm.

Figure 2. Violence against the person offences by LSOA, Jan-Dec 2014



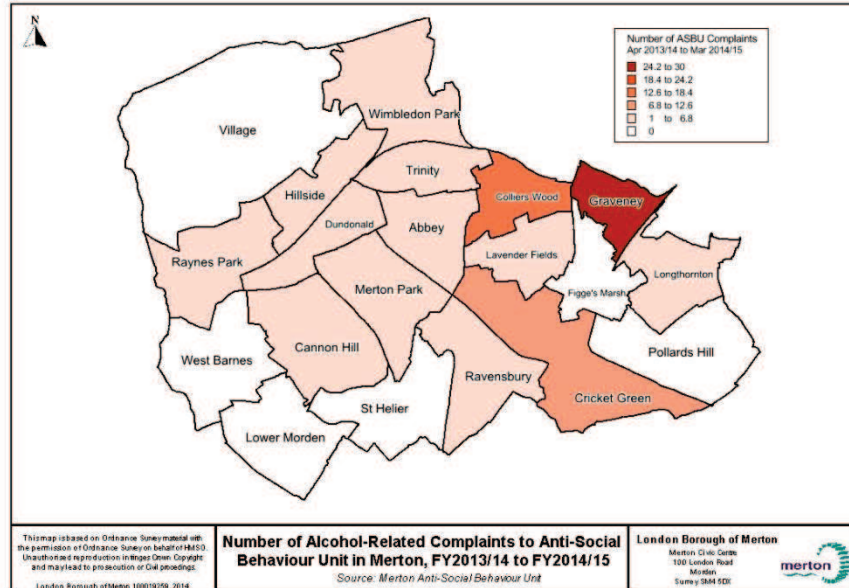
The areas bordering Mitcham Town Centre and Wimbledon Town Centre also had a high number of assault-related ambulance call-outs (Fig 3). These figures both indicate high levels of crime in the area, which the evidence shows is often related to alcohol use.

Figure 3. Number of assault-related ambulance call-outs in Merton by LSOA, Jan-Dec 2014



Where residents have been asked for their views on anti-social behaviour as part of Merton’s Annual Residents Survey, approximately 40% of respondents in areas relating to the Mitcham Town CIZ reported being fairly or very worried about people being drunk and rowdy. Alcohol-related complaints received by the anti-social behaviour unit were also found to be high in Cricket Green Ward and Graveney Ward, both of which have part of the proposed CIZ within them.

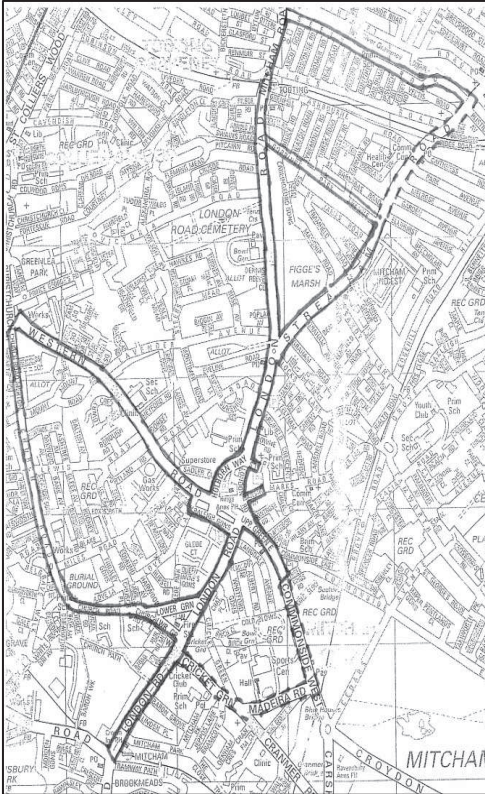
Figure 4. Number of Alcohol-Related Complaints to Merton Anti-Social Behaviour Unit, FY2013/14-2014/15



Due to the evidence presented above, and other available data, Public Health therefore strongly supports the acceptance of the proposed CIZ in Mitcham Town Centre and surrounding areas, including Figges Marsh and the surrounds, as we believe this would serve to limit the already high levels of crime, disorder and anti-social behaviour demonstrated in this area. We believe the CIZ should apply to both on- and off-licences; however food-led establishments would be looked on with preference if appropriate steps are outlined to promote the licensing objectives. We believe that if the proposal is accepted, further analysis should be undertaken to monitor and evaluate the impact of the policy going forward.

Appendix C - Youth Inspector 'healthy high streets' research

On 19/20 August 2015, a team of Youth Inspectors (YIs) walked the area covered by the proposed Cumulative Impact Zone (CIZ) around Mitcham (see map). They noted whether premises they passed sold alcohol or fast food, and the appearance of stores and streets, noting any antisocial behaviour or litter.



"I think Mitcham overall is quite a unhealthy high street, there was a high number of fast food shops and restaurants that sold mostly fried food. The shops were very similar in terms of appearance and the way they promoted their food. For example, having posters of price deals displayed. Although there was a variety of different kinds of shops, such as Chinese/Caribbean/South Asian I feel that young people have limited options, particularly when it comes to healthy meals. Also we came across a number of off license shops which had alcohol advertised either on display or could be seen through the window which could encourage purchase." Youth Inspector

"I think Mitcham is a very unhealthy high street. I would not come to shop here as there are not many shops that interest me. There appears to be a very large number of off-licences and fast food shops which aids in attracting binge drinkers and consequently causes anti social behaviour. Mitcham also seems very dirty and run down with a lot of litter and cigarette butts." Youth Inspector

"Overall, I think Mitcham is an unhealthy high street...due to the high percentage of corner shops selling single cans of extra strong alcohol, which is often advertised or visible from the window. Also, there are many food outlets but the vast majority were fast food establishments which offered no healthy options. In some areas there was a lot of litter (mostly cigarette butts), outside betting shops and near bus stops in the town centre. However, many of the pavements were very well kept and clean. Litter seemed to occur in small concentrated areas. Most of the shops seemed well kept and tidy. It is due to the amount of alcohol and unhealthy food that is for sale in area that make it an unhealthy high street." Youth Inspector

Summary of findings

Youth Inspectors noted 165 premises in the Mitcham Cumulative Impact Zone area. Of these, 44 (27%) were places to buy food ingredients, 26 (16%) were fast food outlets, 3 (2%) were restaurants, 6 (4%) were cafes, 6 (4%) were pubs, 6 (4%) were betting shops and 2 (1%) were payday loan shops. The rest (72, 44%) were a mix of other uses, for example estate agents, hairdressers, garages.

	Youth Inspectors survey
Total number of premises in Mitcham CIZ area	165
Number of restaurants or cafes	9
Number of hot food takeaways	26
Number of pubs or bars	6
Convenience store or similar⁶	44
Payday loan company	2
Pawnbroker	0
Betting shop	6

⁶ E.g. somewhere selling food ingredients and other commodities (grocer, deli, off-license, supermarket, fishmonger etc)

Findings about availability of alcohol in the proposed Mitcham CIZ area

The YIs noted 44 places to buy food ingredients (i.e. convenience stores, corner shops, grocers, off-licenses, supermarkets); of these, at least 80% (35/44) appeared to sell alcohol. Alcohol is therefore available in at least a fifth (21%, 35/165) of all premises noted by the YIs. They also noted 6 pubs in the proposed CIZ area.

Of the 35 convenience stores or supermarkets that sold alcohol:

- At least 57% (20/35) sold super strength alcohol (i.e. beer or cider of 6.5% ABV or more). A third (31%, 11/35) did not (4 unknown). The majority (83%, 29/35) sold single cans (5 did not, 1 unknown).

Of the 35 stores selling alcohol:	Number of stores (n=35)		
	Yes	No	Unknown
Store sells super strength alcohol	20	11	4
Store sells single cans	29	5	1

- The YIs estimated what proportion of each store was allocated for alcohol. The **majority** (69%) of the 35 stores selling alcohol had a quarter of their retail space set aside for alcohol:

Proportion of stock that is alcohol		Number of stores (n=35)
Less than a quarter		1
Quarter		24
Half		5
Other:	“entire aisle”	1
	“everywhere”	1
Not noted		3

- The YIs noted that a minority (23%, 8/35) of premises had alcohol at the back (6/35) or hidden from view (2/35). A quarter (26%, 9/35) had alcohol at the front, most visible from the window, and a quarter in the middle of the store:

Location of alcohol stock	Number of stores (n=35)
Front / visible from window	9
Middle	9
Back	6
Everywhere	3
Hidden	2
Behind counter	4
Unknown	2

- Two fifths of stores (14/35) did not have any external advertising of alcohol. A similar amount did have alcohol advertising: 12/35 had significant advertising of alcohol outside, in the window, or clearly visible from outside, an additional 3/35 had alcohol advertising within the store:

Alcohol advertising	Number of stores (n=35)
External / visible from outside	12
Within the store	3
No advertising	14
Unknown	6

Findings about availability of cigarettes in the proposed Mitcham CIZ area

- The majority (70%, 31/44) convenience stores sold cigarettes. 5 did not. 8 unknown.

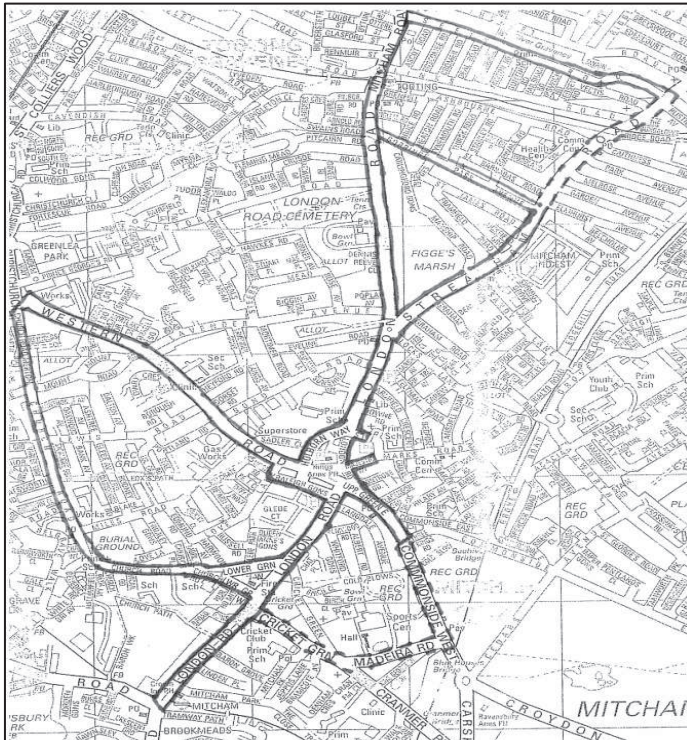
Other aspects of the high street

The YIs noted that 18/165 (11%) stores were not clean or well kept. Litter was seen outside 34/165 (21%). In the majority (27/35, 77%) the litter was smoking-related (cigarette butts, packaging); in 4/35 (11%) there was fast food packaging; in 1/35 (3%) the litter was alcohol-related (a spirit bottle). They specifically noted that flowers outside two of the 6 pubs made them look attractive. The YIs noted 76/165 (46%) premises that they felt made the high street more healthy, and 61/165 (37%) premises that they felt made it less healthy:

- The types of store noted as *healthy* were mainly supermarkets, cafes, health-related shops (e.g. dentists and pharmacies), as well as other outlets such as hairdressers, charity shops, estate agents. Comments included “*More healthy – sells fish*”, “*More healthy - sells variety of fruit and veg*”.
- The types of premises noted as *less healthy* were fast food outlets, supermarkets/convenience stores (e.g. a food and wine shop was noted as “*Less healthy - does have fruits but very low stock*”, and “*Fruits were rotten/expired*”; a convenience store as “*Less healthy – just sweets and fizzy drinks*”) and betting shops. YIs unanimously felt that betting shops and payday loans shops made the high street less healthy. Litter was noted outside half (3/6) of the betting shops (cigarette pack and spirit bottle; fast food packaging; cigarette butts), and half (1/2) of the payday loan shops (cigarette butts). One betting shop had signs outside saying that ASB will not be tolerated and drinking is not permitted.

Youth Inspector 'healthy high streets' research to inform the Statement of Licensing Policy review

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Findings about availability of cigarettes in the proposed Mitcham CIZ area

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Findings about availability of fresh fruit and vegetables in the proposed Mitcham CIZ area

- The YIs noted that fresh fruit/veg were on sale in at least 60% (26/44) of the premises that sold food ingredients (convenience stores, corner shops, grocers, off-licenses, supermarkets etc). No fruit/veg was on sale in just over a quarter (27%, 12/44); the presence of fruit/veg was not recorded in a further 6.
- Of those stores selling fruit/veg, the produce on sale in 15% (4/26) of premises was noted to be low stock or poor quality. The fruit and veg was found at the front of the store in 42% (11/26) of premises, and at the back or hidden in 12% (3/26).

Stock of fresh fruit/vegetables?		Number of stores (n=44)	
No		12	
Yes	<i>Yes – quantity not given</i>	20	26
	<i>Yes – high stock / variety</i>	2	
	<i>Yes – low stock / minimal</i>	4	
Not noted		6	

Findings about access to healthy options and availability of fast food in the proposed Mitcham CIZ area

- The YIs noted 35 places to eat (i.e. cafes, restaurants or fast food outlets). Fast food outlets make up 74% (26/35) of the available food provision. YIs generally felt that fast food outlets made the high street less healthy: of the 26 outlets, they thought that only one made the high street more healthy (a pizza takeaway); they felt that the other 25/26 (96%) made the high street less healthy.
- They noted that all the cafes and all the restaurants sold healthy options, but only 15% (4/26) of fast food outlets had any healthy options available and more than 60% (16/26) did not. A further 6 premises (23%) were unrecorded as to their healthy options.

Type of food outlet	“Does this store make high street more or less healthy”		“Does it sell healthy options”		Total
	More	Less	Yes	No	
Café	6	0	6	0	6
Restaurant	2	1	3	0	3
Fast food	1	25	4*	16*	26
Total	9	26	13	16	35

*This does not add up to 26, as a further 6/26 premises' healthy options were not recorded

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HEALTHY HIGH STREETS CONSULTATION: SUMMARY REPORT





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INTRODUCTION

As part of an ongoing consultation to help shape the Councils licensing policy statement in a part of east Merton, Healthwatch Merton worked in partnership with Public Health Merton to support this work. The licensing policy sets out how the Council plans to use its powers to shape provision of alcohol, entertainment and late night refreshment in Merton.

Healthwatch Merton gathered people's views of the kind of high street/town centre they would like to have in their community as well as finding out if people feel there are too many betting shops, places to buy alcohol and fast food outlets in the Mitcham area.

