

# LONDON BOROUGH OF MERTON



## STATEMENT OF LICENSING POLICY

Approved on 18 November 2020

In effect from: 6 January 2021

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<i>The Council</i>	The London Borough of Merton Council
<i>The Licensing Authority</i>	The capacity in which the Council acts when performing its roles and duties set out in the Licensing Act 2003. This capacity is delegated to officers in certain situations and circumstances detailed in the Policy.
<i>Licensing Sub-Committee</i>	The 3 member committee appointed from the pool of the 12 member Licensing Committee to consider applications for Premises Licences, Club Premises Certificates, and their variations and reviews or other Types of Licences or applications.
<i>The Act thereunder.</i>	The Licensing Act 2003 and all Regulations made
<i>Secretary of State's Guidance</i>	The Guidance issued by the Home Office under section 182 Licensing Act 2003
<i>Other Person</i>	Any persons wishing to make representations on an application or to apply for or make representations on a review
<i>Cumulative Impact Assessment</i>	A special policy in which the Licensing Authority considers that the number of relevant authorisations in respect of premises in one or more parts of its area described in the assessment is such that it is likely that it would be inconsistent with the authority's duty under section 4(1) to grant any further relevant authorisations in respect of premises in that part or those parts. The CIAs arise under 5A of the Licensing Act 2003.
<i>Relevant representation</i>	<p>The Licensing Authority may only consider relevant representations (objections) in determining applications. Relevant Representations are defined in the Act as being those that:</p> <ul style="list-style-type: none"> <li>● are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives</li> <li>● are made by any other person or responsible authority within the prescribed time period following an application</li> <li>● are not frivolous or vexatious (in the opinion of the Licensing Authority or the Licensing Sub-Committee).</li> </ul>
<i>Designated Premises Supervisor (DPS) hold</i>	<p>A person specified on the licence as the supervisor of the premises licensed for the sale of alcohol. The DPS must hold</p> <p>a personal licence.</p>
<i>Personal Licence</i>	A licence granted by a Licensing Authority to an individual, authorising that individual to sell, or authorise the sales of, alcohol.

Licensing Policy  
*Operating schedule*  
 out

The part of an application form in which the applicant sets their proposed activities, the times which they wish to operate and the steps they propose to promote the licensing objectives.

*Licensable activities*

Activities for which authorisation is required under the Act:

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

*Regulated entertainment*

The provision of regulated entertainment is defined as any of the following activities that takes place in the presence of an audience for the entertainment of that audience and are provided with a view to profit:

- **Boxing or wrestling** including mixed martial arts (this does not include Greco-Roman or Freestyle wrestling)
- **An exhibition of a film** (this does not include live feed television i.e. sporting events)
- **Adult entertainment** (for example lap-dancing)
- **Playing of recorded music**
  - Between 11pm and 8am
  - At any time when the audience numbers are over 500 people
- **Unamplified live music**
  - Between 11pm and 8am
- **Amplified live music** (including karaoke):
  - Between 11pm and 8am
  - At any time when the audience numbers are over 500 people
- **Performance of dance**
  - Between 11pm and 8am
  - At any time when the audience numbers are over 500 people
- **Performance of a play**
  - Between 11pm and 8am
  - At any time when the audience numbers are over 500 people
- **Indoor Sporting Events**
  - Between 11pm and 8am
  - At any time when the audience numbers are over 1000 people
- **Entertainment of a similar description** to that falling within the performance of live music, playing of recorded music or performance of dance

**De-regulated Entertainment:** The Legislative Reform (Entertainment Licensing) Order 2014 came into force on 6 April 2015 with the effect that the following forms of entertainment are no longer licensable:

- Performances of plays between 8am and 11pm, provided that the audience does not exceed 500.
- Performances of dance between 8am and 11pm, provided that the audience does not exceed 500.
- 'Not-for-profit' film exhibitions held in community premises between 8am and 11pm, provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises, and (b) ensures that each such screening abides by age classification ratings
- Indoor sporting events between 8am and 11pm, provided that those present do not exceed 1,000.
- Any contest, exhibition or display of Greco-Roman wrestling or freestyle wrestling between 8am and 11pm, provided that the audience does not exceed 1,000.
- Performances of unamplified live music between 8am and 11pm, on any premises.
- Performances of amplified live music between 8am and 11pm:
  - On premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500
  - In a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
  - In a church hall, village hall, community hall, or other similar community premises, that is not licensed by a Premises Licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises
  - At the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Playing of recorded music between 8am and 11pm:
  - On premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - In a church hall, village hall, community hall, or other similar community premises, that is not licensed by a Premises Licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.

- At the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Any entertainment taking place on the premises of the local authority between 8am and 11pm, with no limit on audience size, where the entertainment is provided by or on behalf of the local authority
- Any entertainment taking place on the hospital premises of the health care provider between 8am and 11pm, with no limit on audience size, where the entertainment is provided by or on behalf of the health care provider.
- Any entertainment taking place on the premises of the school between 8am and 11pm, with no limit on audience size, where the entertainment is provided by or on behalf of the school proprietor.
- Any entertainment (excluding films and boxing or wrestling entertainment) taking place at a travelling circus between 8am and 11pm, with no limit on audience size, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) the travelling circus has not been located on the same site for more than 28 consecutive days.

*Responsible Authority*

Means the:

- the Chief Officer of Police
- the Fire Authority
- the Public Health authority
- the Enforcing Authority within the meaning given by section 18 of the Health and Safety at Work etc. Act 1974,
- the Local Planning Authority within the meaning given by the Town and Country Planning Act 1990
- the Local Authority by which statutory functions are exercisable in relation to minimising or preventing the risk of pollution of the environment or of harm to human health,
- a body which—
  - represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
  - is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters,
- the relevant licensing authority and any other licensing authority in whose area part of the premises is situated
- the Primary Care Trust or Local Health Board for any area in which the premises are situated
- the Trading Standards Authority,
- the Secretary of State for the Home Office,
- any Licensing Authority (other than the relevant licensing

authority) in whose area part of the premises is situated,

- in relation to a vessel:
  - a Navigation Authority (within the meaning of section 221(1) of the Water Resources Act 1991) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,
  - the Environment Agency,
  - the British Waterways Board, or
  - the Secretary of State.

**The contact details for Responsible Authorities are provided in Appendix 1**

## 1. Introduction

1.1 Merton Council is the Licensing Authority under the Licensing Act 2003 (“the Act”) responsible for processing, authorising the grant of and regulating premises licences, club premises certificates, temporary event notices and personal licences in respect of the sale or supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment within the Borough.

1.2 For the purposes of this policy, reference to Merton is in relation to its function as a licensing authority unless otherwise specified.

1.3 The Act requires the Licensing Authority to carry out its functions under the Act with a view to promoting the following four licensing objectives:

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

Each of these licensing objectives is of equal importance

1.4 These are the only matters that can be taken into account by the Authority when determining an application and any conditions attached to a licence must be lawful, appropriate and proportionate to achieve them.

1.5 Where no representations are received about an application it is the duty of the Licensing Authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed in the Act.

1.6 Under the Act, the Licensing Authority is required to publish a Statement of Licensing Policy with respect to the exercise of its licensing functions and to review it at least every five years. This is the fifth policy published by Merton and will take effect from the 6<sup>th</sup> January 2021. It has been prepared in accordance with Section 5 of the Licensing Act 2003 and having regard to the Government Guidance issued under Section 182 of the Licensing Act 2003 by the Home Secretary in April 2018.

1.7 The licensing policy is an integral element of the Council’s strategic objectives of making Merton a healthier place for all, promoting a high quality safe urban and suburban environment, providing new homes and infrastructure through physical regeneration and effective use of space, making Merton an exemplary borough in mitigating and adapting to climate change and reducing pollution, making it a well-connected and accessible borough and ensuring it is a prosperous borough with a strong economy.

