

Merton Council

Licensing Committee

Membership:

Councillors

John Bowcott (Chairman)
Steve Austin
Richard Chellew
Judy Saunders
Linda Scott
David Simpson
Gregory Udeh
Martin Whelton
Krysia Williams
Ron Wilson

A meeting of the Licensing Committee will be held on:

Date: 13 November 2007

Time: 19:15

Venue: Committee Rooms B & C

Merton Civic Centre, London Road, Morden, Surrey

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

Licensing Committee

13 November 2007

1. Declarations of Interest ¹
2. Apologies for Absence
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4. Review/Revision of Merton's Licensing Policy Statement 7

¹ Members are advised to make declarations of personal or prejudicial interests they may have in relation to any item on this agenda. Members may make their declaration either under this item or at any time it becomes apparent that they have an interest in any particular item. To facilitate the recording of declarations members are asked to complete the pro-form attached to this agenda and hand it to the Democratic Services Officer in attendance. If a Member believes that their interest is prejudicial they should leave the meeting while the item is discussed. If in doubt, Members are advised to seek advice from the Head of Civic and Legal Services prior to the meeting.

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(7.15pm – 8.40pm)

PRESENT: Councillors John Bowcott (in the Chair), Richard Chellew, Judy Saunders, Barbara Mansfield, Gregory Udeh, Martin Whelton, Krysia Williams and Ron Wilson.

ALSO PRESENT: Mike Barrett (Environmental Health Manager), Solomon Agutu (Principal Lawyer), Stephen Beedell (Licensing Officer) and Lynne Hartley (Democratic Services Officer).

Apologies for absence were received from Councillor David Simpson.

1 DECLARATIONS OF INTEREST

No declarations were made.

2 MINUTES

RESOLVED: That the minutes of the meeting held on 14 May 2007 be agreed as a correct record.

3 DELEGATION OF AUTHORITY – GAMBLING ACT 2007 HEARING REGULATIONS

RESOLVED: That the Committee (1) agrees the hearing procedure in Appendix 1 to be used for Gambling Act 2005 hearings, and (2) agrees the following delegations

Licensing Sub-Committees

To exercise all of the powers in The Gambling Act (Proceedings of Licensing Committee and sub-committees) (Premises Licenses and provisional Statements) (England and Wales) Regulations 2007 (Statutory Instrument 2007 No 173) which may be exercised during the course of a hearing held under s162(12) or s201(4) of the Gambling Act 2005.

Head of Planning and Public Protection

Regulation 6(2)(b) – determination of whether a representation is vexatious or frivolous or will certainly not influence the determination of the application.

Head of Civic and Legal Services

Regulations 4, 5 and 6 - arrangements to hold a hearing, issue of Notice of Hearing and accompanying documents to relevant persons.

Regulation 7(1) - where the need to postpone or arrange additional dates becomes apparent before the sub-committee convenes

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Regulation 7(3) and (4) - issue of relevant notices

Regulation 14 - where the need to extend a time limit becomes apparent before the sub-committee convenes

Regulation 14(2) – issue of relevant notice

Regulation 15 – maintaining a record of proceedings

Regulation 17 – correction of clerical errors.

4 REPORT BACK AND EXPERIENCE SHARING FROM LICENSING HEARINGS

Members made the following observations –

- at one hearing the sub committee had invited the applicant to draft an operating schedule which would satisfy the statutory authorities, rather than to impose conditions – the applicant was unable to meet all concerns and the application was rejected
- one premises had had its entertainments licence revoked following a review, but so far there had been few reviews
- an application to remove a restriction on the hours of admission within a CIZ had been allowed on the basis of the evidence and with the acceptance of those making representations
- there had been a number of applications for changes in use of outside areas in response to the impending smoking ban
- generally there were fewer applications and the reduction in the number of Members on the Committee had not presented any problems; the membership could be increased to respond to any upsurge in applications.

5 ROLE OF ENVIRONMENTAL HEALTH IN PROMOTING THE LICENSING OBJECTIVE: PREVENTION OF PUBLIC NUISANCE

Members expressed concerns about the lack of attendance at hearings by Environmental Health officers, although it was acknowledged that this had improved, and about instances where Environmental Health had not made representations in response to applications within the Cumulative Impact Zones.

Mike Barrett explained that, in common with neighbouring boroughs, Environmental Health officers did not attend hearings where the applicant had already agreed to the conditions. He accepted that there had been occasions in the past when, due to a breakdown in communications, sub committees had not been provided with written confirmation of agreed conditions and the subsequent withdrawal of the representation. He gave an assurance that Environmental Health officers would

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attend the hearing if they had not received written acceptance in advance of the hearing. With regard to a review which had involved public nuisance and a breach of conditions Mike Barrett explained that the department had had no evidence to support the residents' case. A procedure document setting out the different enforcement roles of the Licensing and Environmental Health teams had been drafted to help clarify the process.

With regard to applications within CIZs Mike Barrett advised that in accordance with the guidance from the Secretary of state Environmental Health officers are required to consider each application on its merits and to be proportionate in their response. Officers worked with applicants to try to resolve issues which potentially impacted on the licensing objectives before making a representation and this could often lead to an application being withdrawn. Officers needed to be able to defend their decisions and so had to support them with a robust evidence base.

The Chair suggested it would be appropriate for Environmental Health to make representations in the case of applications within the CIZ where the applicant had not rebutted the presumption that granting the licence would add to the impact. Mike Barrett said that the policy was not absolute, CIZs are referred to in the guidance but not in statute, and it was not appropriate for officers to oppose a properly made application solely on the grounds that the premises are situated within a CIZ. The department had been asked to provide more guidance which will hopefully address the quality of applications.

Asked about the impact of the smoking ban and licensees desire to make provision for smokers in external areas Mike Barrett advised that smoking is not covered by the licensing objectives and again there was no evidence base for officers to draw on. Allowing customers to smoke on the premises gave control to the licensee and presented an opportunity for review if the situation was not managed properly. He suggested licensees would wish to address litter issues on the grounds of appearance.

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Committee: Licensing Committee

Date: 13 November 2007

Agenda item: 4

Wards: All Wards

Subject: Review/Revision of Merton's Licensing Policy Statement

Lead officer: Anne Lippitt, Interim Head of Public Protection & Development

Lead member: Councillor John Bowcott, Chair of Licensing Committee

Key decision reference number: N/A

Recommendations:

The Licensing Committee is requested to consider the consultation responses, to approve the recommended amendments to the Draft Policy Statement and to recommend same for adoption by the Full Council.

- 1. Purpose of report and executive summary**
 - 1.1 Under the Licensing Act 2003, there is a statutory requirement for all Local Authorities in England and Wales to review their Licensing Policy Statements every three (3) years.
 - 1.2 Merton Council's Licensing Authority had first published its Policy Statement on 06 January 2005 and the deadline for the review and revision of same is therefore 06 January 2008.
 - 1.3 In 2007, Officers examined the effectiveness and sustainability of the current Policy Statement and recommended some minor changes. These were considered by the Licensing Committee on 25 April 2007 and a revised version was agreed as being suitable for the purposes of consultation (the Revised Policy Statement Consulted Upon is attached as Appendix 2).
 - 1.4 A comprehensive twelve (12) week consultation process was undertaken between 26 June and 18 September 2007.
 - 1.5 Merton Council is now requested to agree and adopt a new Licensing Policy Statement.
 - 1.6 A total of twenty one (21) responses to the consultation were received, from all seven (7) Responsible Authorities; ten (10) from individual residents or Residents' Associations; the British Beer & Pub Association (BBPA); the

Campaign For Real Ale (CAMRA); the Musicians Union; and Safer Merton. The responses are attached as Appendix 1 and are further identified alphabetically as items A to T.

1.7 A summary of the responses and the Licensing Manager's recommendations regarding same is as follows:

(A) Merton Council's Trading Standards and Health & Safety Services rightly pointed out some minor confusion in Section 16.6 regarding the roles of Environmental Health.

A simple rewording has addressed this point.

(B) Merton Council's Local Safeguarding Children Board requested an amendment of their title in Section 3.8.

This has been addressed.

(C) Merton Council's Planning Section suggested that Section 14 should be amended to indicate that there may, in addition, be separate planning conditions with regard to hours of operation, noise levels etc.

However, neither this Section nor indeed the Licensing Policy Statement itself are considered to be the correct vehicle for the dissemination of such information.

(D) Merton Council's Environmental Health Section made twenty one observations in all and these are outlined below:

(i) It is suggested that the heading for Section 1 should be amended to read "Purpose and Scope" rather than "Policy and Scope".

The word "Policy" is considered to be more appropriate and should remain.

(ii) In Section 7.1, it is suggested that "need" might be more clearly described.

It is therefore recommended that an additional sentence be added stating "The numbers of licensed or potentially licensed premises in a particular area will only become a consideration in the context of Cumulative Impact where it is considered that the area is at or reaching saturation."

(iii) For Section 7.8, it is suggested that the heading “ Effect of Policy” and a rewrite for clarity are necessary.

This is not thought to be the case and is not recommended.

(iv) It is suggested that the insertion of “significantly” after “add” in line 3 of Section 7.10 would be appropriate.

This is not thought to be necessary and is not recommended. Whether or not added impact is or may be significant is a matter of fact and degree and is for the Responsible Authorities, Interested Parties and the Licensing Sub-Committee to determine for themselves based on the weight of evidence.

(v) It is suggested in Section 7.11 that the wording in line 6 following objectives be deleted.

It is recommended that this suggestion be agreed.

(vi) With regard to Section 7.12, the response refers the Licensing Authority to the revised Guidance to the Act.

Said revised Guidance does not differ greatly from the original Guidance on this point, the general wording has held Merton in good stead since its inception and it is therefore recommended that no change is necessary.

(vii) In Section 13.2, it is suggested that the over-arching principle that there shall be no presumption in favour of longer hours (as expressed in a letter dated 30 September 2005 from the Secretary of State) should be added to this Section.

The opinion expressed by the Secretary of State is not reflected in the Act or Guidance and generally speaking the concept of staggered closing times is not seen as having a detrimental effect in Merton. The suggested amendment is therefore not recommended.

(viii) It is also suggested that the Secretary of State’s letter should be quoted in Section 13.4.

It would be inappropriate to do so for the reasons stated in (vii) above.

(ix) It is suggested in Section 15.4 that the word “immediately” be deleted.

It is recommended that this amendment is agreed.

(x) In Section 15.6, it is suggested that the word “expect” be replaced by the word “require”.

This is thought to be somewhat overly prescriptive. If this was deemed to be necessary by a Licensing Sub-Committee, then it is within the discretion of said Sub-Committee to attach this as a condition.

(xi) The statement made in Section 15.7 is questioned in its entirety.

What is stated in Section 15.7 is perfectly proper and the Licensing Section will continue to refer matters which fall under other statutory controls to other agencies.

(xii) In Section 15.8, it is suggested that the word “rare” should be deleted and a reference made to “...information received”. It is also suggested that an additional bullet point be added with regard to checking for compliance with conditions.

It is recommended that the deletion of the word “rare” should be accepted. However, the other two suggestions are either already covered by Section 15.8 or by the Licensing Section’s working protocol and it is therefore not necessary to make these changes.

(xiii) In Section 16.6, it is suggested that “Environmental Health Department” should be removed.

This is perfectly right and the correct reference is “Health & Safety Team of the London Borough of Merton.”

(xiv) In Section 17.2, it is suggested that additional wording should be added to encompass our own and other enforcement policies etc.

It is therefore recommended that “...and our enforcement policy.” should be added.

(xv) Amendments are suggested to Section 17.4.

In the context of the comments made, Section 17.4 is perfectly adequate and should stand.

(xvi) It is suggested that Section 19.1 is not good English.

For the sake of clarity, it is recommend that “section” be inserted after the word “This” and “(regulated)” be inserted after the word “permitted”.

(xvii) In Section 19.4, it is suggested that some clarification would be helpful.

The insertion of “(at Wimbledon Police Station)” on line 2 and following the word “Police” is therefore recommended.

(xviii) In Section 21, it is suggested that the Review procedure is not properly covered and that the Section may benefit from a revision in accordance with the LACORS Guidance.

The Review Procedure is adequately dealt with and LACORS are not aware of Merton’s particular local circumstances or Policy Statement. Changes to this Section are therefore not recommended.

(xix) In Section 21.1, it is rightly pointed out that the word “Where” is unnecessary.

It is recommended that said word be deleted.

(xx) In Section 21.3, the use of the word “amplified” is questioned.

It is recommended that said word be replaced with the words “...expanded upon...”.

(xxi) It is suggested that two new Sections should be added giving information about Reviews of the Policy and contact details.

Review of the Policy Statement is already covered in Section 3.6. The contact details are readily available from a variety of sources e.g. the Licensing Section’s correspondence and guidance notes, Merton’s web site etc. The additional Sections are not therefore recommended.

- (E)** London Fire & Emergency Planning Authority (London Fire Brigade) made no comment other than that in their view the proposed changes would have no appreciable impact on fire safety matters.

- (F)** The Metropolitan Police have requested that (in accordance with a general recommendation from the London Councils Licensing Sub-Group) the “Metropolitan Police Promotion/Event Risk Assessment” and “After Promotion/Event Debrief Risk Assessment” Forms be incorporated

in the Licensing Authorities 'Pool of Conditions'. Furthermore, that the Licensing Authority should recommend that for significant events Premises Licence Holders should undertake said assessments and send the relevant forms to both Police (Clubs & Vice) and the Licensing Authority.

With regard to the 'Pool of Conditions', the Police suggestion in this regard is not recommended for the following reasons:

(i) there is an existing caveat in the Policy Statement which gives the Licensing Authority discretion to attach conditions as it sees fit, whether listed in the 'Pool of Conditions' or otherwise;

(ii) there is no evidence or history that such "significant events" have occurred or are likely to occur in this borough;

(iii) the Licensing Sub-Committee's discretion is engaged for opposed applications and, were there a need, Police, other Responsible Authorities, Interested Parties or the Licensing Officer may recommend such a condition;

(iv) the requirements of such a condition may be construed as onerous or disproportionate;

(v) the acceptance and implied endorsement of such Risk Assessments by Council Officers may render Merton Council liable to civil law liability were an accident or incident to occur.

With regard to the suggestion that the Licensing Authority should recommend this Risk Assessment procedure to Licence Holders, the Licensing Section is currently reviewing the advice it provides to applicants and Licence Holders and intends to provide additional information that may further assist such Operators. In accordance with Partnership arrangements and working protocols with Police, the Licensing Section would be glad to circulate this information on that basis.

- (G)** Parkside Residents' Association have indicated their approval for the proposed revision.

- (H)** South Common Residents' Association have indicated their approval for the proposed revision.