Further information on the statement of licencing policy can be found on the following website <http://news.merton.gov.uk/2015/07/02/residents-to-have-say-on-mertons-licensing-policy/>

METHODOLOGY

Healthwatch Merton used a range of methods for this research:

Survey

Using questions provided by Public Health Merton, Healthwatch Merton designed a survey that was circulated through the Merton Voluntary Services Council (MVSC) database as well as promoting on the Healthwatch Merton website and through social media.

The survey was also sent to targeted audiences, including local GP practices, local councillors and the Mitcham Town Centre Police team.

The survey was live online for three weeks from Monday 17 August 2015 and a total of 87 online surveys were completed.

Outreach

Healthwatch Merton hosted two 'pop up cafes' in Mitcham Town Centre on Tuesday 1 September 2015 and Thursday 3 September 2015. The Healthwatch Merton Information and Outreach Officer, along with volunteers spoke with residents and passers-by to find out their views of the local area and used the survey as prompts for discussion. A total of 90 people spoke with Healthwatch Merton across the two days. Participants also had the opportunity to design their own healthy high street by choosing from a variety of pictures and also added ideas of their own by writing on a blank picture.

The Healthwatch Merton Information and Outreach Officer spent time at Cricket Green Medical Practice on Wednesday 2 September and spoke with 15 people including patients and staff, again using the survey as prompts for conversations.



Healthwatch Merton engaged with a wide range of people from different ages (ranging from 7-90), ethnicities and backgrounds to ensure that a fair snapshot of people’s views were captured.

FINDINGS

A total of 192 people participated and shared their views on Mitcham Town Centre and local area.

Out of the 192 people that engaged with Healthwatch Merton, 191 provided details of why they visit Mitcham Town Centre, and the area indicated on the map.

22 said that they visited as it ‘has everything that I need’, 128 said that ‘it is local and close to home’ and 41 said ‘it is local and close to where I work’.

Comments that people made in relation to why they visited the area included:

‘I like to support local businesses. It’s important for maintaining community cohesion’

‘I avoid shopping in Mitcham due to the antisocial behaviour and lack of variety’

‘The main reason I go to this area is for Mitcham tram stop’

‘I only visit because it is close...it has a poor selection of shops’

When asked **what people like** about the Mitcham Town Centre, there was a mixed response. All 192 respondents provided their views and could choose all that applied from a selection of statements and also add their own comments.

I don’t like anything	55
Range of shops	52
Health care, pharmacy, optician	51
Green space	49
Cultural/Library	41
Gym/Leisure centre	26
Meeting places	22
Variety of places to eat and drink	22
Walking and cycling opportunities	16

Additional comments included:

‘It’s a shame Mitcham was a busy town centre, it lacks a mix of shops, no variety too many betting shops’



'The parking over Morrisons is good and affordable please don't take it away'

'Mitcham Town Centre used to be a pedestrian friendly area, nice to walk around and shop in the limited shops. Not now though'

'I feel Mitcham's green space has great potential but I don't feel very safe in the area'

'I like that they are rebuilding'

'Not many stalls on market - surprised that McDonald's closed'

'Only like Iceland, Morrisons and Greggs'

'Not a good range of shops - would like to see more health food shops, more cloths shops for kids etc'

'It's very accessible with lots of buses'

'It's ugly. I don't invite my pals to the area because there isn't anything here'

'Nice place, mixed community, reasonably good'

'Not overcrowded because not a lot to attract people. If there were quality amenities and services it might attract more people'

'There's a range of shops but no sit-in restaurants/coffee shops of good quality'

When asked **what people felt best described** the Mitcham Town Centre, the most referenced feedback was *'too many betting shops'* with 125 respondents choosing this statement. Again, a selection of statements was given and respondents could choose all that applied.

Too many betting shops	125
Run down	118
Littered	106
Congested (traffic)	96
Poor quality of shops	93
Too many fast food outlets	74
No variety	73
Too many alcohol shops	64
Too many pay day loans	54
Accessible	49
Has empty shops	47



It is green	29
It is clean	11
Attractive shop fronts	1

Additional comments included:

'It does not make the most of its historic buildings'

'Badly designed road infrastructure, congestion and lack of support for commercial and retails investment'

'Many drunks on green and or outside pub or betting shops'

'Too many 99p shops-why was the letting to Poundland agreed?'

'Too many barber shops being used for drug dealing'

'Too many pound shops'

'Would love to see more nice cafes and 'venues' that attract people to the town centre rather than fast food shops'

'Too many Charity Shops'

'Wrong sort of variety of places and shops'

'Most of the shops don't have anything that I want'

'The local drinkers and drug takers give Mitcham a bad name and make the area look bad'

'Barbers everywhere'

'Bins not empties enough - wind blows litter. Fast food outlets make litter. Some attractive shop fronts'

'Too many barbers - approx. 20. Too many betting shops in small areas'

'Not accessible - I am a wheelchair user'

'Not enough healthy restaurants!'

'Don't like alcohol being consumed on the streets'

'I am moving away from Mitcham as soon as possible'

'Disgusting - broken glass, beer cans'

'Poor variety of shops. No diversity represented'



When asked what was not liked about Mitcham Town Centre, a high number of respondents felt that there was a lot of anti-social behaviour that took place in the area and that there was not enough access to toilets.

Anti-social behaviour	117
Not enough access to toilets	111
Crime, safety during the night	94
Alcohol outlets	64
Crime, safety during the day	53
I am happy with it	10

Additional comments included:

'It is tired, run down and has no defined centre or purpose'

'The drug smokers and drunks do not make the Fair Green a nice place to visit'

'People sitting there with cans of beer, some sleeping there during the day, and groups of undesirables'

'It has lost its sense of identity and only shops with cheap products are visible from the road'

'It's run down with little to offer'

'I am a day-time visitor and am happy generally with public behaviour in the area'

'Lack of places selling nice fruit and veg, lack of venues e.g. nice cafes that draw people in from a wider area'

'When betting shops close there is anti-social behaviour. A lot of drunks in betting shops'

'Rats on roads and gardens from fast food takeaway waste'

'The police are nice and friendly and always around'

'It's not very welcoming'

'It's not well lit'

'Community police not here at night. Lots of drinking in town centre and smoking drugs'

'No toilets - very important problem. Too many useless changes to road works. Unnecessary and costly'



'Lots of drunk people and betting people, feels intimidating, makes area unappealing to look at'

A total of 163 respondents shared their ideas about improving the local area and how to make it healthier and nicer place to live and visit. Comments included:

'Tighter planning rules on allowing more fast food outlets, betting shops etc'

'More litter bins'

'Encourage entertainment centres (eg. general cinema/bowling centre etc) to make it a place to visit for those not local'

'Wider variety of shops would be good'

'Close down the alcohol and betting shops, improve parking, more visible policing, clean up the pavements and streets, remove graffiti'

'Some more vibrant colours and spaces'

'No more betting shops. We need some nice cafes for some cafe culture'

'More popular shops and a more eye catching market'

'More police officers patrolling the green and moving the drunks/drinkers on'

'Better type of shops, to encourage more visitors and spending. I.E high street fashion chain, quirky local produce, market with more interesting and choice ie local produce, crafts'

'Nice places to sit and eat lunch'

'More outdoor play equipment for kids and adults; more environmental projects/allotments/free fruit trees and herbs etc planted for us to share; 'community cafe' with space for arts and music'

'Better Lighting is a must'

'Carefully think about attracting other types of shops/market stalls into the area, either by having pop up shops/community cafes. Not everyone who lives in Mitcham wants to buy everything for 99p/£1. If there was a local bakers, greengrocers I know myself and my neighbours would use this, as fresh produce is what we try to buy locally, but have a very limited selection, so use the supermarkets instead'

'Rediscover Mitcham is a good project, but the community could do more to support the town centre'

'More community engagement, fun things to do that don't involve alcohol. Having said that, the old McDonalds provided a youth hub in the centre of the town centre, but this was due to the commitment of the manager - this model could work really effectively. Introducing more independent shops, but also some chains to attract



more people to shop locally - there is so much potential, lots of green spaces, lots of history, etc. Engaging the community is priority to finding out what they want'

'Better walking and cycling, more fresh fruit and veg, places to sit and chat, public toilets'

'More family friendly activities. More community focussed and cultural events to help create a safer and more inclusive atmosphere'

'Make the Common more accessible by trimming overhanging trees and clearing footpaths of overgrowth so we pedestrians can actually reach and enjoy our Heritage'

'Better variety of shops, less betting shops, pound shops and barbers, more independent shops, more coffee shops to meet friends in, less pollution'

'More children's areas to play and meet'

'A Healthy Living Hub (see Healthy Living Hub in Croydon) that provides information and support to help people follow a healthy lifestyle'

'A variety of good quality local restaurants to dine in'

'Cleanliness needs improving. People need to take responsibility and not litter'

'More disabled access'

'More healthy food shops, Turn on of our parks into track and field, more entertainment, support traders in keeping Mitcham clean. Parks need to be more accommodating in a track and field'

'Needs a better social community. Needs more attraction in Mitcham'

'Implement the law regarding anti social behaviour'

'Restrictions - alcohol, fast food, betting'

KEY THEMES

Number of betting shops:

One of the most prominent findings was that there are *'too many betting shops'* with people strongly linking this to anti-social behaviour and crime. With 65% of people making this comment, it is clear that this is an area that people would like addressed.

Number of fast food outlets:

Almost 40% of the 192 people we engaged with felt there were too many fast food outlets in the area. People said that they would like better access to healthy foods including more restaurants that provide healthy options. The



general consensus was that if there were more alternatives to fast food chains these would be regularly used and would be of great benefit to the general health of the community. Many had the view that the large quantity of fast food shops only increased the problem of Mitcham Town Centre being littered and an unpleasant environment.

Number of places to buy alcohol:

When given the opportunity to comment on what best describes Mitcham Town Centre, 33% of respondents (64 out of 192) commented that there were too many alcohol shops in the area. Also worth noting is that the same amount of people commented that this was what they did not like about Mitcham. When adding further comments, people stated that there was a strong link between the availability of alcohol in the area and people visibly drinking in public during the day and night as well as anti-social behaviour, which residents and visitors to Mitcham found intimidating.

General high street/town centre environment and variety of shops:

Overall, there were significantly more negative responses as opposed to positive about the town centre environment. Many of the additional comments centred on the area not being safe or a welcoming environment. A very high number of participants (62%) described the area as 'run down' and felt there was a high level of anti-social behaviour which contributed to respondents feeling unsafe and uneasy in Mitcham. When asked what people liked about Mitcham Town Centre, almost 30% answered with '*I don't like anything*'. In terms of the variety and range of shops available in Mitcham Town Centre, 52 people said that they liked the range of shops compared with 73 who said there was 'no variety'. This showed mixed views on the diversity of retail outlets. The majority of respondents felt that the area was in desperate need of improvement, and would like their high street/town centre to be much healthier than it currently is.

Public Toilets:

While the opportunity to comment on whether there are '*not enough access to toilets*' was given as a quantitative statement (it being the second most referred to reason not liked about Mitcham Town Centre) it is also significant that a large number of respondents made a point to add it as an additional comment that there was not sufficient toilet facilities in the town centre.

Number of barber shops:

A surprising finding of the survey, as well as anecdotal evidence given, was that almost 10% of participants commented that there was too many barber shops in the area. This was surprising as it was not offered as an option on the survey. There was a general feeling from speaking to people that there has been a link between the increase in barber shops and crime.





Lack of amenities and activities for children and young people:

A regular feature of discussion and comment was the lack of amenities and activities for children and young people in the area. From speaking with children and young people ranging from 7-25, they felt that there was very little to do. Parents and carers had concerns about activities for children and young people and older people felt that if there were more amenities/activities it would keep young people '*off the street*' and '*out of trouble*'. Many commented on the closure of McDonalds and felt that this was a focal point for socialising and often brought the community together.

Lack of engagement from Local Authority about the Rediscover Mitcham project:

Another common topic for discussion was the lack of engagement by the Council with residents and visitors to the area around the Rediscover Mitcham project. General feedback was that people would have liked to have been consulted with and able to offer and share their views for improving the area. There was an uncertainty amongst people about the projects progress and outcomes. While people felt passionately about the area that they work and live in, they felt that they are not well enough informed about the on-going regeneration. Many people did comment that they were glad investment was being made and hoped that it will improve the area.

ACKNOWLEDGMENTS

Healthwatch Merton would like to thank all those that supported and engaged with us through-out the consultation. Healthwatch Merton would also like to thank all of our volunteers that helped with the 'pop up café'.



APPENDIX 1 - SURVEY



Calling all Mitcham residents or visitors of Mitcham Town Centre:

Healthwatch Merton are helping Public Health Merton to gather people's views on the Mitcham High Street/Town Centre.

This is part of an ongoing consultation to help shape the Council licensing policy statement in the Mitcham area. The policy sets out how the Council plans to use its powers to shape provision of alcohol, entertainment and late night refreshment in Merton. We also want to take this opportunity to broaden out the discussion wider to talk about other aspects of the Mitcham area including betting shops, fast food outlets and what people want from the Mitcham high street/town centre.

Please click view the Mitcham Town Centre map first as this will help you when completing the survey.

1. If you visit or shop in any of the areas indicated on the map, please indicate why? *

- It has everything that I need
- It is local and close to home
- It is local and close to where I work
- Any additional comments?

2. What do you like about Mitcham town centre? (please tick all that apply) *

- Range of shops
- Variety of places to eat and drink
- Walking and cycling opportunities
- Cultural/library



- Gym/leisure centre
- Green space
- Health care, pharmacy, optician
- Meeting places
- I don't like anything
- Any additional comments?

3. What do you feel best describes Mitcham town centre? (please tick all that apply) *

- Littered
- Congested (traffic)
- Run down
- Poor quality of shops
- Has empty shops
- No variety
- Too many alcohol shops
- Too many fast food outlets
- Too many betting shops
- Too many pay day loans
- It is green
- It is clean
- Attractive shop fronts
- Accessible
- Any additional comments?

4. What don't you like about Mitcham town centre? (please tick all that apply) *

- Crime, safety - during day



- Crime, safety - during night
- Alcohol outlets
- Anti-social behaviour (Drunks, fighting, drinking)
- Not enough access to toilets
- I am happy with it
- Any additional comments?

5. Do you have any ideas about making Mitcham town centre healthier or a nicer place to visit? *





HEALTHY HIGH STREETS CONSULTATION: SUMMARY REPORT

By Healthwatch Merton

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London Road,
Mitcham
CR4 3UD

T: 020 8658 2282

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Research, analysis and report
completed by:

Jade Fairfax
Healthwatch Merton
Information and Outreach Officer



September 2015



The Old Wimbledonians Association

Old Wimbledonians Sports Ground, 143 Coombe Lane, London, SW20 0QX Telephone: 020 8879 0700
Oldwimbledonians.com

Please reply to: Michael O'Brien
110, Kingsmead Avenue,
Worcester Park,
Surrey
KT4 8UT

OWimAsec@gmail.com

9th September 2015

Mr. Barry Croft
Licensing Manager,
London Borough of Merton,
Merton Civic Centre,
Morden, Surrey SM4 5DX

Dear Barry,

This is a short note to thank you for sending me information on the review of the London Borough of Merton's licensing policy statement.

