

Merton Council

Licensing Committee

Membership

Agatha Mary Akyigyina OBE (Chair)

David Simpson CBE (Vice-Chair)

Stan Anderson

Pauline Cowper

Nick Draper

Nigel Benbow

Billy Christie

Janice Howard

Paul Kohler

Rebecca Lanning

Nick McLean

Aidan Mundy

A meeting of the Licensing Committee will be held on:

Date: 10 October 2018

Time: 7.15 pm

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

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

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

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

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Licensing Committee

10 October 2018

1	Apologies for absence	
2	Declarations of Pecuniary Interest	
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4	Designation of Licensed Streets	5 - 30
5	Update of the Council's Statement of Principles under the Gambling Act 2005 (Post Public Consultation)	31 - 74

Licensing Committee (Miscellaneous matters)

Note on declarations of interest

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

Agenda Item 3

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

LICENSING COMMITTEE

12 JUNE 2018

(7.15 pm - 7.58 pm)

PRESENT Councillors Councillor Agatha Mary Akyigyina (in the Chair), Councillor David Simpson, Councillor Pauline Cowper, Councillor Nick Draper, Councillor Nigel Benbow, Councillor Billy Christie, Councillor Janice Howard, Councillor Paul Kohler, Councillor Rebecca Lanning, Councillor Nick McLean and Councillor Aidan Mundy

ALSO PRESENT Barry Croft – Licensing Manager
David Ryan – Technical Officer (Street Trading)
Amy Dumitrescu – Democratic Services Officer

1 APOLOGIES FOR ABSENCE (Agenda Item 1)

Apologies for absence were received from Councillor Stan Anderson.

2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of interest.

3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

The minutes of the meeting of 11 October 2017 were agreed as a correct record.

4 DESIGNATION OF LICENSED STREETS (Agenda Item 4)

The Technical Officer – Street Trading presented the report on the designation of parts of the highway for the purposes of Street Trading. The report concerned five applications for the following:

- 1) An area of 9m x 1.6m outside Kentucky Fried Chicken 81 - 83 The Broadway Wimbledon SW19
- 2) An area of 7.1m x 1.1m outside Smash 82 The Broadway Wimbledon SW19 1RH.
- 3) An area of 3.8m x 1m outside Joe & The Juice 78 High Street Wimbledon SW19 5EG.
- 4) An area of 4.7m x 1.4m outside Latif Halal Meat 4 Morden Court Parade SM4 5HJ.

- 5) An area of 3m x 3m on Eastfields Road Mitcham sited between the end of the parking bays outside 93 Eastfields Road and Mitcham Eastfields Station.

The Technical Officer gave an overview of the applications and advised that there was some additional information to provide since the report had been published. The Technical officer advised that in relation to KFC he had been monitoring the area in regards to concerns about moped drivers outside the premises and that the number of mopeds had increased however they had been advised to park opposite the premises and a number of them were now adhering to this. The Technical Officer noted that the recommendation is based on the use of the area itself and there were no concerns from officers about the recommendation. In response to member questions, the Technical Officer responded that KFC had been asked to take a more hands-on approach to managing the site and ensuring delivery drivers were not encouraged to use the seating area as it was meant for customer use.

In regards to the area outside Latif Halal Meat, the Technical Officer advised that despite numerous requests for a response from Transport for London, no such response had been received and therefore their consent was presumed for this application.

In response to member questions regarding the Eastfields Road application, the Technical Officer advised that the application was for 6am-10am and would be on the widest section of the pavement.

The Technical Officer advised members to inform him of any concerns regarding street trading licences including adhering to licensed hours so sites could be monitored.

RESOLVED

That the Committee designated the proposed areas:

- 1) An area of 9m x 1.6m outside Kentucky Fried Chicken 81 - 83 The Broadway Wimbledon SW19
- 2) An area of 7.1m x 1.1m outside Smash 82 The Broadway Wimbledon SW19 1RH.
- 3) An area of 3.8m x 1m outside Joe & The Juice 78 High Street Wimbledon SW19 5EG.
- 4) An area of 4.7m x 1.4m outside Latif Halal Meat 4 Morden Court Parade SM4 5HJ.

- 5) An area of 3m x 3m on Eastfields Road Mitcham sited between the end of the parking bays outside 93 Eastfields Road and Mitcham Eastfields Station.

5 COUNCIL'S REVISED STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005 (Agenda Item 5)

The Licensing Manager presented the report, advising that the Council was required to review and republish the Statement of Principles under the Gambling Act 2005 every 3 years, with the current statement expiring on 31/01/2019. The Licensing Manager gave an overview of the proposed timetable for public consultation and for Committee approval and agreement by Full Council, advising that the Responsible Authorities, Interested persons and residents groups would be informed that the statement was open for consultation and it would also be published online on the Councils' website and any comments could be then submitted in writing.

In response to member questions the Licensing Manager advised that the existing policy allowed up to 4 gaming machines on alcohol licensed premises but that members could choose to reduce this to 2 going forward, however this would only apply to new applications. The Licensing Manager advised that the current Gambling Act application fees were set at the statutory maximum, as set by central government, and therefore they could be reduced but not increased.

The Licensing Manager gave an overview of the new Local Area Profile and advised members that a draft version was due to be brought to Committee for comments in October 2018.

Members formally agreed and seconded a proposal that new applications, made under the simplified application provision of the Gambling Act 2005, would only be permitted a maximum of 2 gaming machines on alcohol licensed premises (reduced from the current maximum of 4).

The Licensing Manager advised Committee that Merton currently has a No Casino Policy, members agreed that this should be retained.

Following further discussion regarding numbers of gaming machines on current licensed premises, it was proposed and seconded that the Committee would write to parliament to request that this was looked at during the discussions on maximum fixed odds betting terminal stakes to see if numbers of machines at premises could be reduced from the current provision of a maximum of four machines.

RESOLVED

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

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Committee: Licensing

Date: 10 October 2018

Wards: All

Subject: The Designation of parts of the highway as licence streets for the purposes of Street Trading

Lead officer: Paul Foster, Head of the Regulatory Services Partnership

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

Contact officer: David Ryan, Technical Officer (Street Trading)

Recommendations:

That committee resolves to designate the proposed areas.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report relates to a request for the designation of licence streets and summarises comments received through a consultation process with interested parties.

2 DETAILS

- 2.1. The Licensing Team has received two applications from traders interested in utilising the highway for the purposes of street trading. The Licensing team has also submitted a request for a designation.
- 2.2. This report concerns an application for 3 new licence street designations.
- 1) An area of 3.1m x 0.6m outside The Sampler 26 Leopold Road Wimbledon SW19 7BD.
 - 2) An area of 6m x 2m outside Time in Ro 22 Abbotsbury Road Morden SM4 5LQ.
 - 3) An area of 15m x 15m in Mitcham town centre between Mitcham Market, Tag Elezz and the clock tower CR4 2PF.
- 2.3. Plans and photographs of the proposed area are included in Appendix B.
- 2.4. Street Trading is regulated by the London Local Authorities Act 1990 as amended.
- 2.5. All street trading is administered and regulated by the Council using this legislative framework. The London Local Authorities Act 1990 permits a street trading licence to be granted for “not less than six months and not more than three years”. There are two types of street trading licence granted in the Borough. A permanent licence that is valid for 1 year and a temporary licence valid from 1 day to 6 months to facilitate market trading and temporary events. It is unlawful to trade on the street without a valid street trading licence.
- 2.6. A one year Street Trading Licence can only be granted for areas designated as licence streets.

- 2.7. Merton licences specific locations (pitches) within a street rather than the street as a whole. The designation of specific locations on the street as opposed to the entire street gives greater control to the Council in regulating street trading and its impact on the environment. Street trading licences are renewable annually.
- 2.8. Comprehensive regulations and standard conditions are in place to facilitate regulation and enforcement of street trading in the Borough and provide a framework for all aspects of trade. These regulations are included for information as Appendix C.
- 2.9. Street trading licence fees for the year 2018-2019 are shown in Appendix E.

3 ALTERNATIVE OPTIONS

- 3.1. The designations can be refused.
- 3.2. The final designations can be reduced in size from the requested areas.
- 3.3. Temporary licences can be issued where there are specific concerns requiring further assessment.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. The consultation process and consultees are defined by the London Local Authorities Act 1990.
- 4.2. Notices were placed in the Local Guardian newspaper advising the public of the consultations and requesting comments. Copies of the notices are included in Appendix A.
- 4.3. As part of the consultation process comments were invited from both external and internal agencies.
- 4.4. Ward Councillor representations: None.
- 4.5. Future Merton - Traffic and Highways: No objections received
- 4.6. Transport for London: No objections received.
- 4.7. The Licensing Team comments –

1. The Sampler – Whilst initially concerned with the width of the highway and the positioning of the cycle rack, as can be seen in the Appendix (B.1.2), we feel there is sufficient space on the highway outside the property to allow the placement of the tables and chairs without causing undue inconvenience to the public. The operator has been using the space under a Temporary licence for several months. No complaints have been received in regards to the use of the area.

As there are no reasonable grounds for refusal based on the area size requested, the officer recommendation is to grant the designation of this area to allow the issuing of a new street trading licence.

2. Time in Ro – The applicant has requested an additional area to increase the size of the designated space to accommodate the extension of the business into the unit next door. The existing area has been operating without incident for a year. A temporary licence was requested but has not been in operation due to the unit undergoing building works. We feel a designation to allow this would

not be out of keeping with the area as there are also two further businesses with similar sized area on the same street.

3. Area adjacent to Mitcham Market and Tag Elezz – The request for this designation comes from the Licensing team following the redevelopment of Mitcham Town Centre. The placement of the café, Mitcham Market, and the clock tower have made the area a focal point in the town centre. The provision of seating has seen an upsurge in use, helping to establish a more vibrant town centre for residents and business operators. Whilst the regeneration of the area was taking place the area was found to be public highway with no private ownership involved. As such it was decided to designate the whole area to allow private seating at the café, pending submission of a licence application, and additional seating which could in turn be used by customers of the licensed market stalls.

We have no concerns over the available space as the regeneration has provided sufficient pavement for pedestrians to pass without inconveniencing them.

5 TIMETABLE

- 5.1. If granted, notice of a designation resolution must be published in a locally circulating newspaper for two consecutive weeks.
- 5.2. The first publication shall be no later than 28 days before the designation comes into force.
- 5.3. Most traders operate under Temporary licences during this time and start dates are agreed with officers under delegated authority to issue street trading licences.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. The cost of placing notices in the local Guardian is accounted for in the licence application procedures in place.
- 6.2. Regulatory and enforcement costs will be met from within the street trading budget.
- 6.3. The collection of licence fees will assist the Councils ability to fund the necessary budget requirements for the provision of the service.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. Part III of the London Local Authorities Act 1990 (as amended), hereinafter in these implications referred to as the “Act”, regulates trading on the street and provides a statutory consultation framework.
- 7.2. Unless provided for in the Act, Section 23 states that it is unlawful for a person to engage in street trading in any licence street within a borough unless the person is authorised to do so by a street trading or a temporary licence.
- 7.3. Under section 21 of the Act, a street trading licence means a licence granted for no less than 6 months and no more than 3 years. Regulations made by

the London Borough of Merton pursuant to section 27(3) of the Act prescribe that these types of licences are only granted for a year. Temporary licences are defined as licences granted for a single day or such period as may be specified in the licence not exceeding 6 months.