- (I)** Belvedere Estate Residents' Association have indicated their approval for the proposed revision.

- (J)** Wimbledon Union of Residents' Associations have indicated their approval for the proposed revision.
- (K)** Wimbledon Village resident, Mr Coomber, has indicated his approval for the proposed revision.
- (L)** Wimbledon Town Centre resident, Ms Beaumont, has indicated her approval for the proposed revision.
- (M)** Wimbledon East Hillside Residents' Association fully support the continued designation of the both Cumulative Impact Zones and, in addition, raise the following relevant points:

(i) The lack of clarity in Section 1.6.

In this regard it is suggested that said Section be re-worded thus, "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.

(ii) It is suggested that Section 6.5 includes a double negative.

No amendment is recommended for this Section.

(iii) With regard to Section 10.5, it is suggested that some mention should be made regarding early morning refuse collection.

It is therefore recommended that the following phrase be added to bullet point 10 after the word "times" namely "e.g. early morning refuse collection".

- (N)** The St John's Area Residents' Association support the continuance of the special policy regarding the Wimbledon Village Cumulative Impact Zone but, in addition, request that this is extended along the Ridgway to its junction with Hillside rather than its junction with Sunnyside.

There is no empirical evidence to support such a step and this is not recommended.

- (O) The Wimbledon House Residents' Association have indicated their approval for the proposed revision.
- (P) Ms Phillips, a Wimbledon Village resident, is also supportive of the Wimbledon Village Cumulative Impact Zone.
- (Q) The Campaign For Real Ale (CAMRA) is generally supportive of the proposals. With regard to Section 8.3, they indicate that in their view the attachment of conditions requiring the provision of Door Supervisors should be considered on a case by case basis. In respect of Section 19.3 and Temporary Event Notices (TENs), they also express the view that a limit of less than 500 persons and a minimum gap of 24 hours between events is unnecessarily restrictive and should also be dealt with on a case by case basis.

Merton's Licensing Authority has already adopted a case by case ('on its merits') approach to the attachment of conditions, including the requirement or otherwise for Door Supervision. The constraints for Temporary Event Notices are statutory ones and the Licensing Authority has no discretion in these matters.

- (R) The Musicians Union have commented as follows:

(i) In Section 6.1, it is suggested that the phrase "... to include children." rather than "...particularly children." would be preferred.

It is recommended that this suggestion be approved.

(ii) There is a suggestion that in accordance with DCMS guidelines the Policy Statement should include an undertaking that the Council will monitor and review the impact of licensing on regulated entertainment and particularly live music and dancing.

This change is not recommended because there has not been any indication that live performances in this borough have been curtailed in any way by the new licensing regime.

- (S) The British Beer & Pub Association (BBPA) have made a number of points under the following six categories:

(i) Conditions – Here, particular reference is made to the use of the phrase “it (the Council) will attach conditions”.

This phrase is not in fact used in the Sections quoted but the phrase “it will consider attaching conditions” is employed. This is perfectly proper and, in any event, is only possible when the discretion of the Licensing Sub-Committee is engaged. No amendments are therefore recommended.

(ii) Integrating Strategies – Here, it is pointed out that the Home Office revised its strategy on Alcohol Harm Reduction in June 2007 with the publication of “Safe. Sensible. Social.”

This revision came too late for inclusion in the revision of Merton’s Policy Statement and the related consultation period. Therefore, it is recommended that an additional paragraph should be added to Section 4.2.1 to indicate that Merton’s Licensing Authority will have regard to said 2007 revision in addition to the original strategy published in 2004.

(iii) Applications For Premises Licences - In Section 15.3, it is suggested that the fifth bullet point regarding Certificates of Training should be deleted.

There is indeed no such requirement and the deletion of this bullet point is recommended.

It is also suggested that the use of the words “...will expect” in Section 15.6 is inappropriate because there is no such statutory requirement.

This is also the case, so it is recommended that said word be replaced with “...recommends that...”.

(iv) Enforcement – Here, some recognition of the “Hampton Report” principles of inspection is requested, and it is suggested that:

- No inspection should take place without a reason

The Licensing Section does not conduct routine inspections. If compliance is confirmed at the first inspection then no re-inspections will ensue unless there is an incident or a service request is received. However, it should be noted that the experience to date is that when first inspected Operators are quite often not compliant with the terms, conditions and restrictions of their Licence/Certificate, and one or more subsequent visits are necessary. The “Hampton Report” principles are already reflected in the Section’s Inspection and Enforcement Protocols and an amendment to the Policy Statement is therefore not recommended.

- Regulators should recognise that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection

The Licensing Section's primary objective is to confirm lawful compliance. There is no intervention in economic progress and the advice provided by Officers facilitates a better understanding and better business practices. Only as a final resort is formal enforcement action taken and such instances are fairly rare.

(v) Temporary Event Notices – It is suggested that in Section 19.5 the requested three month period of notice may be a bit onerous in some cases and the words “wherever possible” should be added before “applicants”.

This amendment is recommended.

(T) Safer Merton made fifty four observations and these are outlined below.

(i) It is suggested that additional legislation be incorporated in Section 1.

This Section provides an overview of the Licensing Act 2003 and its purpose. It also describes the nature of Merton borough and the legislative requirements placed upon our Councillors and our Authority. The impacts of other relevant legislation is referred to elsewhere in the Policy Statement and it is not recommended that this Section should be altered.

(ii) It is suggested that the wording in Section 3.4 is confusing.

This has not proven to be the case. Said wording is taken from the Guidance and has not caused any confusion for either the industry or others.

(iii) In bullet point 6 of Section 3.5 the management of the Licensing Act 2003 with regard to anti social behaviour is queried as is the broader holistic approach to the evening and night-time economy.

It is self-evident that the management of the Licensing Regime falls primarily upon Merton's Licensing Section and the Police. The regime contributes to controlling anti-social behaviour within (and immediately outside) licensed premises but not within the community at large which comes under the Anti-Social Behaviour Act 2003, and is enforced by

other sectors.

(iv) In respect of bullet point 1 of Section 3.8, it is pointed out that “Merton Partnership Against Crime” is now “Safer Merton”.

The draft revision of the Policy Statement has therefore been amended accordingly.

(v) In respect of bullet point 5 of Section 3.8, it is suggested that the term “Responsible Authority” is not defined and a full list of said Responsible Authorities is not incorporated within the Policy Statement.

It is not for Merton’s Policy Statement to define or specify the organisations deemed to be “Responsible Authorities” because this was a matter for central Government and is specified in the Act. Furthermore, the “Responsible Authorities” not being listed has not given rise to any difficulties. Changes to this Section are therefore not recommended.

(vi) In Section 3.11.2, it is suggested that there ought to be references to Polyglass and CCTV.

This aspect is more than adequately covered by “Annexe I – Pool of Conditions” and its accompanying statement and such an amendment is therefore not recommended.

(vii) *The query regarding the first paragraph on Page 8 (Section 3.11.2) is a comment/question rather than a suggested amendment and, in any event, is a matter of process rather than policy.*

(viii) With regard to Section 4.2.1, it is suggested that the Merton Alcohol Forum (MAF) should be mentioned. It is also mentioned that the Alcohol Reduction Strategy was updated earlier this year and is now referred to as “Safe. Sensible. Social.”

This Section relates to central government strategies and such an inclusion is not thought to be necessary and is not recommended. With regard to the second point, this is addressed above in Item (S)(ii) Integrating Strategies.

(ix) With regard to Section 4.2.1, there is reference to bullet point 4 stating “This is the law not a condition.”

It is believed that said reference relates to bullet point 3 rather than 4. In any event, the need to provide proof of age is not the law and is, as stated, one of the discretionary options available to the Licensing

Authority.

(x) Also with regard to Section 4.2.1, there are queries raised regarding “the Code of Conduct”.

This is not an observation, and it is for the individual to refer to and research Annexe 1 – Pool of Conditions and the Code of Conduct.

(xi) With regard to Section 4.2.2, the following suggestions/comments and queries are raised:

(a) that legislation has moved on and some cross-referencing may be advisable. It is further suggested that a comprehensive list of other legislation should be included.

It is recommended that “(as amended)” be inserted after “1998”, at line 1 of paragraph 1. The reference to MPAC in paragraph 2 has been updated and now refers to “Safer Merton”, and the web site address altered to “www.safermerton.org.uk”.

(b) at bullet point 2, what are the pool of appropriate conditions and where can the rationale for them be found?

Said conditions are outlined in Annexe 1 – Pool of Conditions and the origin is the Guidance to the Licensing Act 2003.

(c) at bullet point 3, it is suggested that unlicensed activities are not covered under Crime and Disorder legislation.

This is one of the main purposes of the Licensing Act 2003, which itself is a criminal law statute.

(d) at bullet point 4, it is suggested that the Police powers and role should be referred to.

This is Merton’s Licensing Policy Statement rather than one from the Metropolitan or local Police.

(e) at bullet point 5, a query is raised regarding strategic assessments and the linkages.

The relevant crime statistics and comparisons in the original report submitted to the Licensing Committee in April 2007 were compiled by the Safer Merton Analyst. When their discretion is engaged, the Licensing Authority has considerable powers (e.g. by creating ‘special policy’ areas,

through attaching conditions, by revoking licences) to influence the types of crimes that are or are likely to occur in respect of licensed premises. In addition, there are numerous offences under the Act which are enforceable by the Council's Licensing Section and/or the Metropolitan Police. However, other types of criminal activity have their own remedies under different legislation and are not a matter for the Licensing Authority. It should always be borne in mind that the focus of the Licensing Act 2003 is the four Licensing Objectives.

(xii) In Section 4.2.3, it is suggested that reference should also be made to both the national drugs strategy and Merton's own drugs strategy.

This is thought to be unnecessary and is not recommended.

(xiii) In Section 4.2.4, it is suggested that there should be a cross-reference to CCTV.

This Section relates to specifically to "Door Supervisors", the Private Security Industry Act and the Security Industry Authority's strategy. CCTV is a tool rather than a strategy, such a cross-reference is unnecessary and not recommended.

(xiii) In Section 4.2.5, it is suggested that there is a lack of clarity.

This Section is perfectly clear and no amendment is required.

(xiv) In Section 4.2.6, it is suggested that in addition reference should be made to the LAA and the community plan.

This Section is a direct quote from Merton's Business Plan and should stand.

(xv) The inclusion (and by inference the relevance) of the final paragraph of Section 4.2.7 is queried.

The dispersal of persons from licensed premises is a key consideration, is very relevant to the Crime and Disorder and Public Nuisance Objectives and the rationale for this paragraph is therefore self-evident.

(xvi) In Section 5.1, it is suggested that both the Disability Discrimination Act 1995 and the Human Rights Act 1998 should be included.

In this context, it is recommended that the Section be amended as follows: delete the words after "...unlawful discrimination" and add "and the Disability Discrimination Act 1995" after "...Sex Discrimination Act

1975". It is not considered necessary to include the Human Rights Act 1998 in this Section.

(xvii) In Section 6, it is suggested that this Section is not clear.

No amendment is recommended for this Section.

(xviii) In respect of Section 7 as a whole, queries are raised with regard to the impact of crime, disorder, drugs and anti social behaviour. In addition, the method of sharing of data is questioned.

The examples quoted all come under the heading of "crime" and fall within the category of the "crime and disorder" Licensing Objective. Most of these matters have their own statutory remedies that are the responsibility of other Regulatory Authorities. Cumulative Impact is an established legal concept (under the Licensing Act 2003) germane to particular areas that are thought to be saturated with licensed premises and as a consequence give rise to high levels of crime and/or public nuisance. As previously stated, there is a good working protocol as well as an information exchange with Police and an a reliance upon the Safer Merton Crime Data Analyst for statistical information regarding crime. In addition, several Responsible Authorities and other interested parties are participants at Joint Tasking Group meetings which is itself a vehicle for information sharing. In the context of the above comments, no changes to this Section are recommended.

(xix) With regard to Section 7.6, it is suggested that the existing Controlled Drinking Zone in Wimbledon Town Centre ought be mentioned.

It is therefore recommended that "(part of this area is also a Controlled Drinking Zone)" be inserted on line 3 of the introductory paragraph after the words "Wimbledon Town Centre".

(xx) In Section 7.7, it is also suggested that a map of the aforementioned Controlled Drinking Zone may also be beneficial.

This is not thought to be necessary and is not recommended.

(xxi) In Section 8.1, it is suggested that the Police and Justice Act 2006 and the Section 17 elements of the Crime and Disorder Act 1998 should be added.

This is not thought to be necessary and is not recommended.

(xxii) It is suggested that Section 8.2 should be deleted because it is irrelevant.

This Section is highly relevant and its deletion is not recommended.

(xxiii) In line 4 of the introductory sentence of Section 8.3, it is suggested that the phrase "...authority may consider..." be replaced by "...authority will consider...".

The word "may" is legally correct. The suggested change would potentially bind the Licensing Authority to look at all the related matters stated rather than preserving said Authority's discretion in these matters. Such a change is therefore not recommended.

In bullet point 1, it is also suggested that additional mention should be made of illegal use of drugs and anti social behaviour.

This again is not recommended because the term "crime and disorder" adequately covers said matters.

In bullet point 11, it is suggested that illegal use of drugs, anti social behaviour and the use of Poly Glass ought to be included. An additional bullet point is also suggested aimed at reducing the risk of drinks being spiked.

The Policy Statement already adequately covers such problems and the example remedy (Poly Glass) suggested, and reducing the risk of drinks being spiked is already included. Said changes are therefore not recommended.

(xxiv) In Section 8.7, it is suggested that an additional paragraph is inserted to highlight the working partnership between Safer Merton, Police and the Licensing Section; and also to mention some of the more recent criminal law statutes under the Crime and Disorder banner e.g. the Anti Social Behaviour Act 2003.

In this respect, it is recommended that a fifth bullet point be added to state: "Similar liaison is also available via Safer Merton (which replaced the 'Merton Partnership Against Crime group') who are the co-ordinating body in respect of the Merton Crime and Disorder Strategy".

Another addition is also suggested with regard to the need to simplify the process for creating Controlled Drinking Zones (CDZs).

This is a matter of process rather than Licensing Policy. The mechanism and legislation for CDZs is completely separate to the Licensing Act

2003, is decided by Merton Council and does not fall within the remit of the Council's Licensing Authority. Such an amendment is therefore not recommended.

(xxv) The title "Prevention of Harm to Children" is queried.

This terminology is perfectly adequate and amending it is not recommended.

(xxvi) With regard to bullet point 4 of Section 11.1.5, it is suggested that entertainment or services of a sexual nature is illegal.

This is completely incorrect and should be disregarded.

On the point (bullet point 4), it is further suggested that it should be stated that a lot of 'sexual activity' on a premises is illegal.