1.8 In formulating the licensing policy the Licensing Authority has had regard to the Council’s Community Plan, the local strategies and plans of the four associated Thematic Partnerships; the Merton Children and Young People Partnership, the Health and Wellbeing Board; the Community Safety Partnership and the Sustainable Communities and Transport partnership as well as planning, cultural, tourism and equality strategies and seeks to



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complement the aim of those strategies. Further information can be found on the Council's website at:

<http://www.merton.gov.uk/council/plansandpolicies.htm>

- 1.9 The Council recognises the links between excessive alcohol consumption and poor health. In addition, alcohol is associated with a wide range of criminal offences including drink driving, being drunk and disorderly, criminal damage, assault and domestic violence. In young people, alcohol is associated with anti-social behaviour and teenage conception. Under Section 13(4)(bb) of the Licensing Act 2003, the Council as Public Health Authority is a Responsible Authority under the Act and is able to make representations in its own right or through supporting other representations. It is therefore essential to consider their representations where they are relevant to the promotion of the licensing objectives. The Public Health team is able to bring data and evidence from the health sector into the licensing process in order to support the promotion of the licensing objectives, in particular the prevention of crime and disorder and the protection of children from harm.
- 1.10 The Council also recognises that in a modern and vibrant society the licensable activities covered by the Act require a responsive and flexible system that balances the interests of commerce and its customers with the rights of residents to enjoy their homes and locality without being unreasonably disturbed. One of the purposes of this Policy is to ensure that local people and visitors to the Borough will have better opportunities to enjoy their leisure time safely without fear of violence, intimidation or disorder. Another intention of the policy is to ensure that local residents are not unreasonably disturbed, whether in the street or at home, by activities within licensed premises or by customers arriving at, or leaving, licensed premises.
- 1.11 An effective Licensing Policy, alongside other initiatives, can work towards promoting positive aspects of the licensed economy, such as increasing the leisure industry provision for the community, encouraging regeneration of town centres and providing communal hubs, as well as controlling the negative impacts which affect residents, such as an increase in noise, nuisance, anti- social behaviour and crime and disorder.

## **2. Profile of the Borough**

- 2.1 Merton is an outer London borough situated to the south west of central London, neighbouring the boroughs of Croydon, Kingston, Lambeth, Sutton and Wandsworth. Comprising of 20 wards, the borough of Merton covers an area of approximately 14.7 square miles and has a population at 2018 of just over 209,000 residents, projected to increase to 222,717 by 2025 and 232,473 by 2030. Merton is well connected with both central London and neighbouring boroughs, with 15 mainline stations and 28 bus routes. Wimbledon is a central transport hub in the South London area while the suburban station at Mitcham Eastfields connects the east of the borough. Both the District and Northern underground lines run through the borough while the Tramlink provides connections between Wimbledon and Croydon via Mitcham and Morden.
- 2.2 The Borough is predominantly a residential area. Its properties are both wide ranging in character and often of a high quality. The borough has five main commercial centres; Colliers Wood, Mitcham, Morden, Raynes Park and Wimbledon. The busiest of these areas is Wimbledon (comprising the Town

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Centre and Village, the former being approximately twice the size of the latter), and has the highest density of leisure and entertainment venues in the Borough.

- 2.3 At present, the Council is responsible for the licensing of just under 500 premises including pubs, bars, restaurants, registered clubs, nightclubs and late night takeaways. Other premises including cultural venues and shops are also licensed. Some licensed premises are in residential areas. A greater number are located in the town centres which are often on a single main road with commercial uses backing onto residential streets. Town centre buildings may contain flats on their upper floors and customers of licensed premises often park their vehicles in residential streets.
- 2.4 The 2019 Joint Strategic Needs Assessment reported a significant level of alcohol related harm in Merton, with approximately 42,000 estimated to be drinking at harmful levels. Alcohol consumption is a key risk factor for the main causes of ill health and premature death in Merton, including cancer and circulatory disease, making tackling overconsumption a key public health priority. In the period 2018/19, there were 40.8 alcohol-related deaths per 100,000 population, which is higher than the London benchmark although lower than the English average. Additionally, the rate of alcohol-related hospital admission in Merton has recently increased from between 1800 and 1900 per 100,000 between 2011/12 and 2016/17 up to 2358 per 100,000 in 2018/19. The impacts of alcohol on health are not distributed evenly across the borough with higher rates of hospital stays for alcohol related harm in the east of the Borough compared to the west. areas of Merton with high numbers of licensed premises generally have a higher number of alcohol- and assault-related ambulance call-outs

### **3. Types of Licences**

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

### **4. The Policy**

- 4.1 This Statement of Licensing Policy serves 4 main purposes:
- To guide elected Members sitting on the Licensing Committee and Sub-Committees on the boundaries and powers of the Licensing Authority and to provide them with guidance when making decisions. Members should be able to test any application against the criteria set out in this Policy.
  - To inform and assist potential applicants for a licence of the expectations of the Licensing Authority and factors that will be considered when making licensing decisions;

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- To inform and assist responsible authorities and other persons (including residents and residents' bodies) of the parameters under which the licensing authority will make licence decisions, and therefore how their needs and concerns can be addressed; and
- To inform a Court of Law of the policy considerations taken into account by the Licensing Authority when making a decision if it is challenged.

4.2 However, every application will be considered on its individual merits, taking into account all relevant matters.

4.3 The main activities which require a licence under the provisions of The Act and which are covered by this policy statement include:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- The provision of entertainment to the public or to members of a club and their guests (regulated entertainment); and
- The supply of any hot food or drink between 23.00 hours and 05.00 hours.;

4.4 There are a number of exemptions to the above and details of these are set out in full in Schedule 1 of the Licensing Act 2003.

### 4.5 Main Principles

The following are the main principles underpinning this Policy:

- Nothing in this Policy restricts any person from making an application under this Act;
- Each application will be judged on its individual merits, having regard to this Policy, the Secretary of State's Revised Guidance issued under section 182 of the Licensing Act 2003 and the law of England and Wales;
- Nothing in this Policy restricts the right of any person to make relevant representations in response to an application or to seek a review of a premises licence or club premises certificate because of a matter arising at the premises in connection with any of the four licensing objectives;
- As well as responsible authorities, any person, body or business is entitled to make representations to the licensing authority in relation to applications for the grant, variation, or review of a premises licence or a club premises certificate, regardless of their geographical proximity to the premises. Appropriate weight will be given to all relevant representations by persons unless they are deemed frivolous, vexatious or repetitious by an officer of the Licensing Authority or the Licensing Sub-Committee;
- Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals

once they are away from the licensed premises and, therefore, beyond the direct control of those responsible for the individual premises or places. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in the London Borough of Merton.

- Conditions will only be imposed on a licence or other authorisation if they are appropriate for the promotion of the licensing objectives and are proportionate. Since licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events, any conditions attached will be focused on matters that are within the control of individual licence holders (i.e. the premises and its vicinity).
- Conditions will be tailored to the size, type, location, characteristics and activities taking place at the premises concerned and will be determined on a case-by-case basis. Standardised conditions will be avoided, although selection may be made from pools of conditions. All conditions must be expressed in unequivocal, enforceable, and unambiguous terms. The Authority is currently developing a pool of model conditions which will be uploaded onto the Council's website on completion.
- The Licensing Authority expects applicants and licence holders to have due regard to the promotion of the licensing objectives and to take active measures to contribute to this aim. The operating schedule should be used to set out a detailed explanation of how applications will promote each of the four licensing objectives. The Licensing Authority would particularly encourage active involvement in best practice initiatives such as challenge 25 proof of age scheme, local pubwatch initiatives. We would also expect all people applying for a licence to install and maintain a good quality close circuit television (CCTV) system in the interests of public safety and security.
- The Licensing Authority acknowledges the importance of partnership working in the licensing process. Individual responsible authorities work together in partnership as well as in partnership with other persons, bodies or businesses in the community in order to maintain a holistic approach to licensing which upholds the licensing objectives while also promoting the Council's strategic objectives.