- 7.4. It would also be unlawful for street trading to take place if the street or part of the street that is being licensed for these purposes have not first been designated by resolution as a "licence street" pursuant to section 24 of the Act.
- 7.5. Section 24(4) to (8) of the Act prescribes the consultation process which has to be carried out before a resolution can be passed to designate a licence street and this process has been carried out by the Council. This includes the advertisement in a local newspaper, service of notice on the local Highway Authority, and receipt of the necessary consent from the local Highway Authority.
- 7.6. The officer recommendation in this report is for the Committee to grant the designations. The Committee should decide to grant or refuse the designations after considering the officer recommendations, representations that have been made and all relevant facts before them.
- 7.7. The Committee would be expected to consider some of the following issues:
 - highway safety,
 - highways obstruction,
 - street furniture or bus stop safety,
 - volume of traffic,
 - access for emergency services,
 - over use of area,
 - risk of danger to pedestrians and other road users with the presence of a trading unit/stall,
 - detriment or annoyance to residents from the proposed street trading
- 7.8. Each application must be considered on its own merits and be reasonable. In making a balanced and reasonable decision, it should be considered whether an 'unsightly' pitch or a site with an issue involving enough 'space', is sufficient reason to refuse a designating resolution. A decision could reasonably be made to address those issues through the conditions of the licence e.g. the trading days and times permitted.
- 7.9. The Council is legally obliged to consider all applications and to only refuse on the grounds set out in the London Local Authorities Act 1990 (as amended).
- 7.10. It should be noted that many representations received during the consultation phase relate to the type of trading and not the designation of a licence street to which Committee is concerned.
- 7.11. Under Section 24 (9) of the Act, after the Borough Council have considered those representations, they may if they think fit, pass such a resolution relating to the street.
- 7.12. Under section 24(3) of the Act, if a Borough Council passes a designating resolution, the designating of the street takes effect on the day specified in

the resolution. This date must not be before the expiration of the period of one month beginning with the day on which the resolution is passed.

7.13. Under section 24(10) of the Act, the Borough Council has to publish a notice of the passing of such a resolution in a local newspaper circulating in their area on two consecutive weeks. Under section 24(11) of the Act, the first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.

7.14. The issuing of the street trading licence and associated conditions are to be taken by officers under delegated powers. The designation of licence streets has followed this process since the Act was enacted, with some sites previously designated under the Highways Act 1980.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. It is important that the Council carefully considers all the representations made during the consultation process.

9 CRIME AND DISORDER IMPLICATIONS

9.1. Enforcement and advisory visits will be made regularly to the premises to ensure compliance with licence terms and conditions. The police are consulted on all applications for designations.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. Failure to discharge its duties under the Act and make proper regulations to control street trading could damage the Council's reputation and expose it to the risk of judicial review.

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

- Appendix A – Public Consultation Notice
- Appendix B - Plans and photographs of proposed area
- Appendix C – Street Trading Regulations
- Appendix D – London Local Authorities Act 1990 Section 24 – Designation of Licence Streets
- Appendix E – Street Trading Licence Fees
- Appendix F – Representations

12 BACKGROUND PAPERS

12.1. None.

APPENDIX A

LONDON BOROUGH OF MERTON

(hereinafter referred to as "the Council")

PART III OF THE LONDON LOCAL AUTHORITIES ACT 1990

(hereinafter referred to as "the Act")

Intention to designate parts of Merton as "licence streets" pursuant to the Act.

TAKE NOTICE THAT pursuant to Section 24 of the Act, the Council has been requested to designate 3 areas (hereinafter referred to as "the street") as licence streets where street trading will be permitted by the Council subject to obtaining a Street Trading Licence, and 5 licences.

- 1) An area of 3.1m x 0.6m outside The Sampler 26 Leopold Road Wimbledon SW19 7BD. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the designated site 11am - 9pm Monday to Friday, 9.30am - 9pm Friday and 11am - 7pm Sunday inclusive. **Ref: WK/201802284.**
- 2) The Council has been requested by Mr Erez Best of Middleton Road SM4, to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a market stall on a designated site at Hartfield Market The Broadway Wimbledon SW19 9am – 8pm Monday to Sunday inclusive **Ref: WK/201804146**
- 3) An area of 3.1m x 0.6m outside Cocobeanz 81 London Road Morden SM4 5HP. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the designated site 11am - 9pm Monday to Friday, 9.30am - 9pm Friday and 11am - 7pm Sunday inclusive. **Ref: WK/201802861.**
- 4) An area of 6m x 2m outside Time in Ro 22 Abbotsbury Road SM4 5LQ. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the designated site 11am - 9pm Monday to Friday, 9.30am - 9pm Friday and 11am - 7pm Sunday inclusive. **Ref: WK/201803006.**

If you wish to make representations to the Council regarding the designation of parts of the highway as licence streets or the issuing of street trading licences, you should write to the Council at **Licensing, London Borough of Merton, Civic Centre, London Road, Morden, Surrey, SM4 5DX** quoting the appropriate reference. Any representations made must clearly state the grounds and reach the Council before the 23rd August 2018. The Council will consider all representations received before a final decision is made as to whether to designate parts of the street as a licence streets and whether to issue licences for street trading.

Dated this the 26th July 2018

LONDON BOROUGH OF MERTON

(hereinafter referred to as "the Council")

PART III OF THE LONDON LOCAL AUTHORITIES ACT 1990

(hereinafter referred to as "the Act")

Intention to designate parts of Merton as "licence streets" pursuant to the Act.

TAKE NOTICE THAT pursuant to Section 24 of the Act, the Council has been requested to designate 1 area (hereinafter referred to as "the street") as licence streets where street trading will be permitted by the Council subject to obtaining a Street Trading Licence, and 2 licences.

- 1) The Council has been requested by Miss Lorraine Sharp of Bermoos Ltd Surbiton Surrey KT6 to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a catering van on a previously designated site at Weir Road Wimbledon SW19 6am – 4pm Monday to Friday inclusive **Ref: WK/2018WEIR**
- 2) **Amendment** to notice published on 26th July 2018 due to incorrect times stated:

An area of 6m x 2m outside Time in Ro 22 Abbotsbury Road SM4 5LQ. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the designated site **8am - 10pm Monday - Sunday inclusive. Ref: WK/201803006.**

If you wish to make representations to the Council regarding the designation of parts of the highway as licence streets or the issuing of street trading licences, you should write to the Council at **Licensing, London Borough of Merton, Civic Centre, London Road, Morden, Surrey, SM4 5DX** quoting the appropriate reference. Any representations made must clearly state the grounds and reach the Council before the 30th August 2018. The Council will consider all representations received before a final decision is made as to whether to designate parts of the street as a licence streets and whether to issue licences for street trading.

Dated this the 2nd August 2018

LONDON BOROUGH OF MERTON

(hereinafter referred to as "the Council")

PART III OF THE LONDON LOCAL AUTHORITIES ACT 1990

(hereinafter referred to as "the Act")

Intention to designate parts of Merton as "licence streets" pursuant to the Act.

TAKE NOTICE THAT pursuant to Section 24 of the Act, the Council is looking to designate 1 area (hereinafter referred to as "the street") as a licence street where street trading will be permitted by the Council subject to obtaining a Street Trading Licence. Take notice that pursuant to Section 25 of the Act, the Council has been requested to issue 1 street trading licence.

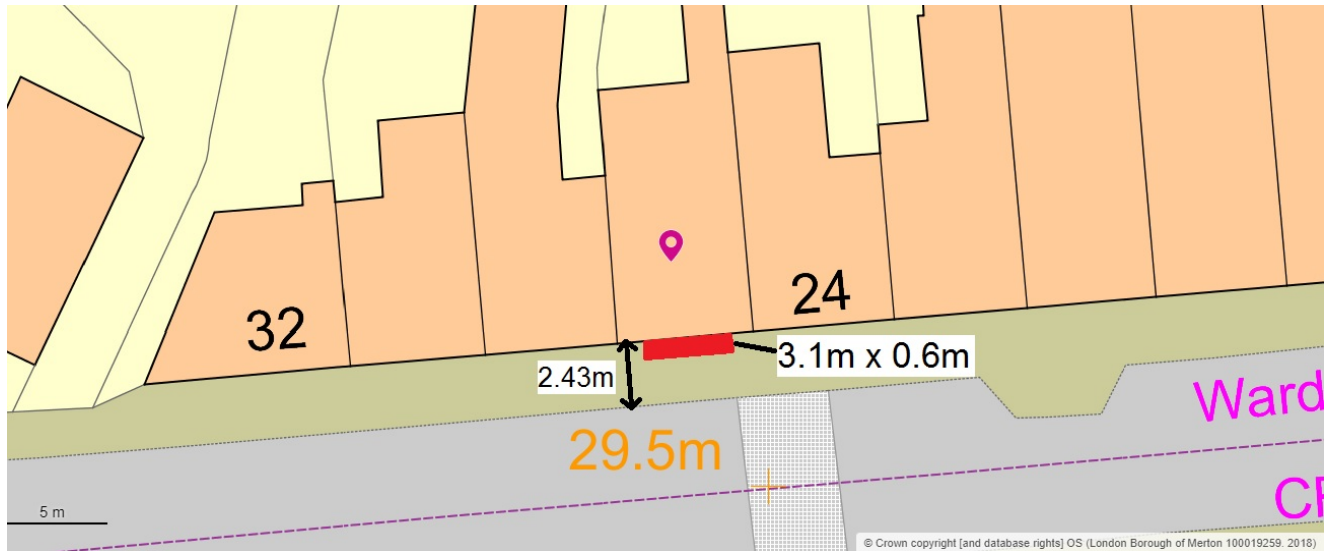
- 1) An area of 15m x 15m Between Mitcham Market Tag Elezz and London Road Mitcham CR4. If granted the designation will allow the placement of public seating in the area and for the application of street trading licences.
- 2) The Council has been requested by Mr Andrey Moyseenko on behalf of Riskator 77 Ltd Court Wood Lane, Croydon, CR0 to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a food trailer at Hartfield Market, off The Broadway Wimbledon, 8am – 8pm Monday to Saturday **Ref: WK/201805812**

If you wish to make representations to the Council regarding the designation of parts of the highway as licence streets or the issuing of street trading licences, you should write to the Council at **Licensing, London Borough of Merton, Civic Centre, London Road, Morden, Surrey, SM4 5DX** quoting the appropriate reference. Any representations made must clearly state the grounds and reach the Council before the 27th September 2018. The Council will consider all representations received before a final decision is made as to whether to designate parts of the street as a licence streets and whether to issue licences for street trading.

Dated this the 30th August 2018.

APPENDIX B

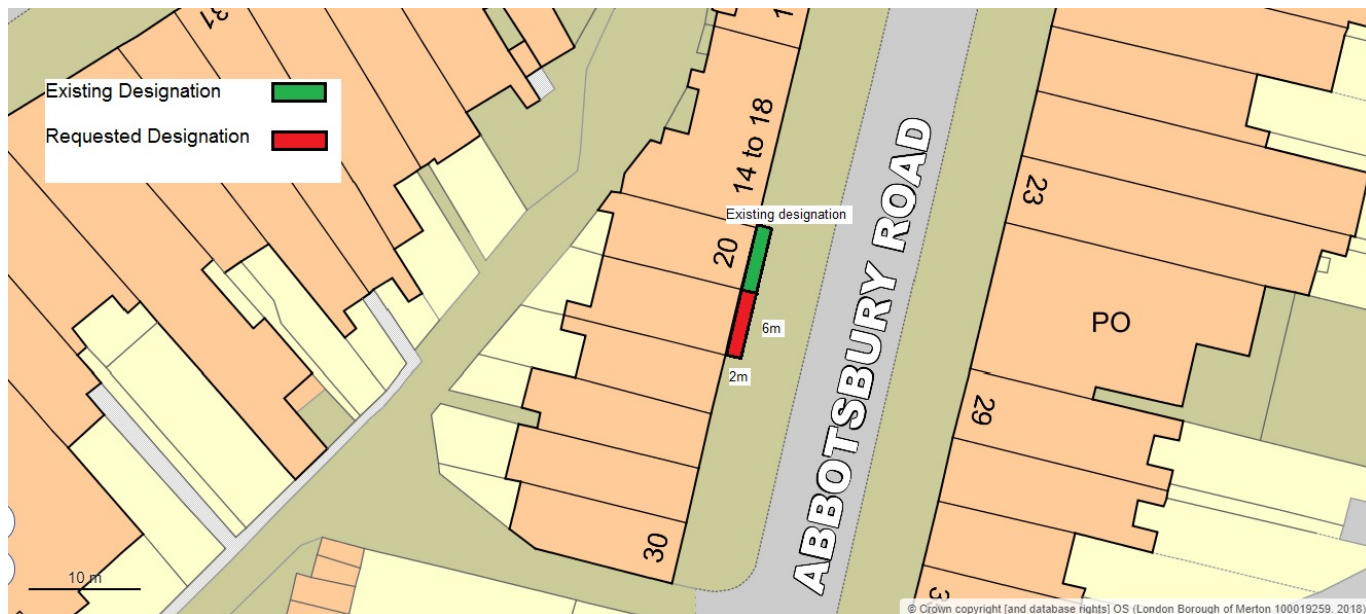
B.1.1 The Sampler 26 Leopold Road Wimbledon