The Old Wimbledonians Association supports the four licensing objectives and understand the redrafting of the policy statement to accommodate both the legal and social changes that have taken place since the previous statement was produced.

We look forward to seeing final version of this statement when it is published next year; I assume that we will be notified once this is published and available on line.

Yours sincerely,

Michael O'Brien

OWA Secretary

Statement of licensing policy

LiveWell Merton has reviewed the policy and Public Health Merton Response to it.

We will be giving our views on sections that are related to of the following policy objectives, they are:

- Public Health
- Protecting children from harm.

We would add the following suggestions:

In section 3.8,

- LiveWell Merton need to be included on the list of organisations consulted.

In section 4.2.5

- Currently, LiveWell Merton is working on one of the five keys themes within the Strategy. Accomplishing this by working in close collaboration with Public Health Merton in order to achieve Good Health target. Accordingly, participation within the Health and Well-being Strategy would bring a mutual benefit.
- In the same section, and on issue of ' Protecting children from Alcohol-related crime....etc' the provision of early family/school intervention will be important to have this issue fully addressed.

In section 4.5/4.4

- Where 'Community plan' was mentioned, it will be important to include/consult LiveWell organisation in developing it as it is one of the key players.
- It will be good to recognize the collaborative work between organisation like LiveWell and Merton police in addressing alcohol abuse and the need to do more collaborative with other organisations in Merton like Alcohol Concern.

Public Health Merton Response

We would like to stress that LiveWell is in full agreement with the proposed changes suggested by Public Health Merton and we are happy that public health is playing an important role in the licensing process,

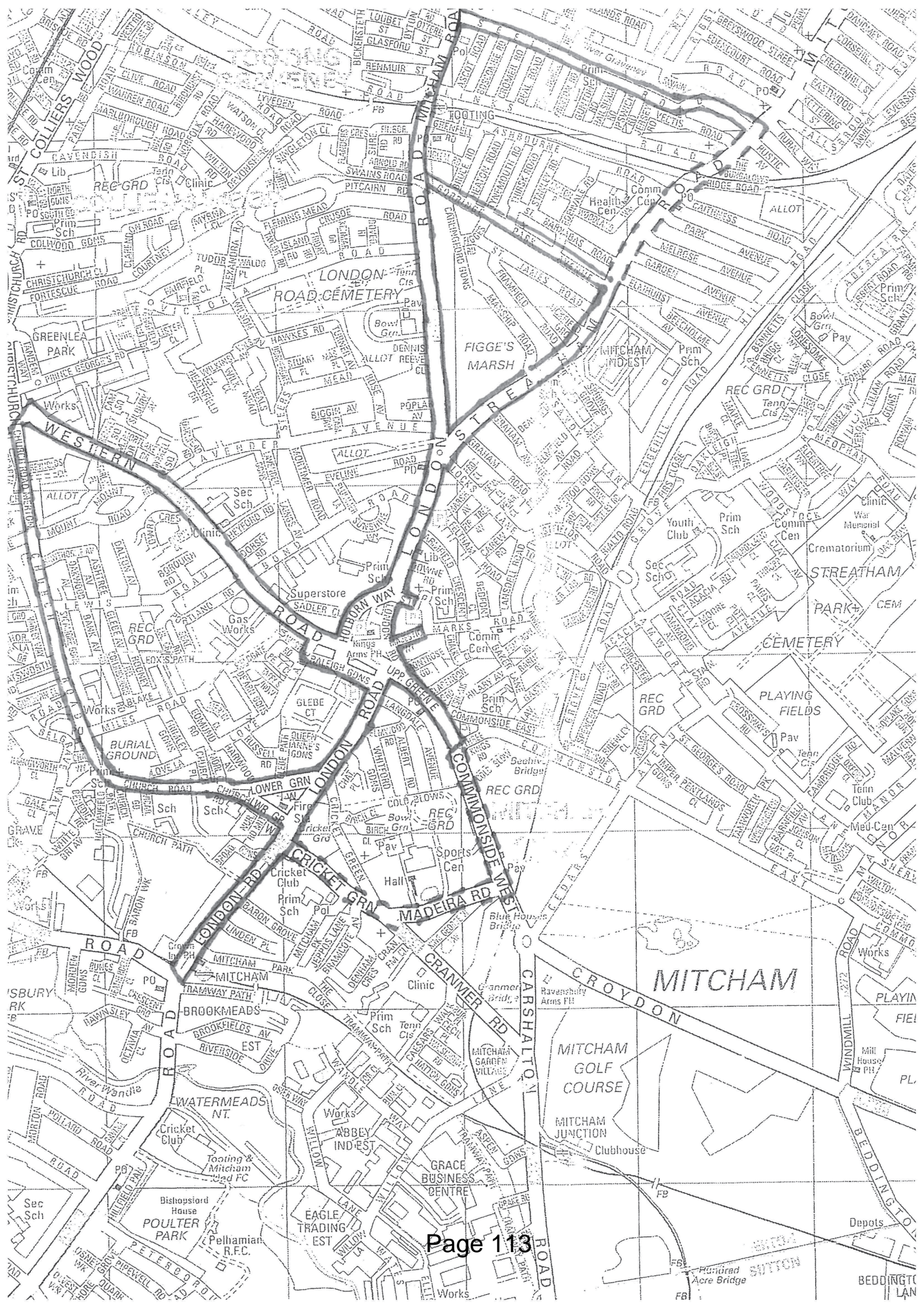
It will be of importance to pay attention to issues mentioned in Merton JSNA in particular those related to Health and Demography on the Licensing Policy. This will give some back ground information to each area in Merton and would give clear picture for any area in Merton, which is under consideration for licensing policy.

We would like to stress also that the following points mentioned in the 'Additional Points' section from Public Health Merton Response, will need to be paid some consideration, these are as follow:

- It will be very beneficial to have a specific section on alcohol and health and it will be important to include Appendix A in the policy. It shows the profound cost of alcohol abuse on many public health services in the borough.

- The changes in drinking behaviour might necessitate more partnership work with many partners organisations so as to raise awareness of its impact on health and economy. This might include training of many leaders in organisations/premises owners especially where licensing may present a physical, moral or psychological harm to children. The training will give a clear picture of why the authority is so strict in the licensing process and its effect on Children safety. This will include the point of sell of alcohol, where the owner need to be vigilant as young people are aware of the age restriction and they might ask an adult to buy alcohol to them, so CCTV deterrent in these situations, will be vital.
- In the 'Evaluation' part, LiveWell will agree that the Monitoring the process and Evaluating the impact are important but mentioning time scale will be necessary, this might be annual or biannual review to provide evidence to support and provide a clear picture for the future policy revisions.

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Committee: Licensing Committee

Date: 20 October 2015

Wards: All.

Subject: Update of the Council's Statement of Principles under the Gambling Act 2005 Post Public Consultation.

Lead officer: Chris Lee, Director of Environment and Regeneration.

Lead member: Councillor Nick Draper, Cabinet Member for Community and Culture.

Forward Plan reference number: N/A

Contact Officer: Barry Croft, Licensing Manager, London Boroughs of Merton and Richmond upon Thames Joint Regulatory Services Partnership and Guy Bishop Senior Lawyer Litigation and Planning Team.

Recommendations:

- A. To consider the comments received during the public consultation process, which took place between 22 June and 14 September 2015;
 - B. To approve delegated authority to the Licensing Manager, in consultation with the Chairman of the Licensing Committee, to approve any amendments to the Statement of Principles following the Committee meeting and prior to submission to full Council for adoption on 18 November 2015; and
 - C. To approve the draft Statement of Principles subject to the above paragraph and recommend it for adoption by full Council on Wednesday 18 November 2015.
-

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 There is a statutory requirement under section 349 of the Gambling Act 2005 for the Council to review and republish its Statement of Principles under the Gambling Act 2005 every three years.

2. DETAILS

- 2.1 This is the fourth Statement of Principles in respect of the Gambling Act; the third having been adopted by the Council in 2013. It is a requirement under the Gambling Act 2005 that the Council's Statement of Principles under the Gambling Act 2005 be reviewed and adopted by the Council at least every three years.

- 2.2 At the Licensing Committee meeting on Tuesday 9 June 2015 the draft Statement of Principles under the Gambling Act 2005 for public consultation was presented showing the proposed changes to the document brought about by updates to legislation, and suggested changes put forward by the legal advisor to the Licensing Sub-Committee and the Licensing Manager. A copy of the draft Statement of Principles under the Gambling Act 2005 can be found at **Appendix “A”**.
- 2.3 The public consultation of the draft Statement of Principles under the Gambling Act 2005 took place between 22 June and 14 September 2015. An electronic copy of the draft document was published on the Council’s website. All responsible authorities, a number of interested parties, residents associations and Ward Councillors who receive a weekly e-mail notifying them of applications received by the Licensing Authority were notified of the public consultation. The Council’s consultation team also circulated details of the public consultation.
- 2.4 During the consultation period the Licensing Authority received one e-mail/letter from a local resident, a letter from Gosschalks Solicitors on behalf of the Association of British Bookmakers (ABB) and a letter from Coral Racing Limited. Copies of the three consultation responses can be found at **Appendix ‘B’**. Members of the Licensing Committee are asked to consider the points highlighted in each of the letters and to consider if necessary to make further changes to the draft Statement of Principles under the Gambling Act 2005 before adoption by full Council. Legal advice will be offered by the legal advisor to the Licensing Sub-Committee and the Licensing Manager during the open debate and discussion..
- 2.5 On Wednesday 30 September 2015 the Gambling Commission published their fifth edition of guidance to Licensing Authorities. In summary, one of the key changes for Licensing Authorities is a requirement to include a local area profile of the borough within the Council’s Statement of Principles under the Gambling Act 2005. All new applicants and existing premises licence holders (betting shops, tracks betting, bingo halls etc.) are required to undertake and have in place a local gambling risk assessment by the 6 April 2016 (this requirement was imposed by the Gambling Commission brought about by changes to the Licensing Conditions and Code of Practise (LCCP) document in February 2015). The operators local gambling risk assessment should be based on information published in the boroughs local area profile, and the operators own assessments of risk based on the locality of the licensed premises linked to the three licensing objectives, which are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
 - Ensuring that gambling is conducted in a fair and open way.
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

2.6 Because of the delay in publication of the revised guidance it was not possible to include details of a local area profile in this version of the draft Statement of Principles under the Gambling Act 2005. It is proposed that a revised version of the Council's Statement of Principles, including a detailed local area profile of the borough, will be brought before the Licensing Committee early 2016 for consideration.

3. Alternative options

3.1 None for the purposes of this report.

4. Consultation undertaken or proposed

4.1 A twelve week (three month) public consultation was undertaken on the proposed revisions the (draft) Statement of Principles under the Gambling Act 2005 between 22 June and 14 September 2015.

5. Timetable

5.1 The draft Statement of Principles under the Gambling Act 2005 to go before full Council for adoption on Wednesday 18 November 2015.

6. Financial, resource and property implications

6.1 None for the purposes of this report.

7. Legal and statutory implications

7.1 None for the purposes of this report.

8. Human rights, equalities and community cohesion implications

8.1 These are statutory functions and are applied globally.

9. Crime and Disorder Implications

9.1 The service has a statutory duty to contribute to the reduction of crime and disorder within the London Borough of Merton under Section 17 Crime and Disorder Act 1988.

10. Risk management and health and safety implications

10.1 All risk and health and safety implications have been considered when compiling this report. None are apparent.

11. Appendices – the following documents are to be published with this report and form part of the report

11.1 Appendix "A" Draft Statement of Principles under the Gambling Act 2005.

11.2 Appendix "B" Details of the consultation responses received including one letter from a local resident, a letter from Gosschalks Solicitors written on behalf of the Association of British Bookmakers (ABB) and a letter from Coral Racing Limited.

12. Background Papers – the following documents have been relied on in drawing up this report but do not form part of the report

12.1 The Gambling Act 2005; and

12.2 Gambling Commission Guidance to Local Authorities 5th Edition published on 30 September 2015.

London Borough of Merton

**STATEMENT OF PRINCIPLES
under the Gambling Act 2005**

From January 2016 to January 2016

INDEX * please note index numbers and page numbers to be checked before publication and submission for adoption by full Council.

1 Statement of Principles under the Gambling Act 2005

- 1.1 Introduction
- 1.2 The London Borough Of Merton
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- 1.4 Licensing Objectives
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- 1.7 Consultees
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- 2.1 Legislation
- 2.2 Relationship with Planning Policies
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3 Decision Making

- 3.1 Terms of Reference
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- 4.1 Applications
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6 Ensuring that Gambling is Conducted in a Fair and Open Way Objective

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Appendix A	Table of Delegations
Appendix B	Categories of Gaming Machines
Appendix C	Enforcement Concordat

1 STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005

1.1 Introduction

London Borough Of Merton is the Licensing Authority under the Gambling Act 2005 and is responsible for granting premises licences in the Borough in respect of: -

- ❖ Casino premises;
- ❖ Bingo premises;
- ❖ Betting premises, including tracks;
- ❖ Adult Gaming Centres;
- ❖ Family Entertainment Centres;
- ❖ Club Gaming Permits;
- ❖ Club Machine Permits;
- ❖ Small Lotteries;
- ❖ Temporary Use Notices;
- ❖ Occasional Use Notices; and
- ❖ Alcohol licensed premises permits and notifications.

The Gambling Act 2005 requires the Licensing Authority to prepare and publish a “Statement of Licensing Policy” that sets out the policies that the Licensing Authority will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

This “Statement of Licensing Policy” has been adopted having regard to the provisions of the revised Guidance issued by the Gambling Commission, responses from consultees and the licensing objectives of the Gambling Act 2005.

The formal Statement of Licensing Policy is available on Merton’s website at www.merton.gov.uk/licensing/Gambling

This policy came into effect on 31 January 2016 and has been reviewed in accordance with statute. The Policy will be reviewed as necessary, and at least every three years from the date of its adoption.

A consultation on this policy took place between 22 June and 14 September 2015.

The London Borough of Merton will aim to permit the use of premises for gambling as set out in the Act.

1.2 The London Borough of Merton

The London Borough of Merton is one of the metropolitan boroughs located in South West London and is predominantly urban in character. The Borough is composed principally of five town centres rather than a single, dominant centre and these form the basis of the Council’s community focus. The town centres are Wimbledon, Raynes Park, Mitcham, Colliers Wood and Morden.

At the last count the population of the borough was just under 200,000. As far as the economy is concerned, Merton is still heavily reliant on leisure and service industries, which form almost 60% of total employment within the borough.

Merton is also densely populated. In contrast, the Borough has one of the highest proportions of parks and open spaces within the London area, some one third of them being green field sites.