4.6 The Licensing Authority will monitor the effect of its licensing policy upon the Council's overall objectives and will amend the policy if it is seen to be having a negative impact upon related priorities. In any event the policy will be reviewed no later than five years after the current policy has been adopted by the Council. The Cumulative Impact Assessment will be reviewed every 3 years.

## 5. **Consultation**

- 5.1 Before publishing the policy, the Council consulted with stakeholders and interested parties. The consultation took place between 15 June 2020 and 7 September 2020
- 5.2 Section 5(3) of The 2003 Act requires that the following must be consulted:  
The Borough's Chief Officer of Police;  
The Fire and Rescue Authority;  
The local authority's Director of Public Health;  
Persons/bodies representative of local premises licence holders;  
Persons/bodies representative of local club premises certificates holders;  
Persons/bodies representative of local personal licences holders; and  
Persons/bodies representative of businesses and residents in the area.
- 5.3 The following organisations or individuals were also be consulted:  
Safer Merton;  
British Transport Police;  
Local Accident & Emergency Hospital Departments;  
The Musician's Union & Equity;  
Local Children's Safeguarding Board;  
The Area Forums;  
All Ward Councillors; and  
Local business organisations.
- 5.4 In addition, the Policy was available on the Internet on the London Borough of Merton's web site ([www.merton.gov.uk/licensing](http://www.merton.gov.uk/licensing)).
- 5.5 In determining this Policy appropriate weight will be given to the views of the persons and bodies consulted.

## 6. **Duplication**

- 6.1 This Policy seeks to avoid duplication with other regulatory regimes so far as is possible. This policy statement is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators in respect of employees or members of the public (e.g. Health & Safety at Work etc. Act 1974, Environmental Protection Act 1990, disability discrimination and equality legislation, building regulations, anti-social behavior and crime legislation and fire safety legislation).
- 6.2 Conditions will only be attached to licences if they are appropriate for the promotion of the licensing objectives and are proportionate. If a requirement is already imposed by other legislation, it will not generally be considered to be appropriate in the context of licensing law. However, the fact that a matter is covered by other legislation does not always mean that a condition will not be appropriate for the purposes of licensing. It may be that current legislation or regulations might not cover the particular circumstances that arise out of the type of activity at specific premises. In those situations, it may be appropriate for conditions to be attached that reflect those particular circumstances. However, the licensing authority will not seek to duplicate a condition which is already provided for under other legislation.



## **7. Promotion of Equality**

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

## **8. Live Music, Theatre & Dancing**

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

## **9. Cumulative Impact**

- 9.1 The Secretary of State's Guidance advises that the cumulative impact of a significant number or saturation of licensed premises concentrated in one area can be such as to give rise to serious problems of crime, disorder and/or public nuisance and is a proper matter to take into account when developing a policy statement. An Authority may produce a cumulative impact assessment (CIA) for a particular area if there is a clear evidential basis to do so and following consultation. Section 5A of the Licensing Act 2003 (permits the Authority to consider that the number of authorisations in the area described in the assessment is such that it is likely that it would be inconsistent with the authority's duty under section 4(1) to grant any further relevant authorisations in respect of premises in that area provided it is accompanied by evidence.

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### 9.2

- 9.2 At its meeting on the 18<sup>th</sup> November 2020, the Licensing Authority determined to adopt a special policy on cumulative impact for a total of two locations in the borough:
- Wimbledon Town Centre relating to all licence types
  - Mitcham Town Centre in relation to premises selling alcohol for consumption off the premises only

9.3. The Cumulative Impact Assessment is provided at Appendix 3 to this Policy.

- 9.4. Applicants should be aware that in publishing a CIA a licensing authority is setting down a strong statement of intent about its approach to considering applications for the grant or variation of premises licences or club premises certificates in the area described. Having published a CIA an Authority must have regard to the assessment when determining an application following receipt of representation. The CIA does not, however, change the fundamental way that licensing decisions are made. It is therefore open to the licensing authority to grant an application where it considers it is appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact.
- 9.5. Applications in areas covered by a CIA should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and a licensing authority decides to grant an application it will need to provide the applicant, the chief officer of police and all parties who made relevant representations with reasons for granting the application and this should include any reasons for departing from its own policy.
- 9.6. This special policy cannot be used at a review hearing as a ground for revoking an existing licence or certificate when relevant representations are received about problems with those premises.
- 9.7. The special policy relating to cumulative impact does not include provisions relating to any specific terminal hour in a particular area. The Council does not intend to attempt to fix a terminal hour in any area which may undermine a key purpose of the 2003 Act.
- 9.8. The Authority will consider whether there is a need for any additional special policies on cumulative impact where representations from responsible authorities and/or other parties are received. In doing so, the Authority will consider whether the evidence demonstrates that the cumulative effect of a number of premises in a given area is adversely affecting the licensing objectives, e.g. with regard to the prevention of crime and disorder and public nuisance objectives.
- 9.9. In any event, the Cumulative Impact Assessment will be reviewed every three years to assess whether it is needed any longer or whether it needs expanding or contracting.
- 9.10. The Authority recognises that the absence of a Special Policy on Cumulative Impact does not prevent any Responsible Authority or other person from making representations on the basis that an application would, if granted, give rise to or exacerbate negative cumulative impact.

9.11. The matter of 'need' (whether there is a need for another premises in a given area) is not a matter for consideration of the Authority, and will therefore not form part of the decision making process.

## **10. Policies supporting each of the licensing objectives**

- 10.1 It is expected that prior to making any application under the Act, applicants will have undertaken a full risk assessment of the impact of their activities on the promotion of the licensing objectives. Thereafter, applicants are expected to submit a detailed operating schedule as part of the application, setting out the steps they intend to take to promote the licensing objectives with conditions to mitigate their activities. National guidance places an expectation upon applicants to give thorough consideration to the local area when making applications. An Applicant attending with or including a written set of conditions will assist the Authority in considering an application.
- 10.2 Applicants should be particularly mindful of any special policy on cumulative impact when drawing up their operating schedule. In particular public health data is used in the analysis of cumulative impact within an area and will, therefore, be used in an assessment of a particular licence application where it relates to a premises within an existing cumulative impact area. For example, in situations where a high level of alcohol related ambulance activity occurs in conjunction with alcohol related violent crime
- 10.3 The following is intended to help applicants by setting out criteria and considerations that they should have in mind when drawing up their operating schedule.
- 10.4 The policy covers a wide range of premises including theatres, cinemas, public houses/bars, restaurants, shops/off-licences and fast food outlets/take-aways. Consequently, not all the considerations within the policy apply, or apply to the same degree, to all premises. However, applicants should have regard to the criteria when drawing up their operating schedules as these are the matters which responsible authorities and other persons are likely to consider when deciding to make representations on an application or whether to call for a Review. It also draws the attention of applicants to matters that are likely to be the subject of proposed conditions designed to promote the licensing objectives that may be attached to a licence where relevant representations have been made.
- 10.5 The statutory licensing functions are primarily concerned with the regulation of premises and temporary events, in promoting the licensing objectives. Where appropriate conditions will focus on:
- Matters within the control of the individual licensee or those granted relevant permissions; and
  - The direct impact the activity will have on members of the public living, working or engaged in normal activity in the area concerned and on those visiting the premises.
- 10.6 Applicants are reminded that the Licensing Act 2003 provides that where an operating schedule (or club operating schedule) has been submitted with an application and no relevant representations have been received, the premises licence or club premises certificate must be granted subject only to such conditions as are consistent with the operating schedule accompanying the application and any mandatory conditions required by the Licensing Act 2003.