B 1.2 Site with seating in place



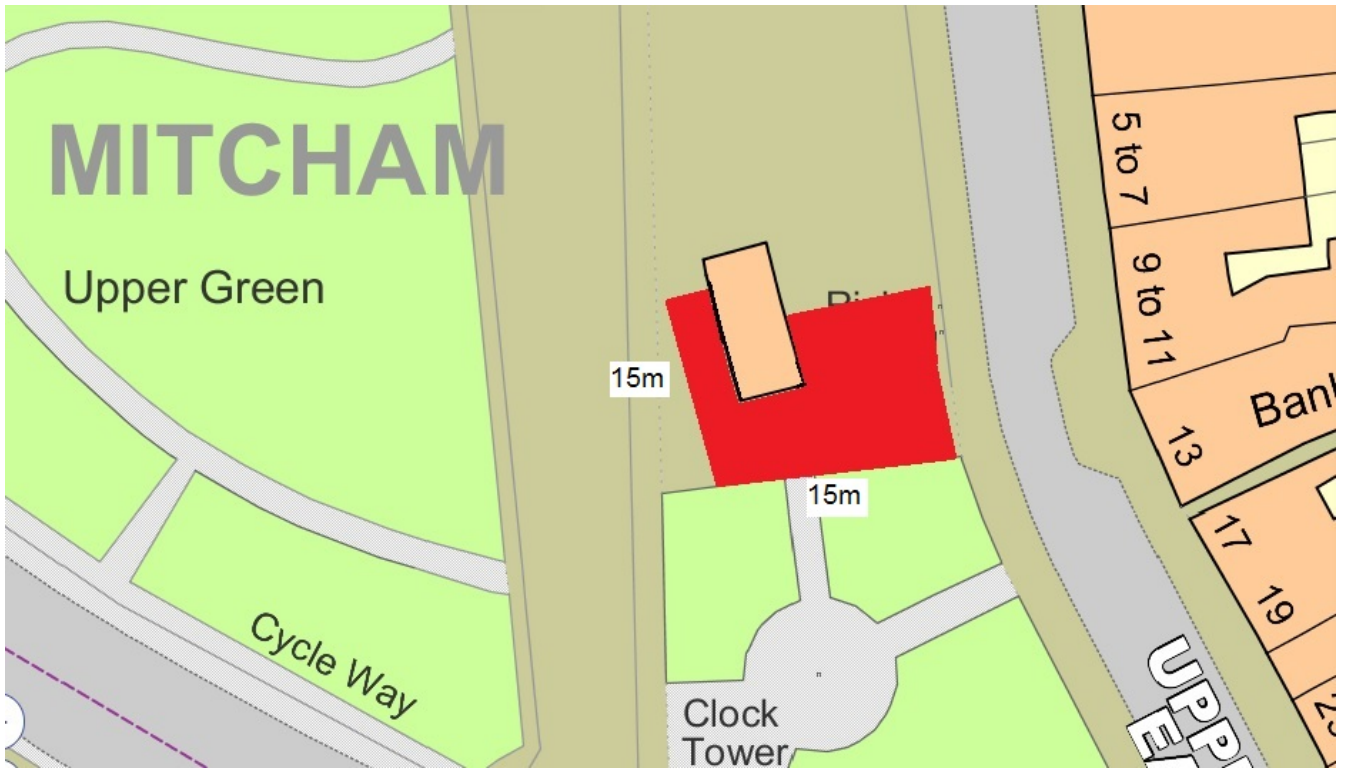
C.1.1 Time in Ro 22 Abbotsbury Road Morden



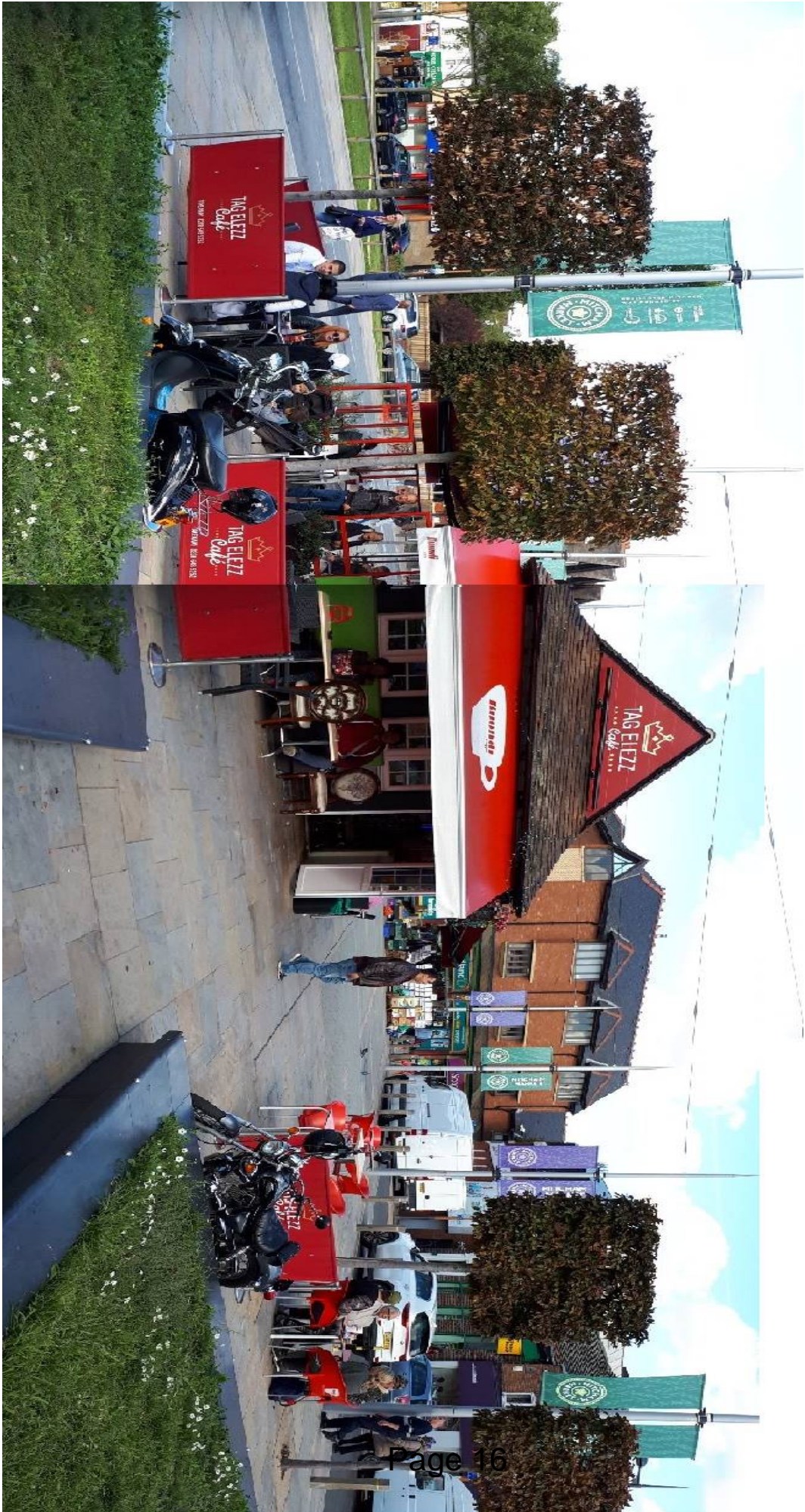
C.1.2 Proposed site without seating in place. Existing site visible to right of unit.



D.1.1 Area adjacent to Mitcham Market and Tag Eleez



D.1.2 Site photo showing view to North of the clock tower



Appendix C

REGULATIONS MADE BY THE LONDON BOROUGH OF MERTON PURSUANT TO SECTION 27(3) OF THE LONDON LOCAL AUTHORITIES ACT 1990 PRESCRIBING STANDARD CONDITIONS APPLICABLE TO STREET TRADING LICENCES.



DEFINITIONS

In the Regulations unless the context otherwise requires, the following expressions shall have the same meanings that appear in Section 21(1) of the London Local Authorities Act 1990 as amended.

'Receptacle' includes a vehicle or stall and any basket, bag, box, vessel, stand, easel, board, tray or thing which is used (whether or not constructed or adopted for such use) as a container for or for the display of any article or thing or equipment used in the provision of any service.

'Street' includes:-

- (a) any road or footway;
- (b) any other area, not being within permanently enclosed premises, within 7 metres of any road or footway, to which the public have access without payment;
- (c) any part of such road, footway or area;
- (d) any part of any housing development provided or maintained by a Local Authority under Part II of the Housing Act 1985:

'Street Trading' means the selling or exposing or the offering for sale of any article (including a living thing) or the supplying or offering to supply any service in a street for gain or reward.

'Street Trading Licence' means a Licence granted under the Act and valid for the period specified therein being not less than six months and not more than three years:

'Temporary Licence' means a Licence granted under the Act valid for a single day or for such period as may be specified in the Licence not exceeding six months.

THE FOLLOWING ARE THOSE DEFINED BY THE COUNCIL

'The Act' means the London Local Authorities Act 1990 Part III as amended.

'The Council' means the London Borough of Merton.

'Advertisement' means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of, advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.

'Assistant'

(a) means a person employed by, and acting under the directions of a Licence Holder to assist him/her about the business of the stall, whether for reward or not and includes a person directed solely or otherwise to transport the Licence Holder's stall.

(b) where a Licence is granted outside a catering establishment or shop premises; 'assistant' shall also include any other employee, manager, secretary, director, partner, supervisor or the like who may from time to time or full time be involved in the street trading activity including those engaged in the completion of a transaction within the premises.

'Authorised Officer' means any officer of the Council authorised in writing by the Council's Director of Environment and Regeneration to carry out any function under the Act or these Regulations acting within the terms of such authorisation.

'Awning' includes a sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall and includes parasols provided to tables outside catering establishments.

'Catering Establishment' means any premises used for the retail sale of food or drink for consumption on the premises, where the Council has licensed a site for tables and chairs to be provided for customers' use on the street.

'Child' means a person under compulsory school leaving age as in the Education Act 1996 or successor and includes a baby/child of pre-school age.

'Goods' means any goods, wares, or merchandise displayed for sale at a stall or Licensed Site.

'Harassment' includes but is not limited to:-

- (a) Violence or threats of violence towards any person;
- (b) Abusive or insulting words or behaviour;
- (c) Damage or threats of damage to property belonging to another person;
- (d) Writing threatening, abusive or insulting graffiti;
- (e) Any act or omission calculated to interfere with the peace or comfort of any person or to inconvenience such person;
- (f) Refusal to serve or permit access to a stall, licensed site, premises or services.

'Licence' means a valid Street Trading Licence or a valid Temporary Licence.

'Licence Holder' means any person who is licensed for street trading under Part III of the London Local Authorities Act 1990 as amended.

'Licensed Site' means a place in any authorised street at which street trading may be engaged in by a Licence Holder, and includes any temporary alternative place approved by the Council or a duly authorised Officer of the Council.

'Loading and Unloading' includes stocking or replenishing goods at a Licensed site, vehicle or receptacle.

'Refuse' includes empty and discarded receptacles and any waste material.

'Stall' means the structure for which the Council grants a Licence for goods or services to be displayed thereon or from which services are provided.

'Street Furniture' includes seating facilities provided by the Council for public use, bollards, stanchions, railings, the walling of flower beds and any structure owned by a statutory undertaking or the like.