1.3 Glossary of Terms

Within this Statement of Policy, the following words and terms are defined as stated:

Licensing Objectives:	As defined in section 1.6 below
Licensing Authority:	London Borough Of Merton
Licences:	As stated in section 1.5 below
Applications:	Applications for licences and permits as defined in section 1.5 & 1.6 below
Notifications:	Means notification of temporary and occasional use notices
Act:	The Gambling Act 2005 (as amended)
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Code of Practice:	Means any relevant code of practice made under section 24 of the Gambling Act 2005
Mandatory Condition:	Means a specified condition provided by regulations to be attached to a licence
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by the Council
Provisional Statement:	Means an application made prior to construction or extensive building work is undertaken to ascertain whether the grant of a licence is likely.
Responsible Authority:	For the purposes of this Act, the following are responsible authorities in relation to premises:

- 1. The London Borough Of Merton;**

2. **The Gambling Commission;**
3. **Metropolitan Police at Wimbledon Police Station;**
4. **Planning Department;**
5. **Environmental Protection** (the authority which has functions in relation to pollution of the environment or harm to human health)
6. **Merton Local Safeguarding Children Board (LSCB) & LBM's Safeguarding Adults Service;**
7. **HM Customs and Excise;**
8. **The London Fire and Emergency Planning Authority; and**
9. **Any other person prescribed in regulations made by the Secretary of State**

Interested Party:

For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, that person:

- a) **Lives sufficiently close to the premises to be likely to be affected by the authorised activities;**
- b) **Has business interests that might be affected by the authorised activities;**
- c) **Represents persons who satisfy a) or b) above.**

1.4 Types of Licence

This document sets out the policies that the Licensing Authority will apply when making decisions upon applications or notifications made for: -

1. Premises Licences;
2. Temporary Use Notices;
3. Permits as required under the Act; and
4. Registrations as required under the Act.

1.5 Licensable Premises and Permits

This policy relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely: -

1. Casinos;
2. Bingo Premises;

3. Betting Premises;
4. Tracks;
5. Adult Gaming Centres;
6. Family Entertainment Centres;
7. Club Gaming Permits;
8. Prize Gaming Permits;
9. Occasional Use Notices
10. Temporary Use Notices;
11. Registration of small society lotteries; and
12. Alcohol licensed premises

1.6 General Principles

Section 153 of the Gambling Act 2005 governs how the Licensing Authority or Licensing Committees will consider and determine applications for Premises Licenses applications and other applications under the Gambling Act 2005. A Licensing Authority or Committee will aim to permit the use of premises for gambling in so far as the authority think it in accordance with any relevant Code of Practice, any relevant Guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with this statement. A Licensing Authority or Committee will not consider expected demand for the facilities being considered.

The Licensing Objectives are as follows:

- Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

Nothing in this Statement of Policy will: -

1. Undermine the rights of any person to apply under the Act for a variety of permissions, other than casinos, and have the application considered on its individual merits in accordance with the Act; or
2. Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The starting point in determining applications will be to grant the application without conditions, other than the mandatory conditions or default conditions laid down by the Secretary of State or reject the application. Conditions, where allowed, will only be considered where they are needed to meet the requirements of the licensing objectives and the criteria above in Section 153 of the Gambling Act 2005, and any conditions applied will be proportionate. Conditions will be considered unnecessary if they are already adequately covered by other legislation or in the Default or Mandatory Conditions.

When determining an application to grant a Premises Licence or review a Premises Licence, the Licensing Authority will have regard to the proximity of the premises to schools, vulnerable adult centres and residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will be considered on its merits. We would expect the applicant to effectively demonstrate how they might promote the licensing objective, address any relevant guidance issued by the Gambling Commission under section 25 of the Act and be in accordance with any relevant code of practice issued under section 24 of the Act. We would therefore expect a premises risk assessment taking into consideration the locality where the premises are situated.

When considering any conditions to be attached to licences, the Licensing Authority will primarily focus on the impact of the authorised activities taking place at licensed premises on interested parties and/or in the context of the Licensing Objectives.

Interested Parties

The Licensing Authority will form an opinion as to whether a person is an Interested Party, based on whether that person represents those that have or live sufficiently close to the premises to be likely to be affected by the authorised activities or has business interests that might be affected by the authorised activities. Factors the Licensing Authority may take into account to determine whether or not an interested party is within the proximity of the premises are as follows:

1. the nature of the activities;
2. the size of the premises;
3. the proposed hours of operation of the premises; and
4. the distance of the premises (eg town centre, residential, rural) from the location of the interested party making the representation.

This list is not exhaustive and the Licensing Authority may take into account any other factors that they consider to be relevant in deciding whether or not someone is an interested party.

In all cases, each application will be determined on its individual merits.

In determining any application the Licensing Authority may not have regard to the expected demand for the facilities, which it is proposed that the premises intend to provide.

The Licensing Authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues that can occur away from licensed premises that may give rise to objections including:

1. Planning controls;
2. Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments;

3. Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;
4. The power of the Police, other responsible authorities or local residents and businesses to seek a review of the licence.

Objectors will be required to relate their objection to one or more of the Licensing Objectives for Gambling, listed at 1.6 above, before the Licensing Authority will be able to consider it. An application for a review of a licence must be made on the prescribed form but must also relate to the 3 Licensing Objectives for Gambling, listed at 1.6 above.

The Licensing Authority, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups and to promote equality of opportunity for people with disabilities.

1.7 Consultees

The Statement of Licensing Policy has been subject to formal consultation with:

- The Borough Commander of the Metropolitan Police at Wimbledon Police Station;
- Persons who appear to the Authority to represent the interests of those carrying on gambling businesses in the authority's area
- Businesses who are, or will be, holders of a premises licence
- Organisations named as Responsible Authorities in the Act
- Persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act; e.g. representatives of residents associations currently notified to the Licensing Authority, Wimbledon Civic Forum, Local Trade Associations etc
- Other organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, medical practices or primary care trusts, and advocacy organisations (such as the Citizen's Advice Bureau and trade unions)

1.8 Information exchange

In fulfilling its functions and obligations under the Gambling Act 2005 the Licensing Authority will exchange relevant information with other regulatory bodies (like the Gambling Commission) and will consider the establishment of protocols where it considers this necessary. In exchanging such information, the Licensing Authority will conform to the requirements of Data protection and Freedom of Information legislation in accordance with the Council's existing policies. The authority will act in accordance with the relevant legislation and guidance from the Gambling Commission and will adopt the principles of better regulation.

Details of those persons making representations will be made available to applicants and other interested parties, to allow for negotiation and in the event of a hearing will

form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed.

2 LEGISLATION, POLICIES AND STRATEGIES

2.1 Legislation

In undertaking its licensing function under the Gambling Act 2005, the Licensing Authority is also bound by other legislation, like the Human Rights Act 1998.

However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on employers and operators and the licensing authority, like.

1. Health and Safety at Work Act 1974;
2. Section 17 of the Crime and Disorder Act 1988;
3. Environmental Protection Act 1990;
4. The Anti-Social Behaviour Act 2003; or
5. The Race Relations Act 1976 (as amended);

2.2 Relationship with Planning Policies

When determining an application, the Licensing Authority cannot take into account “irrelevant matters” such as the likelihood of the applicant obtaining planning permission or building control approval.

A decision by the licensing authority under this Act shall not constrain any later decision by the authority under the law relating to planning or building.

An applicant can apply for a “provisional statement” if the building is not complete or if he does not yet have a right to occupy it. Such an application is, however, a separate and distinct process to the granting of planning permission or building control approval.

2.3 National Strategies

The Licensing Authority will also seek to discharge its functions identified by other Government Strategies, in so far as they impact on the objectives of the licensing function.

2.4 Local Strategies and Policies

Where appropriate, the Licensing Authority will consider applications with reference to other adopted local strategies and policies.

2.5 Integrating Strategies

There are many stakeholders involved in the leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case, the Licensing Authority will aim, as far as possible, to co-ordinate them.

The Licensing Authority recognises in particular the importance of the co-ordination and integration of the Gambling policy with other plans aimed at the management of town centres and the night-time economy.

Relevant plans and strategies include:

- ❖ Crime and Disorder Strategy – The Licensing Authority will fulfil its duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough. As far as possible, licensing decisions will aim to contribute to the targets set in the Crime and Disorder Strategy and conditions attached to licences and certificates will reflect local crime prevention strategies.

Racial Equality – The Licensing Authority is required under race relations legislation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.

- ❖ Human Rights – The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right. The Licensing Authority will have particular regard to the following provisions of the European Convention on Human Rights, in particular: -
 - Article 6 that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
 - Article 8 that everyone has the right to respect for his home and private and family life;
 - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.
- ❖ Proper integration will be assured by the Licensing Authority's Licensing Committee providing reports, when appropriate, to the Planning Committee on the situation regarding licensed premises in the area, including the general impact of gambling related crime and disorder, to enable the Planning Committee to have regard to such matters when taking its decisions.
- ❖ Tourism and Town Centre Management – The Licensing Authority aims to promote a high quality thriving nighttime economy.

- ❖ The Licensing Authority will ensure that the Licensing Committee receives reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations.
- ❖ Economic Strategies – The Licensing Authority will ensure that the Licensing Committee is apprised of the employment situation in the area and the need for new investment and employment where appropriate.
- ❖ Enforcement Policy – All licensing enforcement will be conducted in accordance with the regulatory compliance code.

In order to avoid duplication with other statutory regimes, the Licensing Authority will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

3 DECISION MAKING

3.1 Terms of Reference

A Licensing Sub-Committee of three Councillors will sit to hear applications where representations have been received from interested parties and/or responsible authorities.

A clear statement of the reasons for the decision shall accompany every determination of a licensing decision by the Licensing Sub-Committee. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable in the form of a Notice of Determination.

The Council's Licensing Officers will deal with all other licensing applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Licensing Officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Sub-Committee. Where representations are rejected, the person making that representation will be given a written reason as to why that is the case. The Gambling Act 2005 provides no right of appeal in these circumstances, although other avenues of legal challenge, for example Judicial Review, may be available.

3.2 Allocation of Decision Making Responsibilities

The Licensing Authority has established a Licensing Committee to discharge all Licensing functions.

The Licensing Committee has delegated responsibilities for determining certain administrative functions in respect of the Licensing Authority's approach to this Policy. Therefore the Licensing Committee may decide to adopt the following:

- Regulators Code;

- Information Sharing Protocol;
- Charges for Pre-application Advice; and
- Other matters relating to the administration of the Licensing Authority's functions under this Act.

The Committee has delegated certain decisions and functions and has established a Sub-Committee to deal with them.

Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example those licences and permits where no representations have been made, will be delegated to the Director of Environment & Regeneration.

Appendix A sets out a table showing the agreed delegation of functions & decisions in respect of the full Council, Sub-Committee and Officers.

Such delegation does not preclude Officers from referring any application to the Licensing Sub-Committee if they consider it appropriate.

3.3 Licensing Reviews and Applications

Regulations have been made by the Secretary of State under Section 160 of the Act that will require applicants for premises licences to notify the responsible authorities and other persons.

Whilst these authorities will have legitimate interests in aspects of the application, the Licensing Authority must ensure that it does not take into account concerns from these bodies if they are not relevant to the application for a premises licence under the Act.

Examples of representations from such bodies that may not be taken into account are as follows (but these examples are not exhaustive):

- There are already too many gambling premises in the locality
- The proposed premises are a fire risk
- The location of the premises is likely to lead to traffic congestion

The Licensing Authority will carry out a review of a premises licence where it has received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives.

Due consideration will be given to all relevant representations unless they fit the following:

- a) The grounds are frivolous
- b) The grounds are vexatious
- c) The grounds are irrelevant

- d) The grounds will not cause the Licensing Authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence
- e) The grounds are substantially the same as the grounds cited in a previous application relating to the same premises
- f) The grounds are substantially the same as representations made at the time the application for a premises licence was considered and there has been no change in the circumstances.

The Act permits the Licensing Authority to review a premises licence if it considers it appropriate.

Representations may include issues relating to the following:

1. Use of licensed premises for the sale and distribution of class A drugs and/or the laundering of the proceeds of drugs crimes;
2. Use of licensed premises for the sale and distribution of illegal firearms;
3. Use of licensed premises for prostitution or the sale of unlawful pornography;
4. Use of licensed premises as a base for organised crime activity;
5. Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
6. Use of licensed premises for the sale of smuggled tobacco or goods;
7. Use of licensed premises for the sale of stolen goods;
8. Children and/or vulnerable persons being put at risk.

4 LOCAL STANDARDS

4.1 Applications

An application for a premises licence can only be made by a person who either holds an operating licence authorising him to carry on the activity in respect of which a premises licence is sought, or, has made an application for an operating licence which has not yet been determined, or, in the case of an application for a track betting licence the applicant may not be required to have an operators licence.

The applicant may ask the Licensing Authority for advice as to the scope of information to be provided. The Licensing Authority may levy a charge where more in depth or complex advice and assistance is requested.

The level of detail to be provided will be advised by the Licensing Authority and will be proportional to the scale and nature of the application made.

Definitions of “Responsible Authorities” and “Interested Parties” who are able to make representations under this Act can be found in the glossary of terms in section 1.3.

4.2 Assessment of Need

Unmet demand for gambling establishments or facilities is not a criterion that will be taken into consideration when determining an application for a Premises Licence under the Gambling Act 2005. Demand is specifically precluded within the Act. There is no legal obligation to demonstrate that any demand exists.

4.3 Conditions

Conditions will only be applied to licences that are proportionate and appropriate to the business, organisation or individual concerned. The Licensing Authority will draw upon the advice issued by the Gambling Commission and attach conditions relative and proportionate to the given circumstances of each individual case.

4.4 Enforcement

The Licensing Authority intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises be monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and in compliance with any licence conditions. It will also be important to monitor the Borough for unlicensed premises.

The Licensing Authority will seek to work actively with the Police in enforcing licensing legislation and intends to establish protocols with the Metropolitan Police on enforcement issues to ensure an efficient deployment of police and council officers.

Such protocols will be agreed by the Licensing Committee.

4.5 Casinos

There are currently no casinos operating within the Borough.

On 21 November 2012 Merton re-adopted a resolution under Section 166 of the Act not to issue casino licences within Merton or allow operators to make applications for premises licences for casinos.

4.6 Bingo

The Licensing Authority may issue a Bingo premises licence, which will authorise the following gaming machines:

- 1 20% of the total number of gaming machine of Category B3 or B4 machines
- 2 An unlimited number of Category C & D machines

4.7 Betting Offices

The Licensing Authority may issue a premises licence to Betting Offices, which will authorise the following gaming machines:

- 1 A maximum of 4 machines of Category B, C or D

4.8 Family Entertainment Centres (Licensed)

The Licensing Authority may issue a premises licence to Family Entertainment Centres which will authorise the following gaming machines:

- 1 An unlimited number of Category C & D machines
- 2 Category C machines must be located in an adult area only

4.9 Family Entertainment Centres (Unlicensed)

It should be noted that the term “unlicensed” in this definition means premises that do not require an operators licence to be granted by the Gaming Commission.