Whether sexual activity is or is not illegal is a matter for the Courts. Bullet point 4 and Section 11.1.5 as a whole seeks to illustrate some possible areas of concern and ultimately prevent children from being harmed. This is perfectly legitimate and no amendment is recommended.

(xxvii) In respect of Section 14.2.1, it is suggested that reference should also be made to Race Relations and Disability Discrimination Acts and incitement to racial/religious or disphobic crimes.

This Section covers Section 22 of the Licensing Act 2003 which (by the Mandatory Condition in section 22 of the Act) prohibits censorship in respect of theatrical performances. The two Acts and types of crimes mentioned have no relevance and should be disregarded.

(xxvii) In Section 15.5, a query is raised regarding who has the responsibility for advising the Responsible Authorities when an application is made.

As implied, it is the applicant's responsibility although most applications (other than for Personal Licences or Temporary Event Notices) are published on the Licensing Section web page.

(xxviii) In Section 15.7, the absence of references to the Police and Fire Brigade is queried.

This Section relates to information sharing with other Council Departments who may have an interest in such businesses under their own remits and their own legislation e.g. Health and Safety also register/inspect food premises under the Food Act. No amendment is

recommended.

(xxix) In Section 16.1 bullet point 2, the origin of the reference to the amount of seating and its relevance to the prevention of crime and disorder is queried.

This reference is taken from the original Guidance under Section 182 of the Licensing Act 2003 (“5.46 The Operating Schedule”), prepared by the Department of Culture, Media and Sport.

(xxx) In Section 16.4, it is suggested that crime, disorder, illegal drug use and anti social behaviour should be added.

This is not recommended as these aspects are already covered in Section 16 and elsewhere in this Policy Statement.

(xxxi) In Section 17.3, it is suggested that a numerous other statues be included in the list.

This is unnecessary and not recommended because the examples mentioned are sufficient and are suffixed by “etc”.

(xxxii) In Section 2.11, the route for making a complaint is queried.

This Section primarily relates to the application process, agencies or persons who wish to oppose an application by making a Representation, or those who are experiencing difficulties with Licensed Premises and wish to seek a Review of the Licence. The complaints process is a different process, and those needing to have had no difficulty referring such matters to the appropriate agency which, more often than not, is the Licensing Section.

(xxxiii) In Section 21.5, it is suggested that the wording implies that complaints will not be taken seriously.

This Section does not relate to complaints at all. The narrative relates to the proper procedure for determining (in accordance with the Guidance) whether or not a Representation is valid. Complaints are always taken seriously until Officer enquiries prove otherwise.

(xxxiv) It is suggested that other crime and disorder initiatives should also be cross referenced in Appendix 1 – Pool of Conditions.

Said Appendix gives examples of sources from which conditions may be drawn, and there is also a caveat which states “...not an exhaustive

list...". It is not thought to be necessary to amend this Section.

It is also mentioned that Anti Social Behaviour Orders (ASBOs) may be taken out against Licensees.

This is a separate enforcement activity which has no bearing on Merton's Licensing Policy Statement and is simply an alternative regulatory approach under different legislation.

2. Alternative options

- 2.1 The three-yearly review/revision of the Licensing Policy Statement is a statutory requirement. There is therefore no alternative option.

3. Consultation undertaken or proposed

- 3.1 Following the Licensing Committee's approval in April and Cabinet in June 2007, the revised Draft Licensing Policy Statement was published for public consultation. The views of Responsible Authorities such as Police, Fire Brigade, Trading Standards, Environmental Health etc., Interested Parties such as Residents' Associations and the industry were requested.

4. Timetable

- 4.1 26 June to 18 September 2007 – Public Consultation
13 November 2007– Licensing Committee
29 November 2007 – Full Council
06 January 2008 – Deadline for adoption of new Licensing Policy Statement

5. Financial, resource and property implications

- 5.1 There are no financial, resource or property implications as a consequence of this report.

6. Legal and statutory implications

6.1 The Report is asking Committee to consider the outcome of consultation and to report the same to Full Council when full council is asked to adopt the revised policy. The essence of consultation is the communication of a genuine invitation to give advice and a genuine receipt of that advice. The legal position on consultation can be stated in four sentences as follows:-

- Consultation has to take place when the proposals are still at the formative stage.

- Adequate information on which to respond (i.e. sufficient reasons for any proposal to permit intelligent consideration and response) has to be given to consultees.

- Adequate time in which to respond has to be given to consultees.

- Conscientious consideration by the Authority of a response to consultation.

6.2 The duty of members at this stage is set out in the last bullet point. The Policy once adopted will become the key basis on which Licensing decisions are made by officers and by committee. It is therefore essential that the Committee and the community understands that the policy will form part of the council's policy framework and that departure from such a policy would have to be on very good grounds.

7. Human rights, equalities and community cohesion implications

7.1 The purpose of the policy is to help balance the competing human rights of property owners (business and residential) to exploit and enjoy their own properties without impinging on the rights of others without lawful excuse. Human Rights legislation recognises that the prevention of crime, the protection of children and the prevention of public disorder can take precedence over pure property rights.

7.2 A proportion of our Licence holders are from minority backgrounds especially in the Off Licence and Restaurant trades. The Section has to date not experienced any difficulties in the conversion of these Operators to the new licensing system. In addition to the normal corporate procedures and approaches such as translating, Licensing information is available in 17 other languages, and in large print /brail on request. It has been established that the use of one's property is a human right and that licensing decisions are to balance the rights of residents to their amenities and the rights of the Licensed premises owners to use their property for their own legitimate purposes.

8. Risk management and health and safety implications

8.1 None for the purposes of this report.

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

9.1 Appendix 1 – Consultation Responses

9.2 Appendix 2 – Consultation Draft – Licensing Policy Statement 2007

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

10.1 Licensing Act 2003

Government Guidance under Section 182 of the Licensing Act 2003

11. Contacts

11.1 Report author:

Name: Richard Nash

Tel: 0208 545 3929

email: richard.nash@merton.gov.uk

11.2 Meeting arrangements - Democratic Services:

email: democratic.services@merton.gov.uk

Tel: 020 8545 3356/3357/3359/3361/3616

11.3 All press contacts - Merton's Press office:

email: press@merton.gov.uk

Tel: 020 8545 3181

11.4 London Borough of Merton:

Address: Civic Centre, London Road, Morden, SM4 5DX

Tel: 020 8274 4901

12. Useful links

12.1 Merton Council's Web site: <http://www.merton.gov.uk>

12.2 Readers should note the terms of the legal information (disclaimer) regarding information on Merton Council's and third party linked websites.

12.3 <http://www.merton.gov.uk/legal.htm>

12.4 This disclaimer also applies to any links provided here.

Alan Powell

APPENDIX 1, ITEM A

From: Ian Murrell
Sent: 07 September 2007 16:56
To: Alan Powell
Subject: FW: LICENSING ACT 2003 - REVIEW OF LICENSING POLICY

Alan,

I have shared your email with my Team Leaders and the comments that I have received are only minor but they reproduced below in any event for your consideration:-

- In 16.6 EH is mentioned twice but in different ways - the terminology could be standardised.
- Also in 16.6 we deal with Health & Safety not just Public Safety.

Happy to discuss further if you feel that would be useful.

Regards
Ian

-----Original Message-----

From: Licensing
Sent: 05 July 2007 11:42
To: Alfreton Close Residents Association (E-mail); Apostles Residents Association (E-mail); Belvedere Residents Association (E-mail); CR4 Residents Association (E-mail); CWARA (E-mail); Dawn Eggleton; Four Acres and Edinburgh Court Residents Association (E-mail); Gareth Bradley; Garth Road Residents Association; Gillian Blake (E-mail); Glebe Court Residents Association (E-mail); Hartfield and Herbert Residents Assoc) GHHRA (Graham (E-mail); Homefield Road Residents Association (E-mail); John Rothwell (E-mail); Joyce French (E-mail); Joyce Pountain (E-mail); Lauriston Road + Wilberforce Way R. A (E-mail); Longthornton & Tamworth Res Ass (E-mail); M Sankey; Manmohan Dayal; Merton Tenants & Residents Federation (E-mail); NEW BERA; NW Wimbledon Residents Association (E-mail); Pam Press; Raymond & Mansel Rd Res Ass (E-mail); Rodney Place Residents Association (E-mail); Sally Parrack (E-mail); South Common RA (E-mail); South Mitcham Residents Association (E-mail); South Park R A (E-mail); South Ridgway Residents Association (E-mail); Sue Roberts (E-mail); Wimbledon Common West R.A. Chairman; Wimbledon Hillside Residents Association (E-mail); Wimbledon House Residents Association (E-mail); Wimbledon Park Residents Association (E-mail); Wimbledon Union of Res Assns (WURA) (E-mail); Colin Millar; Dawn Eggleton (E-mail); Fire Brigade Merton (E-mail); Howard Baines; Ian Murrell; John Hill; Karen Halls; Kim Harlow; Marc Dubet; Mike Barrett; orla kennedy; Pam Press (E-mail); Peter Sparham (E-mail); Siobhan Murphy; Steve Nottage
Subject: LICENSING ACT 2003 - REVIEW OF LICENSING POLICY

Dear Sir/Madam,

LICENSING ACT 2003: REVIEW OF LICENSING POLICY

The London Borough of Merton is undertaking a review of its existing Licensing Policy in accordance with the requirements laid down in the Licensing Act 2003.

I attach a copy of the proposed new document for your attention. If you would like a paper copy (as opposed to your having to print the attachment), please contact the Licensing Section either by return email or by phone on 0208 545 3969.

If you would like to comment, please write to the Licensing Manager at Merton Civic Centre, London Road, Morden SM4 5DX by the closing date of 18 September 2007.

Alternatively you can comment by email to licensing@merton.gov.uk

Regards Alan Powell - Principal Licensing Officer - London Borough of Merton

<< File: Policy Final Draft (Review 2007).doc >>

Richard Nash

APPENDIX 1, ITEM B

From: Howard Baines
Sent: 16 July 2007 10:25
To: Richard Nash
Subject: Licensing & gambling

Richard,
Hello and hope you are OK.

I've had a look at the draft Licensing Policy and make one comment. The 5th bullet point in 3.8 should read 'Local Safeguarding Children Board'.

You will recall I sent you some guidance notes - where and when will these be available for applicants?

I understand Sept 07 is when the Gambling Act will come on stream, so it would be helpful to confirm actual date when the LSCB needs to be ready.

Regards,
Howard

Howard Baines
Safeguarding Development Officer
Strategy & Development Team
Children, Schools & Families Department
020 8545 3801
howard.baines@merton.gov.uk

PLANNING - RESPONSE TO POLICY CONSULTATION (LA 2003)

Richard Nash

From: John Hill
Sent: 27 September 2007 18:40
To: Richard Nash
Subject: RE: CONSULTATION RE THE REVISION OF THE LICENSING POLICY STATEMENT

APPENDIX 1, ITEM C

Richard,

Apologies for not having responded sooner. I think it's a very thorough and detailed piece of work and have no concerns with what is set out. My only thought would be that in respect of section 14 perhaps we need to refer to the fact that under planning legislation there maybe separate conditions imposed on any given premises in respect of hours of operation, noise levels generated etc.

Regards,

John (H)

-----Original Message-----

From: Richard Nash
Sent: 27 September 2007 17:11
To: John Hill
Cc: Alan Powell
Subject: CONSULTATION RE THE REVISION OF THE LICENSING POLICY STATEMENT
Importance: High

John

The above 12 week consultation technically closed on 18 September 2007.

It would appear that my Section has not had a response from yours, and as you know you are a Responsible Authority. I met with Councillors Simpson and Bowcott this morning and they seem a little dismayed that in-house agencies have not replied.

A response would be much appreciated if nothing more than " Perfectly reasonable approach, no comment.....", or feel free to express your response as you see fit.

Thanks

Richard

<< File: 1 Policy Final Draft (Review 2007).doc >>

APPENDIX 1, ITEM D

Alan Powell

From: Mike Barrett
Sent: 18 September 2007 17:06
To: Licensing
Cc: Siobhan Murphy; Mike Barrett
Subject: FW: LICENSING ACT 2003 - REVIEW OF LICENSING POLICY

Thank you for the opportunity to comment on the review of the Licensing policy.

The comments from Env Health are as follows

You may want to look at the general wording In Many places you have written " Merton" and I think it should say " the Council" or Merton Council.

We have looked at the LACORS best practice framework for review of licensing policy statements whilst formulating our comments.

P 3 suggest purpose and scope rather than policy and scope as a heading.

7.1 I think need could be more clearly described

7.8 Suggest heading " Effect of Policy" and I think it would benefit from a rewrite for clarity

7.10 Need to consider wording in line 3 should the word "significantly" follow the word "add" . see LACORS review of licensing policy statements section VIII and Bar Sport Ltd V Charnwood BC appeal although the word significantly does not appear in the DCMS guidance. You may however want to look at section 8 of teh summary of consultation responses to revised guidance to the Licensing Act published in June 2007 by DCMS with regard to teh intention of special policies.

7.11 delete the last sentence after the word objectives.

7.12 there is further guidance in the review of the licensing act that you may wish to consider.

13. there is no presumption in favour of longer hours. at 13.2 I think you should add in a paragraph to reflect the SoS letter to LAs dated 30.9.2005. see DCMS review para 24 of teh summary of consultation responses to revised guidance to the Licensing Act published in June 2007 by DCMS with regard to longer hours

13.4 again may wish to quote letter from secretary of state.

15.4 delete the word " immediately"

15.6 expect or require?

15.7 are you sure.

15.8 delete "rare" insert "or information has" after representations and add another bullitt point - To check compliance with certain conditions eg teh presence and use of sound limiting devices

16.6 16.6 delete EH re public safety

17.2 add " our enforcement policy, and any other relevent enforcement policies, procedures or guidance.

17.4 (as an example) Merton ... or The Council or Merton Council and either .. and is it a protocol or working arrangements and what doers establish protocols mean? develop a protocol or have a protocol....

19.1 not good english ... not clear

19.4 The lacors guidance says you should indicate wher eit should be sent this has to be helpful for the Police (and applicants) ... if they send it to teh wrong place they could argue the Police were notified.... see lacors website guidance.

21 I would suggest you revise this section in accordance with LACORS Guidance .. and add Review of Licenses to the section heading as I think this activity needs to be clearly identifiable in the policy.