'Undressing the Stall' means removing goods and receptacles and any other things thereon in part or in whole or dismantling or adjusting any part of the stalls' structure.

'Approved Street Festivals' means those street festivals whereby the Council may issue temporary Street Trading Licences.

'Displays Outside Shop Premises' means where the Council has granted a Licence to display goods from a stall or licensed site on the footway immediately outside the shop premises.

'Refreshment Stalls' includes coffee stalls and those selling foodstuffs capable of immediate consumption.

'Traditional Stalls' includes those licensed to sell garments, hardware and raw foodstuffs.

GENERAL

The grant of a Street Trading Licence shall not be deemed to give any approval or consent which may be needed under any Bye-law, enactment, or Regulation other than under the Act.

The stall, trade, business, activity etc. shall comply and be conducted in a manner that conforms with other relevant legislation enforced by the Local Authority or other Agencies. These include but are not limited to General Health and Safety, Food Safety, Trading Standards, Fire Prevention, and Highways Regulations.

INFORMATION

- (i) Headings inserted in these regulations are for the purpose of convenience only and shall not in any way affect the meaning or construction thereof.
- (ii) Where in these conditions there is reference to the consent or agreement of the Council such consent or agreement may be given on such terms and conditions and subject to such restrictions as may be so specified.
- (iii) These conditions may be dispensed with or modified by the Council in any individual case by means of a Licence Variation in accordance with the statutory requirements.
- (iv) If a trader wishes any of the terms of a Licence to be varied or the Council's agreement under these rules, application must be made in writing to the Council in accordance with the statutory requirements.
- (v) These regulations replace the regulations previously approved by the Council.

1. INSURANCE

- (a) The Licence Holder shall take out third party insurance cover with a minimum liability of at least two million pounds.
- (b) In respect of Licences granted for the display of goods outside shop premises and tables and chairs outside catering establishments this may be incorporated in an insurance policy of the business.
- (c) Satisfactory evidence of such insurance must be produced to the Council before a Licence will be granted or renewed.
- (d) Evidence of such insurance shall also be produced by a Licence Holder on demand to an Authorised Officer of the Council or a Police Officer.

2. DAYS AND TIMES

A Street Trader shall only engage in Street Trading on the days of the week and during the times specified in the Licence or otherwise authorised by the Council except that there shall be no trading on Christmas Day. Markets do not operate on Sundays and Public Holidays.

3. DISPLAY OF NAMES

Licence Holders except in respect of displays of goods outside shop premises and tables and chairs outside catering establishments shall prominently display a sign with their surname or family name and licensed Site or Licence Number on the stall. Additionally they may exhibit a trading name or title.

4. CHARGES AND FEES

(a) Charges for a Street Trading Licence shall be payable to the Council annually in advance. A Street trading licence will be valid for 12 months. Fees and charges will be set by the Council from time to time. In making any payment the Street Trader shall ensure that the appropriate invoice and account numbers are recorded.

(b) Charges for a Temporary Licence shall be payable each day in advance or for such periods as shall be specified in the Temporary Licence. An Authorised Officer shall decide the charges in accordance with the rates set by the Council from time to time.

(c) A Street Trader shall pay all charges for any Licence in force that has been issued at his request whether or not he engages in Street Trading.

(d) In accordance with Section 32(1) of the Act a fee shall be paid for the grant or renewal of a Street Trading Licence, but not a Temporary Licence, and for any variation of a Licence at the request of the Street Trader.

5. LICENCE AND INSPECTION OF LICENCE ETC.

(a) Licence Holders shall produce their Licence for Inspection when requested to do so by an Authorised Officer of the Council or Police Officer.

(b) In respect of displays outside shop premises and catering establishments the Licence shall be exhibited within the premises in the safe vicinity of the entrance so that it can be seen by an Authorised Officer of the Council or Police Officer.

(c) Where the Council has issued a Certificate of Variation to a Licence that shall be produced and displayed with the Licence.

(d) All other Licence Holders in their absence shall ensure that the Licence is retained on the stall so that it can be produced by an assistant on demand to an Authorised Officer of the Council or Police Officer.

(d) If alcoholic beverages are consumed at a licensed site, the Licence Holder or Assistant shall produce on demand, where appropriate, licenses that are required by the Licensing Act 2003 to an Authorised Officer of the Council or Police Officer.

(e) Once issued to a Street Trader a Licence shall remain in force until the expiry date indicated therein or until revoked by the Council in accordance with the Act.

(f) Where, in accordance with Section 26 of the Act, the holder of a Street Trading Licence has nominated a relative as his successor and that holder dies then the nominated successor may continue to engage in Street Trading within the terms of that Licence for a maximum period of 28 days provided that successor pays any charges due.

(g) On the death or retirement through age or ill health of a Licence holder, the Council may issue a Licence to a nominated relative to trade from the Licensed Pitch shown in that Licence in accordance with Section 26 of the Act. For the purposes of Section 26 of the Act a person shall be treated as being related to another if the latter is the wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half daughter of the former and shall be deemed to be so related notwithstanding that he is so related only through illegitimacy or in consequence of an adoption.

6. POSITION

(a) The Licence Holder shall only use the licensed site prescribed in the Licence (which may be marked or denoted on the ground by means of white lines, contrasting paving or other device by the Council) unless the circumstances under 6(e) shall arise.

- (b) The Licence Holder shall not cause or permit stalls, goods, receptacles; (except refuse containers under Regulation 16c) to project whether grounded or suspended beyond the licensed site or to be placed or to stand anywhere else in the street.
- (c) In respect of catering establishments, tables and chairs shall not be placed or used outside of the site defined in the Licence. This may be denoted by the Council marking the boundary by White Lines or other means.
- (d) The Licence Holder or Assistant shall inspect the licensed site whilst in use at least every hour to ensure that tables and chairs are not outside of the licensed area.
- (e) If the licensed site is obstructed by roadworks or other hazard the Licence Holder may consult an Authorised Officer of the Council or failing that a Police Officer in uniform and produce their Licence. Temporary trading elsewhere whilst the obstruction persists shall be at the discretion of the Officer consulted. The name of the Council Officer or the number of the Police Officer must be noted by the Licence Holder.

7. SIZE

- (a) The Licence Holder shall not place or cause to be placed on the street, a stall that exceeds the dimensions prescribed in the Street Trading Licence.
- (b) Stalls shall not exceed the dimensions unless prescribed in the Street Trading Licence.
- (c) Market stalls shall not exceed 3 metres by 3 metres (10 feet by 10 feet) or other dimension as specified in the Street Trading Licence.
- (d) The dimensions of all stalls prescribed in Licences shall include any towing bar or bracket or the like that remains projecting from the stall whilst trading is being conducted.
- (e) Displays outside shop premises shall not exceed the size prescribed in the Street Trading Licence. The Council will take into account any private forecourt and the available depth of footway.
- (f) In respect of catering establishments the number of tables and chairs on the street shall not exceed the numbers prescribed in the Licence.
- (g) The sizes of tables and chairs and parasols shall not exceed those prescribed in the Licence.

8. PERMITTED GOODS AND SERVICES

- (a) Only those goods or services specified in the Licence may be displayed, used, provided or offered for sale.
- (b) In respect of displays outside shop premises, cash registers, scales and other measuring devices shall be contained within the shop and not brought onto the street, licensed site or the stall.
- (c) No advertisement shall be displayed on a stall or licensed site which relates to any goods or services other than those offered for sale or provided on the stall or licensed site.
- (d) A Street Trader shall not cause or permit a nuisance to be created by noise or smell emitted from the Licensed Pitch or type of display.

9. DEALING WITH THE PUBLIC

- (a) Licence Holders and their assistant shall ensure that the public are treated fairly and with courtesy.
- (b) Licence Holders are responsible to ensure that assistants are competent, courteous and helpful.
- (c) Admission or service shall not be refused to any person on the grounds of gender, race, ethnic origin or the grounds of sexual orientation.
- (d) The Licence Holder shall not use or permit any activity, omissions or practice in the conduct of the business that will cause harassment to any person on the grounds of their disability, skin colour, religion, gender, age, sexual orientation and so on.
- (e) The serving of customers shall not take place in the road.

- (f) A Licence Holder or assistant offering a service shall make clear the nature and cost of that service by way of a notice on the stall or within the licensed area.
- (g) All goods shall be clearly marked with a price, and where appropriate an indication of the unit quantity in which they are being offered for supply.
- (h) Where the licensed site is in the road or adjacent, scales and cash registers shall be placed on the stall at the furthest point from passing vehicular traffic.
- (i) The customer should clearly be able to view the goods being weighed, measured etc. before they confirm their intention to purchase.
- (j) In respect of goods selected by customers from displays outside shops the requirement in Regulation 8(i) shall be carried out within the shop premises.
- (k) A Licence Holder or assistant shall not use a megaphone or amplification equipment or a loud voice to shout out the price of goods etc. in order to attract customers.
- (l) Radios or other audio equipment shall not be used in or around the licensed site other than by written agreement of the Council.

10. RECEPTACLES & CONSTRUCTION OF STALL

- (a) Only those receptacles approved by the Council shall be used by the Licence Holder and assistants. Stalls shall not be formed by the use of old milk crates and the like and other receptacles notified to the Licence Holder by letter.
- (b) Goods must not be placed directly on the street unless specified in the Licence.
- (c) Where the Council has licensed the display of bulky furniture or the like outside shop premises on the street a suitable trolley to remove the goods shall be maintained within the shop.
- (d) Stalls shall be constructed so as not to become unbalanced or otherwise unstable.
- (e) Stalls shall be maintained in good order and free from protruding nails or other hazards likely to cause injury or damage to a person or their clothing.
- (f) No stall, part of the stall, accessory, table or chair shall be used if it is likely to damage the street.
- (g) A Licence Holder or assistant shall not bolt or otherwise secure temporarily or permanently anything to the street or street furniture.
- (h) Sites licensed for the displays of goods outside shop premises shall not incorporate any form of seating facility, nor may any seating be used or provided by the Licence Holder or assistant immediately outside the licensed site or elsewhere in the street other than on a private forecourt associated with the business.
- (i) Other Licence Holders shall not provide or use any form of seating facility outside of the licensed site (other than street furniture provided by the Council for public use) unless they have the written consent of the Council. Such permission may restrict their use to the Licence Holder and assistants and prescribe the number of seats, their construction, size and positioning together with other conditions.

11. ROOFING OF STALLS ETC.

- (a) The distance between ground level and any support of the roof, awning or supports of the stall or goods suspended from any of these, shall be at least 2.4m unless otherwise specified in the Licence.
- (b) A Licensed Street Trader shall not permit the awning or roof of the stall to project outside the area of the pitch, save as provided in Regulation 11(c).
- (c) The awning or roof of a stall may project over the footway for a distance not exceeding 0.6 metres from the boundary of the pitch unless otherwise specified or restricted by a further condition of the Licence.
- (d) The roof or awning shall be safely constructed and must not shed water over customers or passers by.

(e) No awning other than a parasol may be used as part of a stall for displays outside catering establishments.

(f) A Street Trader, or his Assistant, shall immediately remove any Awning on the instruction of an Authorised Officer or a police constable and shall, in any case, remove any Awning outside the permitted hours for Street Trading.

12. ELECTRICITY SUPPLY ETC.

(a) The only connection between stalls in the street and other premises shall be for the purposes of electric lighting and power for the operation of electronic scales, measuring equipment and cash registers and the testing of electrical goods or other agreed services; and any such electrical or other connections shall be readily detachable and the detailed arrangements agreed with the Council. No connection shall be made with any other stall.

(b) Where the Council provides an electrical supply system to the stall, the trader shall pay to the Council upon demand the installation costs and for the supply and maintenance of the service and equipment.

(c) All electric power supplies shall have the appropriate consent from the Council before seeking installation from the Electricity Board.

(d) All electrical wiring and components shall comply with the basic Electricity Board Specification and be earthed and insulated accordingly.

(e) All electrical cables that are suspended over the public footway shall have a minimum clearance of 2.4 metres from the footway surface, and 5.1 metres from the surface of the roadway.