- 10.7 Therefore, it is important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.
- 10.8 It is also important for the applicant to ensure that the steps suggested by the operating schedule are realistic and within the control of the applicant and management of the premises. If a premises licence or club premises certificate is granted with conditions attached that require the implementation of such steps, a failure to comply with the condition would amount to a criminal offence.
- 10.9 Whether licence conditions are drawn from the applicant's operating schedule or imposed by the Licensing Sub Committee they:
- Must promote the licensing objectives;
  - Must be precise and enforceable;
  - Must be unambiguous and clear in what they intend to achieve;
  - Should not duplicate other statutory requirements;
  - Must be tailored to the individual type, location and characteristics of the premises and/or events concerned;
  - Cannot seek to manage behavior of customers once they are beyond the management/control of the licence holder and their staff, but may impact on the behavior of customers in the immediate vicinity of the premises as they enter or leave;
  - Should be written in a prescriptive format.
- 10.10 Conditions drawn from the applicant's operating schedule will, therefore, be interpreted in accordance with the intention of the applicant and will not simply replicate the wording in the operating schedule.
- 10.11 Applicants for new premises licences/club operating schedules and those seeking variations to existing premises licences are advised to consult with the following organisations before preparing their schedules or at the earliest possible stage in order to avoid disputes:
- Police and local authority community safety officers in relation to crime and disorder;
  - Local community groups;
  - Local environmental Health officers – nuisance including noise;
  - Fire brigade – fire precautions and public safety; and
  - Any other organisation or groups interested in the promotion of the licensing objectives in the area concerned.

## **11. The Prevention of Crime and Disorder**

- 11.1. The Authority recognizes that licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a significant source of crime and disorder. Therefore, whether the premises make, or are likely to make, a significant contribution to the levels of crime and disorder and whether the operating schedule adequately addresses the likelihood of crime and disorder occurring as a result of the grant of the application is a key consideration.

- 11.2 Under section 17 of the Crime and Disorder Act 1998, the London Borough of Merton, as a Local Authority, has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on crime and disorder in the Borough and the need to do all that it reasonably can to prevent crime and disorder. The prevention of crime and disorder is one of the four licensing objectives that this Authority has a duty to promote.
- 11.3. In determining licence applications where relevant representations have been made, it will be the policy of the Authority to consider the adequacy of measures proposed to deal with the potential for crime and disorder having regard to all the circumstances of the case. In particular, the authority may consider the following:
- i. the levels of crime and disorder in and around the venue;
  - ii. the level of compliance with conditions on the existing licence;
  - iii. whether Closed Circuit Television (CCTV) is installed, the positioning of the cameras, the length of time that images will be retained and whether CCTV images will be provided to the police and Council officers in a timely fashion on reasonable request.
  - iv. the measures to be put in place to prevent underage drinking e.g. 'Challenge 25' requiring the production of photo identity cards, documented training procedures to ensure staff are fully trained in age verification (including regular refresher training, use of till prompts in shops, warning notices regarding ID, the use of refused sale records.
  - v. the measures proposed to prevent the consumption or supply of illegal drugs, including search procedures, design of premises, monitoring of toilets, surrender and seizure procedures;
  - vi. the measures proposed to discourage binge drinking and drunkenness and to promote sensible drinking including the sale or use of low % ABV alcohol or alcohol below a certain % ABV, banning the sale of single cans or bottles (under 1 litre in size) of alcohol such as beer and cider
  - vii. for premises selling alcohol for consumption on the premises whether the premises are laid out primarily for seating; whether food is available throughout the whole of the trading hours; whether non alcoholic drinks are readily available;
  - viii. the measures proposed to prevent violence on the premises, including the threat of violence to staff and the use of polycarbonate drinking vessels to avoid injury to staff and customers;
  - viii. whether door supervisors are to be provided and, if so, how many and the hours of employment;
  - ix. measures to be put in place to react to any situations of disorder should they occur;

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- x. in the case of premises selling alcohol on the premises, any measures to be put in place to prevent glass or bottles from being taken into the street;
  - xi. any steps that are to be taken to reduce thefts from patrons using the premises;
  - xii. any steps that are to be taken to reduce the risk of spiking of drinks; .
  - xiii. Whether customers can easily access safe transport, including actively promoting designated driver schemes where a driver is offered discounted or free non-alcoholic drinks or taking steps to minimise the scope for minicabs to tout for business outside the premises or for patrons to be approached by unlicensed taxis/minicabs;
  - xiv. In the case of premises selling alcohol for consumption off the premises whether alcohol will be stored behind the counter or away from entrance/exit points or, in larger stores, away from checkouts; and
  - xiii. for new applications, the extent to which the layout has been designed to minimise crime and disorder;
- 11.4. This Authority will expect an applicant's operating schedule to satisfactorily address these issues from the design of the premises through to the daily operation of the business.
- 11.5. This Authority, where appropriate, will consider attaching additional conditions to licences to deter and prevent crime and disorder both inside and within the locality of the premises.
- 11.6. This Authority also recognises that there are a number of other mechanisms available to address the impact of crime and disorder and anti-social behavior in the borough. These include:
- ongoing measures to create a safe and clean environment in partnership with local businesses, transport operators and other Council Departments;
  - designation of the Borough as a place where alcohol may not be consumed publicly where people are causing, or likely to cause, a nuisance;
  - regular liaison with local Metropolitan Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk; confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of likely or imminent disorder, or excessive noise nuisance from the premises;

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- the power of the police, other responsible authorities, Ward Councillors or a local resident, as well as operators of local businesses, to seek a Review of the licence or certificate.

## 12. Public Safety

- 12.1. The Licensing Act 2003 covers a wide range of premises that require the authorisation of a premises licence or a club premises certificate, including, cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants and fast food outlets/takeaways and one off large scale outdoor events.
- 12.2. These types of premises present the potential for a variety of safety concerns, some of which are common to all premises and others that may be unique to specific operations. It is essential that premises are constructed or adapted and operated so as to address potential and identified risks and safeguard occupants against them.
- 12.3. In determining licence applications where relevant representations have been made, it will be the policy of the Authority to consider the adequacy of measures proposed to protect public safety having regard to all the circumstances of the case. In particular, the authority may consider the following:
- i. Whether the premises already have a licence specifying the maximum capacity for the premises and, if not, whether the applicant has assessed the maximum safe capacity having regard to means of escape in case of emergency, toilet provision and overcrowding in compliance with the Regulatory Reform (Fire Safety) Order 2005;
  - ii. Whether specific measures have been identified to ensure the safety of indoor sporting events and boxing/wrestling/mixed martial arts events e.g. seating arrangements, provision of stewards, appropriate medical facilities, provision of staff adequately trained in rescue and life safety procedures (water based events);
  - iii. What measures are to be implemented to ensure that special effects, temporary electrical installations, temporary decorations and temporary fittings are safe;
  - iv. Where different events are to take place on site, whether it is proposed that event specific management documents outlining the proposed management structure, responsibilities and contact details for each individual event, together with details of the organization, control, monitoring and review mechanisms be produced and submitted to the appropriate responsible authorities in advance of the event;
  - v. Proposals relating specifically to theatres, cinemas and concert halls regarding number of attendants required, standing and seating in gangways, consumption of drinks, safety of scenery and ceilings, provision of safety curtains, fixing of seating and minimum lighting levels;