21.1 do you need teh word "where"

21.3 a better word than amplified ? expanded upon? but plain english would be good

23 and 24 add 2 new sections as per LACORS guidance contact details and review of policy

Hope this is helpful ..We would be happy to discuss our comments in more detail if it will assist

Mike

Mike Barrett
Environmental Health Manager
020 8545 3002

-----Original Message-----

From: Licensing
Sent: 05 July 2007 11:42
To: Alfreton Close Residents Association (E-mail); Apostles Residents Association (E-mail); Belvedere Residents Association (E-mail); CR4 Residents Association (E-mail); CWARA (E-mail); Dawn Eggleton; Four Acres and Edinburgh Court Residents Association (E-mail); Gareth Bradley; Garth Road Residents Association; Gillian Blake (E-mail); Glebe Court Residents Association (E-mail); Hartfield and Herbert Residents Assoc GHHRA (Graham (E-mail); Homefield Road Residents Association (E-mail); John Rothwell (E-mail); Joyce French (E-mail); Joyce Pountain (E-mail); Lauriston Road + Wilberforce Way R. A (E-mail); Longthornton & Tamworth Res Ass (E-mail); M Sankey; Manmohan Dayal; Merton Tenants & Residents Federation (E-mail); NEW BERA; NW Wimbledon Residents Association (E-mail); Pam Press; Raymond & Mansel Rd Res Ass (E-mail); Rodney Place Residents Association (E-mail); Sally Parrack (E-mail); South Common RA (E-mail); South Mitcham Residents Association (E-mail); South Park R A (E-mail); South Ridgway Residents Association (E-mail); Sue Roberts (E-mail); Wimbledon Common West R.A. Chairman; Wimbledon Hillside Residents Association (E-mail); 'Wimbledon House Residents Association (E-mail)'; Wimbledon Park Residents Association (E-mail); Wimbledon Union of Res Assns (WURA) (E-mail); Colin Millar; Dawn Eggleton (E-mail); Fire Brigade Merton (E-mail); Howard Baines; Ian Murrell; John Hill; Karen Halls; Kim Harlow; Marc Dubet; Mike Barrett; orla kennedy; Pam Press (E-mail); Peter Sparham (E-mail); Siobhan Murphy; Steve Nottage
Subject: LICENSING ACT 2003 - REVIEW OF LICENSING POLICY

Dear Sir/Madam,

LICENSING ACT 2003: REVIEW OF LICENSING POLICY

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I attach a copy of the proposed new document for your attention. If you would like a paper copy (as opposed to your having to print the attachment), please contact the Licensing Section either by return email or by phone on 0208 545 3969.

If you would like to comment, please write to the Licensing Manager at Merton Civic Centre, London Road, Morden SM4 5DX by the closing date of 18 September 2007.

Alternatively you can comment by email to licensing@merton.gov.uk

Regards Alan Powell - Principal Licensing Officer - London Borough of Merton

<< File: Policy Final Draft (Review 2007).doc >>

FIRE BRIGADE - CONSULTATION

Alan Powell

CONSULTATION RESPONSE

From: SUSAN.NAYLOR@london-fire.gov.uk

Sent: 28 September 2007 10:08

To: Licensing

TO POLICY STATEMENT
(LA 2003)

Dear Alan

With regard to the consultation on Merton licensing policy review as the proposed changes appear to have no appreciable impact on Fire safety this authority has no comment to add

Regards

Sue Naylor on behalf of Bill Cronin
Inspecting Officer
Merton & Wandsworth Borough Team
Tel.: 020 7587 2601
Fax: 020 7587 2678
wandsworthgroup@london-fire.gov.uk
mertongroup@london-fire.gov.uk

APPENDIX 1, ITEM E

LONDON FIRE BRIGADE

Live in London? Free home safety visits - free smoke alarm?

Freephone 08000 28 44 28

Go to London Fire at www.london-fire.gov.uk/firesafety

Visit the London Fire Brigade Shop at www.lfbshop.co.uk

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TERRITORIAL POLICING

The Licensing Manager
The Licensing Department
London Borough of Merton,
Civic Centre,
London Road,
Morden,
Surrey
SM4 5DX

VW - Merton Borough

Wimbledon Police Station
15-23 Queens Road
London
SW19 8NN

Telephone: 020 8649 3171
Facsimile: 020 8649
Email: Peter.Sparham@met.police.uk
www.met.police.uk

Your ref:

Our ref:

18 September 2007

APPENDIX 1, ITEM F

Dear Sir

Re:- Statement of Licensing Policy (First review)

This letter is in response to the review of the licensing policy for the Borough. Having considered the policy Police would ask that consideration be given to the inclusion of a risk assessment condition as recommended by the London Councils Licensing Sub-Group.

This request is being forwarded due to time constraints by e-mail I will therefore attach a copy of the London Councils recommendation.

Yours sincerely,

**Peter Sparham
Licensing Sgt**





London Councils

The following is recommended for inclusion in Licensing Authority policy statements following consultation with the London Councils Licensing Sub-Group, to address the Crime and Disorder and Public Safety licensing objectives.

The Licensing Authority recommends that for significant events (please see note below), a comprehensive risk assessment is undertaken by premises licence holders to ensure that crime and disorder and public safety matters are identified and addressed. Accordingly, for premises that wish to stage promotions, or events (as defined below) the Licensing Authority recommends that applicants address the Risk Assessment and debrief processes in their operating schedule.

The Licensing Authority further recommends the Metropolitan Police Promotion/Event Risk Assessment Form 696 and the After Promotion/Event Debrief Risk Assessment Form 696A as useful and effective tools for this purpose. Where the Risk Assessment forms are used to assess the likely risks from any promotion or event, the Licensing Authority anticipates that these will be completed in consultation with the Metropolitan Police. Risk assessments should be submitted to the Metropolitan Police and the Licensing Authority within 14 days of any proposed event and debrief forms submitted within 14 days of the conclusion.

Forms 696 and 696A are available on the Metropolitan Police web site at (please insert hyperlink). It is recommended that electronic completion and transmission of the forms is undertaken by licensees. E-mail addresses for submission are ClubsFocusDesk-CO14@met.police.uk and (insert local authority email and MPS borough licensing unit)

Promotion or Event

The majority of venues have regular repeat artistes and DJs. Only one risk assessment and subsequent debrief is required for an artiste at the venue concerned. Where venues have promotions with different artistes or DJs on each occasion, it is anticipated that the risk assessment forms will be completed for each of these occasions.

The Premises Licence Conditions proposed by can be recommended as part of a pool of standard conditions. They will not, of course, be imposed on any licence as a condition, unless as suggested in the policy statement, applicants address risk assessment in their operating schedules, or one of the statutory authorities submits relevant representations for any application received. If conditions are to be applied, they will have to be relevant and proportionate to the matters raised in representations by the responsible authorities.



The recommended risk assessment conditions are:

Prevention of Crime and Disorder

1. The licensee shall undertake a risk assessment of any significant promotion or event (as defined below) using the MPS Promotion/Event Risk Assessment (Form 696) or an equivalent and provide a copy* to the Metropolitan Police Service and the licensing authority not less than 14 days before the event is due to take place.
2. Where an 'event' has taken place, the licensee shall complete an MPS After Promotion/Event Debrief Risk Assessment (Form 696A) and submit this* to the Metropolitan Police and the Licensing Authority, within 14 days of the conclusion of the event.

*submission of electronic documents by e-mail is preferred.

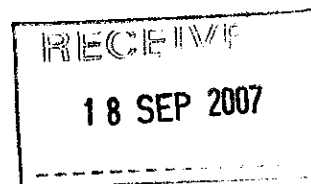
Note: Metropolitan Police Definition of a 'Significant Event'

This definition relates to events that require a Promotion/Event Risk Assessment Form 696.

A significant event will be deemed to be: any occasion in a premises licensed under the provisions of the Licensing Act 2003, where there will be a live performer(s) – meaning musicians, DJs, MCs or other artiste; that is promoted in some form by either the venue or an outside promoter; where entry is either free, by invitation, pay on the door or by ticket.

Licensees should be advised to consult the local Metropolitan Police Licensing Unit to clarify whether their proposed event is significant.

Michael Ojo
August 2007



APPENDIX 1, ITEM G

PARKSIDE RESIDENTS' ASSOCIATION
20 Burghley Road
Wimbledon
London SW19 5BH
T: 020 8946 4371 F: 020 8944 6441
Email: DavidandSueCooke@aol.com

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

12 September 2007

Dear Sirs

Licensing Act 2003 – New Draft Licensing Policy

I am writing to confirm this Association's support for the terms of the new draft Licensing Policy upon which a public consultation is currently being conducted.

It is particularly important to residents in this area, which includes roads close to the High Street in Wimbledon Village, that the designation of the Village as a Cumulative Impact Zone ("CIZ") has been retained in the draft. The large number of bars and restaurants in the Village attract visitors from outside the area, many of whom come by car and park in residential roads. Residents in those roads are frequently disturbed late at night as people return to their cars, shouting, slamming car doors etc. Residents living near the Village also report instances of antisocial behaviour outside their houses from inebriated people.

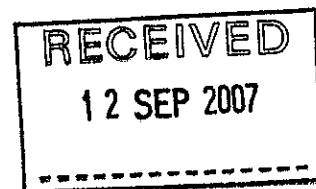
Since the Licensing Act came into force, the majority of new licensing applications in the Village have sought late night opening hours, particularly at weekends, and these have all been opposed by residents who do not wish to see the nuisance outlined above continuing later into the night and early morning. The CIZ status has been particularly helpful in ensuring that a pattern of late night alcohol sales has not been established.

We are grateful to Councillors and members of the Licensing Committee for taking these concerns into account in formulating the new draft Policy.

Yours Faithfully

Mrs. S Cooke
Chairman

Cc Cllr John Bowcott



36

Sent by email.
DF - 12/9/07

APPENDIX 1, ITEM H

**THE SOUTH COMMON RESIDENTS ASSOCIATION
21 THE GRANGE
LONDON SW19 4PS
TEL: 020 8944 1603**

London Borough of Merton
LICENCING
Merton Civic Centre
London Road
Morden
Surrey SM4 5DX

31st August, 2007

Dear Sir



Re: DRAFT LICENSING POLICY

On behalf of the residents in our area I am writing to support the Council's Draft Licensing Policy that has recently been published for consultation.

We especially support the continuation of the two Cumulative Impact Zones and the revised policy relating to them. In our opinion the original reasons that the Council had for designating them still apply.

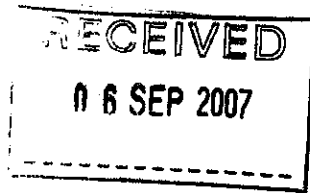
Yours faithfully

A handwritten signature in black ink, appearing to be "J.H. Wright".

J.H. Wright - Chairman

Southcommon9

Belvedere Estate Residents' Association



9 Belvedere Grove
Wimbledon
SW19 7RQ

Licensing
Borough of Merton
Merton Civic Centre
SM4 5BX

charliesturge@hotmail.com

5TH September 2007

Dear Sir

Review of London Borough of Merton Licensing Policy

I understand that Merton is currently undertaking a review of the Statement of Licensing Policy adopted by the Council on 5 January 2005.

I have reviewed the final draft of the First Review of the Policy and I am very pleased to note that the continued designation of Wimbledon Village as a 'Cumulative Impact Zone' (CIZ) is recommended. CIZ status is considered to be a very important and useful aide to residents in protecting the Village, which is a predominantly residential area, from increases in the number of wine bars and pubs in the High Street, Church Road and the Ridgway and in their opening hours.

In reviewing the draft Policy, I have referred to points 5.9 and 5.10 of the report prepared for the Extraordinary Council Meeting of 5 January 2005, which I shall not repeat here, but to which I would refer those who are in doubt as to whether the CIZ designation should be continued. The factors raised when the CIZ designation was introduced remain as relevant now as they were then.

It is clear from the experience of BERA committee members and BERA members generally that continuation of the CIZ designation is vital. There have been a number of applications for variations or new licences since the Policy was adopted and, by and large, residents and their representatives have been successful in protecting residential amenity from further erosion as a result of the nuisance caused by the patrons of licensed premises. Applications continue to arise; recently 'Roots' on the corner of Church Road and High Street has, despite many protests, obtained planning permission for change of use which would permit a wine bar on the site. BERA members await with concern any licensing application which seeks to take advantage of this permission and, if such an application is made, it is likely that residents will make representations to the Licensing Sub-Committee against a new licence being granted and will seek to rely on the CIZ designation in such representations.

I note that there are various other procedural changes to the Policy; notably at paragraphs 7.8 and 7.9 and I support these too; it is helpful that the Policy is fuller and more clearly articulated in terms of how applications and representations interact.

In conclusion, I wish to express the strongest support of BERA members for the continued designation of the Village as a CIZ. It is a vital component in preserving and protecting the amenity of Wimbledon Village for those of us who live here.

Yours sincerely

Charles Sturge
Charles Sturge
Chairman



Wimbledon Union of Residents' Associations

Please Reply to:

APPENDIX 1, ITEM J

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

24 July 2007

Dear Sir

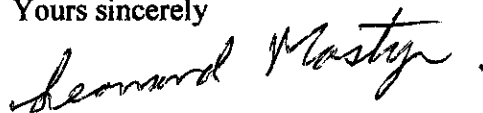
Draft Licensing Policy

On behalf of our members I am writing to support the Council's Draft Licensing Policy that has recently been published for consultation.

In particular we support the continuation of the two Cumulative Impact Zones and the revised policy relating to them. The reasons the Council had for designating them originally still apply.

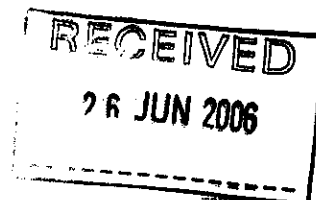
Please acknowledge receipt of this letter.

Yours sincerely



Leonard Mostyn
Chairman
2 Deepdale
London SW19 5EZ
Tel: 020 8946 9315

cc Councillor John Bowcott



Membership

18 Residents' Associations: Bathgate Rd.,
Belvedere Estate, Cedar Court, Lr. Edge Hill/Darlaston Rd,
N.W. Wimbledon, Parkside, Pine Grove, Raymond/Mansel Roads,
Raynes Pk & W Barnes, St John's, Somerset Rd, S. Common

40

*Total membership of
more than 6,000*

PUBLIC PROTECTION & DEVELOPMENT DIVISION
Head of Public Protection & Development - Anne Lippitt

date: 30 July, 2007
my ref: Acceptance of Representation
please ask for: Administration
your ref:

Date sent: 30 July 2007

London Borough of Merton
Merton Civic Centre
London Road
Morden, Surrey SM4 5DX
DX 41650 Morden

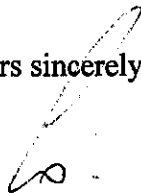
Switchboard: 0208-543-2222
Minicom: 0208-545-3245
Telex: 893062
Fax: 0208-545-4025
Direct Line: 0208-545-4005

Dear Mr Mostyn,

LICENSING ACT 2003 POLICY REVIEW

I acknowledge receipt of your letter dated 24 July 2007 and note your comments on behalf of Wimbledon Union of Residents Association in respect of the current consultation.