(f) Any suspended lighting shall be safely protected and shall not expose the public, Licence Holder or assistants to any form of risk.

(g) In respect of displays outside shop premises and catering establishments, mains electrical power may be supplied from the permanent premises to the trading area providing that all equipment and wiring shall be placed, installed, maintained and operated in accordance with the provisions of the Health and Safety at Work, etc. Act 1974 and all other relevant Regulations.

(h) In all such cases an automatic circuit breaker must be installed within the premises between the point of supply and the equipment in the trading area.

13. GENERATORS

(a) Electrical generators shall not be used at displays outside shop premises and catering establishments.

(b) When mobile electrical generators are permitted they shall be so positioned that:-

(i) they do not present a danger to the public, and

(ii) they do not present a fire or similar hazard risk to the stall or goods displayed thereon, or to persons engaged on or about the stall, and

(iii) they do not cause any noise or fume nuisance, and

(iv) any inflammable fuel is stored away from the stall in a container and position approved by the Council.

(c) Heat producing equipment shall be so placed within the licensed site as to offer maximum safety to the public. The position of any equipment in relation to other goods and materials shall be agreed with the Council in writing.

14. LOADING AND UNLOADING

(a) Any cart, barrow, trolley or similar conveyance owned or hired by the Licence Holder or assistant shall not be used except for the purpose of loading, unloading and transporting goods.

(b) Loading and unloading shall be restricted to twenty minutes and resumption shall not occur until a further hour has elapsed.

- (c) Loading and unloading must not be continually interrupted by the serving of a customer.
- (d) The cart, barrow or trolley or similar conveyance used for replenishing or moving goods shall be stored on the Licence Holder's vehicle or at the storage facilities or in respect of displays outside shop premises within the shop premises and not on the street.
- (e) Loading or unloading shall be abandoned for any duration ordered by an Authorised Officer of the Council or Police Officer if in their opinion the activity obstructs pedestrian flow or causes any other form of obstruction or nuisance.
- (f) The Licensed Street Trader or his assistant shall not use a vehicle for loading or unloading at or near the licensed site unless it can lawfully be there.
- (g) Licence Holders or assistants shall replenish displays outside shop premises from stocks held within the shop premises and not directly from any vehicle.
- (h) A Street Trader, or his Assistant, shall ensure that there is no undue obstruction of vehicular or pedestrian traffic whilst re-stocking the Licensed Pitch or loading and unloading Goods or other articles used for or in the course of Street Trading. When, in the opinion of an Authorised Officer or a police constable, there is likely to be undue obstruction of vehicular or pedestrian traffic the Street Trader, or his Assistant, shall immediately cease re-stocking, loading or unloading and within 15 minutes clear any Goods or other articles used for or in the course of Street Trading or for re-stocking, loading or unloading from any position in the Street other than within the Licensed Pitch.
- (i) A Street Trader, or his Assistant, shall not place, keep or use a vehicle at or near his Licensed Pitch in contravention of any legal parking or loading restrictions nor shall a Street Trader, or his Assistant, place, keep or use a vehicle at or near his Licensed Pitch which does not display a current disc showing that any road tax, or similar, has been paid.

15. REMOVAL OF STALLS ETC.

- (a) Licence Holders and their assistants shall remove stalls, goods, tables and chairs and anything else under their control as directed for so long as may be necessary.
 - (i) In the event of an emergency and this shall include any public demonstration, congregation or disorder in the area, whether or not instructed by an Authorised Officer of the Council or Police Officer;
 - (ii) In the exercise of the Council's powers and duties which include the maintenance of the licensed site, to enable its re-marking and to check whether the stall is capable of being removed in accordance with these Regulations and
 - (iii) To enable statutory undertakings to maintain their services;
 - (iv) In order to accommodate customers confined to wheelchairs outside catering establishments the Licence Holder or assistants shall remove any surplus chairs, for the time being, to the place of storage
- (b) Stalls, goods, tables and chairs etc. shall be removed from the public highway to the place of storage, as stated on the application form, or such other alternative place subsequently agreed by the Council in writing, within 30 minutes of the time prescribed on the Licence for the end of trading on that day.
- (c) A Licence Holder electing to cease trading before the time denoted in the Licence shall remove the stall, goods, tables and chairs at that time to the place of storage.
- (d) A Licence Holder in respect of shop premises shall remove the stall(s) and goods on the cessation of trading and before closing the shop premises.
- (e) Where at an approved Street Festival the stall is hired or provided by the organiser or the agent, the Licence Holder shall be responsible for its erection, suitability, stability, dismantling and safe and prompt removal.
- (f) A Licence Holder upon production of Proof of Ownership may claim from the Council within 14 days of it coming into the Council's possession and without penalty (providing that it is not otherwise this subject of Legal Proceedings or a Seizure Order) anything that:-

- (i) not being within a licensed site was removed by an Officer of the Council because in their opinion it was a hazard or the like to the public;
- (ii) otherwise came into the Council possession and was identified as possibly being associated with the activity of Street Trading.

16. PROVISION OF STALL BY THE COUNCIL

- (a) The Licence Holder shall use any stall provided by the Council.
- (b) Where the Council provides, (lends, hires or lets) the stall, the Licence Holder shall be responsible for its care and safe custody and must not willfully or otherwise cause to it any damage.
- (c) The stall must either be on the licensed site, in the storage unit or in the course of being transported to and fro. It shall not be used for street trading or any other purpose elsewhere.
- (d) The stall when not in use shall be placed within the storage unit provided by the Council.
- (e) The Licence Holder shall secure the unit by the use of padlocks or other locking devices approved by the Council.
- (f) The Licence Holder shall keep the storage unit free from accumulations of refuse.
- (g) The Licence Holder shall make the storage unit available for inspection by an Authorised Officer of the Council and to enable its general maintenance.

17. REFUSE

- (a) In respect of traditional sites the Licence Holder and assistants shall ensure that all refuse arising as a result of the activities shall be placed in suitable covered containers provided by the Licence Holder exclusively for that purpose.
- (b) Such refuse containers shall be kept as clean as is reasonably practicable.
- (c) Refuse containers shall be sited in a location agreed with the Council. They shall be emptied whenever necessary into any vehicle, container, compactor, or place provided by the Council for that purpose.
- (d) Licence Holders and their assistants, in respect of footway displays outside shop premises and catering establishments shall ensure that any refuse arising from the external activities is properly stored and disposed of as part of the shop business.
- (e) No refuse shall be allowed to accumulate or be placed in the street.
- (f) No vehicle shall be used for the storage of such refuse.
- (g) The Licence Holder shall produce on demand to an Authorised Officer of the Council, proof of a contract for the disposal of trade refuse.
- (h) In respect of catering establishments the Licence holder shall also remove from tables any used and discarded receptacles.

18. ATTENDANCE BY LICENCE HOLDER

- (a) Traditional Licence Holders must be in attendance throughout the whole or part of the day that the stall is set up for trading unless engaged on the following:-
 - (i) A meal break or visit to the toilet.
 - (ii) Sickness of short duration.
 - (iii) Hospital, dental or doctor's appointment.
 - (iv) Occasional attendance at the office of an accountant, tax inspector, bank or Council cash office.
 - (v) On holiday.
 - (vi) Or for any other sufficient reason that may be approved by the Council from time to time.
- (b) In respect of displays outside shops and catering establishments the Licence Holders usual place of work shall be within the premises.

- (c) At approved Street Festivals the Licence Holder shall be in attendance at the stall throughout the event save that prescribed in 18(a)(i).
- (d) No Licence Holder shall sub-let the stall or any part of the stall or the licensed site, or install a manager to operate the Licence.
- (e) A Licence Holder if required by an Authorised Officer and/or Solicitor to the Council shall furnish the Council with a Medical Certificate obtained at the Licence Holders own expense or other documentary evidence to support the reasons for any continual or repetitive absences.

19. NAMES OF ASSISTANTS AND RESTRICTION OF EMPLOYMENT ETC.

- (a) The Licence Holder shall notify the Council of the names of any assistants within seven days of their commencement. This shall be by letter or on a form prescribed by the Council.
- (b) The Licence Holder shall give any other information regarding assistants as required by the Council.
- (c) A Licence Holder shall not have as an assistant any child in the business of street trading including the putting out or stocking of receptacles, clearance of refuse, attending a stall or any related activity.
- (d) A Licence Holder and assistant shall not bring or have care and control of a child whilst the business is being set up, operated or dismantled.
- (e) The failure of an Assistant to comply with the conditions of the Street Trading Licence held by the employer shall be deemed to be a failure by the Licence Holder.

20. ADMINISTRATION

- (a) Licence Holders and assistants must give every reasonable assistance to Council Officers and their contractors in carrying out their duties.
- (b) A Licence shall cease to have effect (*other than being revoked or having expired or on the death of the trader*) only upon it being surrendered by the Licence Holder in exchange for a written receipt at the Council's Offices.
- (c) A Licence Holder making application for the renewal of a Licence shall bring the completed application form and prescribed fee to the Council Officer by appointment. The three photographs prescribed in the Act if not already forwarded by the Licence Holder shall be handed to the Officer at this time.
- (d) A Licence Holder having appeared before a committee of the Council where, although there were sufficient grounds to revoke the Licence it was decided to deal with the matter by way of a Warning Letter shall acknowledge receipt of the Warning Letter by signing and dating and returning one copy of the letter to the Council in the envelope provided within 21 days of its receipt.
- (e) Licence Holders shall notify the Council in writing of any change of their title, name or home address as soon as it occurs.
- (f) The sending of letters and Notices from the Council by the General Postal Service to the last notified address by the Licence Holder shall be taken by the Council as proper and good service of documents.
- (g) All notifications (*excluding payments of weekly/monthly charges*) given by the Licence Holder to the Council shall be to the Council's address as it appears on the Licence or that subsequently amended and notified in writing to the Licence Holder.

Appendix D

London Local Authorities Act 1990 Section 24

Designation of licence streets

24 (1) If a borough council consider that street trading should be licensed in their area they may from time to time pass any of the following resolutions:—

- (a) a resolution (in this Part of this Act referred to as a “designating resolution”) designating any street within the borough as a “licence street”;
- (b) a resolution specifying in relation to any such street or any part of a street any class or classes of articles, things or services which they will, or other than which they will not, prescribe in any street trading licence granted by them in respect of that street; and may from time to time by subsequent resolution rescind or vary any such resolution:

Provided that a borough council shall—

- (a) before passing a designating resolution, consult with the Commissioner of Police of the Metropolis on their proposal; and
- (b) before rescinding or varying a designating resolution, consult with the licence holders trading in the street in question, or a body or bodies representative of them, on their proposal.

(2) At the appointed day for the purposes of this Part of this Act in a borough, the streets prescribed by any licences granted by the council of the borough in pursuance of powers contained in any of the enactments referred to in column (2) of Schedule 2 to this Act and then in force shall be deemed to have been designated as licence streets under a designating resolution.

(3) If a borough council pass a designating resolution the designation of the street shall take effect on the day specified in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).

(4) A borough council shall not pass a resolution or rescind or vary a resolution under this section unless—

- (a) they have published notice of their intention to do so in a local newspaper circulating in their area;
- (b) they have served a copy of the notice on the highway authority for that street (unless they are that highway authority); and
- (c) where subsection (5) below applies, they have obtained the necessary consent.

(5) This subsection applies—

- (a) where the resolution relates to a street which is owned or maintainable by a relevant corporation; and
- (b) where the resolution designates as a licence street any street maintained by a highway authority; and in subsection (4) above “necessary consent” means—
 - (i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation; and

(ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.

(6) The following are relevant corporations for the purposes of this section:—

(a) British Railways Board;

(b) London Regional Transport;

* * * * *

(d) Network Rail Infrastructure Limited; and

(e) Transport for London.

(7) The notice referred to in subsection (4) above shall—

(a) contain a draft of the resolution to which it relates; and

(b) state that representations relating to it may be made in writing to the borough council within such period, not less than 28 days after the publication of the notice, as may be specified in the notice.