The Licensing Authority may issue a premises licence, which will authorise the following gaming machines: -

- 1 Unlimited numbers of Category D machines

5 PREVENTION OF CRIME AND DISORDER OBJECTIVE

Merton's Licensing Authority places considerable importance on the prevention of crime and disorder, and will fulfil its duty under s17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough. A high standard of control is expected to be exercised over licensed premises.

Merton's Licensing Authority will, when determining applications, consider whether the grant of a Premises Licence will result in an increase in crime and disorder.

Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council's Licensing Officers and The Licensing Sergeant at Wimbledon Police Station before making a formal application.

In considering licence applications, the Licensing Authority will particularly take into account the following: -

1. The design and layout of the premises
2. The training given to staff in crime prevention measures appropriate to those premises
3. Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed

4. Where premises are subject to age restrictions, the procedures in place to conduct age verification checks
5. The likelihood of any violence, public order or policing problem if the licence is granted

6 ENSURING THAT GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY OBJECTIVE

Generally, the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be a matter for either the management of the gambling business (and therefore relevant to the Operating Licence), or will be in relation to the suitability and actions of an individual (and therefore relevant to the Personal Licence). As the Gambling Commission grants Personal Licences and Operating Licences, enforcement of these matters is the responsibility of the Gambling Commission.

7 PROTECTION OF CHILDREN AND OTHER VULNERABLE PERSONS OBJECTIVE

7.1 Access to Licensed Premises

With limited exceptions, the access of children and young persons to those gambling premises, which are adult only environments, will not be permitted.

The principle used to designate the following bodies to advise the Authority on the protection of children and vulnerable persons from harm is that they are the acknowledged experts in this specialised field within this Authority.

The Licensing Authority formally recognises Merton's Local Safeguarding Children Board and Community Care Services as the proper agencies in respect of the protection of children and vulnerable persons from being harmed or exploited by gambling.

The Licensing Sub-committee will judge the merits of each individual application before deciding whether to impose conditions to protect children and vulnerable persons on particular categories of premises. This may include such requirements as: -

1. Supervision of entrances;
2. Segregation of gambling areas from areas frequented by children;
3. Supervision of gaming machines in non-adult gambling specific premises.

The 2005 Act provides for a Code of Practice on access to Casino premises by children and young persons but Merton has adopted a policy not to permit casinos in the Borough.

7.2 Vulnerable Persons

The Licensing Authority does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children, but it will follow the Gambling Commission's assumption that for regulatory purposes, "vulnerable persons" include:

1. People who gamble more than they want to;
2. People who gamble beyond their means;
3. People who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs.

In addition to the responsible authorities and specifically with regard to the protection of vulnerable persons from being harmed or exploited by gambling, the Licensing Authority will consult with Community Care Services via a joint arrangement with the Merton Local Safeguarding Children Board & Safeguarding Adults Service.

9 COMPLAINTS AGAINST LICENSED PREMISES

The Licensing Authority will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Licensing Authority may initially arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the licensing committee consider their valid objections, or for any licence holder to decline to participate in a conciliation meeting.

Due consideration will be given to all relevant representations unless they fit the exceptions in 3.3 sub-paragraphs A – F.

FURTHER INFORMATION

Further information about the Gambling Act 2005, this Statement of Principles under the Gambling Act 2005 or the application process can be obtained from: -

Licensing Team
London Borough of Merton
Civic Centre
London Road
Morden
SM4 5DX

Tel: 020 8545 3969
E-mail: licensing@merton.gov.uk
Web page www.merton.gov.uk/licensing

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Tel: 0121 230 6666
Fax: 0121 230 6720
E-mail: info@gamblingcommission.gov.uk

Business opening hours: 9am to 5pm, Monday to Friday

Appendix A

DELEGATION OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	HEAD OF PLANNING & PUBLIC PROTECTION	HEAD OF CIVIC & LEGAL SERVICES
Three year Licensing Policy	X			
Policy not to Permit Casinos	X			
Validity of Applications or Representations			X	
Representations made by Licensing Authority			X	
Determination of Applications		X	When no hearing is required	
Dispensing with Hearings		Where all parties agree		Where all parties agree prior to hearing
Extending Times Limits		X		Where there is a need prior to hearing (consult with Licensing Committee Chair)
Consideration of Representations (opposing or supporting) and Notices (temporary use / occasional use)		X	X	
Procedure and Conduct of Hearings		X		
Issue of Notice of Hearing				X
Determining Relevance of Information		X		
Determination of Premises Licence Fees		X		

Appendix B

GAMING MACHINE CATEGORIES

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£5	£10,000 (with and option of a maximum £20,000 linked progressive jackpot on a premises basis only).
B2 <i>** See below for definition</i>	£100	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D	30p or £1 when non-monetary prize	£8 cash or 50 non-monetary prize
D money prize	10p	£5
D non-money prize (other than crane grabe machine)	30p	£8
D non-money prize (crane grab machine)	£1	£50
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)
D combined money and non-money prize (coin pusher or penny falls machines)	20p	£20 (of which no more than £10 may be a money prize)

*** These machines are "Fixed odds betting terminals (FOBTs)"*

The government is satisfied that FOBTs should comprise a separate sub-category (B2) of gaming machine offering a maximum prize of £500 with a maximum stake of £100 per game (£15 per chip) and that they should only be available in Casinos and Licensed Betting Offices.

The Government remains concerned about a possible connection between FOBTs and problem gambling.

However a report on 6 July 2009 from the Gambling Commission has recommended that no immediate action be taken. It suggests that further research into regulatory measures need to be part of a wider prevention and harm mitigation framework which addresses risk mitigation in the context of machine and other gambling more generally. The Government continues to keep the matter under review.

Appendix C

REGULATORS COMPLIANCE CODE & ENFORCEMENT POLICY

This document sets out what business and others being regulated can expect from enforcement officers. It commits us to good enforcement policies and procedures.

This document can be accessed by the following web link:

http://www.merton.gov.uk/working/tradingstandards/enforcement_policy-4.pdf

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Draft Statement of Principles under the Gambling Act 2005 – Consultation Responses Received During the Public Consultation Processes.

NAME	STATUS	COMMENTS
CORAL RACING	BETTING SHOP OPERATOR	SEE ATTACHED LETTER
GOSSCHALKS	SOLICITORS	SEE ATTACHED LETTER
HANAN SAKHI	RESIDENT	<p>Dear sir/ madam,</p> <p>I live in 181 links road, tooting sw17 9ep. I have noticed many gambling shops have opened recently in my area and I am concerned especially as I see many youngsters getting addicted to gambling and finding it very hard to give up. This also very difficult for parents of young adults who are starting their lives spending more time in these gambling shops instead of college or university getting an education.</p> <p>I would like these gambling shops to disappear from my area as it has been poisonous for the community.</p> <p>Kind regards</p> <p>Hanan Sakhi</p> <p>Sent from my iPhone</p>

Environmental Health, Trading Standards & Licensing
London Borough of Merton
Merton Civic Centre
Morden
Surrey
SM4 5DX

14th September 2015

Dear Sir,

Consultation on London Borough of Merton's Statement of Principles – Gambling Act 2005

Coral Racing Limited is most grateful to be given the opportunity to respond to this consultation exercise. Coral was one of the first national bookmakers to be licensed under the Betting and Gaming Act of 1960, and so has been operating the length and breadth of the UK for over 50 years. Its premises comprise locations in the inner city, on the high street, in suburbs and in rural areas, and in areas of both high and low deprivation. It now operates 1850 betting offices across Great Britain, which comprise about 20% of all licensed betting offices. It is, therefore, a highly experienced operator.

Coral Racing Limited recognise that your updated version is very similar to the current document and as such are supportive. It again notes that the Board when considering applications are still required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives'. The Statement does not include as far as we are aware that the Council should not take into account any moral objections to gambling and if this is missing, we kindly suggest that it is amended.

Coral Racing Limited recognise the requirement to supply risk assessments with future applications & variations following the consultation completion (requirement is from 6th April 2016) and whilst this is briefly mentioned on Page 7, we are pleased to note that the Council has not included a long list of locations which are suggested as not being suitable for a licenced betting office. Such inclusions are not backed up by fact and whilst it is noted that also on page 7, the document (and the previous statement) indicated that schools and residential areas with children will be taken into account for all applications, Coral Racing would caution against making immediate judgements in such cases – it is noted that each case will be judged on its merits.

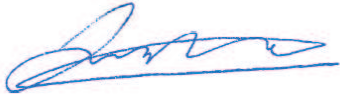
Coral knows of no evidence that children coming from schools are gaining access to betting offices. Coral's general experience, in common with other bookmakers, is that children are not interested in betting, and in any case the Think 21 policy operated by Coral is adequate to ensure that under-age gambling does not occur in their premises. There are very many examples of betting offices sited immediately next to schools and colleges across the country and no evidence whatsoever that they cause problems.

Coral's experience is that through all it does, it achieves an exemplary degree of compliance already, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced, Coral believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed.



Coral Racing Limited
One Stratford Place, Montfichet Road, London E20 1EJ
Registered Office: New Castle House, Castle Boulevard, Nottingham NG7 1FT
Registered in England No. 541600
Tel: 020 3288 7000 Fax: 020 3288 7050

If we can provide any further information, we would be pleased to do so.

A handwritten signature in blue ink, appearing to be 'John Liddle', written in a cursive style.

Yours faithfully,

John Liddle
Director of Development – Coral Retail



London Borough of Merton Council
Licensing
14th Floor
Merton Civic Centre
London Road
Morden
SM4 5DX

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: MCJ / LHK / 097505.00004
#GS358508
Your ref:
Date: 09 September 2015

Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The ABB represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.

The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.

The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.

It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.

Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Working in partnership with local authorities

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and we welcome the opportunity to respond to this consultation.

There are a number of examples of the ABB working closely and successfully in partnership with local authorities.

LGA – ABB Betting Partnership Framework

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA). This was developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms and established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *“...desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be.”*

The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said: *"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."*

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:

"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."

Primary Authority Partnerships in place between the ABB and local authorities

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.

These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.

By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

Local area risk assessments

With effect from 6th April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.

Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review

should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.

The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

Local Area Profiles – Need for an evidence based approach

It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the "aim to permit" principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

We would also request that where a local area profile is produced by the licensing authority that this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

Concerns around increases in the regulatory burden on operators

Any increase in the regulatory burden would severely impact on our members at a time when overall shop numbers are in decline, and operators are continuing to respond to and absorb significant recent regulatory change. This includes the increase to 25% of MGD, changes to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put

into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

Employing additional licence conditions

The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.

This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

Specific Policy Comments

The ABB welcomes your light touch approach within the draft statement of principles under the Gambling Act 2005.

The only specific issue upon which we would comment relates to section 5. This is headed "prevention of crime and disorder objective." We believe that there may be some confusion with the licensing objectives under Licensing Act 2003 and believe that this is probably a typographical error. The policy correctly identifies the licensing objective within paragraph 1.6 as "preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime."

We respectfully submit that the heading should be changed and there should be reference to the Gambling Commission's statement that licensing authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance.

Conclusion

The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.

ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

Yours faithfully,



GOSSCHALKS

Committee: Licensing Committee

Date: 20 October 2015

Wards: All.

Subject: Institute of Licensing's Guidance on Premises Licence Conditions.

Lead officer: Chris Lee, Director of Environment and Regeneration.

Lead member: Councillor Nick Draper, Cabinet Member for Community and Culture.

Forward Plan reference number: N/A

Contact Officer: Barry Croft, Licensing Manager, London Boroughs of Merton and Richmond upon Thames Joint Regulatory Services Partnership and Guy Bishop Senior Lawyer Litigation and Planning Team.

Recommendations:

- A. To consider the adoption of the Institute of Licensing's (IoL) Guidance on Premises Licence Conditions (Licensing Act 2003) as an appendices to the Council's Statement of Licensing Policy.
-

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The Institute of Licensing (IoL) draft Guidance on Premises Licence Conditions.

2. DETAILS.

- 2.1 The Institute of Licensing (IoL) recently published a consultation document, which sets out guidance on premises licence conditions. The consultation document, attached at **Appendix "A"**, also contains a list of conditions which could be used by an applicant, responsible authority, interested party or a Licensing Sub-Committee who may impose conditions to address one or more of the licensing objectives.
- 2.2 The consultation period for the Institute of Licensing's draft guidance on premises licence conditions finished on the 30 September 2015. To date the Institute of Licensing is yet to publish the completed and final version of this document, but when available it is recommended the document be formally adopted and attached as an appendix to the Council's current Statement of Licensing Policy.
- 2.3 Members are asked to consider the points raised and to offer their views on the document attached to this report.

3. Alternative options.

- 3.1 None for the purposes of this report.

- 4. Consultation undertaken or proposed.**
 - 4.1 None for the purposes of this report.
- 5. Timetable.**
 - 5.1 To be attached as an appendix to the Statement of Licensing Policy when published by the Institute of Licensing.
- 6. Financial, resource and property implications.**
 - 6.1 None for the purposes of this report.
- 7. Legal and statutory implications.**
 - 7.1 None for the purposes of this report.
- 8. Human rights, equalities and community cohesion implications.**
 - 8.1 These are statutory functions and are applied globally.
- 9. Crime and Disorder Implications.**
 - 9.1 The service has a statutory duty to contribute to the reduction of crime and disorder within the London Borough of Merton under Section 17 Crime and Disorder Act 1988.
 - 9.2 To address the licensing objectives under the Licensing Act 2003.
- 10. Risk management and health and safety implications.**
 - 10.1 All risk and health and safety implications have been considered when compiling this report. None are apparent.
- 11. Appendices – the following documents are to be published with this report and form part of the report.**
 - 11.1 **Appendix “A”** Institute of Licensing Guidance on Premises Licence Conditions (draft consultation document).
- 12. Background Papers – the following documents have been relied on in drawing up this report but do not form part of the report.**
 - 12.1 The Licensing Act 2003; and
 - 12.2 Section 182 Guidance to the Licensing Act 2003 issued by the Home Office.