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- vi. Whether provisions are in place to ensure that premises users safely leave the premises, including providing information on local taxi companies and ensuring adequate lighting levels outside the premises; and
  - vii. The steps the applicant has taken or proposes to take to comply with the following publications as they relate to the particular licensable activity: -
    - Technical Standards for Places of Entertainment;
    - The Purple Guide to Health Safety and Welfare at Music and Other Events – published by the Events Industry Forum, accessible (for a fee) via the website <https://www.thepurpleguide.co.uk/>
    - Managing Crowds Safely, second edition (HSE 2014) ISBN 978 0 7176 1834 7;
    - The Guide to the Safety at Sports Grounds 6<sup>th</sup> Edition ISBN 978 1 9164583 0 7
    - Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances;
- 12.4 This Authority will expect the applicant's operating schedule to fully address these issues. Applicants are advised to seek advice from relevant authorities, before preparing and submitting their application, plans and supporting documents.
- 12.5 This Authority where appropriate, will consider attaching additional conditions to licences to address public safety matters.
- 13. The Prevention of Public Nuisance**
- 13.1 Licensed premises, especially those operating late at night and in the early hours of the morning, may cause a range of public nuisances impacting on people living, working or sleeping in the locality of the premises. The concerns primarily relate to noise nuisance, light pollution and noxious smells.
- 13.2 The Authority recognises that it is necessary to actively protect residents, members of the public and businesses in the locality of licensed premises from disturbances linked to licensed premises or their customers that amount to a public nuisance. Such a nuisance can impact on the quality of life of residents and the ability of other businesses to operate effectively. The applicant must demonstrate within their operating schedule how they intend to promote the licensing objective relating to the prevention of public nuisance.
- 13.3 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community.
- 13.4 In determining licence applications where relevant representations have been made, it will be the policy of the Authority to consider the adequacy of measures proposed to promote avoidance of public nuisance having regard to all the circumstances of the case. In particular, the authority may consider the following:

- i. The steps the applicant has taken or proposes to take to prevent:
  - noise and vibration escaping from the premises, including from music, noise from ventilation equipment and human voices;
  - disturbance by customers arriving at or leaving the premises;
  - queuing, either by pedestrian or vehicular traffic;
  - Disposal/collection of empty bottles;
  - Loading and unloading of equipment e.g. sound systems, scenery, lighting.  
This could include proposals to keep doors and windows closed, provision of a noise limiter on amplification equipment, the provision of acoustic lobbies, the provision of bottle crushers within the premises or other suitable method to prevent noise from emptying of bottles from the premise's refuse container into the refuse collector's container late at night; delivery and collection times avoiding night and early mornings, use of CCTV, employment of registered door supervisors.
- ii. the availability of public transport in the locality (including taxis and private hire vehicles) for patrons;
- iii. The steps the applicant has taken or proposes to take to prevent disturbance by patrons using gardens, patios, external balconies or associated open spaces, whether for licensable activities or for ancillary purpose such as smoking or consuming alcohol;
- iv. The steps the applicant will take to reduce the potential for littering to occur from food packaging.
- v. The measures proposed to prevent littering or glass dispersal in the immediate vicinity or to clear up any litter that does occur;
- v. the siting of external lighting, including security lighting;
- vi. The proposed operating hours of the premises, including those of the external areas;
- vii. Whether the operation is subject to a statutory notice served under Section 80 of the Environmental Protection Act 1990;
- viii. The steps the applicant will take to prevent patrons congregating immediately around off licences/supermarkets to consume their purchases;
- ix. Whether suitable and sufficient toilet provision has been made for customers' use;
- x. the steps the applicant intends to take to prevent the generation of odour, e.g. from the preparation of food, smell of cigarette smoke.
- xi. The steps the applicant intends to take to prevent the generation of noise or crime and disorder arising from any Outside Large Scale Event and compliance with any Strategy or Noise Management policy that the Council shall publish and/or the Council's Code of Practice on Environmental Noise Control at Concerts.



- 13.5 This Authority will expect the applicant's Operating Schedule to fully address these issues. Applicants are advised to seek advice from relevant authorities, before preparing and submitting their application, plans and supporting documents.
- 13.6 This Authority, where appropriate, will consider attaching additional conditions to licences to address public safety matters

#### **14. The Protection of Children from Harm**

- 14.1 Access to licensed premises may present a risk of physical, moral or psychological harm to children, therefore the Licensing Authority expects applicants to consider measures to protect children from harm where relevant to the type of premises and activities involved.
- 14.2 The Licensing Authority recognises the Safeguarding Children Board as being competent to act as the responsible authority in relation to the protection of children from harm objective and can make relevant representations. As a responsible authority, the applicant is required to copy details of their applications to the Safeguarding Children Board when an application is made.
- 14.3 The wide range of premises that require a licence means that children and young persons may visit many of these, sometimes on their own, for food and/or entertainment.
- 14.4 It is an offence under the Act to sell alcohol to children (under 18). There is a further specific offence of persistently selling alcohol to children if sales are made on 2 or more occasions within 3 months. Unaccompanied children under 16 should not be on 'premises being used exclusively or primarily for supply of alcohol for consumption on those premises' e.g. pubs, bars and nightclubs. In addition, unaccompanied children under the age of 16 should not be allowed on licensed premises between midnight and 5am. Outside these hours, this offence does not prevent the admission of unaccompanied children under 16 to various types of premises where the consumption of alcohol is not the exclusive or primary activity at those venues. It should also be noted that between 5am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and those pubs where the main activity is the consumption of both food and drink.
- 14.5 Where licences cover the sale of alcohol, the Licensing Authority expects strict controls to be in place to prevent underage sales. Measures that should be considered by applicants to manage this include refusal logs, training of staff on use of identification and age verification schemes.
- 14.6 Subject to the provisions of the Licensing Act 2003 and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The Licensing Authority will not attach conditions requiring the admission of children.

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- 14.7. The Licensing Authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.
- 14.8 In determining licence applications where relevant representations have been made, it will be the policy of the Authority to consider the adequacy of measures proposed to ensure the prevention of harm to children having regard to all the circumstances of the case. In particular, the authority will consider the following:
- i. whether there have been convictions of the current management for serving alcohol to minors or where there is a reputation for underage drinking;
  - ii. whether there is a strong element of gambling on the premises (but not, for e.g. the simple presence of a small number of fruit machines, slot machines or any other cash prize gaming machines);
  - iii. whether it is intended to provide entertainment of an adult or sexual nature, the hours when such entertainment is to take place and the proximity to schools, youth clubs, places of religious worship or other premises where significant numbers of children are likely to attend;
  - iv. whether the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided;
  - v. whether or not children are to be admitted to the premises and, if so, whether restrictions are to be applied regarding age or times that children will be allowed access or the parts of the premises they may access;
  - vi. whether there is a requirement for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult);
  - vi. measures to be put in place to prevent access to children where restrictions are to be applied due to the adult nature of entertainment;
  - vi. whether regard is paid to industry codes of good practice on the labelling and display of alcoholic drinks such as the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.

## 14.9 Children and films.

- 14.10 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups.