(8) As soon as practicable after the expiry of the period specified under subsection (7) above, the borough council shall consider any representations relating to the proposed resolution which they have received before the expiry of that period.

(9) After the borough council have considered those representations, they may if they think fit, pass such a resolution relating to the street as is mentioned in subsection (1) above.

(10) The borough council shall publish notice of the passing of such a resolution in a local newspaper circulating in their area on two consecutive weeks.

(11) The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.

Appendix E

LONDON BOROUGH OF MERTON LONDON LOCAL AUTHORITIES ACT 1990 PART III (as amended) (STREET TRADING)

NOTICE IS HEREBY GIVEN UNDER SECTION 32 OF THE ABOVE NAMED ACT OF
THE STREET TRADING LICENCE FEES FOR THE FORTHCOMING YEAR
VALID FROM 1ST April 2018 – 31ST March 2019

Unless otherwise stated all fees are for a period of 1 year.

Administrative Fees

Street Trading Licence Application Fee	£103
Licence Street Designation & Street Trading Licence App. Fee	£206
Renewal Licence Processing Fee	£31
Variation of existing Licence or Registration	£77
Market Trader Registration Fee	£31

Forecourt or Tables & Chairs Licence

Up to 1 sq m	£108
Over 1 sq m up to 6 sq m	£638
Over 6 sq m up to 12 sq m	£941
Over 12 sq m up to 18 sq m	£1,245
Over 18 sq m	£1,822

Temporary Monthly Licence for Forecourt, and Tables & Chairs where a full application is being processed.

Up to 1 sq m	£9
Over 1 sq m up to 6 sq m	£53
Over 6 sq m up to 12 sq m	£78
Over 12 sq m up to 18 sq m	£104
Over 18 sq m	£152

Remote Pitch (catering van, individual stall etc.) £1,429

Market Fees (Temporary Licence per pitch per trading day)

Regular Market	£12
Regular Market food stalls	£15
Casual Market	£21
Casual Market food stalls	£26

Specialist Market Fee £530

(min. ten stalls/pitches for up to 4 days or part thereof)

Other Temporary Licences

Daily	£55
Weekly	£276
Monthly	£1104

Appendix F

Representations

No representations received.

Committee: Licensing Committee

Date: 10 October 2018

Wards: All.

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

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

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

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

Recommendations:

- A. To consider the comments received during the public consultation process, which took place between **25 June and 17 September 2018**;
 - B. To approve delegated authority to the Licensing Manager, in consultation with the Chairman of the Licensing Committee, to approve any amendments to the Statement of Principles following the Committee meeting and prior to submission to full Council for adoption on **Wednesday 21 November 2018**; and
 - C. To approve the draft Statement of Principles subject to the above paragraph and recommend it for adoption by full Council on **Wednesday 21 November 2018**.
-

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

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

2. DETAILS.

- 2.1 This is the fifth Statement of Principles in respect of the Gambling Act; the fourth having been adopted by the Council in 2015. It is a requirement under the Gambling Act 2005 that the Council's Statement of Principles under the Gambling Act 2005 be reviewed and adopted by the Council at least every three years.
- 2.2 At the Licensing Committee meeting on **Tuesday 12 June 2018** the draft Statement of Principles under the Gambling Act 2005 for public consultation was presented showing the proposed changes to the document brought about by updates to legislation, and suggested changes put forward by the legal advisor to the Licensing Sub-Committee and the Licensing Manager. A copy of the draft Statement of Principles under the Gambling Act 2005 can be found at **Appendix "A"**.

- 2.3 The public consultation of the draft Statement of Principles under the Gambling Act 2005 took place between **25 June and 17 September 2018**. An electronic copy of the draft document was published on the Council's website. All responsible authorities, a number of interested parties, residents associations and Ward Councillors who receive a weekly e-mail notifying them of applications received by the Licensing Authority were notified of the public consultation. Details for the public consultation were also advertised in the Council's libraries.
- 2.4 During the consultation period the Licensing Authority received two e-mails from local residents, an e-mail from the local MP and an e-mail from Gamcare. Copies of the four consultation responses can be found at **Appendix 'B'**. Members of the Licensing Committee are asked to consider the points highlighted in each of the letters and to consider if necessary to make further changes to the draft Statement of Principles under the Gambling Act 2005 before adoption by full Council. Legal advice will be offered by the legal advisor to the Licensing Sub-Committee and the Licensing Manager during the open debate and discussion.
- 2.5 For information purposes only - The Council's Public Health Team, working in partnership with the Licensing Authority, are assisting in the production of a draft local area profile document, which will sit as an appendices to the Statement of Principles under the Gambling Act 2005. When complete the local area profile will be a live document, which will need to be amended and updated as changes take place throughout the borough in future years. The information contained within the local area profile will be factually correct at the time of publication. Any applicant submitting an application to vary an existing premises licence or a new application for a new premises licence must consider the information published in the Council's local area profile document before completing their own local area risk assessment. A copy of the draft local area risk assessment is attached at **Appendix 'C'**.
- 3. Alternative options.**
- 3.1 None for the purposes of this report.
- 4. Consultation undertaken or proposed.**
- 4.1 A twelve week (three month) public consultation was undertaken on the proposed revisions the (draft) Statement of Principles under the Gambling Act 2005 between 25 June and 17 September 2018.
- 5. Timetable.**
- 5.1 The draft Statement of Principles under the Gambling Act 2005 to go before full Council for adoption on Wednesday 21 November 2018.
- 6. Financial, resource and property implications.**
- 6.1 None for the purposes of this report.
- 7. Legal and statutory implications.**
- 7.1 None for the purposes of this report.

- 8. Human rights, equalities and community cohesion implications.**
- 8.1 These are statutory functions and are applied globally.
- 9. Crime and Disorder Implications.**
- 9.1 The service has a statutory duty to contribute to the reduction of crime and disorder within the London Borough of Merton under Section 17 Crime and Disorder Act 1988.
- 10. Risk management and health and safety implications.**
- 10.1 All risk and health and safety implications have been considered when compiling this report. None are apparent.
- 11. Appendices – the following documents are to be published with this report and form part of the report.**
- 11.1 Appendix “A” Draft Statement of Principles under the Gambling Act 2005.
- 11.2 Appendix “B” Details of the consultation responses received during the consultation period.
- 11.3 Appendix “C” The London Borough of Merton (draft) Local Area Profile under the Gambling Act 2005 – (For information purposes only).
- 12. Background Papers – the following documents have been relied on in drawing up this report but do not form part of the report.**
- 12.1 The Gambling Act 2005; and
- 12.2 Gambling Commission Guidance to Local Authorities 5th Edition published on 30 September 2015.

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London Borough of Merton

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

**From January ~~2016-2019~~ to January
~~2019~~2022**

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1 STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005

1.1 Introduction

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

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

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

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

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

This policy came into effect on ~~31~~ January 201~~96~~ and has been reviewed in accordance with statute. The Policy will be reviewed as necessary, and at least every three years from the date of its adoption.

A consultation on this policy took place between ~~25-22~~ June and ~~14-17~~ September 201~~85~~.

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

1.2 The London Borough of Merton

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

At the last count the population of the borough was just under 203,200 ([last updated in 2016](#)):- As far as the economy is concerned, Merton is still heavily reliant on leisure and service industries, which form almost 60% of total employment within the borough.

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

1.3 Glossary of Terms

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

Licensing Objectives:	As defined in section 1.6 below
Licensing Authority:	London Borough Of Merton
Licences:	As stated in section 1.5 below
Applications:	Applications for licences and permits as defined in section 1.5 & 1.6 below
Notifications:	Means notification of temporary and occasional use notices
Act:	The Gambling Act 2005 (as amended)
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Code of Practice:	Means any relevant code of practice made under section 24 of the Gambling Act 2005
Mandatory Condition:	Means a specified condition provided by regulations to be attached to a licence
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by the Council
Provisional Statement:	Means an application made prior to construction or extensive building work is undertaken to ascertain whether the grant of a licence is likely.
Responsible Authority:	For the purposes of this Act, the following are responsible authorities in relation to premises: 1. The London Borough Of Merton; 2. The Gambling Commission;

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

Interested Party:

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

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

Local Area Profile:

Gambling operators have been required to undertake risk assessments for their premises since 6th April 2016 (and keep the risk assessment document on site), which should take into account the nature and characteristics of the locality in which they are situated, such as the proximity of schools, churches, addiction rehabilitation centres, offender hostels, etc and the preponderance for gambling in certain areas of the Borough. Such risk assessments have to consider the Borough's Local Area Profile which maps reported gambling-related problems in any area of the Borough is a live separate document which will remain under review as changes take place within the borough. The Local Area Profile document is designed to increase awareness of identified detailed risks, to inform operators with constructive engagement when completing risk assessments and to allow them to address identified local risks.

1.4 Licensing Objectives

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

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

1.5 Licensable Premises and Permits

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

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

1.6 General Principles

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

The Licensing Objectives are as follows:

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

Nothing in this Statement of Policy will: -

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

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

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

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

Interested Parties

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

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

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

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

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

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

1. Planning controls;
2. Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments;
3. Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;
4. The power of the Police, other responsible authorities or local residents and businesses to seek a review of the licence.

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

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

1.7 Consultees

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

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

1.8 Information exchange

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

Details of those persons making representations will be made available to applicants and other interested parties, to allow for negotiation and in the event of a hearing will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed.

2 LEGISLATION, POLICIES AND STRATEGIES

2.1 Legislation

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

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

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

2.2 Relationship with Planning Policies

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

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

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

2.3 National Strategies

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

2.4 Local Strategies and Policies

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

2.5 Integrating Strategies

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

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

Relevant plans and strategies include:

- ❖ Crime and Disorder Strategy – The Licensing Authority will fulfil its duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough. As far as possible, licensing decisions will aim to contribute to the targets set in the Crime and Disorder Strategy and conditions attached to licences and certificates will reflect local crime prevention strategies.
- ❖ Racial Equality – The Licensing Authority is required under race relations legislation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.
- ❖ Human Rights – The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right. The Licensing Authority will have particular regard to the following provisions of the European Convention on Human Rights, in particular: -
 - Article 6 that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
 - Article 8 that everyone has the right to respect for his home and private and family life;

- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.
- ❖ Proper integration will be assured by the Licensing Authority's Licensing Committee providing reports, when appropriate, to the Planning Committee on the situation regarding licensed premises in the area, including the general impact of gambling related crime and disorder, to enable the Planning Committee to have regard to such matters when taking its decisions.
- ❖ Tourism and Town Centre Management – The Licensing Authority aims to promote a high quality thriving nighttime economy.
- ❖ The Licensing Authority will ensure that the Licensing Committee receives reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations.
- ❖ Economic Strategies – The Licensing Authority will ensure that the Licensing Committee is apprised of the employment situation in the area and the need for new investment and employment where appropriate.
- ❖ Enforcement Policy – All licensing enforcement will be conducted in accordance with the regulatory compliance code.

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

3 DECISION MAKING

3.1 Terms of Reference

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

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

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

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Licensing Officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Sub-Committee. Where representations are rejected, the person making that representation will be given a written reason as to why that is the case. The Gambling Act 2005 provides no

right of appeal in these circumstances, although other avenues of legal challenge, for example Judicial Review, may be available.

3.2 Allocation of Decision Making Responsibilities

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

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

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

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

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

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

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

3.3 Licensing Reviews and Applications

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

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

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

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

The Licensing Authority will carry out a review of a premises licence where it has

received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives.

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

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

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

Representations may include issues relating to the following:

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

4 LOCAL STANDARDS

4.1 Applications

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

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

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

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

4.2 Assessment of Need

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

4.3 Conditions

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

4.4 Enforcement

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

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

Such protocols will be agreed by the Licensing Committee.

4.5 Casinos

There are currently no casinos operating within the Borough.

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

Comment [BC1]: Update the date and re-adopt at meeting and include as a decision in the Report.

The Licensing Committee agreed and approved their-adoption of the no casino policy at the meeting which took place on 12 June 2018.