The Institute of Licensing's

Consultation: Guidance on Premises Licence Conditions



Authors:

Myles Bebbington - *Head of Service for Environmental Health & Licensing, South Cambridgeshire District Council*

James Button - *Solicitor, James Button & Co*

Gary Grant - *Barrister, Francis Taylor Building*

Sue Nelson - *Executive Officer, Institute of Licensing*

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Introduction and mission statement

1. Conditions are important. Done well, they may permit a licence to be granted that would otherwise have been refused. Done badly, they may overload a licence with so many restrictions that the licence becomes unworkable and a business unviable. In an age when it is increasingly common to encounter premises licences with 30, 40 or more conditions attached to them, this question now needs to be asked: are all these conditions genuinely appropriate, necessary and proportionate or is a different approach required? The Institute of Licensing believes that a sea-change in approach is required to promote the twin goals of promoting the licensing objectives whilst allowing safe and responsible licensed premises to flourish.
2. This Guidance on Premises Licence Conditions aims to assist operators, local authorities, responsible authorities and residents alike. It sets out general principles and then lists examples of conditions honed by experience and proven to be both effective and enforceable. Our focus is on premises licences issued under the Licensing Act 2003, although much of this guidance is equally applicable to club premises certificates. We have considered many thousands of conditions used by numerous licensing authorities and owe a great debt of gratitude to the officers who drew them up. Some we have adopted, others revised and updated. There will inevitably always be local preferences that eschew a one-size fits all approach. That is an entirely appropriate approach to a licensing system specifically designed to let those who know their locality best, mould their licensing policy and practice accordingly. Nevertheless, we hope and intend that this guidance and the precedent conditions will provide a useful lodestar to guide all interested parties when licence conditions are being considered under the Licensing Act 2003.

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3. This consultation seeks views, both on the general principles set out in this guidance and the specific conditions proposed. Our strength as an Institute flows from the unparalleled expertise and broad experience of its membership. We invite and welcome comments and suggestions from everyone - whether sceptical or enthusiastic, approving or critical. If this consultation serves to ignite a debate on licence conditions, then our project will have been worthwhile.
4. Prior to the introduction of the Licensing Act 2003, licensing justices very rarely found it necessary to impose more than a handful of conditions on a justices' alcohol licence and, more usually, imposed none at all. In contrast, local authorities considering public entertainment licences ("PEL") would generally impose several conditions, often by importing all of the "Standard Conditions for a Public Entertainment Licence" or "Rules of Management for Places of Public Entertainment" into a PEL. When the brave new world of licensing was born after the introduction of the Licensing Act 2003, the two worlds of alcohol licensing and public entertainment licensing were unified. Local authorities were placed in primary control of the whole system as the "licensing authority". At the time, concerns were raised that local authorities would unnecessarily load premises licences with conditions, as they had been inclined to do with PEL's. Now, a decade after the Licensing Act 2003 came into force, those concerns have proven to be justified in some cases.
5. We believe that if any blame is to be attached at all it must be borne equally by the trade, responsible authorities and local authorities. Too many irrelevant conditions were being offered by some operators (often with the encouragement of their legal advisors) seeking to pad out ambitious applications to make them appear more acceptable to concerned residents, responsible authorities or the local authority. Similarly, responsible authorities would often ask for every condition they could reasonably imagine to be attached to a licence when making representations in response to an application, without proper consideration of the individual circumstances of the case. Often, for understandable reasons, local authorities were less than assiduous in pruning out those conditions that were inappropriate, unnecessary or disproportionate before attaching them to a licence either through delegated powers (when the licence application was unchallenged) or at a hearing.
6. The situation was compounded by the rush to implement the new licensing regime and the transition provisions themselves. Wreathes of old, otiose and occasionally conflicting conditions were cut from old

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pre-2003 Act licences and pasted wholesale onto the new ones, where they still hang like an opaque and dead weight.¹

7. Whatever the causes, the result has often been the issuance of premises licences with far too many unfocused, irrelevant, unnecessary, inappropriate, disproportionate, illegal or unenforceable conditions. This works to the detriment of all those with a legitimate interest in licensing.
8. We believe that a further important reason for the situation we are now in is the sub-conscious blending together of requirements that, on the one hand, are actually required to be *conditioned* into a licence and, on the other, those useful and responsible operational steps that are better described as “good management practices”.
9. We suggest that conditions that simply reflect good management practices should not generally appear on premises licences without very good reason. However requirements that would help determine the fundamental issue of whether a premises can operate in a particular locality in a manner that prevents the licensing objectives being undermined, would be justified as conditions rightly to be attached to licences. No more and no less.
10. The distinction may be clearer by way of an example. If a new pub has a beer garden adjoining residential properties, then limiting the use of that beer garden to a certain reasonable hour at night may well be the deciding factor in whether to grant the licence or not. That situation would entirely justify a condition on the licence relating to the use of the beer garden. However where, for example, a fine-dining restaurant hopes to open in a non-problematic location then the keeping of an incident log at the premises and full CCTV coverage may very well be good management practices. But the individual circumstances hardly justify the incident log or CCTV requirement being conditioned into the licence at all, because they are not, on proper scrutiny, required to safeguard the licensing objectives. They are no more than an add-on or padding and have no proper role to play as conditions in these circumstances. (We note that in relation to the near blanket imposition of CCTV conditions on premises licences that the Home Office recently felt it necessary to issue guidance specifically deterring this practice²).

¹ Indeed the transitional provisions often required it, see Schedule 8 of the Licensing Act 2003 (Transitional Provisions etc) and DCMS guidance on embedded conditions published in May 2005 (reproduced in Paterson’s Licensing Acts 2015 at p.633)

² Surveillance Camera Code of Practice, Home Office (published 4 June 2013)

11. We have been very impressed with the approach of certain licensing authorities which publish Codes of Good Practice to which all licence holders are expected to have regard, instead of routinely attaching scores of conditions to a premises licence. If problems arise with a premises then the relevant Code provides a yardstick by which the quality of management practices can be judged. After all, the primary responsibility for ensuring that a licensed premises operates in a manner that promotes the licensing objectives rests firmly on the licence holder. They should take whatever reasonable steps are required to achieve this goal, regardless of the existence or absence of conditions on their licence. A breach of a condition may or may not impact on a licensing objective. If the breach is deserving of punishment it can be the subject of a criminal prosecution³. But the critical factor is whether or not the management are taking *effective* steps to prevent crime and disorder and public nuisance, to safeguard public safety and protect children from harm. It is *not* simply whether the operator is complying with the precise terms of a condition on their licence or not. This is as true for the current operator as it may be for a future operator. If problems arise they can be dealt with informally at first and, ultimately, through the review process. Similarly, the primary focus of review proceedings should be on the impact of the particular premises on the licensing objectives, rather than on the secondary issue of whether the precise terms of a condition is or is not being complied with (though an operator who routinely breaches the condition of his licence will naturally find it difficult to persuade a tribunal that he is able to manage the premises competently in the future). We encourage all local authorities to consider publishing their own Codes of Good Practice - to which all responsible operators will be expected to have regard - in addition to any conditions that may be on their premises licences.

12. Conditions are better if they more closely resemble a laser than a blunderbuss. However comprehensive, the latter approach cannot possibly cater for, or predict, every eventuality or issue that may arise given the infinite ways in which humans engage with each other and behave.

13. The great majority of licensed premises operate in a socially responsible and professional way. However, those are precisely the premises that rarely create controversy and so only infrequently cross the radar of local authorities: either because they do not make unrealistic applications or do not attract

³ Under section 136 Licensing Act 2003

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intervention by the responsible authorities or licensing officers. We must all be alive to the need not to tar the whole licensed trade with the same brush rightly applied to the reckless and irresponsible minority of operators.

14. Conditions may well be required in order to fundamentally shape or fine-tune licences so that premises are able to operate in a manner that does not cause crime and disorder, public nuisance, threaten public safety or jeopardise the safety of children. But in all cases they must be appropriate, necessary and proportionate. All parties considering offering or imposing a condition should carefully reflect on whether the particular condition is *really* required for this particular premises, or is it simply unnecessary padding ?
15. We have deliberately used the phrase “necessary” in this guidance, despite the dilution of this well-regarded and generally understood threshold test for imposing conditions after its replacement with the “appropriate” test. We have done so because the Secretary of State’s Guidance issued under section 182 of the Licensing Act 2003 (henceforth “section 182 Guidance”)⁴ makes it clear that all decisions relating to conditions must be both “appropriate” and “proportionate”. The senior courts have defined the concept of “proportionality” as including the requirement that, among other things, the step taken satisfies both the “appropriate” and “necessary” tests⁵. Therefore, it seems both logical and lawful for conditions to be imposed only if it is necessary to do so. This approach accords with basic public law and human rights principles when the State is seeking to restrict an otherwise lawful activity. We adopt it, whilst respectfully acknowledging the use of the term “appropriate” in the amended Licensing Act 2003. We strongly suspect that the terminological differences may have little practical impact in licensing determinations in any event. Licensing authorities, balancing the commercial interests of an operator with the public interest (as reflected in the licensing objectives) are rarely minded to impose a condition that is unnecessary. Indeed, we ask rhetorically, is a step that is unnecessary ever likely to be considered appropriate?
16. For reasons discussed above, we have very purposefully not included in our draft conditions a great many conditions that are habitually encountered across the country in what, we hope, will prove to be the

⁴ March 2015 edition.

⁵ See Lord Bingham CJ in *R v Secretary of State for Health ex parte Eastside Cheese* [1999] 3 CMLR 123

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bygone-age of overloaded licences. Instead we have restricted ourselves to those conditions we believe are most likely to be genuinely worthy of attaching to a licence, as opposed to simply being good management practices; although we appreciate a degree of overlap is inevitable. The reader will therefore note that many ubiquitously encountered conditions are absent from our draft conditions. We will listen carefully to our consultees, and if we are persuaded that in a particular instance we have wielded the scalpel too liberally, we are fully prepared to be contrite and re-consider.

17. Before turning to the types of conditions, and our guiding principles, this critical point needs to be made. There must be absolutely no imposition of “standard” or “blanket” conditions on premises licences. Each and every decision to impose a condition must be justified according to the individual circumstances of the specific case. If a party is asked why a specific condition is required in relation to a particular premises, they must be able to provide a clear and cogent answer. If none is forthcoming the condition should disappear - either gracefully or with a thud.

Premises licence plans

18. The role of the plan in the context of a premises licence is often misunderstood. The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005, require plans to be submitted with an application for a premises licence or club premises certificate. The plans are required by the Regulations to contain prescribed information relating to the premises and the application being made.
19. The Regulations require the plans to form part of the premises licence or club premises certificate. The plans are required to show the areas of the premises used for licensable activities, and as such will define those areas for the purpose of the licence once issued. It provides the opportunity too for specific arrangements to be conditioned within the licence where considered necessary for the promotion of the licensing objectives. Examples can be found within these conditions.

Types of conditions

20. There are three types of conditions that may be attached to a premises licence (or club premises certificate)

- Mandatory
- Proposed
- Imposed

Mandatory

21. The “mandatory conditions” (including the somewhat misnamed “mandatory code”) will be automatically imposed on a licence by process of law and so involves no exercise of discretion. Therefore the mandatory conditions fall outside the scope of this guidance though, for reference purposes, we include them in [Appendix A](#). The reader is referred to Chapter 10 of the section 182 Guidance for further explanation of, and commentary on, the mandatory conditions.

Proposed

22. Applicants will generally propose steps they intend to take to promote the licensing objectives within the operating schedule of their licence application form. If there are no relevant representations received in response to the application then the licence will be granted without the need for a hearing and the licensing authority’s discretion is not *fully* engaged. Conditions that are consistent with steps proposed in the operating schedule will usually be attached to the licence by a licensing officer acting under delegated authority. These conditions will then form part of the premises licence that is issued. This important issue then arises: what does a licensing officer do if the steps described within the operating schedule lack clarity or precision or are clearly unnecessary to promote the licensing objectives?

23. Operating schedules will often be completed by persons whose interests and strengths lay in fields other than legal drafting and without the benefit of expert advice. So should a licensing officer slavishly replicate the inadequate step proposed in the operating schedule by including an inadequate condition

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on the premises licence? Both the courts⁶ and the section 182 Guidance⁷ provide the clear answer: “No”. Officers can, indeed must, translate the proposed measure into a clear, precise and enforceable condition if it is possible to do so.

24. We would go further and suggest that if a step included within the operating schedule is clearly unnecessary or inappropriate to promote the licensing objectives, then it should not be added to the licence at all. There is judicial support for this approach and the courts have observed that the Licensing Act 2003 provides local authorities with a *power* to impose conditions consistent with the operating schedule, but they are not under a *duty* to do so⁸. We add this important word of caution: it may be that a step offered in the operating schedule is the very reason that a person felt able to withhold making a representation in the first place. In that case our hypothetical person may be thought to have a justified grievance if an officer, through unilateral administrative action, removed the very measure that gave him comfort and the confidence not to object to the application. For this reason we suggest that measures proposed in operating schedules are only completely removed from the issued licence in the clearest of cases where the proposed measure is wholly inappropriate or unnecessary to promote the licensing objectives.

Imposed

25. Additional conditions are frequently and properly imposed by licensing authorities at hearings when considering applications for a new licence, a variation of an existing one or at a review. The condition may have been put forward at the hearing by the applicant, a responsible authority or other person who has made a representation or indeed by the Members of the sub-committee themselves.

26. It is best practice, as well as a matter of elemental fairness, that at a hearing the licensing authority ensures that the parties are aware of any condition the licensing authority is proposing to add of its own volition to a licence, in advance of the decision being made. Often the condition in question will have been canvassed in the course of the hearing and so probably needs no further investigation. However

⁶ See *R (Bristol City Council) v Bristol Magistrates’ Court* [2009] EWHC 625 (Admin)

⁷ See paragraphs 10.6 to 10.7 of March 2015 Guidance

⁸ See John Howell QC, sitting as a Deputy High Court Judge in *R (Bristol City Council) v Bristol Magistrates’ Court* [2009] EWHC 625 (Admin) at paragraph 35, construing section 18 of the Licensing Act 2003

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when Members are considering adding a condition that has not been addressed during the hearing, for example because it is raised after the Members have retired to consider their decision, the parties should be given an opportunity to address the Members on the new condition being considered. This can be done informally, for example by the legal advisor or committee clerk passing a message to the waiting parties. If the proposed condition proves controversial the parties should be afforded the opportunity of addressing the Members further on both the principle of the condition or its specific wording. This is likely to serve the interests of all parties, including the Members who will be better informed about the impact and practicability of their proposal. Moreover, a failure to follow this approach risks attracting criticism from the appeal courts. The appeal court may well conclude that a party who has been ambushed by a surprise condition, without the opportunity to make submissions about it in advance, has been treated unfairly by the tribunal below.⁹

The guiding principles

27. These guiding principles are designed to be just that, a guide. They are not intended to be a straightjacket or treated as immutable. We would emphasise that each and every decision to impose a condition must be justified by reference to the particular circumstances of the individual case. If any condition does not suit the individual case it must be tailored accordingly.

28. Nevertheless, we suggest that the decision to offer or impose a condition is more likely to be justified if the proposed condition complies with the seven principles set out below.