Yours sincerely,



Alan Powell
Principal Licensing Officer

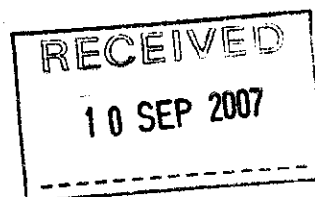
Mr L Mostyn
2 Deepdale
Wimbledon
SW19 5EZ

APPENDIX 1, ITEM K

Mr G M Coomber
Flat 3 Bluegates
4 Belvedere Drive
London
SW19 7DG



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



7th September 2007

Dear Sirs,

Licensing Policy - Wimbledon Village

In the context of Merton Council's Review of Licensing Policy, I would like to express my personal view that Wimbledon Village should continue to be classified as a Cumulative Impact Zone.

Whilst I would not myself venture into the Village on a Friday or Saturday night, as a resident whose property backs on

to Wimbledon Hill Road, I receive ample evidence of drunkenness, rowdiness, scuffles and vandalism occurring late at night on the Hill, particularly on Fridays and Saturdays. It is for this reason that I feel strongly that the Cumulative Impact Zone classification should be retained for Wimbledon Village.

Yours faithfully,

G.M. Cornish

c.c. Alv. David Williams

APPENDIX 1, ITEM L

Flat 2
31 Parkwood Road
Wimbledon SW19 7AQ

Merton Council
Licensing department

Dear Sirs,

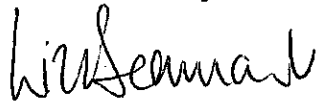
RE: Review of Cumulative Impact Zone of Wimbledon Village.

I write to re-iterate my views on the impact of the extended hours of licensing on the pubs and resautrants within Wimbledon Village and ask that the council keep the Village as an Cumulative Impact Zone.

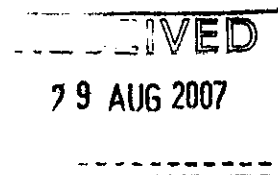
We have suffered enormously in recent months from the ever-increasing poor behaviour of people as they leave the pubs – all within a very small area. This has lead to not only threatening behaviour but also, increasingly, people urinating and vomiting in the streets surrounding the village. Wimbledon Hill Road becomes almost a no-go area on some nights when the drunks tip back down the hill and the noise is appalling.

Please do not change our zoning. Any more pubs or restaurants in this area would be even more of a disaster.

Yours faithfully



LIZ BEAUMONT



29.08.07 Valid response (comment) on current Policy Statement consultation.



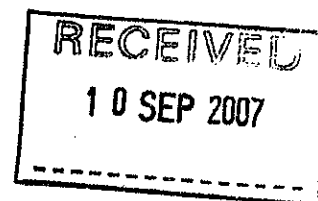
APPENDIX 1, ITEM M

Wimbledon East Hillside Residents' Association

c/o 13 Compton Road
London Sw19 7QA

7 September 2007

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



RE: MERTON STATEMENT OF LICENSING POLICY

Dear Sir/Madam:

This provides you with our comments regarding the above draft policy.

To summarise, we fully support the Statement of Licensing Policy, and particularly we wish to support the continuation of the two Cumulative Impact Zones in Wimbledon (Town Centre and Village). This policy appears to be working successfully to provide Merton Council and local police with adequate powers to control the many problems we regularly experience with so many licensed premises in our area.

There are a few specific points we wish to raise, as follows:

- 1.6 This sentence is unclear. Do you mean "the busiest of these areas is Wimbledon, including the town centre and Wimbledon Village, which has the highest density of leisure and entertainment venues." Or do you mean that the village has the highest density (not the town centre). Please would you correct the sentence to be more clear.

- 6.5 The first sentence in this item contains a double negative. The sentence would be much clearer if you structured it in the positive. Otherwise we feel the meaning is confusing and may be misunderstood.

7.6 We fully support these designations as Cumulative Impact Zones. We encourage you to continue to use clear language that the burden of proof is on the applicant, and not the licensing committee, police or area residents. Over the past four years our Residents' Association has had to use tremendous resource to gather facts about anti-social behaviour, nuisance and other un-neighbourly activity by licensed premises in our area. We feel this is an unfair burden on our community who – in the balance - do not profit from the abundance of food/drink/entertainment offerings on our doorstep.

9.0 Public Safety

Another issue we frequently find is that licensed premises place metal or wood signs directly on the pavement, advertising a new menu, sports event or special marketing opportunities for their customers. Would it be possible to itemise that temporary signage placed on the pavement is not allowed, as it poses a 'trip hazard' for pedestrians.

Several venues in our area seem to think the pavement outside their doors is their property, and regularly use this area for secondary signage. Our members have to then report each incident to the council, and we have to fight these 'public safety' issues individually. It seems to us that these violations should be put on the licensed premise holder as a 'violation' of the public safety requirement.

10.5 Prevention of Nuisance

We have a big problem with large 'soft banners' being erected in our area late in the evenings and removed on Monday morning, advertising events at the various clubs in the Town Centre. These banners are for the most part erected illegally by some licensed premises and they should be subject to a fine. Our view is that this behaviour by licensed premises should be included as a violation of their licensing agreement, and we would like to see a mechanism for this to be done.

We have also had considerable trouble with late-night refuse collection (e.g.; repeatedly at 3 am), and this in our view represents a violation of their licensing agreement. Would it be possible to itemise this as another example of problems in item 10.5.

13.3 This paragraph has been a God-send to our community, and we thank you for continuing to include it in the Licensing Policy. Perhaps our biggest problem with the proliferation of licensed premises has been that we suffer sleep deprivation. This paragraph respects our need for a decent night's sleep.

These are our comments on the draft document. Thank you for your thoughtful consideration of our views. Would you please send an acknowledgement of receipt of this letter.

Respectfully submitted,

Leigh Terrafranca, Planning & Licensing Officer
Wimbledon E. Hillside Residents' Association (WEHRA)
c/o 13 Compton Road
London SW19 7QA

Cc: A. Warren, C. Smith, WEHRA
D. Williams/D. Simpson/J. Bruce – Hillside Ward Councillors

Alan Powell

APPENDIX 1, ITEM N

From: Imogen Cleaver [imogen_cleaver@hotmail.com]
Sent: 18 September 2007 22:30
To: Licensing
Cc: pippa armitage
Subject: Draft Licensing Policy

2 Denmark Road
Wimbledon
SW19 4PG

18 September 2007

Dear Sir/Madam

Draft Licensing Policy

I write on behalf of St John's Area Residents Association to support the Council in its proposal to continue applying special policies in Wimbledon Town Centre and Wimbledon Village by designating them Cumulative Impact Zones.

In addition I would ask the Council to take this opportunity to consider extending the Wimbledon Village zone further along the Ridgway to its junction with Hillside rather than its junction with Sunnyside.

Yours faithfully
Imogen Cleaver

Get free emoticon packs and customisation from Windows Live. [Pimp My Live!](#)

Richard Nash

APPENDIX 1, ITEM 0

From: Mirjana Ilic [mirjanailic@hotmail.com]
Sent: 13 October 2007 22:16
To: Richard Nash
Cc: mirjanailic@hotmail.com; Councillor John Bowcott; leonard.mostyn@lasmo.org.uk
Subject: Licensing Policy Consultation

Dear Mr Nash

Thank you for your letter of 7th September 2007

I should like to add that we, as an Association, fully support the revised licensing policy which is currently out for consultation, ie the continuation on the 2 Cumulative Impact Zones

Yours sincerely

Mirjana Johnson
Chairman
Wim House Res Assoc

Can you see your house from the sky? Try Live Search Maps
<http://maps.live.com>

Alan Powell

APPENDIX 1, ITEM P

From: Lynn Phillips [L.V.Phillips@btinternet.com]
Sent: 15 August 2007 15:28
To: Licensing
Subject: Comments on Review of Licensing Policy

Dear Merton Council

1. I strongly support your recommended continuation of the cumulative impact zones in Wimbledon Town and Wimbledon Village.

I would ask however that the Wimbledon Village Zone be extended down the Ridgway to include all current pubs.

2. I strongly support the presumption that license applications within a cumulative impact zone must show why they will not add to cumulative impact (rather than the current confusion there has been where residents have been required to show this). And that closing times are an aspect of this.

3. Regarding the consumption of alcohol in public, I would ask that you designate Wimbledon Village, including all the roads surrounding, and running through the common, an area where alcohol cannot be consumed in public.

Currently we have the situation where people are wandering the streets drunk, clutching glasses, cans, bottles. This constitutes a public nuisance because of the noise they make, the fact that groups congregate to drink, their often vandalistic or abusive behaviour, and the fact they leave cans, glasses, bottles anywhere they wish, often smashed into walls, on the pavement, or into gardens.

4. I would also like to ask what resources will be put in place to:

- o ensure people are not served who are already drunk (currently this is not enforced)
- o enforce noise restrictions on licensed premises in the village during the weekend, as well as the week, during the night as well as during the day (there is no point having a licensing policy that cannot be enforced by another department i.e. environment)
- o enforce street trading rules regarding tables and chairs outside licensed premises (currently there is no inspection or enforcement, unless there is a complaint)

I strongly support most of your review conclusions, and look forward to your reply to these additional points which I hope will be included in the final policy.

Kind regards

Lynn Phillips

2 Ridgway, London SW19 4QN

APPENDIX 1, ITEM Q

Alan Powell

From: Martbutler@aol.com
Sent: 12 September 2007 10:45
To: Licensing
Cc: Iain.loe@camra.org.uk; RD.greaterlondon@camra.org.uk; janeandrob@beeb.net; Geoff@coherent-tech.co.uk
Subject: Review of Licensing Policy

Dear Mr Powell

I refer to your letter of 16th July to CAMRA's HQ which has been passed onto me for comment.

We discussed this at our Branch Committee meeting on 6th September and have the following observations.

We were pleased to see in paragraph 7.12 the comments on not having a terminal hour in a particular area. As you say this would undermine a key purpose of the 2003 Act.

We would endorse the comments in paragraph 16.1 concerning seating. We agree the provision of sufficient seating helps make for a more convivial atmosphere. (But that is not to say we wish to see a blanket ban on people standing and having a drink.)

With regard to the comments on door supervisors in paragraph 8.3 we trust Merton will make this consideration on a case by case basis and not impose a blanket requirement in certain areas at certain times.

Paragraph 19.3 on temporary event notices places a limit of 500 on the number of persons on the premises and the end of one period and another. We think this could be unnecessarily restrictive and should be considered on a case by case basis.

Thank you for sending us the draft statement.

Could you please acknowledge receipt of this email

Yours sincerely

Martin Butler

Chairman, CAMRA South West London Branch

The South West London Branch covers the boroughs of Merton, Wandsworth and the South West postal districts of Lambeth. We have over 400 members in Merton



*Adh by email
12/9/07*

Alan Powell
Principal Licensing Officer
London Borough of Merton
Merton Civic Centre
London Road
Morden
Surrey
SM4 5DX

APPENDIX 1, ITEM R

London Region
33 Palfrey Place, London SW8 1PE
Tel 020 7840 5504
Fax 020 7840 5599
london@musiciansunion.org.uk
www.musiciansunion.org.uk

7th September 2007

Dear Mr Powell,

RE Review of Licensing Policy

Thank you for your recent copy of the first review of the London Borough of Merton Licensing Policy. I am pleased to note your inclusion of live music amongst your criteria for licensing and will be happy to help you in any queries you may have in this regard.

I would like to draw your attention to the enclosed letters; one which was sent to your colleague Richard Nash in September 2004 in response to your Draft Licensing Policy and your own response which promises to take the Union's comments into account. Your current Licensing Policy does not in fact address these concerns and I would invite your comments on this.

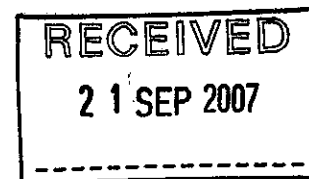
I look forward to being able to advise and assist you with any queries you may have in regard to the practical implementation of Merton's live music policy.

Yours faithfully



Jo Laverty
London Region Official (Gigs and Venues)

Email: jl1@musiciansunion.org.uk
Tel: 020 7840 5535
Mob: 0781 207 1928
Fax: 020 7840 5599



ENVIRONMENT AND REGENERATION
Director - Richard Rawes



PLANNING AND PUBLIC PROTECTION DIVISION
Head of Planning and Public Protection - Steve Clark

date: 17 September, 2004
my ref: ES/PP/APO/Licensing Act 2003
please ask for: Mr A Powell
your ref:

London Borough of Merton
Merton Civic Centre
London Road
Morden, Surrey SM4 5DX
DX 41650 Morden

Switchboard: 0208-543-2222
Minicom: 0208-545-3245
Telex: 893062
Fax: 0208-545-4025
Direct Line: 0208-545-4005

Dear Mr Webster,

LICENSING ACT 2003
MERTON'S DRAFT POLICY

I acknowledge receipt of your letter with comments upon our draft Licensing Policy dated 7 September 2004.

The matters you have commented upon in your letter will be taken into account when we finalise the Policy.

Yours sincerely,

A handwritten signature in black ink that reads "Alan Powell". The signature is written in a cursive style with a large, looped initial "A".

Alan Powell
Licensing Officer



The Musicians Union
Attn Mr D Webster
60/62 Clapham Road
London
SW9 0JJ

Richard Nash
Licensing Manager
London Borough of Merton
Civic Centre
London Road
Morden
SM4 5DX

London Region
33 Palfrey Place, London SW8 1PE
Tel 020 7840 5504
Fax 020 7840 5599
london@musiciansunion.org.uk
www.musiciansunion.org.uk

7th September 2004

My Ref dw/merton 07/09/04

Dear Richard Nash,

RE Licensing Policy Document.

I would like to introduce myself as the Musicians Union Official for London South.

Thank you for your recent copy of your Draft Licensing Policy you emailed to my colleague Keith Ames. I am pleased to note your inclusion of live music amongst your criteria for licensing and will be happy to help you in any queries you may have in this regard.

On behalf of my members in your Borough I would like to make the following observations:

- 6.1 Perhaps the clause could finish 'to include children' rather than 'particularly for children. This seems to put an emphasis on live music that appeals to children rather than 'live music' in general
- 6.4 We are pleased that you are prepared to apply for licenses for properties owned by yourself.
- Under the DCMS guidelines, which state...'*in connection with cultural strategies, licensing policy statements should include clearly worded statements indicating that they will monitor the impact of licensing on regulated entertainment, and particularly live music and dancing*' the Union would like to see a paragraph that takes this into account alongside a willingness to review the said' impact'.