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- 14.11 In the past, films that have been shown at cinemas or film exhibitions in the London Borough of Merton have been classified by the British Board of Film Classification (BBFC). It is not anticipated that this will change.
- 14.12 If an applicant wishes to show a film which has not been classified by the BBFC then it will be for the applicant to present special circumstances justifying a departure from this policy. The Authority may agree to the showing of the film having first established its suitability for children and the applicant must adhere to any age restrictions imposed. In all such cases at least 2 months' notice must be given in order for the Authority to address the application and advise the age restriction that will apply in that instance. The applicant must pay a fee to the Authority for the classification of a film by them.
- 14.13 Applicants for licences in relation to premises showing film exhibitions will be expected to address arrangements for preventing children from viewing age-restricted films, trailers and advertisements in their operating schedules.
- 14.14 A mandatory condition set out in the Act requires that where a licence authorises the exhibition of films the admission of children to any exhibition of film must be restricted in accordance with the BBFC (or licensing authority) classification.
- 14.15 Children and Public Entertainment.
- 14.16 Many children go to see and/or take part in an entertainment arranged especially for them, for example children's film shows and dance or drama school productions.
- 14.17 In determining licence applications where relevant representations have been made, it will be the policy of the Authority to consider the adequacy of measures proposed to safeguard children whilst they are on the premises and, in particular the authority may consider the following:
- i. In the case of regulated entertainment specially presented to children, the arrangements that will be put in place to ensure the safety of children during access and egress and during the duration of the entertainment, and in particular:
    - (i) the number and positioning of adult staff,
    - (ii) whether restrictions are to be put in place preventing children from sitting in the front row of any balcony unless accompanied by an adult and/or preventing children from standing in any part of the auditorium during the performance
  - ii. Whether age restrictions are to be put in place preventing children being admitted to any entertainment unless accompanied by and in the charge of a responsible adult;
  - iii. Where children are taking part in the entertainment, the arrangements that will be put in place to assure their safety.
- 14.18 This Authority will expect the applicant's Operating Schedule to fully address these issues. Applicants are advised to seek advice from relevant authorities, before preparing and submitting their application, plans and supporting documents.

14.19 This Authority will consider attaching additional conditions to licences to prevent harm to children where representations have been received and it is appropriate to do so.

## **15. Tourism, Employment, Planning & Building Control**

15.1 Planning, Building Control and the Licensing functions will be properly separated in order to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice-versa. This is designed to allow flexibility if planning or licensing hours or conditions are amended.

15.2 However, it should be noted that under the Licensing Act 2003, the local Planning Authority is a “responsible authority” that must be notified of licensing applications and is entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate.

## **16. Licensing Hours**

16.1 In the Secretary of State’s Guidance, the Government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application

16.2 Fixed trading hours within designated areas (Zoning) will not be adopted in this Authority. One reason for this is that it could lead to significant movements of people to areas within the Borough at particular times either seeking premises or going to premises that have longer opening hours and provide either alcohol and/or other regulated entertainment. This movement of people may give rise to a concentration of disturbance and noise.

16.3 All applications will be considered on their merits. Where representations have been received, in considering whether to restrict licensing hours in order to promote the licensing objectives, the Licensing Authority will consider the following matters (amongst others):

- whether the licensed activity is likely to result in an increase in crime, disorder or anti-social behaviour in the area;
- whether the licensed activity is likely to lead to a public nuisance disturbing residents or other businesses in the vicinity, particularly late at night, and what measures will be put in place to prevent it;
- whether there will be an increase in any cumulative adverse effect from the activity on local residents or other businesses in the vicinity; and

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- the level of public transport accessibility to and from the premises for the hours requested, or whether other effective methods of dispersal will be put in place that will prevent the licensing objectives being undermined.

### **17. Shops, Stores and Supermarkets**

17.1 Shops, stores and supermarkets will normally be permitted to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. e.g. police representations relating to crime and disorder and/or representations relating to public nuisance.

### **18. Enforcement**

18.1 It is essential that the requirements of the Licensing Act 2003 are enforced to ensure that the licensing objectives are met within the Borough. To this end, the Council will work closely with the Metropolitan Police and other agencies to ensure the efficient deployment of resources.

18.2 Enforcement visits will be targeted as follows:

- To known problem areas/premises
- To high risk premises/events;
- To premises where it is believed that trading is taking place without the necessary licence/club premises certificate or licensing conditions are not being met; and
- To premises where complaints have been received.

18.3 This will ensure that resources are deployed to high risk and problem premises that require the greatest attention. In turn a lighter touch will be adopted in respect of low risk premises. However, ad hoc compliance visits may be carried across the borough to ensure that statutory requirements are not being breached. In particular, test purchases will be carried out to ensure that alcohol is not being sold to children. All such test purchasing will be carried out in accordance with The Code of Practice on Age Restricted Products, published by the Department of Business Innovation and Skills. The Code can be accessed here:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/299373/13-537-code-of-practice-age-restricted-products.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299373/13-537-code-of-practice-age-restricted-products.pdf)

18.4 The Council's Environmental Services, Trading Standards and Licensing Services have adopted an enforcement policy. The aim of the policy is to ensure that the services apply enforcement guidelines in a consistent manner and is open and clear about the standards which it applies. The Policy is founded on the Government's Regulators Compliance Code and can be accessed at [https://www2.merton.gov.uk/enforcement\\_policy-4.pdf](https://www2.merton.gov.uk/enforcement_policy-4.pdf)

18.5 Enforcement decisions will be taken in line with the principles contained in the Enforcement Policy and having regard to the Code of Crown Prosecutors.

## **19. Applications for Personal Licences to Sell or Supply Alcohol**

- 19.1 In order to obtain a personal licence under Part 6 of the Licensing Act 2003 the applicant:
- Must be aged 18 years or over;
  - Must be entitled to work in the UK;
  - Must possess a licensing qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent) or is a person of a description prescribed by the Secretary of State by regulations;
  - must not have forfeited a personal licence within five years of his or her application;
  - has not been convicted of a relevant offence or foreign offence (requiring the production of a Disclosure and Barring Service check);
  - has paid the appropriate fee to the Council.
- 19.2 The Metropolitan Police and/or Home Office may make representations where the applicant has been convicted of a relevant offence or foreign offence. In such cases, in making their decision, the Licensing Authority will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offences(s) were committed and any mitigating circumstances.
- 19.3 Applicants with unspent criminal convictions for relevant offences set out in the Licensing Act 2003 are strongly advised to first discuss their intended application with the Police and/or Home Office before making an application.
- 19.4 A personal licence is valid for an indefinite period. A designated premises supervisor must hold a personal licence.
- 19.5 Further information about personal licences can be found on the London Borough of Merton's website ([www.merton.gov.uk/licensing](http://www.merton.gov.uk/licensing))

## **20. Temporary Event Notices**

- 20.1 The system of permitted temporary activities is intended as a light touch process and, as such, the carrying on of licensable activities does not have to be authorised by the licensing authority by way of an application. Instead, a person wishing to hold such an event must give notice to the licensing authority of the event (a temporary event notice (TEN)). A number of limitations apply to temporary event notices and these are laid out in more detail on our website ([www.merton.gov.uk/licensing](http://www.merton.gov.uk/licensing)).
- 20.2 If the Licensing Authority receives a standard or late Temporary Event Notice ("TEN") and there are no representations made against it by the Police or Environmental Health services, then the Licensing Authority is obliged to issue the TEN subject to the statutory limits being complied with. Only the Police and Environmental Health team can object to a TEN and can do so in relation to any or all of the licensing objectives.
- 20.3 A **standard** TEN must be given to the licensing authority no later than 10 working days before the day on which the event period begins, and must be accompanied by the prescribed fee. An objection to a standard TEN must be made up to 3 working days following receipt by the Police or Environmental Health services. If an objection is made to a standard TEN then the objection will be considered at a hearing and the licensing sub-committee will consider

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whether to issue a counter-notice that does not permit the event occurring.