However, the Licensing Committee will need to revisit this proposal at the next scheduled meeting due to take place on the 10 October 2018 and if necessary Committee will be required to recommend to full Council the re-adoption of this policy.

4.6 Bingo

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

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

4.7 Betting Offices

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

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

4.8 Family Entertainment Centres (Licensed)

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

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

4.9 Family Entertainment Centres (Unlicensed)

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

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

- 1 Unlimited numbers of Category D machines

Comment [BC2]: Check numbers and categories and types of machines

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4.10 Alcohol Licensed Premises

The holder of a premises licence, which authorises the sale by retail of alcohol under the Licensing Act 2003 for consumption on the premises, has an automatic entitlement, upon notification to the Licensing Authority, to have up to two (2) category C or D gaming machines. Should a premises licence holder wish to have more than two (2) category C or D gaming machines, they may apply for an alcohol licensed premises gaming machine permit. The notification of an automatic entitlement and an application for an alcohol licensed premises gaming machine permit is subject to restrictions as defined in regulations.

5 PREVENTION OF CRIME AND DISORDER OBJECTIVE

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

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

Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council's Licensing Officers and [the local Police Licensing Officer](#) at Wimbledon Police Station before making a formal application.

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

1. The design and layout of the premises
2. The training given to staff in crime prevention measures appropriate to those premises
3. Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed
4. Where premises are subject to age restrictions, the procedures in place to conduct age verification checks
5. [The likelihood of any violence, public order or policing problem if the licence is granted](#)
6. [The operators draft or existing Local Area Risk Assessment and](#)
7. [the operators compliance with the Council's Local Area Profile.](#)

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

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

7 PROTECTION OF CHILDREN AND OTHER VULNERABLE PERSONS OBJECTIVE

7.1 Access to Licensed Premises

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

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

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

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

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

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

7.2 Vulnerable Persons

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

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

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

8 COMPLAINTS AGAINST LICENSED PREMISES

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

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Licensing Authority

may initially arrange a conciliation meeting to address and clarify the issues of concern.

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

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

FURTHER INFORMATION

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

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

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

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

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

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

Appendix A

DELEGATION OF LICENSING FUNCTIONS

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

Appendix B

GAMING MACHINE CATEGORIES

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

Comment [BC3]: Check figures are still correct?

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

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

Comment [BC4]: Check figures are still correct?

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

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

Comment [BC5]: Remove and replace for new consultation

Appendix C

REGULATORS COMPLIANCE CODE & ENFORCEMENT POLICY

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

This document can be accessed by the following web link:

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

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

NAME	STATUS	COMMENTS
Siobhain McDonagh MP	LOCAL MEMBER OF PARLIAMENT	<p>Dear Sir/Madam,</p> <p>I am writing to contribution my thoughts to the consultation on Merton Council's Statement of Principles under the Gambling Act 2005 (Gambling Policy).</p> <p>I believe that there are too many betting shops in close proximity in certain areas, including in Mitcham Town Centre. This concentration of betting shops has caused a number of consequences, including street drinking and antisocial behaviour outside of the stores themselves. I believe that the majority of these companies do not deem themselves to be responsible for the antisocial behaviour and street drinking being caused outside of their stores and so it is left to the residents, police and Council to pick up the pieces.</p> <p>I believe that these stores are attractive to many due to the fixed odds betting terminals. I believe that more can be done to stop the antisocial behaviour and street drinking that is being caused.</p>
Ms Lynn Avery	RESIDENT	<p>Re: Review of the London Borough of Merton's Statement of Principles under the Gambling Act 2005</p> <p>I live in Wimbledon & have thus cc'd our x3 Hillside Councillors + our local residents association (WEHRA) on this letter. So, as a quick "learning curve" for them (in case they are not fully aware of the current status quo) rather than yourselves (who I am sure are all too aware) I am detailing below (before I come to my recommendations) a few key facts.</p>

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

	<p>Background:</p> <ul style="list-style-type: none"> • Fixed Odds Betting Terminals (fobts) have been called the “crack cocaine” of gambling & cover all sorts of on-line gambling including: poker; roulette; black jack; etc. They drive the profits of Betting Shops, with “profits per machine” estimated @ c£50K per year....so £200K per shop, given a maximum of “only” x4 machines (per shop) is permitted. And their numbers have more than doubled in the last 5 years to 32,000. • Several years ago “for all the right reasons” regulations were put in place to limit the number of machines to x4 per shop. The “Law of Consequence” of this seemingly admirable ruling was to exacerbate the problem, as it led to the proliferation of betting shops in the High Street. <p>This proliferation of betting shops is often in deprived areas, where those living there can ill afford to lose vast sums of money. A key example is Newham, which had c18 betting shops in a single (high) street. NB This “easy access” to machines is not only through betting shops, of course, they are additionally available in bars & clubs.</p> <ul style="list-style-type: none"> • Many Councils have tried to refuse permission for (yet another) betting shop to open in their Borough, only to see that decision overturned @ appeal, as the Borough (concerned) has no law/grounds in place to (legally) stop this happening. • The Government is trying to reduce single/maximum stakes (which can be spent in the matter of minutes) from £100 > £50 or (ideally) £2. But the Gambling Association (with deep financial pockets) is pushing back hard against this happening. Thus any change will be a long time coming. And whilst these machines remain so profitable, Betting Shops will continue their
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Appendix ‘B’ - Draft Statement of Principles under the Gambling Act 2005 – Consultation Responses Received During the Public Consultation Processes.

	<p>High St marcheven easier (for them) given the High St sites constantly becoming available as well-known High St names disappear, leaving empty shops that landlords are desperate to fill & which betting shops (with their vast profits) are all too willing to take over as they have the yearly income to pay the huge business rates/rent being asked.</p> <p><u>Number of Betting Shops in Wimbledon</u> There are SEVEN Betting Shops within a 4/5 mins walk of W/Don Station (running from Alwyne Rd > W/Don Theatre)...all a few seconds walk from a nearby pub/bar. In directional order these are: <u>Ladbrokes:</u> Wimbledon Hill Road. Located within c20 metres of W/Don High (School) & close to a bus stop used by schoolchildren from the many other schools in the immediate area. <u>Bet Fred:</u> Wimbledon Bridge Rd (opp Wilkinson’s/next to a charity shop whose customer base, it could be argued, are financially stretched). <u>Ladbrokes:</u> Corner of Queens Rd/ opp Centre Court <u>Coral:</u> The Broadway (diagonally opp Wimbledon Station side entrance) <u>Jennings Bet</u> Site alongside Coral (above) NB There is an “Everyday Loans” company sign on the 1st floor of the building immediately prior to “Coral”, which seems particularly “opportunistic” <u>Coral:</u> The Broadway. Opp Wimbledon Theatre & diagonally opp where the Job Centre was (before it was relocated). <u>Paddy Power:</u> Gladstone Road (opp TKMaxx)</p>

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

	<p>Recommendations:</p> <ol style="list-style-type: none"> 1. Producing a new/revised plan is a work/time intensive & costly process, as it involves: preparation of evidence; adapting new strategic proposals & sustainability appraisals + public consultations. Followed by submission to Government & examination in public. Consideration (by Merton Council) to, therefore, be given to consultation/liasing with Doncaster Council (who has recently gone through all the above, the culmination of which happened in Nov 2017) to determine if any ideas can be utilised so that Merton can mirror what they have done (ie to save Merton Council time/money). 2. Push Government for greater powers for Local Councils to prevent clustering of betting shops. Newham campaigned for years to allow for this to happen & finally had its local plan agreed in September. 3. Interrogation of the site that has been established to fight fobts (www.stopthefobts) to see if anything Merton Council determines through their current consultation process can be utilised by this organisation. 4. Implementation of a Cumulative Impact Zone for betting shops to limit their numbers ie as currently exists for bars; etc 5. Specific to the clause "<u>protect children & other vulnerable adults from being harmed or exploited by gambling:</u> No betting shops to be opened within a set radius of: <ol style="list-style-type: none"> a) A school or Job Centre NB although schoolchildren are under the minimum age for entry to a betting shop, passing one every day "educates" them (long term) re
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Appendix ‘B’ - Draft Statement of Principles under the Gambling Act 2005 – Consultation Responses Received During the Public Consultation Processes.

<p>the acceptability of visiting these establishments. This is compounded by the fact that the current generation of teenagers are more used (than any previous generation) to playing (games) on-line. Consequently they will be “low hanging fruit” for Betting Shops when they reach the minimum age requirement (to enter these premises) as they will be eager to participate. They, therefore, need protecting from themselves</p> <p>b) A pub/bar, as inhibitions will have been diminished by alcohol consumption, thus making people more vulnerable & more likely to gamble to excess.</p> <p>6. No betting shop should be allowed to open alongside another (betting shop)</p>		
<p>My name is Jeffrey Alexander Gunn and I live at [REDACTED]. I am Secretary of [REDACTED] and write on behalf of our members. We do not have any of these premises within our catchment area but our residents have access to them when they go shopping or are on their way to and from work. Most of what is proposed is just a general update of the previous regulations so no comment on most of this. However, we are aware that the government and regulators of betting shops are looking to impose a cap of £2 on the stakes for betting on gaming machines. Your regulations seem to be keeping references to the £100 maximum stake and we would expect you to consider a lower limit to reflect concerns about the addictive qualities of these gaming machines. This could of course just reflect a delay in legislation being put in place to reflect the recent national decisions but should be considered before finalising your draft.</p>	<p>RESIDENT</p>	<p>Mr Jeffrey Gunn</p>

Appendix ‘B’ - Draft Statement of Principles under the Gambling Act 2005 – Consultation Responses Received During the Public Consultation Processes.

Ms Catherine Sweet	GAMCARE	<p>Thank you for your email, we appreciate your interest in our work.</p> <p>While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below, more information is available via the Gambling Commission.</p> <p>The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council’s wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.</p> <ul style="list-style-type: none"> • A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/ • Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to
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Appendix ‘B’ - Draft Statement of Principles under the Gambling Act 2005 – Consultation Responses Received During the Public Consultation Processes.

		<p>adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.</p> <ul style="list-style-type: none"> • A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place. • Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately? • Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs. • Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling. • Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.
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Appendix 'B' - Draft Statement of Principles under the Gambling Act 2005 – Consultation Responses Received During the Public Consultation Processes.

<p>We would suggest that the Local Licensing Authority primarily consider applications from GamCare Certified operators. GamCare Certification is a voluntary process comprising an independent audit assessment of an operator's player protection measures and social responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice. If you would like more information on how our audit can support Local Licensing Authorities, please contact mike.kenward@gamcare.org.uk</p> <p>For more information on GamCare training and other services available to local authorities, as well as recommended training for gambling operators, please see the attached brochures.</p> <p>If there is anything else we can assist with please do let us know.</p>		
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London Borough of Merton

Gambling Act 2005 – Local Area Profile.

1. Introduction

The Gambling Act 2005 (the Act) gave Local Authorities (LA's) responsibility for issuing premises licenses for gambling venues. The Act (s153) states that LA's should '*aim to permit*' the use of premises for gambling so long as applications for premises licences are reasonably consistent with the Gambling Commission's code of practice, the Gambling Commission guidance, the three licensing objectives and the Council's Statement of Principles under the Gambling Act 2005. The three licensing objectives are:

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

Recently, there have been some changes in the recommended approach to gambling licensing and regulation, as expressed in the guidance published by the Gambling Commission (the Commission). These changes can be summarised into three broad themes:

- Increased focus on risk and regulation;
- Greater attention to local area risk; and
- Encouragement of partnership and collaboration between stakeholders to mitigate risk.

From April 2016, all industry operators have been required to undertake local area risk assessment to explore what risks gambling venues pose to the licensing objectives, including the protection of young and vulnerable people. The London Borough of Merton (the Council) has developed this document as a guide, which gambling operators can use when undertaking and preparing their local premises risk assessments. This guide is intended for all gambling operators and has not been designed with a specific gambling sector in mind.