I look forward to being able to assist you in your practical implementation of Merton's live music policy over the coming months and am also, of course, available for consultation with regards to any review that may occur in the fullness of time.

Yours faithfully

Dave Webster
London Branch Officer

Email: dave.webster@musiciansunion.org.uk
Tel: 020 7840 5532
Mob: 07811 179576
Fax: 020 7840 5599



Alan Powell

From: Jo Laverty [jl1@musiciansunion.org.uk]
Sent: 17 September 2007 11:58
To: Licensing
Subject: FAO Alan powell

Dear Mr Powell,

RE Review of Licensing Policy

Thank you for your recent copy of the first review of the London Borough of Merton Licensing Policy. I am pleased to note your inclusion of live music amongst your criteria for licensing and will be happy to help you in any queries you may have in this regard.

I would like to draw you attention to the attached letter which was sent to your colleague Richard Nash in September 2004 and to which you responded with the promise to take the Union's comments into account. Your current Licensing Policy does not in fact address these concerns and I would invite your comments on this.

I look forward to being able to advise and assist you with any queries you may have in regard to the practical implementation of Merton's live music policy.

With best wishes,

Jo Laverty
London Region Official (Gigs and Venues)

London Regional Official (Gigs & Venues)
Musicians' Union
33 Palfrey Place
London SW8 1PE
t: 07812 071 928 / 0207 840 5535
e: jo.laverty@musiciansunion.org.uk
w: www.musiciansunion.org.uk

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APPENDIX 1, ITEM 5



Market Towers
1 Nine Elms Lane
London
SW8 5NQ
telephone: 020 7627 9191
facsimile: 020 7627 9123
enquiries@beerandpub.com
www.beerandpub.com

From: Dr Martin Rawlings MBE, Director Pub & Leisure
Direct Line: 020 7627 9141
E-mail: mrawlings@beerandpub.com



3rd September, 2007

Licensing Manager,
London Borough of Merton,
Merton Civic Centre,
London Road
Morden,
Surrey.
SM4 5DX

licensing@merton.gov.uk

Dear Sir,

RE: LICENSING ACT 2003 - REVIEW OF LICENSING POLICY

The British Beer & Pub Association (BBPA) represents brewing companies and their pub interests, and pub owning companies, accounting for 98% of beer production and around two thirds of the 60,000 pubs in the UK. Many of our members own and run pubs in the Merton area. The Association promotes the responsible sale of alcohol and management of licensed premises. It has a range of good practice information and guidance for member companies, which includes security in design, drugs, drinks promotions, noise control and health and safety.

The BBPA believes that the implementation of the Licensing Act 2003 has been successful to date and is encouraged by reports of decreased levels of disorder associated with licensed premises. We welcome this opportunity to provide comments as part of this licensing policy review. This response is also supported by BII, the professional body for the licensed retail sector. Our main observations are as follows.

The BBPA welcomes the Council's positive approach to the licensing of the sale of alcohol and the provision of public entertainment and in particular its recognition of the cultural and social contribution that the trade has to make, and also its importance as a local employer. The draft policy has also recognised one of the key principles of the Licensing Act 2003, namely that each application must be treated on its own merits.

Conditions

In certain parts of your policy we believe it should be made clearer that the Licensing Authority can only apply conditions where relevant representations have been made. Para 8.3 makes this quite clear but elsewhere the Council states that "it will attach conditions" (e.g. para 8.5, 9.4, 10.4, 11.1.6, 11.3.2, 13.4).

Integrating Strategies

The Government has revised its Alcohol Harm Reduction Strategy and you might therefore wish to consult "Safe. Sensible. Social" which was published in June. This document sets out the Government's strategy of national and local action to "achieve long-term reduction in alcohol related ill health and crime".

Operating Schedules

In addressing each of the licensing objectives your policy "expects" operating schedules to include conditions set out in Appendix 1. We believe these expectations could be construed as the licensing authority requiring applicants to offer a significant number of restrictions in their operating schedules which would then become conditions on the licence. A similar complaint was dealt with by the Judicial Review of the Canterbury City Council policy. The judgement in that case clearly stated that licensing authorities should not mislead applicants into believing that they must meet certain requirements.

Applications for Premises Licences

Para 15.3 should be deleted from your policy as there is no requirement for certificates of training to be provided.

Para 15.6 "expects" (see above) applicants to conduct a thorough risk assessment with regard to the licensing objectives. The Association is very much in favour of the use of risk assessments, but the provision of a risk assessment to support an application is not a requirement under the Licensing Act 2003, therefore the licensing authority has no powers to expect a "full risk assessment". We believe that this reference should either be removed or amended so as to be a recommended practice rather than a requirement.

Enforcement

We would welcome a recognition of the "Hampton Report" principles of inspection which include the following:

- No inspection should take place without a reason
- Regulators should be recognised that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection

Temporary Event Notices

Although your policy states the legal minimum notice of ten working days, we believe that three months' notice of events for the majority of applicants is unrealistic. You may wish to add "wherever possible" before "applicants".

We trust that you will find these comments helpful and look forward to any response you may have. We would also appreciate being listed as a consultee in any further licensing related consultations.

Yours sincerely,



Martin Rawlings

APPENDIX 1, ITEM T

Suggested Amendments to the Licensing Policy first review 2007 from Safer Merton

Safer Merton provided statistical evidence for the review but was not asked to comment on the content until the very last day in the process. This needs to be amended for future reviews as the Licensing Act '03 makes it clear that crime and disorder must be a major consideration in any such review, and because there is, has been and will be, numerous legislative changes on crime and disorder and how this impacts on licensing.

Using the draft document (and page and paragraph numbers pertaining to this) I shall indicate where I feel changes need to be made in order to ensure the licensing policy meets the requirements of crime and disorder legislation (such as the Crime and Disorder Act '98, the Violent Crime Act '06, Police and Justice Act '06 and the National Alcohol Strategy '07). I will also highlight any issues regarding areas, which I believe could require clarity. However given the time constraints this will not a comprehensive coverage of all of the relevant legislation, amendment may need to be made and their should be a process, written into the document, to allow this action be undertaken swiftly.

The document, in my opinion, seems to be confused as to its purpose and direction and this should be considered in any future rewrite, as a policy document it is weak in giving direction, (**Policy: a course of action:** a programme of actions adopted by a person, group, or government, or the set of principles on which they are based) as the actions are limited and the principles underpinning the document need to be clearer.

Comments:

Section 1. Policy and Scope – it would be good to refer to, if not explain, the other legislation that impacts on the Policy such as the Crime and Disorder Act '98, the Violent Crime Act '06, Police and Justice Act '06 and the National Alcohol Strategy '07 (these examples are crime and disorder specific and are not a comprehensive list)

P5 - regulated entertainment – the wording of this section is confusing and open to misinterpretation when the word any is used (ie any playing of recorded music would not include on licensed premises where it was undertaken in the living accommodation for personal (individual) pleasure)

P6 – main principals bullet point 6 – I am not sure how this is managed (if it is managed) or by whom. What is the holistic approach the ASB team are not aware of it.

P7 – 3.8 Merton Partnership Against Crime – is not (nor has been for some time) called this. It has been Safer Merton for quiet some time.

P7 – 3.8 Local Safer Guarding Childrens Board – is a responsible authority as per the Licensing Act '03 and it is referred to as this later in the document (11.1.7). – the term responsible authorities is not defined nor is there a comprehensive list of who they are.

P7 – 3.11.2 – reference to conditions that can be added such as Polly glass (council objective for the administration) CCTV should be referred to here

P8 – 1st para – is there an operating manual for this? Do we have a policy? How are conditions attached and when?

P8 – 4.2.1 – MAF Merton Alcohol forum are not mentioned here (even though licensing are represented on it) and they direct the work of the Alcohol policy for the area (ie the implementation of the Alcohol Strategy locally)

Safe. Sensible. Social. These are the next steps for the National Alcohol Strategy that was updated earlier this year this is not refereed to.

P9 – bullet point 4 – this is the law not a condition

P9 – bullet point 5 – what is the code of conduct? Where can it be found and what does it cover.

P9 – 4.2.2 Crime and Disorder Strategy – legislation has moved on from here and needs to be cross-referred within the document if only to signpost to the issues

Anti-Social Behaviour Act '03 re closing noisy licensed premises

Police and Justice Act '06 which has changed how we work – this requires Strategic Assessments every year that inform the work we undertake locally and this in turn will feed into a rolling three year plan (to include alcohol). This Act also covers – weights and measures inspectors, alcohol related Anti-Social Behaviour (fixed penalty notices for disorderly behaviour/dispersal powers). Also changes S17 requirements to tackle drugs and asb as a matter of course as well as tackling crime and disorder.

Violent Crime Reduction Act '06 which is predominantly alcohol-related violence and disorder covering drinking banning orders, alcohol disorder zone, licensing reviews, selling alcohol to children, door supervision at premises, alcohol related disorder in public places

This is not a comprehensive list of the legislation since 2003 and may need further amendments but I believe that these are the three most important changes.

Think we may need to refer to the **Criminal Justice and Police Act '01** (unless this has been amended by the Licensing Act '03)

MPAC is mentioned again and this must be changed to Safer Merton and the web address is incorrect as Safer Merton has its own website at www.safermerton.org.uk

P9 – 4.2.2 2nd Bullet Point - what are these and where can the rational for them be found?

P9 – 4.2.2 3rd Bullet Point – what unlicensed activities not sure this is covered in the legislation regarding Crime and Disorder

P9 – 4.2.2 4th Bullet Point – the Police powers and role should be referred to here

P9 – 4.2.2 5th Bullet Point – really – how – how will this feed into strategic assessments where are the linkages – MAF would be good to refer to at this point too

P10 – 4.2.3 - If you are going to cross refer to the Met's drug strategy then you are going to have to cross refer to the national drugs strategy and Merton own drugs strategy

P10 – 4.2.4 - CCTV should also be cross-referred to in this section

P11 – 4.2.5 – needs more clarity

P11 – 4.2.6 – shouldn't this refer to the LAA and community plan too?

P12 – 4.2.7 final para – why is this section under transport?

P13 – 5 – the **Disability Discrimination Act '95** came into law in 2004 and needs to be added would also suggest adding in the **Human Rights Act '98**

P13 – 6 – not clear

P14 – 7 – what impact does crime, disorder, drugs, ASB have on this how are Safer Merton and the Police used? What data is provided going back and forth?

P15 – 7.6 Wimbledon Town Centre – this area is a controlled drinking zone (CDZ) this is not referred to in any way

P16 – 7.7 a map might be better with the CDZ on it too showing the linkages or rational either that or leave it out as it doesn't add to the document in any way

P18 – 8 Crime and Disorder – suggested wording

8.1 *add* the Police and Justice Act '06 expanded the S17 elements of the Crime and Disorder Act '98 to make it a responsibility (of all Council departments, among others) to take reasonable steps to prevent crime, disorder, illegal use of drugs and anti-social behaviour.

8.2 *remove no relevance*

8.3 *remove may* (4th word from the end of the 1st sentence) *and replace with will*

Bullet Point 1 – crime, disorder, illegal use of drugs and anti-social behaviour in and around the venue

Bullet Point last – for new applications, the extent to which the layout has been designed to minimise crime, disorder, illegal use of drugs and anti-social behaviour (such as the use of Polly Glass)

Additional BP – any steps taken to reduce risk of spiking drinks

Probably needs to have elements of the **Anti-Social Behaviour Act '03, Police and Justice Act '06** and the **Violent Crime Reduction Act '06** added in here or at least a reference to them for example:

The Licensing Policy will comply with any new and additional crime and disorder legislation pertaining to its work such as that listed in the Anti-Social Behaviour Act '03, Police and Justice Act '06 and the Violent Crime Reduction Act '06.

P20 - 8.7 – this does not cover what Safer Merton and the Police do fully enough (it may be best to refer to other sources for this information). For example:

Safer Merton and the Police work together with Licensing and other partners in order to reduce crime, disorder, illegal drug use and anti-social behaviour. There are various piece of legislation and actions under the Crime and Disorder banner that effect Licensing (such as the Anti-Social Behaviour Act '03, Police and Justice Act '06 and the Violent Crime Reduction Act '06) these will be incorporated into the policy via amendments signed off (temporarily) by the Portfolio holder for Licensing and Community Safety (with delegated responsibility from full Council lasting until the next review).

For further information on Safer Mertons, and the Polices, work in this area please go to their regularly updated web sites www.safermerton.org.uk and <http://cms.met.police.uk/met/boroughs/merton/index> or phone the teams on 020 8545 4146 (Safer Merton) or 020 8947 1212 (Wimbledon Police Station).

Addition needed:

Controlled Drinking Zones (CDZ) – there is a need for the process for CDZ's to be simplified and this will be done in conjunction with the Licensing team and with

delegated responsibility for the agreement of CDZ given to the Portfolio holder for Licensing and Community Safety in conjunction with the Ward members and Police.

P22 – 11 – prevention of harm to children – has CSF seen this? I thought the terminology used was children and young people

P23 – 11.1.5 bullet point 2 – this is illegal and not just in conjunction with children and young people

P23 – 11.1.5 bullet point 4 – you might want to define this as a lot of 'sexual activity' on premises is illegal

P28 – 14.2.1 – also those that contravene the RRA and DDA by inciting racial/religious hatred or disphobic crimes

P29 – 15.5 – is it the licensees responsibility to let the responsible authorities know or the licensing authority?

P29 – 15.7 – shouldn't there be a reference to the Police and Fire Authority in this section?

P30 – 16.1 – bullet point 2 – where is this information from as I had never heard of it before

P30 – 16.4 – add and crime, disorder, illegal drug use and anti-social behaviour to the end of this sentence

P32 - 17.3 – add in **Anti-Social Behaviour Act '03, Police and Justice Act '06** and the **Violent Crime Reduction Act '06** – and the Equalities ones mentioned earlier in the document?

P35 – 21.1 – what are the routes for people to make complaint – can they go through their ward panels and SNT's? Does it have to be in writing?

P35 – 21.5 the way this is written it would appear that no complaint will be taken seriously that the starting point is that all complaints are frivolous, vexatious or repetitious – it may be worth rewriting this.

Appendix 1 other crime and disorder initiatives could and should be cross referred in here

NB ASBO's can be taken out against licensees (and have been) this work should be referenced in the document.