- 20.4 A **late** TEN must be given to the licensing authority no later than 5 working days, but no earlier than 9 working days, before the day on which the event period begins, and must be accompanied by the prescribed fee. If the Police or Environmental Health services object to a late TEN then the event will not be able to go ahead and a counter notice will be issued without a hearing taking place. This notice must be issued at least 24 hours before the event is due to take place.
- 20.5 The working days run from the day after the notice is received by the Licensing Authority, as the day the notice is received is deemed to be day zero. Public holidays and weekends are not counted, as they are not working days. For example, if a TEN was served on Tuesday, 13 November, the working days would begin to run from Wednesday, 14 November to Tuesday, 27 November and the event could be no earlier than Wednesday, 28 November.
- 20.6 When considering an objection to a TEN the Licensing Authority may attach conditions to a standard TEN, where it is appropriate for the promotion of the licensing objectives, but only if the conditions to be applied are already on a Premises Licence or Club Premises Certificate relating to the premises where the event will take place.
- 20.7 In any event, the person submitting the TEN is responsible for ensuring that the event complies with all relevant legislation, including the avoidance of a statutory nuisance, and that the event complies with all health and safety requirements.
- 20.8 Although the statutory procedure requires only ten working days' notice of a temporary event (or 5 in the case of a late TEN) the Council would urge applicants to apply at least 2 calendar months before the event is due to take place. This will allow time for the Police and Council to investigate whether there are any issues relating to any of the licensing objectives in plenty of time for the organiser to advertise the event with confidence.

## 21. **Registered Clubs**

- 21.1 Part 4 of the 2003 Act deals with registered clubs.
- 21.2 The Licensing Authority can grant a Club Premises Certificate for the sale of alcohol and regulated entertainment to qualifying clubs.
- 21.3 There are various conditions that have to be complied with for a club to qualify e.g.: Forty–eight hour wait before becoming a member and the Club having at least 25 members.
- 21.4 There are also requirements concerning the supply of financial information to members and the keeping of financial records. The club also has to be managed by an elected Management Committee.
- 21.5 The provisions with regards to making an application for the Club Certificate are similar to those for a premises licence.

21.6 Further information can be found on the Merton web site [www.merton.gov.uk/licensing](http://www.merton.gov.uk/licensing) and in the guidance issued by the Government.

## **22 Representations**

22.1 Responsible Authorities and any other person have the right to make representations where applications for new licences or variations are being sought and to receive appropriate consideration of their representations. Representations can be made in opposition to, or in support, of an application. Irrelevant, frivolous or vexatious representations will be disregarded. A representation may be considered to be irrelevant if:

- It does not relate to one of the four licensing objectives;
- It does not directly relate to a particular premises;
- It relates to commercial considerations alone
- It relates to matters already considered by the Council's Planning Committee (or during subsequent Appeal) or, should more properly have been considered by that Committee.

22.2 A representation may be considered frivolous or vexatious if:

- It arises from a dispute between rival business; or
- It relates to matters already considered, and dismissed, by a Court

22.3 Where relevant representations are received to an application, a copy of the representation, including the name and address of the person making representation, must be forwarded to the applicant. Where the representation has been made by e-mail, this will include the email details unless the representation is provided as an attachment. However, it is recognized that in exceptional cases those making representations may have a genuine and well-founded fear of intimidation if they raise objection to an application. In such cases, the Licensing Authority may decide to remove some personal details from the representation, but leaving minimal details such as street name or general location within a street before forwarding to the applicant. Such action will only be taken rarely and only where the Licensing Authority are satisfied that the concerns are well founded following such a request. Copies of representations will be posted on the Council's website (with personal details redacted) together with the relevant report if the matter is to be considered by the Licensing Sub Committee.

22.4 All licence applications received under the Act are published on Merton's website ([www.merton.gov.uk/licensing](http://www.merton.gov.uk/licensing))

## **23. Reviews and dealing with complaints about premises**

23.1 The Licensing Act 2003 provides for a process whereby responsible authorities and/or other persons can make an application for a review of the licence.

23.2 However, in the first instance, responsible authorities and other persons may wish to make complaints about a premises if it is failing to comply with the



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licensing objectives. The Licensing Authority will seek to encourage alternative methods of resolving complaints before an application is made for a review. However, this does not override the right of any person to seek a Review of a Premises Licence or Certificate.

- 23.3 In the first instance, persons are encouraged to raise the complaint directly with the licensee or business concerned. Responsible authorities are also encouraged to give licence holders early warnings of their concerns and of the need for improvement.
- 23.4 The Review application and any other representations received may be amplified upon at a hearing to consider the Review or may stand in their own right. However, generally, new matters not included in the original Review/Representation will not be admissible at the hearing. Therefore, it is important that the original Review application and any other Representations made are clear, comprehensive, and to the point.
- 23.5 Furthermore, these representations must relate to particular premises for which a premises licence is already held and must be relevant to the promotion of one or more of the licensing objectives. The review process is not an opportunity to revisit earlier representations made to the Licensing Authority when the original application for a premises licence was determined.
- 23.6 A request for a review will be disregarded if it is considered irrelevant, vexatious, frivolous or repetitious.
- 23.7 A representation is repetitious when it is identical or substantially similar to a representation made on a previous review or when the application for the licence was itself determined, and a reasonable interval has not elapsed since that time. A reasonable time will be considered to be 12 months save in compelling circumstances such as whether operation of the premises has begun or changed significantly since the previous representation was made.
- 23.8 The Licensing Authority will take a particularly serious view where the grounds for review are substantiated and relate to the use of the licensed premises:
- for the sale and distribution of drugs and the laundering of the proceeds of drugs crimes;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music;
  - for the illegal purchase and consumption of alcohol by minors;
  - for prostitution or the sale of unlawful pornography;
  - for unlawful gambling;
  - as a base for organised criminal activity, particularly by gangs;
  - for the organisation of racist, homophobic or sexual abuse or attacks;
  - for the sale or storage of smuggled tobacco and alcohol;
  - for the sale of stolen goods;
  - for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
  - where Police are frequently called to attend to incidents of crime and disorder;

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

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

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

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

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

## **24. Administration, Exercise and Delegation of Functions**

24.1 The Council is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

24.2 In order to provide a speedy, efficient and cost-effective service to all involved in the licensing process, the Committee has delegated certain decisions and functions to Sub-Committees.

24.3 Further, with many of the decisions and functions being purely administrative, the grant of non-contentious applications has been delegated to Council officers.

24.4 In view of the tight timescales involved in the processing of Minor Variation applications, this function has been delegated to Council officers. In all cases, officers will assess the Minor Variation application and where it is felt that the variation could have an adverse effect on any of the four licensing objectives they will consult with the relevant Responsible Authority(ies). If the licensing officer, or any of the Responsible Authorities have concerns about the application or it seeks to extend the licence or substantially vary the premises, appoint a new DPS or add any time or late night alcohol sales, it will be refused and a recommendation made to the applicant to submit a full variation application under section 34 of The Act.

24.5 Appendix 2 sets out the delegation of decisions and functions to the Licensing Committee, Sub-Committee and officers.



**25      Publication of the policy**

- 25.1    The Licensing Policy is available on the Merton website:  
[www.merton.gov.uk/licensing](http://www.merton.gov.uk/licensing)
- 25.2    The Licensing Policy will be available upon request in large type and audio. The Licensing Policy will be available upon request in the following languages:
- Albanian Arabic Bengali Chinese Farsi French Greek Gujarati Hindi Italian  
Korean Polish Punjabi Somali Spanish Tamil Turkish Urdu
- 25.3    The Council will endeavour to make the Licensing Policy available in other languages upon request.