The Gambling Commission introduced new provisions in its social responsibility code within the Licence Conditions and Codes of Practice (LCCP), which require gambling operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks. This change in national policy is intended to provide a well evidenced and transparent approach to considering and implementing measures to address the risks associated with gambling.

The introduction of new provisions in the social responsibility code within the LCCP encourages local authorities, the Gambling Commission and the industry to work in partnership to address local issues and concerns. This movement towards increased partnership working is something that the London Borough of Merton has been doing for a number of years and continues to support. We have found that a risk-based

approach to regulation can be beneficial for businesses and the authority to prioritise their actions in response to the identified risk.

The risk based approach provides a better understanding of, and enables a proportionate response, to risk. This approach includes looking at future risks and thinking about risks in a probabilistic way. Risk is not necessarily related to an event that has happened. Risk is related to the probability of an event happening and the likely impact of that event. In this case it is the risk of the impact on the licensing objectives.

This guide provides a framework for the local risk assessment process that will provide the necessary framework to comply with the LCCP requirements. Local risk assessments will be beneficial to the Council, as Licensing Authority under the Act, as well as responsible authorities and interested parties when considering new and variation applications. A well thought out and complete risk assessment will benefit gambling operators in the process of applying for new and varying existing premises licences by reducing the need for additional information or possibly the imposition of conditions.

Gambling operators were required to undertake a risk assessment for all of their existing premises by 6th April 2016. Following that date operators must also undertake a review of those assessments when certain triggers are met. These triggers, along with the Council's views on what may instigate either a new assessment or the review of an existing one are detailed within this guidance document.

The Council considers that these local risk assessments are a key component of the overall assessment and management of the local risks.

This local risk assessment process is not the same as other forms of risk assessment undertaken by gambling operators, such as Health and Safety at Work, Fire Safety and Food Hygiene, etc. These local risk assessments are specific to the potential harm that gambling premises can have on one or more of the licensing objectives under the Act. They are specific to the premises, the local area and the local community.

The Licensing Authority will set out how it intends to carry out its functions under the Act in this Statement of Licensing Principles under the Gambling Act 2005, also known as the Gambling Licensing Policy. This statement is kept under review and is updated every three years (as a minimum). The Gambling Commission is responsible for issuing operating licences to gambling operators who are deemed suitable and competent to provide facilities for gambling. As a requirement of these operating licences, gambling operators must ensure that they comply with and meet the requirements of the LCCP.

In February 2015, the Commission introduced a new social responsibility code provision making it a requirement for certain gambling operators to assess the local risks to the licensing objectives posed by each of their premises based gambling operations. The Commission also introduced an ordinary code provision relating to sharing local risk assessments.

The relevant provisions of the code state:

Social responsibility code provision 10.1.1 Assessing local risk

All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences.

This provision came into force on 6 April 2016

1. Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy.
2. Licensees must review (and update as necessary) their local risk assessments:
 - to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
 - when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
 - when applying for a variation of a premises licence; and
 - in any case, undertake a local risk assessment when applying for a new premises licence.

Ordinary code provision 10.1.2 Sharing local risk assessments

All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences.

This provision came into force on 6 April 2016

1. Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

These code provisions come into effect on 6th April 2016. As a result, all premises that provide facilities for gambling within the London Borough of Merton must be assessed to identify the local risks posed by the provision of gambling facilities in their respective locations. This guidance will assist operators in complying with these code provisions.

2. The London Borough of Merton Area Profile.

Factual information to be inserted here, which sets out the make-up of the borough as well as maps of each ward showing the location of the following:

- *Schools;*
- *Locations of existing gambling premises;*
- *Alcohol licensed premises;*
- *Youth centres;*
- *Homeless hostels;*
- *Treatment centres for persons dealing with drug and alcohol addiction*

DRAFT

3. Risk assessment triggers

The local risk assessment code provisions provide a number of triggers for when a new assessment is required and for when an existing one requires review. The Gambling Commission has not provided any further detail on these triggers and it will be ultimately down to gambling operators, the Commission and the Council to assess when these triggers have been met.

In order to assist gambling operators this section sets out the Licensing Authority's views on what these triggers may be and when operators should provide a copy of their assessments to the Licensing Authority.

New premises

If an operator intends to apply for a new premises licence under Part 8 of the Act then a local risk assessment must be carried out as required by the Commissions LCCP social responsibility code provision 10.1.1. That assessment should be based on how the premises are proposed to operate at the premises location and must take into account the local area. The completed assessment should be provided with the application for a new premises licence upon submission to the Licensing Authority.

Significant changes in local circumstances

Operators are required to review their local risk assessment if significant changes in local circumstances occur. Changes to local circumstances happen frequently and can be either temporary or permanent depending on the change, how long that change will remain in place and how it affects the local area. However, the requirement for review of the risk assessment is only applicable when that change is significant.

The review of the premises risk assessment may simply mean that after review no action is necessary as the measures and systems already in place will mitigate any risk associated with that significant change. In this case gambling operators may record that a review has taken place, why it had occurred and that no action was necessary. This would enable the gambling operator to maintain an appropriate audit trail so as to demonstrate that action had been taken.

However, on occasions the significant change in local circumstances may require a need to update and amend the existing risk assessment. In those cases gambling operators may wish to ensure that their assessments are updated adequately and that any relevant control measures are introduced correctly.

As the Gambling Commission has not set out what a significant change in local circumstances is it will be the gambling operator's responsibility to identify these changes and take the appropriate action in reviewing their risk assessments. The Council, in an attempt to assist gambling operators has produced the following lists of examples that may be considered to be significant changes in local circumstances:

- The local area is classified or declassified by the Licensing Authority as being an area of heightened risk within its Statement of Licensing Principles.
- Any new pay day loan or pawn brokers open in the local area.
- Educational facilities increase in the local area. This may occur as a result of the construction of a new school/college or where a significant change is made to an existing establishment.
- The local area is identified as a crime hotspot by the police and/or Licensing Authority.
- Any vulnerable group is identified by the Licensing Authority or venues relating to those vulnerable groups are opened in proximity to gambling premises (e.g. additional homeless hostels or gambling or mental health care/support facilities are opened in the local area).

The list above is not an exhaustive list of examples of what could be considered as significant changes in local circumstances. The Council will provide information to gambling operators when it feels a significant change has occurred in the local area to enable them to take any necessary steps in reviewing their risk assessments. The Council may inform gambling operators when it feels that a significant change has occurred in the area. The Council may also include any specific concerns that it feels may be considered as part of any review of the local area risk assessment for that premises. The notification of any significant changes from the Council should be a prompt to gambling operators to consider carrying out a review of their local risk assessments and having regard to any specific concerns raised by the Council.

Significant changes to the premises

From time to time operators will undertake changes to the premises' layout and décor, which is unlikely to prompt a review of the risk assessment for that premises. However, where there is a significant change at the premises that may affect the mitigation of local risks, then an operator must review its risk assessment and if necessary update it, taking into account the change and how it may affect one or more of the licensing objectives.

It is expected that gambling operators will undertake this risk assessment process as a matter of course for any premises refit, changes to layout or internal control measures. If any changes do require a review of the risk assessments for that premises gambling operators should ensure that they have a system in place to record and action any measures identified in that review.

The gambling operator will be responsible for identifying when a significant change to the premises has occurred. In order to assist gambling operators the Council has provided the following list of examples of what could be classified as a significant change to the premises (some of which may also require a variation to the existing premises licence).

- Any building work or premises refit where gambling facilities are relocated within the premises.
- The premises licence is transferred to a new operator who will operate the premises with its own procedures and policies which are different to those of the previous licensee.
- Any change to the operator's internal policies which as a result requires additional or changes to existing control measures; and/or staff will require retraining on those policy changes.
- The entrance or entrances to the premises are changed, for example, the door materials are changed from metal with glazing to a full glass door or doors are re-allocated from egress to ingress or vice versa.
- New gambling facilities are made available on the premises which were not provided previously, for example, bet in play, handheld gaming devices for customers, Self Service Betting Terminals, or a different category of gaming machine is provided.
- The premises operator makes an application for a licence at that premises to provide an activity under a different regulatory regime, for example, to permit the sale of alcohol or to provide sexual entertainment on the premises.

As with the examples of significant changes in local circumstances set out in the list above is not an exhaustive list of significant changes to premises.

The Council will not, as general practice, request a copy of the reviewed risk assessment if a significant change to the licensed premises has occurred, unless the change is one that will necessitate a variation application.

Variation of the premises licence

Variations to premises licences are only those required to be made under section 187 of the Act and will not include changes of circumstances such as a change of premises' name or a change of licensee's address, etc.

The Commissions LCCP social responsibility code provision 10.1.1 requires that gambling operators must undertake a review of the local risk assessment and update it if necessary when preparing an application to vary the premises licence. Operators submitting a variation application to the Council may consider submitting a copy of the reviewed local risk assessment when submitting the application. This will then negate the need for the Council requesting to see a copy of this risk assessment and could potentially reduce the likelihood of a representation being made to the application.

If an operator wishes to vary a converted casino premises licence from one premise to another then the gambling operator should consider producing a new risk

assessment for that premises. It is advisable that a copy of that assessment is submitted to the Council with the application form.

Regular review of risk assessment

As a matter of best practice the Council recommends that operators establish a regular review regime in respect of their local risk assessments. This review programme can be carried out alongside other reviews on Health and Safety risk assessments for the premises. This review programme would ensure that, regardless of whether or not any of the trigger events set out above have occurred, these risk assessments are considered at regular intervals and updated if necessary.

It will be up to the gambling operator as to the frequency of these reviews but it is recommended that no more than three years should pass before these assessments are reviewed. Operators may wish to synchronise their reviews of the local risk assessments with the publication of the Council's Statement of Licensing Principles under the Gambling Act 2005. This would enable gambling operators to consider the Local Area Profile, which has been published as an appendix to the Council's Statement of Principles under the Gambling Act 2005.

4. Undertaking a local risk assessment

A local risk assessment of gambling premises should be carried out through a step-by-step approach. Gambling operators may first assess the local area and identify the relevant risk factors, then assess the gambling operation, and finally assess the premises design, both internal and external. Once the risk factors have been identified, the control measures to mitigate the risks should be considered. These control measures will either already be in place or will need to be implemented.

Who should undertake the assessment.

It will be the responsibility of the gambling operator to assign the assessor for assessing the local risks for their premises. The person assigned as the assessor must be competent to undertake this role as failure properly to carry out this function could result in a breach of the provisions of the LCCP. The assessor must understand how the premises operate or will operate, its design, and where it is located. The assessor will need to understand the local area and can use staff or area managers to assist in gaining an understanding of that local area.

Step 1: The local area.

Operators should start by identify the local risk factors surrounding the premises. The risk factors will differ from location to location so an understanding of the specific characteristics of the local area and the people who live, work or visit that area is important.

The London Borough of Merton Local Area Profile (section 2) will set out the demographic profile of areas of the Borough, and the specific concerns and risks that the Licensing Authority has identified in relation to gambling in those areas.

Step 2: Gambling operation and physical design

In assessing the risk factors associated with a gambling operation the assessor should take into account the local risks which are commonly accepted by broader stakeholders and how that gambling operation may affect that risk.

The physical design of the premises is a key consideration as this could have a significant impact on the risk to the licensing objectives. In assessing the risk factors associated with the premises design and layout reference is needed to the local area risks factors already identified to ensure the design doesn't add to that risk. The design, both internal and external should be considered and specific risk factors identified and noted.

Step 3: Control measures

Once the risk factors have been identified, the assessor should seek to identify control measures that would mitigate the identified risks. Such control measures will relate to one of the three categories of control measures mentioned above (systems, design and physical). Some risk factors may require a combination of control measures to adequately mitigate the risk.

Step 4: Action Plan

Once the assessment has been carried out an action plan should be completed so that any identified actions are documented and a deadline for completing the required piece of work is set and agreed.

Completed assessment

The control measures must be implemented on the premises and, if applicable, staff on the premises should be trained in their use or trained on the new policy or procedure. The assessment must be retained and should be reviewed whenever a trigger occurs or as part of a regular review regime (see part 3 above).