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LONDON BOROUGH OF MERTON

STATEMENT OF LICENSING POLICY (FIRST REVIEW)

Putting You First



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1. The Licensing Act 2003 – Policy and Scope

- 1.1 The Licensing Act 2003 (“the Act”) gained royal assent on 10 July 2003 and repealed most of the existing legislation relating to liquor, entertainment and night cafe licensing (late night refreshment) and replaced it with a totally new licensing regime. Responsibility for liquor licensing was transferred from the Magistrates Court to Local Authorities. All licence applications are published on Merton’s web site (www.merton.gov.uk).
- 1.2 Under the Act, Local Authorities became licensing authorities for the purposes of liquor licensing, entertainment and late night refreshment.
- 1.3 Merton Council became the licensing authority within the London Borough of Merton under the provisions of the Licensing Act 2003. 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. Predominantly a residential area, the borough comprises of properties, which are both wide ranging in character and are often of a high quality. The Council’s strategic objectives include improving the quality of life for residents and businesses. 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 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 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, registered clubs etc). In addition, the licensing authority is responsible for the grant of personal licences to those 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. Parking by customers of licensed premises may also take place in residential streets.
- 1.6 ~~The busiest of these areas is Wimbledon town centre and Wimbledon Village which has the highest density of leisure and entertainment venues. 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.~~

1.7 The Act requires Merton to carry out its various licensing functions so as to promote the following licensing objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

1.8 Under the Act Merton is required to publish a Licensing Policy with respect to the exercise of its licensing functions. Merton's first Statement of Licensing Policy was prepared in accordance with the provisions of the Act and with regard to the Guidance issued under Section 182 of the Act, and was adopted by the Council on 05 January 2005. In accordance with the Act, this document is the first review of Merton's Statement of Licensing Policy.

1.9 The legislation is a recognition that in a modern and vibrant society the activities this Act covers require a more responsive and flexible system. One of the purposes of this Policy will 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 while on, arriving at or leaving licensed premises. 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, such as increasing the leisure industry provision for the community and encouraging regeneration of town centres, as well as controlling the negative impacts which affects 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 available under the Licensing Act 2003 are:

- premises licences,
- club premises certificates,
- temporary events notices
- personal licences in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.

3. The Policy

3.1 The Act requires that Merton carry out its various licensing functions so as to promote the following four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

3.2 This licensing policy serves 4 main purposes that are:

- To reinforce to elected Members on the Licensing Sub-Committee and Officers with delegated authority, the boundaries and power of the licensing authority, and to provide them with parameters under which to make their decisions. The committee should be able to test the application against criteria set out in the policy and if necessary add conditions to those set out in the operating schedule.
- To inform the licence applicants of the parameters under which the licensing authority will make licence decisions, and therefore how a licensed premises is likely to be able to operate within an area.
- To inform authorised persons, interested parties and responsible authorities of the parameters under which the licensing authority will make licence decisions, and therefore how their needs will be addressed.
- To inform a court of law how the Licensing authority arrived at its decisions when these are challenged in a court, and to support these decisions.

3.3 The scope of the 2003 Act covers:

- Retail sale of alcohol
- The supply of alcohol by or on behalf of a club, or the order of a member of a club
- The provision of regulated entertainment
- The provision of late night refreshment
- Personal licences in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and 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 performance of live music
- Any playing of recorded music
- A performance of dance

- Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance

3.5 Main Principles

The following are the main principles underpinning this policy:

- Nothing in this policy will undermine any person from applying for a variety of permissions under this Act.
- Each application will be judged on its individual merits, having regard to this policy and national Guidance issued under s.182 of the Licensing Act 2003.
- Nothing in this policy overrides the right of any person to make representations on any application or seek a review of a licence or certificate.
- That appropriate weight will be given to all relevant representations unless they are frivolous, vexatious or repetitious.
- Licensing is concerned with regulating licensable activities, so conditions will focus on matters within the control of operators, centering on premises and their vicinity.
- For the purposes of this Policy Statement, 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.
- The legislation relating to licensing is not the primary mechanism for the general control of anti social behaviour by individuals once they are away from the premises and beyond the direct control of the licence holder. Nonetheless, it is a key aspect of such control and licensing law will always be part of the holistic approach to the management of the evening and night-time economy in Merton.
- Conditions will be tailored to the individual style and characteristics of the premises and events, and standardised conditions will be avoided, although selection may be made from pools of conditions suggested in other publications. A list of such publications is set out in Appendix 1. For the purposes of the imposition of conditions, the principal source is Annexes D to G of the national Guidance issued under section 182 of the Licensing Act 2003.

- 3.6 This policy will be reviewed at regular intervals and, in accordance with the legislation, no later than three years after the 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 Chief Officer of Police for the area
- The Fire Authority (LFEPA Croydon)
- Person/bodies representative of local holders of premises licences
- Person/bodies representative of club premises certificates
- Person/bodies representative of local holders of personal licences
- Person/bodies representative of businesses and residents in the area

3.8 The following organisations or individuals will also be consulted:

- ~~Merton Partnership Against Crime Safer Merton~~
- British Transport Police
- Local Accident & Emergency Hospital Departments
- The Musician's Union & Equity
- Local Childrens Safeguarding Board
- The Area Forums
- Neighbouring Local Authorities
- All Councillors
- Merton and Sutton Primary Care Trust

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

3.10 In agreeing this policy proper 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 places obligations on employers and operators in respect of employees and or members of the public e.g. the Health & Safety Act 1974, The Environmental Protection Act 1990, Disability Discrimination legislation, Anti-Social Behaviour Act 2003 and Fire Safety legislation.

3.11.2 Conditions will only be attached to licences if they are necessary for the promotion of the licensing objectives. If a necessary condition is not already provided for in other legislation, it will generally be considered necessary in

the context of licensing law. However, the fact that a matter is covered by other legislation does not necessarily mean that a condition will not be necessary for the purposes of licensing. It may be that current legislation or regulation might not cover particular circumstances that arise out of the type of activity at specific premises. In those situations it may be necessary for conditions to be attached that reflect those particular circumstances. However, Merton will not simply duplicate a condition which is already provided for under other legislation.

4. Integrating Strategies

4.1. There are many organisations including this Authority whose policies and strategies impact or involve the licensing objectives eg. Prevention of crime and nuisance.

4.2. Many of their strategies deal in part with the licensing function, and Merton will liaise with such groups to ensure proper integration of local crime prevention, planning, transport, tourism, economic development and cultural strategies and alcohol harm reduction, where necessary. Examples of these strategies are as follows:-

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
- when relevant representations are made, the licensing authority may attach conditions which are in part, or as a whole, suggested by the “Code of Good Conduct”.

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

The [Merton Partnership Against Crime \(MPAC\) – Safer Merton](#) group has agreed seven key objectives for the Merton Crime and Disorder Strategy (available [on Merton’s web site www.merton.gov.uk](#) 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.
- 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 extended police family 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 will integrate and be compatible with the SIA strategy by requiring such persons to be SIA licensed.

4.2.5 Test Purchases

A Code of Best Practice concerning test purchases has been compiled by the Local Authorities Co-ordinators of Regulatory Services (LACORS). 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 where appropriate.

4.2.6 Merton's Business Plan is organized around six key themes. The ambition for each of these themes is outlined below:

- Sustainable Communities

Our aim is to improve the quality of life for our residents and businesses. They will benefit from a cleaner and more attractive physical environment and improved access to high quality housing, transport systems, learning opportunities and jobs. In particular, those living and working in the east of the borough will benefit from the implementation of the LAA, our neighbourhood renewal programme, and the regeneration of Mitcham town centre.

- Safer and Stronger Communities

We will maintain our current position as a low crime borough and our residents will see Merton as a safe place to live, work and learn. Relationships between Merton's many diverse communities will be positive, and citizens of the borough will actively contribute to the development and delivery of council services.

- Healthier Communities

We will have a well developed and defined role in the promotion of healthier communities, with a special focus on reducing the health inequalities between the eastern and western wards.

- Older People

We will engage constructively with older people about their needs and aspirations as part of a broad approach that addresses the traditional areas of health, care and independence. We will also focus on a more holistic notion of age that involves a full expression of citizenship and

active ageing.

- Children and Young People

We will work with our partners to improve the lives of children, young people and their families. We are determined to significantly improve the quality, accessibility and coherence of services so that every child and young person can fulfill their potential and those facing particular obstacles are supported to overcome them.

- Corporate capacity

Our residents and customers will receive excellent, value for money services. We will improve customer access to our services, set high standards of customer care and take advantage of new technology. We will manage our resources to provide value for money, high standards of governance, financial control and budget management. We will recruit and develop our workforce so that it is equipped and motivated to deliver effective services.

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. Merton in promoting the four Licensing Objectives may also take into account the Council's policy on neighbourhood renewal. Examples of how this will be achieved are:

- attaching conditions to licences which are appropriate and necessary
- reviewing the Policy and reflecting changes in Council and central Government strategies concerning renewal

4.2.7 Transport Strategy

To support the vision of London as an exemplary sustainable world city, the Greater London Authority Transport Strategy seeks to increase the capacity, reliability, efficiency, quality and integration of the transport system to provide the world class transport system the capital needs. Three of the ten key transport priorities, which flow from this, are:

- reducing traffic congestion;
- overcoming the backlog of investment on the Underground so as to safely increase capacity, reduce overcrowding, and increase both reliability and frequency of services;
- making radical improvements to bus services across London, including increasing the bus system's capacity, improving reliability and increasing the frequency of services.

This will integrate with the licensing authority's policy in promoting the Crime and Disorder and Prevention of Public Nuisance Objectives. If relevant representations are made Merton will consider whether the transport

provision existing at the date of its decision is inadequate and so may cause nuisance or affect the promotion of any of the licensing objectives.

4.2.8 Prohibition of Smoking in Enclosed Public Buildings

The Health Act 2006 prohibits smoking in enclosed licensed premises and certified clubs. These new restrictions are the responsibility of the Council's Commercial & Trading Standards Section and are not enforceable through this Policy or the Licensing Act 2003. The prohibition of smoking in enclosed licensed premises will not necessarily be used by the Licensing Committee as a reason for the lifting of any relevant restrictions or conditions.

Information on this subject is available from the Commercial & Trading Standards Team or on Merton's web site (www.merton.gov.uk).

5. Promotion of Racial and Gender Equality

5.1. The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000 and the Sex Discrimination Act 1975, ~~as as~~ amended by the Equality Act 2006 and the Disability Discrimination Act 1995, places a legal obligation on this Council to have due regard to the need to eliminate unlawful discrimination, ~~to promote equality of opportunity, good relations between persons of different racial groups and to promote gender equality.~~

5.2. This statement of Licensing Policy will be taken into account with regards to Merton Council's Race Equalities Scheme.

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, particularly for to include children. 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, Merton will carefully balance the cultural needs with the necessity of promoting 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 will be applying to the Licensing Authority for premises licences for all properties and sites owned by the Council. The effect of this will mean that those individuals or organisations who may wish to use such venues will be relieved of the necessity to apply for licences. Further information can be found at www.merton.gov.uk.
- 6.5. Merton will monitor the impact of licensing on regulated entertainment, particularly music and dancing, to ensure that unnecessary restrictions are not being placed on the development of entertainment activities in the borough. Where there is evidence of such a negative impact, Merton will have regard to this in reviewing the Licensing Policy Statement.

7. Cumulative Impact

- 7.1 The Council will not take 'need' into account when considering an application for a licence, as this is a matter for the market. The numbers of licensed or potentially licensed premises in a particular area will only become a consideration in the context of Cumulative Impact where it is considered that the area is at or reaching saturation.
- 7.2. However, 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 vicinity 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 interested parties 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 away from 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 Licensing Policy Statement, 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;
- 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.

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 consultation responses received from residents and Residents Associations that many people experience regular disturbance and nuisance as a result of the proximity of a large number of licensed premises. The Police again support 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.

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:

- 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;
- Worples Road from Wimbledon Hill Road to its junction with Raymond Road and Francis Grove; and
- Centre Court Shopping Precinct.

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 Sunnyside including 120 Wimbledon Hill Road (120 Wimbledon Hill Road has frontage on the Ridgway).

7.8 The Council considers that it is appropriate and necessary to continue a special policy within the designated cumulative impact zones. 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 the applicants to show in their operating schedules that their proposals will not add to the cumulative impact already being experienced. Responsible authorities and/or interested parties will need to see the steps proposed by an applicant in order to decide whether to write representations. The presumption will be that where proposed operations are material to the policy they will normally be refused, however, the process allows applicants to rebut the presumption in their applications, and to make the case before a licensing sub-committee. Where an application is material to 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 interested parties of the need to make a relevant representation, as the special policy can only lawfully be invoked by a licensing sub-committee, which has been convened in response to valid representations that refer to that special policy. If no representation were received it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted.

Responsible authorities, such as the Police, or interested parties, can make a written representation maintaining that it is necessary to refuse the application in order to meet the licensing objectives. In doing so they should refer to the special policy and any information, which had been before the licensing authority when it developed its Statement of Licensing policy.

Responsible authorities, where they have promoted or provided the evidence to support a special policy, should consider carefully any implications that maybe drawn from their not making a representation.

7.10 This special policy is not absolute. The circumstances of each application will be considered properly and it is possible for licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives to be granted. As a consequence of the presumption that underpins the special policy such cases are likely to be exceptional. 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 will announce its reasons for any decision to refuse an application.

- 7.11 This special policy cannot be used as a ground for revoking an existing licence or certificate when relevant representations are received about problems with those premises. The special policy can also not be used to justify rejecting applications to vary an existing licence or a certificate except where refusal of those modifications are directly relevant to the policy and are strictly necessary for the promotion of the licensing objectives, ~~which is to say, that the modifications matter to the policy.~~
- 7.12 The special policy relating to cumulative impact does not include provisions for a terminal hour in a particular area. The Council acknowledges that it would be wrong not to apply the special policy to applications that include provisions to open no later than, for example, midnight, but to apply the policy to any other premises that propose opening later. The effect would be to impose a fixed closing time akin to that under the “permitted hours” provisions of the Licensing Act 1964. The Council recognises that terminal hours were abolished by statute to avoid the serious problems that arise when customers exit licensed premises simultaneously. The Council does not intend to attempt to fix a terminal hour in any area so as directly to undermine a key purpose of the 2003 Act.
- 7.13 This special policy does not impose quotas – based on either the number of premises or the capacity of those premises – that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas. 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 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.
- 7.15 This special policy will be reviewed regularly to assess whether it is needed any longer or whether it needs expanding.