29. Conditions imposed on a licence should be:

- 1) Appropriate, necessary and proportionate;
- 2) Precise, clear and unambiguous;
- 3) Practical, realistic and enforceable;
- 4) Non-duplicative of existing statutory requirements or offences;
- 5) Self-contained;
- 6) Modern and fit for purpose;

⁹ In this regard, see *R (Westminster City Council) v Merran* [2008] EWHC 1202 (Admin)

And, finally:

7) The fewer conditions the better.

30. We consider each of these guiding principles in turn.

1) Appropriate, necessary and proportionate

31. Conditions must be appropriate, necessary and proportionate. We have explained above why we employ the threshold test of “necessary” rather than simply “appropriate”. By necessary, we mean, as everyone understands, the following: if in order to move from unsatisfactory position A to required position C we must take the intervening step B, then B is a “necessary” step. Thus, if a condition is required to convert a licensed operation from one that is likely to undermine the licensing objectives into one that does not, then that condition is “necessary”.

32. “Proportionality” is perhaps best explained by the old adage that “one should not take a sledgehammer to crack a nut”. Or, as more formally expressed by the courts:¹⁰

“...when there is a choice between several appropriate measures recourse must be had to the least onerous, and the disadvantages caused must not be disproportionate to the aims pursued.”

33. If the objective is, for example, to permit a pub to operate so long as it does not disturb nearby residents late at night, then it may well be necessary and proportionate for conditions to be imposed that restrict outside drinking to a reasonable hour at night. But a decision to totally ban outside drinking or to reject the application outright is unlikely to be a necessary or proportionate one - because a lesser measure could have achieved the same worthy objective.

34. Conditions will always have the effect of restricting a lawful business or imposing additional requirements. They may directly lead to significant expense (for example through the installation costs of a CCTV system or by the employment of additional door supervisors). The number and effect of conditions on a licence may well make the difference between a viable business and one that fails, with

¹⁰ *R v Secretary of State for Health ex parte Eastside Cheese* [1999] 3 CMLR 123
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the consequent loss of local employment opportunities and the disappearance of a valuable community asset and potential source of human enjoyment.

35. For all these reasons, conditions should only be imposed if they are appropriate, necessary and proportionate steps that promote the licensing objectives.

2) Precise, clear and unambiguous

36. The wording of conditions must be precise, clear and unambiguous. For a condition to be effective it must be complied with. But in order for that to happen it must be clearly understood. Those responsible for ensuring compliance must know precisely what is required to be done or not done. This should be immediately obvious from a straight-forward reading of the condition by experts and non-experts alike. Current operators, future operators, staff members, local residents and businesses, in addition to police and council officers, must all be able to look at a licence condition and understand precisely what it means.

37. When conditions are added to a licence they must be expressed in the imperative, using words such as “must” and “shall” rather than “should” or “might”.

38. It may well be that when a condition was originally proposed or imposed on a licence “everyone knew what it meant”. But that, of course, is not good enough¹¹. A breach of a licence condition may amount to a criminal offence punishable with up to 6 months imprisonment and an unlimited fine. Such serious consequences should not be left to chance interpretation.

39. So, for example, where a condition requires “inaudibility” at the nearest noise sensitive premises, what exactly do we mean by the word “inaudibility”? Inaudible to whom? An average teenager’s ability to hear high-frequency sound is measurably better than a thirty-something’s. Is the condition complied with in the case of a thirty-year old, but breached when a teenager is present? The quiet hum of an air-conditioning unit in an office would fail the “inaudibility” test, but is that what the condition was aimed to prevent? And where, precisely, do we mean when we say “nearest noise sensitive premises”? Do we

¹¹ The purpose of Stonehenge was no doubt abundantly clear to our forefathers, less so now.

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mean the block of retirement flats 30 metres away or the student accommodation 20 metres away? If the problems associated with this commonly encountered noise condition are seen as far-fetched or overly pedantic, then the reader can turn to the High Court where a similarly worded condition was recently struck down for lack of clarity and precision.¹²

40. An operator may be required by a condition to use his “reasonable endeavours” to keep his customers quiet. But what amounts to “reasonable endeavours”? Is it putting up a sign requesting customers to respect neighbours, or is it by selective use of a gag?

41. Whilst the courts often have to grapple with the “reasonableness” test, and we recognise that it cannot always be avoided within licence conditions, it would be far better if compliance with a condition did not depend upon the uncertain outcome of a future court’s opinion as to whether an act was or was not reasonable. The word “reasonable” should not be used in conditions whenever it is possible to state precisely what is, or is not, required.

42. The clearer and more precise a condition is, then the more likely it will be understood and complied with. What is more, few criminal courts would be prepared to convict a person of the offence of carrying out licensable activities in breach of a licence condition¹³ if that condition lacks clarity and precision or is ambiguous.¹⁴ A similar approach can be expected from all reasonable Members of a licensing sub-committee convened to consider a review application based on (completely or in part) a breach of such an inadequately expressed condition. A condition that cannot be enforced for lack of clarity or precision is a worthless condition that has no place on a premises licence.

3) Practical, realistic and enforceable

43. Conditions may only be attached to a licence if they are practically capable of being complied with. Therefore, a condition which seeks to control customers after they have left the vicinity of a licensed premises is an improper one, because it cannot realistically be complied with or enforced even by the most responsible of operators.

¹² *Developing Retail Ltd v East Hampshire Magistrates’ Court* [2011] EWHC 618 (Admin)

¹³ Contrary to section 136 of the Licensing Act 2003

¹⁴ See *Crawley Borough Council v Attenborough* [2006] 1 LLR 802 and *DDP v Shaw* 45 Cr App R 113

44. A condition might require customers to “be seated” whilst in a beer garden after 9pm. But what happens the moment a customer gets up in order to buy another drink or for a matter of personal convenience? Is the licence holder immediately in breach of his licence? Strictly speaking, he is. This cannot have been the intention of the condition’s draftsman, but it is the impractical and unrealistic consequence of an ill-thought out condition.

4) Avoid duplication of existing statutory requirements or offences

45. Where a statutory regime already imposes specific conditions or requirements then it is rarely appropriate or necessary for a licensing condition to replicate exactly the same requirement. For example, the Regulatory Reform (Fire Safety) Order 2005 imposes duties and conditions on operators of licensed premises in relation to fire safety. Those same requirements do not, and should not, be duplicated on a premises licence (indeed such conditions are automatically suspended if they deal with the same matters as the Order itself)¹⁵. Similarly, where it is a criminal offence to do an act it is unnecessary for a condition to deal with the same issue.

5) Self-contained

46. Wherever possible conditions should be self-contained, in the sense that the reader should not need to look outside the condition itself in order to know precisely what is required of him.

47. Requirements that are conditional on a third-party approving or permitting certain steps or activities can be problematic and should be avoided if at all possible. If, for example, a condition for a CCTV system is framed in terms that the CCTV is installed to “the satisfaction of a police officer”, then what would happen if that police officer unreasonably refuses to approve a perfectly satisfactory CCTV system on the grounds of personal preference? What is the position if the system satisfied Pc Dixon but not his successor Pc Plum? On a strict interpretation, the operator is not permitted to carry out licensable activities until the impasse is resolved, possibly by having to embark on the long process of applying for a variation of that condition. Licensing authorities should not generally delegate their functions or

¹⁵ Section 43 of the Regulatory Reform (Fire Safety) Order 2005.

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responsibilities to promote the licensing objectives to a third-party because to do so may amount to an abrogation of their own licensing functions.

48. We are aware of conditions requiring a licence holder or the Designated Premises Supervisor to participate in or belong to their local pubwatch scheme. This is despite frequent calls from the organisers of National Pubwatch not to impose such conditions. If membership of pubwatch is conditioned into a licence then it creates very real difficulties for the scheme if a member needs to be excluded for good reason given the consequences of exclusion to that licence holder. It also creates real problems for licence holders if a local pubwatch scheme were to fade away.

49. A different but connected issue arises when a condition seeks to incorporate the terms of a third-party document or set of guidelines. This may prove equally problematic. We are familiar with conditions that still impose a duty on licence holders to comply with the “Standard Conditions on Public Entertainment Licences” despite that document being designed for a pre-2003 Act regime and being, in many ways, out of date and legally inconsistent with the Licensing Act 2003. We are also aware of conditions that require nightclub operators to operate in accordance with, for example, “Safe and Sound” guidance issued by police forces. But that guidance is subject to change or retraction. What then is a responsible operator wishing to comply with his licence conditions, but unable to, supposed to do? Another consequence is that an inspecting officer may not be able to tell from reading the premises licence what is or is not required by that third-party document or set of guidelines, and so is unable to enforce the licence timeously.

50. An exception, that may require a departure from this guiding principle for strong pragmatic reasons, is in the case of large outdoor events supervised by, for example, a Safety Advisory Group (“SAG”). In these circumstances we can see some force in a condition that the event must comply with requirements of the SAG in order to promote the licensing objectives. Without such a condition events, such as seasonal festivals, may well be refused a licence due to the absence of detailed plans that have not yet been finally settled. This prohibitive effect appears to us to be against the central philosophy of the Licensing Act 2003 that is designed to *permit* activities under proper controls, whenever it is possible to do so.

6) Modern and fit for purpose

51. The language of conditions should reflect the way English is spoken today rather than in the past. Simple words instead of technical or archaic ones are to be preferred because they are more readily understood by the vast majority of people who need to read and understand the licence. A condition that is only understood by the chosen few is a poor condition.
52. As a result of the genesis of the 2003 Act and its unification of various older licensing regimes, conditions or requirements arising under the old regimes may enjoy an unjustified existence after their rightful date of retirement. We are aware of conditions relating to stage hypnotism (and, rather quaintly, “mesmerism”), fog-machines and on one occasion even “limelight” that still appear on premises licences today. Similarly, references to the terms of the old Licensing Act 1964 and its application to children, to “supper licences”, and to fire-safety capacities, still appear on licences without justification or, often, legal enforceability.
53. It is the benign and useful practice of many licensing authorities to take every opportunity that presents itself to remove these old and otiose conditions from modern licences and lay them to rest. With the agreement of the parties, this could happen at variation or review hearings (or through minor variations), even when the subject matter of the application is unconnected to the historic condition being put out of its misery. Such an approach will invariably meet with the consent and approval of all parties with an interest in the licence and helps to ensure premises licences are relevant, modern, up to date and fit for purpose.

7) The fewer the better

54. Generally, the fewer conditions on a licence the better.
55. The first question for a licensing authority considering adding scores of conditions onto a Premises licence is this: if it is *really* so necessary to micro-manage a licensed operation by attaching 30, 40 or more conditions onto a premises licence, should the licence be granted to this operator or indeed at all?

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56. Secondly, in our experience the more conditions there are on a premises licence, the *less* likely they are to be complied with. The reason may not be indifference by a negligent operator. To use a common-place analogy: those of us who have applied for an online credit card and were cautious enough to click on the “terms and conditions” link may well have wished they had not. Scores of terms overflow into conditions. It usually leads to a rather short inspection as our eyes gloss over and our wandering minds contemplate the limitations on our mortal lives. The same scenario is very possibly true when an operator, or perhaps a new Designated Premises Supervisor, turns to his premises licence and is confronted with 30, 40 or more conditions spread over page after page. However, if we return to our analogy, if the terms and conditions were set out clearly and limited to perhaps half a dozen or so truly essential conditions that we actually need to be aware of and make a real difference, the chances that we will consider them all in proper detail, and comply with them, are immeasurably increased. The same is likely to be true of conditions on premises licences. Less is often more.

57. It may be that circumstances demonstrate that a particularly problematic premises requires more conditions to be imposed on its licence than was originally thought appropriate or necessary at the time of its grant. If so, that is a matter most properly addressed in the course of review proceedings.

Conclusion

58. With these guiding principles set out, we turn now to the draft Conditions themselves, which can also be found on the Institute of Licensing’s website at:

http://www.instituteoflicensing.org/content.aspx?page=GUIDANCE_ON_PREMISES_LICENCE_CONDITIONS

59. The Consultation on this guidance and the conditions will take place until 30 September 2015. The quality of this project will be immeasurably improved by feedback from our Members which can be provided by completing our consultation **survey** here:

https://www.surveymonkey.com/s/loL_Guidance_on_Premises_Licence_Conditions_Consultation_June_2015

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60. Your comments, positive or negative, constructive or caustic, are positively invited and will be most welcome.

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The Conditions

The following conditions have been derived from various existing ‘pools’ of conditions offered by many licensing authorities for consideration. Throughout the development of this document, the principles outlined above, and the need for a concise reference for conditions has been supported and underlined by the various examples provided both good and bad. The aim of this pool is to provide a starting point for licensing authorities where the need for a condition has been identified – the wording has been examined from every angle and should provide a template for each condition, which can then be tailored to the needs of the specific licence in question.

Under no circumstances should any licensing authority regard these conditions as standard conditions to be automatically imposed on licences.

Admission

1. No person under the age of 18 will be permitted to enter or remain on the premises when any “specified activity” is taking place.
 - Specified activities are:
 - ‘Any live performance; or
 - Any live display of nudity;
 - Which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
 - Display of nudity means
 - In the case of a women, exposure of her nipples, pubic area, genitals or anus; and
 - In the case of a man, exposure of his public area, genitals or anus,
 - NB – The audience can consist of one person.
2. No person under the age of [insert age] years of age is permitted to enter or remain on the licensed premises when alcohol is being sold or supplied.
3. No customer will be permitted to enter or re-enter the premises between the hours of [specify] save for persons who have temporarily left the premises (e.g. to smoke).
4. Between [specified times] no customer will be permitted to enter or leave the premises by means of [specified entrances].
5. All persons entering or re-entering the premises must be searched by an SIA registered door supervisor [and all searches must be monitored by the premises CCTV system].
6. Any queue [in a designated queuing area] to enter the premises must be supervised at all times by door supervisors.

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7. Any [designated] queuing area must be within suitable barriers.
8. No more than [insert number] customers will be permitted on the premises at any one time.

Designated smoking areas

9. Customers permitted to temporarily leave and then re-enter the premises to smoke must be restricted to a designated smoking area defined as [specify location / mark on plan]. No more than [insert number] of customers will be permitted to remain in the designated smoking area at any one time.

Alcohol

10. Customers will not be permitted to remove from the premises any drinks supplied by the premises (alcoholic or otherwise) in open containers
11. No beer, lager, cider, ale or spirit mixers with an alcohol by volume content above [insert percentage] will be sold or offered for sale.
12. All sealed containers of alcoholic drinks offered for sale for consumption off the premises must be clearly labelled or marked with the name and postcode of the premises.
13. The premises licence holder must submit to the relevant police officer [insert contact details] a completed risk assessment form as prescribed at least 14 days before any event that is:
 - promoted / advertised to the public at any time before the event; and
 - features DJ's, MCs or equivalent performing to a recorded backing track; and
 - runs anytime between the hours of [insert hours]

Alcohol (Restaurant)

14. The premises must only operate as a restaurant (i) in which customers are seated at a table, (ii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery, (iii) which do not provide any take away service of food or drink for immediate consumption, and (iv) where alcohol must not be sold, supplied, or consumed on the premises otherwise than to persons who are taking substantial table meals and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
15. The supply of alcohol to customers must be by waiter or waitress service only.