8. 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 it reasonably can to prevent crime and disorder in the borough. As previously stated the prevention of crime and disorder is also one of the four licensing objectives that this Licensing Authority is to promote.
- 8.2 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.
- 8.3 In deciding licence applications where relevant representations are 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;
 - the measures proposed to prevent violence on the premises, including the threat of violence to staff;
 - 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;
 - 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 Merton will expect Operating Schedules 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 Officer and the Metropolitan Police, as well as taking into account, as appropriate, local planning & transport policies, tourism, cultural and crime prevention strategies, when preparing their plans and Schedules. In general, conditions will, so far as possible, reflect local crime prevention strategies.
- 8.6 Merton, where appropriate and necessary, will consider attaching conditions to licences and permissions to deter and prevent crime and disorder both inside and within the vicinity of the premises and these may include the conditions that are in appendix 1 of this statement.
- 8.7 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 parts of the Borough as places where alcohol may not be consumed publicly
 - 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 disorder, or likelihood of disorder or excessive noise from the premises
 - the power of the police, other responsible authority or a local resident or business to seek a review of the licence or certificate
 - Similar liaison is also available via Safer Merton (which replaced the 'Merton Partnership Against Crime group') who are the co-ordinating body in respect of the Merton Crime and Disorder Strategy

9. Public Safety

- 9.1 The Act covers a wide range of premises that require licensing, 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.
- 9.3 The Council will expect Operating Schedules 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 and Health & Safety (both the Executive and the Council's department) before preparing and submitting their plans and Schedules.
- 9.4 Merton, where appropriate and necessary, will consider attaching conditions to licences to promote safety, and these may include the conditions that are in Appendix 1 of this statement.

10. Prevention of Nuisance

- 10.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 10.2 The concerns mainly relate to noise nuisance, light pollution and noxious smell. Merton will expect Operating Schedules to address these issues. Applicants are advised to seek advice from the Environmental Health Department (Housing & Pollution) before preparing their plans and Schedules.
- 10.3 The Council in its capacity as a licensing authority is concerned to ensure the necessary protection of residents, members of the public and businesses in the vicinity of licensed premises, whose living, working and sleeping can be adversely affected by nuisance. The applicant must demonstrate within their operating schedule how they intend to promote the licensing objective relating to the prevention of nuisance.
- 10.4 Merton, where appropriate and necessary, will consider attaching conditions to licences to promote avoidance of nuisance, and these may include Conditions as attached at appendix 1.
- 10.5 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
- Queueing, 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
- any other relevant activity likely to give rise to nuisance

11. Prevention of Harm to Children

11.1 Access to Licensed Premises

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

11.1.2 The Act creates 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 5 am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and those pubs where the main activity is the consumption of both food and drink.

- 11.1.3 Subject to the provisions of the Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. Merton will not attach conditions requiring the admission of children.
- 11.1.4 Merton 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 shall 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
 - 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 Merton may consider attaching as conditions for limiting the access of children where it is necessary 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)

- 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 Merton recognises that the Safeguarding Children Board as being competent to advise on matters relating to the protection of children from harm and is a “responsible authority” that can make relevant representations. As a responsible authority, the applicant is required to copy details of their applications to this Board when an application is made.

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 Merton have been classified by the 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 Act 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, Merton 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
- age restrictions of children or young persons if unaccompanied by a responsible adult

11.3.3 Merton will expect, where relevant, that submitted Operating Schedules will address the licensing objective relating to the protection of children and public safety.

11.3.4 Merton will consider attaching Conditions to licences and permissions to promote these licensing objectives and these may include the conditions that are in appendix 1 of this statement.

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

11.3.6 The body competent to advise Merton regarding the child protection objective is the Safeguarding Children Board, which may be contacted at Childrens Services, London Borough of Merton.

12. Tourism, Employment, Planning & Building Control

12.1 Planning, Building Control and the Licensing functions will be properly separated in accordance with statutory requirements to avoid duplication and inefficiency.

12.2 It should also be noted that under the Act, the local Planning Authority is one of the “responsible authorities” that must be notified of licensing applications and are entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence.

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

12.4 However, some regulations do not cover the unique circumstances of some entertainment. Merton will consider, where appropriate and necessary, attaching conditions to premises licences and club premises certificates where these are necessary for the promotion of the licensing objectives and are not already provided for in any other legislation in respect of that particular premises.

13. Licensing Hours

13.1 The Government considers that longer licensing hours for the sale of alcohol may avoid large numbers of people leaving premises at the same time. This in turn, could reduce potential friction at late night fast food outlets, taxi ranks, minicab offices and other sources of transport that can lead to disorder and disturbance.

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 Merton recognises that hours of trading are a critical factor in assessing adverse and beneficial impacts in its area. Whilst the Borough does not have in general a problem with large numbers of customers leaving licensed premises at the same time, there is a problem with noise and anti social behaviour which affects local residents. Residents can tolerate an element of noise disturbance in the earlier part of the night when ambient noise levels are high but find it increasingly intolerable as ambient levels fall and later at night when they expect to sleep. Noise can come from within premises, a potentially controllable source, and from revellers in the street.

13.4 All applications will be considered on their merits. In considering whether to impose licensing hours conditions and their terms to promote the licensing objectives Merton will consider the following matters:

- whether the licensed activity may result in a reduction or an increase in crime and anti-social behaviour in the area;
- whether the licensed activity would not be likely to cause adverse effect on the safety and amenity of local residents, or, if there is any potential to cause adverse effect, whether any and if so what measures will be put in place to prevent it;
- whether there will not be an increase in any cumulative adverse effect from the activity on local residents in the vicinity;

- whether there is a high 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 which will not themselves add to adverse impact on local residents in the vicinity.

13.5 Merton 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 Merton 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
- Noise caused by delivery vehicles, waste vehicles and operatives collecting empty bottles and other waste products

Shops, Stores and Supermarkets

Merton will generally consider that shops, stores and supermarkets will sell alcohol for consumption off the premises at any time when they are open for shopping, unless there are good reasons for restricting those hours e.g. police representations relating to crime and disorder; representations relating to public nuisance.

13.7 If there is more than one business trading from the same premises (e.g. hypermarkets, malls etc) which require separate premises licences, Merton where necessary 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, Merton 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 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, S21(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.

14.2 Prohibited conditions

14.2.1 Under section 22, in the case of any premises licence authorising the performance of a play, Merton 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 necessary for the promotion of one or more of the four licensing objectives. Standard conditions will be avoided. The pool of conditions from which this Licensing Authority may draw necessary and proportionate conditions in particular circumstances can be found with reference to the documents referred to in Appendix 1 to this policy.

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 must be in a prescribed form to this Licensing Authority and be copied to each of the responsible authorities (see Section 13 of the 2003 Act) and it must be accompanied by:
- The required fee
 - An operating schedule (see below)
 - A plan of the premises in a prescribed form to which the application relates; 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
 - ~~Copies of appropriate certificates of training~~
- 15.4 If the application form is not completed correctly the application will be returned to the applicant ~~immediately~~.
- 15.5 Further, Merton 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 Merton ~~will expect~~ recommends that applicants for premises licences 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 Merton will have 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, and 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 the Licensing Team, 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 ~~rare~~ situations where relevant representations have been received to cause Merton's confidence in the management of the premises to be questioned
- The history of the premises
- Any other relevant factor
- 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 Merton (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.
- 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 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 who will be responsible on a day-to-day basis for conducting business in the premises in a manner consistent with the terms and conditions of the licence, in accordance with the Act and with the promotion of the licensing objectives
- 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
- Such other matters as may be prescribed

16.3 Applicants are reminded that the 2003 Act 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 licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required by the Act.

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 schedule are realistic and within the control of the applicant and management of the premises. If a licence is granted with conditions attached requiring the implementation of such steps, a failure to comply with the condition is 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– 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
- ~~Environmental Health Department~~ Health & Safety Team of the London Borough of Merton – public safety
- 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 long-established enforcement Policy, based around the principles of consistency, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat and which also takes into account the Attorney General's Guidelines to Crown Prosecutors for bringing prosecutions. A leaflet concerning the enforcement concordat can be obtained from www.cabinet-office.gov.uk/regulation.
- 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. The 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 Merton will work closely with the Metropolitan Police to establish protocols on enforcement issues to ensure an efficient deployment of Police and Council Officers engaged in enforcing licensing law and inspecting licensed premises. This protocol 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 2003 Act 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; and,
 - 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; or
 - 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 are strongly encouraged to first discuss their intended application with the Police and the Licensing Team before making an application.
- 18.3 A personal licence is valid for 10 years. A designated premises supervisor must hold a personal licence.
- 18.4 Further information about personal licences can be found on Merton's Web-site (www.merton.gov.uk) in Merton's Public Libraries or by contacting the Licensing Section of Merton Council.

19. Temporary Event Notices

- 19.1 This [section](#) deals with temporary permitted [regulated](#) activities carried on in accordance with a statutory notice.
- 19.2 An individual who wants to use premises for one or more licensable activities in a period not exceeding 96 hours has to give a Temporary Event Notice to Merton.

19.3 This notice must be in the form prescribed by regulations and must give:

- details of the proposed activities,
- the time they will take place and
- whether there will be alcohol sold on or off the premises.

The Notice must also state the maximum number of persons permitted on the premises, which must be less than 500. There also has to be at least 24 hours between the end of one event period and the start of another.

19.4 The Temporary Event Notice has to be sent in duplicate to Merton and a copy has to be sent to the Chief Officer of Police [at Wimbledon Police Station](#) no less than 10 working days before the event period begins. The Police then have 48 hours to lodge an objection. The grounds for an objection must concern the crime prevention objective. No other person or body can lodge an objection.

19.5 Notwithstanding that the law states that a minimum of ten working days notice must be given, it is recommended that [wherever possible](#) applicants give Merton and the Metropolitan Police at least three months' notice of the events, to allow them to help organisers plan their events safely.

19.6 Organisers of temporary events are strongly advised to contact the Licensing Team at the Council and the Police for advice at the earliest opportunity when planning events, to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.

19.7 If the police raise an objection there must be a hearing unless both parties agree it is unnecessary and if Merton is in agreement with the police, it may serve a Counter Notice at least 24 hours before the event is to start.

19.8 There are limits on the number of Temporary Event Notices in any one year. The limit for a Personal Licence Holder is 50 and a non personal holder is 5. Further, no more than 12 Notices may be served in respect of a premises for events during a single calendar year, and premises may not be used for temporary events on more than 15 days in that year. If the limits are exceeded, Merton will give the premises a Counter Notice prohibiting licensable activities being held at the event.

19.9 Police and Council Officers have a right of entry at reasonable times but only to assess the effect of the event on the crime prevention objective.

19.10 Further information on temporary event notices can be found on the Merton web site (www.merton.gov.uk), in leaflets and in the guidance.

20. Registered Clubs

20.1 Part 4 of the 2003 Act deals with registered clubs.

20.2 Merton 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.

- Two day wait before becoming a member
- Club having at least 25 members

There are also requirements about 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, in leaflets at public libraries and in the guidance issued by the Government.

21. Dealing with complaints about premises

21.1 ~~Where a~~After the grant of a premises licence, responsible authorities (e.g. police, fire brigade, environmental health) and interested parties (e.g. residents living in the vicinity) may wish to make complaints about problems associated with crime and disorder, public safety, public nuisance or the protection of children.

21.2 The Act provides for a process whereby responsible authorities and/or interested parties can make an application for a review of the licence and provide their written representations.

21.3 Written representations may be ~~amplified~~ expanded upon at a subsequent hearing or may stand in their own right. 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 concise 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 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 On receiving the representations from interested parties complaints will be looked at to decide if they are frivolous or vexatious or repetitious. 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, Merton will have regard to whether operation of the premises has begun or changed since the previous representation was made.
- 21.6 On receiving applications for a review from responsible authorities and/or interested parties (that are relevant), Merton must arrange a hearing before councillors.
- 21.7 In circumstances where there are complaints by interested parties, Merton 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 interested party to seek a review of a licence or certificate.
- 21.8 In the first instance, interested parties 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.
- 21.9 Merton will take a particularly serious view where the grounds for review are substantiated and relate to:
- use of licensed premises for the sale and distribution of drugs and the laundering of the proceeds of drugs crimes
 - use of licensed premises for the sale and distribution of illegal firearms
 - evasion of copyright in respect of pirated films and music
 - underage purchase and consumption of alcohol
 - use of licensed premises for prostitution or the sale of unlawful pornography
 - use of licensed premises for unlawful gaming
 - use of licensed premises as a base for organised criminal activity

- use of licensed premises for the organisation of racist, homophobic or, sexual abuse or attacks
- use of licensed premises for the sale of smuggled tobacco or goods
- use of licensed premises for the sale of stolen goods
- Police are frequently called to attend to incidents of disorder
- prolonged and/or repeated instances of public nuisance
- serious risks to public safety and the management is unable or unwilling to address these matters
- serious risks to children

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

21.10 Where the Council considers that action under its statutory powers is necessary it may take any of the following steps:

- to modify the conditions of the premises licence
- to exclude a licensable activity from the scope of the licence
- to remove the designated premises supervisor
- to suspend the licence for not more than 3 months
- to issue a warning, formal caution
- to prosecute
- to revoke the licence.

22. Administration, Exercise and Delegation of Functions

22.1 A scheme of delegations will be agreed by the Licensing Committee and published with this policy.

22.2 The Licensing Committee will 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 Web-site - www.merton.gov.uk.

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 - Pool of Conditions

Conditions may only be imposed on licences and certificates where they are necessary for the promotion of one or more of the four licensing objectives.

The pool of conditions from which this Licensing Authority may draw necessary and proportionate conditions in particular circumstances can be found with reference to the following documents:

- Code of Guidance issued under section 182 of the 2003 Act (www.dcms.gov.uk)
- Model National and Standard Conditions for the Places of Public Entertainment and Associated Guidance ISBN 1 904031 110 (Entertainment Technology Press-ABTT Publications) (www.abtt.org.uk)
- Alcohol Harm Reduction Strategy (www.strategy.gov.uk)
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 07176 2453 6 (www.hse.gov.uk)
- The Guide to Safety at Sports Grounds (The Stationery Office 1997) (“The Green Guide”) ISBN 011300095 2 (www.hse.gov.uk/lau/lacs)

- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts
- Network. (www.streetartsnetwork.org/pages/publications)
- The London District Surveyors Association's "Technical Standards for Places of Public Entertainment" ISBN 0 9531229 2 1 (www.londonbuildingcontrol.org.uk)
- The Portman Group Code of Practice on the Naming Packaging and Promotion of Alcoholic Drinks. (www.portman-group.org.uk)
- The Portman Group PASS Accreditation system - proof of age (www.portman-group.org.uk)
- Safer Clubbing and the "Updated Drug Strategy" (www.drugs.gov.uk)
- Health & Safety Executive (HSE) (www.hse.gov.uk)

The conditions are a pool from which this Licensing Authority can choose appropriate ones to suit the specific needs of an individual premises operation. They are not an exhaustive list and conditions not listed in the pool may be specifically tailored by the Licensing authority and attached to licences as appropriate.

In addition to the possible conditions described above the following are conditions that this Licensing Authority may also attach where it is necessary or 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

Appendix 2 – Maps showing Cumulative Impact Zone Boundaries