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Boxing or Wrestling or indoor sports

16. At any wrestling or other entertainments of a similar nature, members of the public must not occupy any seat within [specify distance] of the ring.

CCTV

The Surveillance Camera Code of Practice (issued by the Home Office in June 2013) makes specific reference to licensing authorities and their use of conditions attached to premises licences, stating:

‘When a relevant authority has licensing functions and considers the use of surveillance camera systems as part of the conditions attached to a licence or certificate, it must in particular have regard to guiding principle one in the [\[Surveillance Camera Code of Practice\]](#). Any proposed imposition of a blanket requirement to attach surveillance camera conditions as part of the conditions attached to a licence or certificate is likely to give rise to concerns about the proportionality of such an approach and will require an appropriately strong justification and must be kept under regular review. Applications in relation to licensed premises must take into account the circumstances surrounding that application and whether a requirement to have a surveillance camera system is appropriate in that particular case. For example, it is unlikely that a trouble-free community pub would present a pressing need such that a surveillance camera condition would be justified. In such circumstances where a licence or certificate is granted subject to surveillance camera system conditions, the consideration of all other guiding principles in this code is a matter for the licensee as the system operator’.

Guiding Principle One is shown below for information:

Principle 1 - Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need.

- 3.1.1 Surveillance camera systems operating in public places must always have a clearly defined purpose or purposes in pursuit of a legitimate aim and necessary to address a pressing need (or needs). Such a legitimate aim and pressing need might include national security, public safety, the economic well-being of the country, the prevention of disorder or crime, the protection of health or morals, or the protection of the rights and freedoms of others. That purpose (or purposes) should be capable of translation into clearly articulated objectives against which the ongoing requirement for operation or use of the systems and any images or other information obtained can be assessed.
- 3.1.2 In assessing whether a system will meet its objectives, and in designing the appropriate technological solution to do so, a system operator should always consider the requirements of the end user of the images, particularly where the objective can be characterised as the prevention, detection and investigation of crime and the end user is likely to be the police and the criminal justice system.
- 3.1.3 A surveillance camera system should only be used in a public place for the specific purpose or purposes it was established to address. It should not be used for other purposes that would not have justified its establishment in the first place. Any proposed extension to the purposes for which a system was established and images and information are collected should be subject to consultation before any decision is taken.

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The Data Protection Act 1998 allows for CCTV images which can be used to identify an individual to be handed over for the prevention or detection of crime, the prosecution or apprehension of offenders or where the disclosure is required by law, for example, where an officer of the licensing authority is checking that CCTV is being used in accordance with the conditions of a particular licence.

The requirements of the Data Protection Act 1998 are such that such disclosure should be necessary for investigating or preventing a crime or apprehending or prosecuting an offender. As such the police must be able to justify their requests for CCTV images to be disclosed to them.

17. The premises licence holder must ensure that :

- a. CCTV cameras are located within the premises to cover all public areas including all entrances and exits [The location of cameras could also be specified on the plan attached to the premises licence].
- b. The system records clear images permitting the identification of individuals.
- c. The CCTV system is able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
- d. The CCTV system operates [specify 'at all times while the premises are open for licensable activities' or specify timings]. All equipment must have a constant and accurate time and date generation.
- e. The CCTV system is fitted with security functions to prevent recordings being tampered with, i.e. password protected.
- f. There are members of trained staff at the premises during operating hours able to provide viewable copies on request to police or authorised local authority officers as soon as is reasonably practicable in accordance with the Data Protection Act 1998 (or any replacement legislation).

Deliveries

18. No deliveries or collections relating to licensable activities at the premises will take place between the hours of [insert hours].

Dispersals

19. The dispersal of customers from the premises must be managed in accordance with the following:

- Clear and legible notices must be prominently displayed at all exits requesting customers to respect local residents and leave the area quietly.
- Public announcements requesting customers to leave quietly to minimise disturbance to nearby residents
- A [specify minutes] period where [music volume is reduced / lighting increased / alcohol sales cease]

Glass

20. Drinks must only be served in polycarbonate/plastic containers.

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Large Events

21. The Premises licence Holder must comply with the Event Management Plan submitted to and approved by the Licensing Authority and no changes will be made to the Event Management Plan without the prior written consent of the Licensing Authority.²⁰

Late Night Refreshments

22. Customers must not be permitted to remove from the premises late night refreshment provided at the premises between [specify hours/days].

Noise

“Inaudibility” conditions have been popular in the past but have faced sufficient criticism in the courts to be quashed as invalid for lack of precision²¹. Noise conditions are notoriously difficult to pre-empt and should be applied only where professional advice has been obtained from the licensing authority acoustic advisor. Such conditions will be strictly tailored to the premises in question and the concerns to hand in relation to noise attenuation and resultant nuisance.

23. Between [specify hours/ days], the noise climate of the surrounding area must be protected such that the A-weighted equivalent continuous noise level (LAeq) emanating from the application site, as measured [specified distance(usually in metres, between the noise source and the receiver location(s))] from any facade of any noise sensitive premises over any [specify no. of minutes] period with entertainment taking place, must not increase by more than [specify dB tolerance (e.g. +3 dB, +5 dB, etc.)] as compared to the same measure, from the same position, and over a comparable period, with no entertainment taking place; and the unweighted (i.e. linear) equivalent noise level (LZeq) in the 63Hz 1/1-Octave band, measured using the "fast" time constant, inside any noise sensitive premises, with the windows open or closed, over any [specify no. of minutes] period with entertainment taking place, should show no increase as compared to the same measure, from the same location(s), and over a comparable period, with no entertainment taking place.²²
24. The location and orientation of loudspeakers must be as specified on the attached premises plan.
25. An [acoustic lobby / acoustic door / acoustic curtains/ acoustic door seals / automatic door closer] must be installed [specify the location / define on plan].

²⁰ Event Mgt plan can be drawn up in consultation with the Safety Advisory Group and Responsible Authorities.

²¹ See *Developing Retail Ltd v East Hampshire Magistrates’ Court* [2011] EWHC 618 (Admin)

²² We recognise this condition requires expert input and may not be immediately understandable to the lay man. As such it stands as an exception to our general principles.

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26. All external windows and doors must be kept shut at all times when regulated entertainment is being provided. Doors may be opened for normal entrance and egress of people but must be shut immediately thereafter.

Noise Limiting Device

27. A noise limiting device must be installed and must operate at all times regulated entertainment takes place at the premises. The device must be of a type, in a location and set at a level [specify if known] [approved in writing by the appropriate officer of the Council].

Outdoor Areas

28. No more than [insert number] customers will be permitted to enter or remain in [define outdoor area(s)] of the premises at any one time, between the hours of [specify].
29. Clear and legible notices must be prominently displayed at any area used for smoking requesting customers to respect the needs of local residents and use the area quietly.

Records

30. A refusals record must be kept at the premises which details all refusals to sell alcohol. This record must include the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused. All entries must be made within 24 hours of the refusal. The record must be made available for inspection and copying within [specify days / hours or a reasonable time] of a request by an officer of a Responsible Authority.

SIA (door supervisors)

31. All door supervisors, and other persons engaged at the premises, for the purpose of supervising or controlling queues or customers, must wear [high visibility jackets or vests or armbands].
32. Door supervision must be provided on (specify days). Door supervisors must be on duty from [INSERT HOURS] and must remain on duty until the premises are closed and all the customers have left.
33. Door supervisors must be provided with radios to enable them to contact each other and the duty manager at the premises.
34. On [specify days/hours] at least [insert number] of SIA registered door supervisors must be on duty at the premises [specify location at the premises] [or as shown on the plan].
35. Where SIA registered door supervisors are used at the premises, a record must be kept of their SIA registration number and the dates and times when they are on duty.

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36. On [specify days/hours] at least [insert number] of SIA registered door supervisors must be on duty at the premises [specify location at the premises] [or as shown on the plan].²³

Staff

37. A Personal licence Holder must be present at the premises to supervise all sales of alcohol.
38. A direct telephone number for the duty manager must be prominently displayed where it can conveniently be read from the exterior of the premises by the public. The telephone must be manned at all times the premises is open for licensable activities.
39. The PLH/DPS will provide [specify ratio] adult supervisors at a ratio of [specify ratio] who can provide care for the children as they move from stage to dressing room etc., and to ensure that all children can be accounted for in case of an evacuation or an emergency.

Waste

40. Between the hours of [insert hours] no waste/glass bottles will be moved or deposited outside.
41. At [specify times] [specify areas] outside the premises, including [specify areas] must be swept and/or washed, and litter and sweepings collected and stored [specify storage and collection].
42. Where the premises provide late night refreshments for consumption off the premises sufficient waste bins must be provided at or near the exits, to enable the disposal of waste.
43. Empty bottles which have been collected must be placed into locked bins.

²³ The “industry standard” is generally regarded as a ratio of 1 door supervisor to 100 customers but this will vary according to circumstances.

This Appendix contains the relevant extracts from the legislation (shown in red below) together with a suggested workable wording for their application within premises licences (shown in black).

Original Legislation (in Red)

Licensing Act 2003

Premises Licences

19 Mandatory conditions where licence authorises supply of alcohol

(1) Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

(2) The first condition is that no supply of alcohol may be made under the premises licence—

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

(4) The other conditions are any conditions specified in an order under section 19A and applicable to the premises licence.

20 Mandatory condition: exhibition of films

(1) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

(2) Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

(3) Where—

(a) the film classification body is not specified in the licence, or

(b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

(4) In this section—

“children” means persons aged under 18; and

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“film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c. 39) (authority to determine suitability of video works for classification).

21 Mandatory condition: door supervision

(1) Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must—

(a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or

(b) be entitled to carry out that activity by virtue of section 4 of that Act.

(2) But nothing in subsection (1) requires such a condition to be imposed—

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c. 12) (premises with premises licences authorising plays or films), or

(b) in respect of premises in relation to—

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

(3) For the purposes of this section—

(a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act) , and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Club Premises Certificates

73 Certificate authorising supply of alcohol for consumption off the premises

(1) A club premises certificate may not authorise the supply of alcohol for consumption off the premises unless it also authorises the supply of alcohol to a member of the club for consumption on those premises.

(2) A club premises certificate which authorises the supply of alcohol for consumption off the premises must include the following conditions.

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(3) The first condition is that the supply must be made at a time when the premises are open for the purposes of supplying alcohol, in accordance with the club premises certificate, to members of the club for consumption on the premises.

(4) The second condition is that any alcohol supplied for consumption off the premises must be in a sealed container.

(5) The third condition is that any supply of alcohol for consumption off the premises must be made to a member of the club in person.

Mandatory Licensing Conditions imposed under ss19A and 73B Licensing Act 2003 and the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 as amended

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

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4. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

“Responsible person” is defined in Art 2 of the **Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 as amended** as: ““Responsible person” has the meaning given in paragraphs (a) and (b) of the definition in section 153(4) of the Act.

Licensing Act 2003 153(4)

(4) In this section “responsible person” means—

(a) in relation to licensed premises—

- (i) the holder of a premises licence in respect of the premises,
- (ii) the designated premises supervisor (if any) under such a licence, or
- (iii) any individual aged 18 or over who is authorised for the purposes of this section by such a holder or supervisor,

(b) in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question

The Licensing Act 2003 (Mandatory Conditions) Order 2014 SI 2014/1252

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

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where—

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

Suggested wording for Mandatory Conditions (in Black):

Premises Licences that authorise alcohol sales (s19 Condition)

- 1) No supply of alcohol may be made under the premises licence—
 - a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- 2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Premises Licences or Club Premises Certificates that authorise film exhibitions (s20 condition)

- 1) No children shall be admitted to the exhibition of any film unless they have reached the age specified in the British Board of Film Classification (“BBFC”) Certificate, or the Classification issued by the Licensing Authority.

Premises Licences that require security staff (s21 condition)

- 1) In accordance with Condition [insert appropriate condition number which requires security staff] above all persons undertaking security functions must at all times hold a current licence to do so granted by the Security Industry Authority

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Club Premises Certificates that authorise supplies of alcohol for consumption off the premises (s73 condition)

- 1) Any supply of alcohol for consumption off the premises must only be made when the premises are open for the purposes of supplying alcohol to members of the club for consumption on the premises.
- 2) Any supply of alcohol for consumption off the premises must be in a sealed container.
- 3) Any supply of alcohol for consumption off the premises must be made to a member of the club in person.

Premises Licences authorising the sale of alcohol for consumption on the premises (Additional Mandatory Condition for Irresponsible Drinks Promotions)

- 1) (1) The responsible person must ensure that staff on the premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises, and the responsible person is:
 - (i) the holder of a premises licence in respect of the premises,
 - (ii) the designated premises supervisor (if any) under such a licence, or
 - (iii) any individual aged 18 or over who is authorised for the purposes of this section by such a premises licence holder or designated premises supervisor.
- (2) An irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - e) (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 2) The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available, and the responsible person is:
 - (i) the holder of a premises licence in respect of the premises,
 - (ii) the designated premises supervisor (if any) under such a licence, or

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(iii) any individual aged 18 or over who is authorised for the purposes of this section by such a premises licence holder or designated premises supervisor.

3) The responsible person who is:

- (i) the holder of a premises licence in respect of the premises,
- (ii) the designated premises supervisor (if any) under such a licence, or
- (iii) any individual aged 18 or over who is authorised for the purposes of this section by such a premises licence holder or designated premises supervisor.

must ensure that—

a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Premises Licences authorising the sale of alcohol for consumption on or off the premises, or both (Additional Mandatory Condition for Age Verification Policy and Under Duty+VAT Sales)

1) (1) The premises licence holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale of alcohol.

(2) The designated premises supervisor must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- a) a holographic mark, or
- b) an ultraviolet feature.

2) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

3) (a) For the purposes of the condition set out in paragraph 1—

- a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

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- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- d) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

Club Premises Certificates authorising the supply of alcohol for consumption on the premises (Additional Mandatory Condition for Irresponsible Drinks Promotions)

1) (1) The responsible person must ensure that staff on the premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises, and the responsible person is any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question,

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

- a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

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- 3) The responsible person who is any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question, must ensure that free potable water is provided on request to customers where it is reasonably available.
- 4) The responsible person who is any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question, must ensure that—
- where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - beer or cider: ½ pint;
 - gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - still wine in a glass: 125 ml;
 - these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

Club Premises Certificates authorising the supply of alcohol for consumption on or off the premises, or both (Additional Mandatory Condition for Age Verification Policy and Under Duty+VAT Sales)

- 1) (1) The club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- a holographic mark, or
 - an ultraviolet feature.
- 2) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 2(a) For the purposes of the condition set out in paragraph 1—
- “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

- P is the permitted price,
- D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

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- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- d) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.