## Appendix 1 – Responsible Authorities Contact details

Authority	Contact Details
<b>Metropolitan Police</b>	<b>The Licensing Officer, Wimbledon Police Station, 15 Queens Road, London, SW19 8NN</b>
<b>London Fire Authority</b>	<b>Fire Safety Regulation: South West Area 4, London Fire Brigade, 169 Union Street, London, SE1 0LL</b>
<b>The Local Planning Authority</b>	<b>Planning Manager, Merton Civic Centre, London Road, Morden, SM4 5DX</b>
<b>Responsible Authority for Noise and Environmental Pollution</b>	<b>Environmental Health (Pollution) Manager, Merton Civic Centre, London Road, Morden, SM4 5DX</b>
<b>Health and Safety (Local Authority Enforced Premises)</b>	<b>Environmental Health (Commercial) Manager, Merton Civic Centre, London Road, Morden, SM4 5DX</b>
<b>Health and Safety (HSE enforced businesses)</b>	<b>HM Inspector of Health and Safety FOD London Division Health and Safety Executive Rose Court 2 Southwark Bridge London SE1 4LW</b>
<b>Trading Standards</b>	<b>Chief Inspector of Weights and Measures, Trading Standards Service, Merton Civic Centre, London Road, Morden, SM4 5DX <a href="mailto:Tradingstandards@merton.gov.uk">Tradingstandards@merton.gov.uk</a></b>
<b>Protection of Children from Harm</b>	<b>Merton Local Safeguarding Children Board, Merton Civic Centre, London Road, Morden, SM4 5DX</b>

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<b>Public Health</b>	<b>Director of Public Health, Merton Civic Centre, London Road, Morden, SM4 5DX</b>
<b>The Licensing Authority</b>	<b>Environmental Health (Licensing) Manager, Merton Civic Centre, London Road, Morden, SM4 5DX <a href="mailto:licensing@merton.gov.uk">licensing@merton.gov.uk</a></b>
<b>Secretary of State for the Home Office</b>	<b>Home Office Immigration Enforcement Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY Email: <a href="mailto:Alcohol@homeoffice.gsi.gov.uk">Alcohol@homeoffice.gsi.gov.uk</a></b>

## Appendix 2 - Delegation of licensing decisions and functions

<b>Matter to be Dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		If a police objection	If no objection made
Application for premises licence/club premises certificate		If relevant representations made	If no relevant representations made
Application for provisional statement		If relevant representations made	If no relevant representations made
Application to vary premises licence/club premises certificate		If relevant representations made	If no relevant representations made
Application to vary a designated premises supervisor		If a police objection	All other cases
Request to be removed as a designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authority		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision on whether to consult other responsible authorities on minor variation application			All cases
Determination of a minor variation			All cases
To raise representations on behalf of the Licensing Authority as a Responsible Authority			All cases

### Appendix 3 – Cumulative Impact Assessment

1. Cumulative Impact is defined as the potential impact on the promotion of the licensing objectives of a number of licenced premises concentrated in one area. In some areas where the number, type or density of licensed premises is high, or exceptional, serious problems of nuisance, crime or disorder may occur within or some distance away from the area.
2. A Cumulative Impact Assessment may be published by a Licensing Authority to help it to limit the number or type of applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives.
3. The Licensing Act sets out what a licensing authority must do in order to publish a cumulative impact assessment (CIA). This includes publishing the evidential basis for its opinion and consulting on this evidence. A cumulative Impact Assessment must be published, and consulted upon, every three years. The evidence underpinning the publication of the CIA must be suitable as a basis for a decision to refuse an application or impose conditions.
4. The evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the particular problems identified in the specific area to be covered by the CIA. The Secretary of State's Guidance provides a list of Information which licensing authorities may be able to draw on when considering whether to publish a CIA including
  - local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
  - statistics on local anti-social behaviour offences;
  - health-related statistics such as alcohol-related emergency attendances and hospital admissions;
  - environmental health complaints, particularly in relation to litter and noise;
  - complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
  - residents' questionnaires;
  - evidence from local councillors;
  - evidence obtained through local consultation;
  - Underage drinking statistics.

#### The steps taken to develop the Special Policy on Cumulative Impact

5. Whilst the Statement of Licensing Policy has incorporated a Special Policy on Cumulative Impact since 2006, a full review across the whole borough was carried out in 2020 to take into account the changes brought about by the Policing and Crime Act 2017.
6. A report was compiled that plotted the density of licensed premises in the borough against police, ambulance and noise data obtained between April 2019 and March 2020. This was mapped and analysed and together with the outcome of a residents survey carried out in 2019 was presented to the Licensing Committee on the 9 June 2020. Of the existing areas where a special policy was in place, the Committee were of the view that there was strong

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evidence to indicate that two should remain in place. A full consultation was then carried out with residents and business in the borough, or their representatives, as well as with the responsible authorities. A copy of the evidence considered by this Committee is available in the report of the Licensing Committee of the 9 June, available on request or on the Council's website [www.merton.gov.uk](http://www.merton.gov.uk)

7. A further meeting of the Licensing Committee was held on the 15 October 2020 when the results of the consultation were fully considered and the areas where a special policy on Cumulative Impact will apply were agreed. A copy of the evidence considered by this Committee and minutes of the discussion are available on request or on the Council's website [www.merton.gov.uk](http://www.merton.gov.uk)

## Cumulative Impact Assessments (CIA)

8. A Special Policy on Cumulative Impact will apply to the following areas

### 9. Wimbledon Town Centre

The area included in the Wimbledon Town Centre CIA is shown in Figure 1 of Appendix 4

The special policy relates to all applications for new licences or variations that increase the hours or capacity or add licensable activities.

Wimbledon Town Centre falls within four Wards, Hillside Trinity, Abbey and Dundonald. It is a vibrant area with a diverse offering of entertainment venues. It has the highest concentrations of licensed premises in the borough.

The Cumulative Impact Assessment identified that residents of Trinity and Abbey Wards register high levels of concern regarding people being drunk and rowdy in public spaces and general anti-social behaviour. These Wards have high levels of complaints to the police about anti-social behaviour, as well as high levels of ambulance call outs for alcohol and assaults and police call outs for violence – non domestic. Although relatively low in numbers, the area also attracts a number of complaints to the Council's licensing and noise teams

The Authority recognises that it must balance the needs of business with those of local residents. However, currently the number and type of premises are impacting negatively on the licensing objectives. In adopting the special policy, the authority is setting down a strong statement of approach to considering applications for the grant or variation of premises licences in the Wimbledon Town Centre CIA. However, the Authority recognises that the impact of premises can be different for premises with different styles and characteristics. For example large nightclubs or late night bars and public houses might add to the problems of cumulative impact, a small restaurant or theatre may not. For this reason, applications with comprehensive operating schedules that meet the following criteria may be able to demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives:

Premises that are not alcohol led and

- i. support the people visiting the area during the day; and/or
- ii. support the wider cultural offering in the area

### 10. Mitcham Town Centre

The area included in the Mitcham Town Centre CIA is shown in Figure 2 of Appendix 4

## Licensing Policy

The special policy relates to all applications for new off licence or variation applications that increase the hours or capacity of the premises.

The Mitcham Town Centre Cumulative Impact Zone mainly falls within four Wards, Graveney, Figges Marsh, Lavender Fields and Cricket Green

Residents of the four Wards in which the Mitcham Town Centre cumulative impact area lies express high levels of concern about anti-social behaviour, people being drunk and rowdy in public places and people hanging around the streets. The area also records high levels of crime, anti-social behaviour and ambulance call outs. In September 2019, a report the Head of Community Safety presented a report to the Overview and Scrutiny Panel which included information on street drinking delivery and Public Place Protection Order Enforcement. The report stated that the majority of enforcement action on street drinking was taking place in and around the wards of Figges Marsh and Cricket Green, with proactive enforcement around Mitcham Town Centre which had resulted in a reduction in visible street drinking in Mitcham Town Centre but with an element of displacement. In addition data from the Director of Public Health shows high levels of hospital admissions for alcohol related conditions in the wards which fall into the CIA, for example, Cricket Green has the highest standardised admission ratio (SAR) for alcohol attributable conditions in Merton (102.0) and is higher than the average for England (100.0).

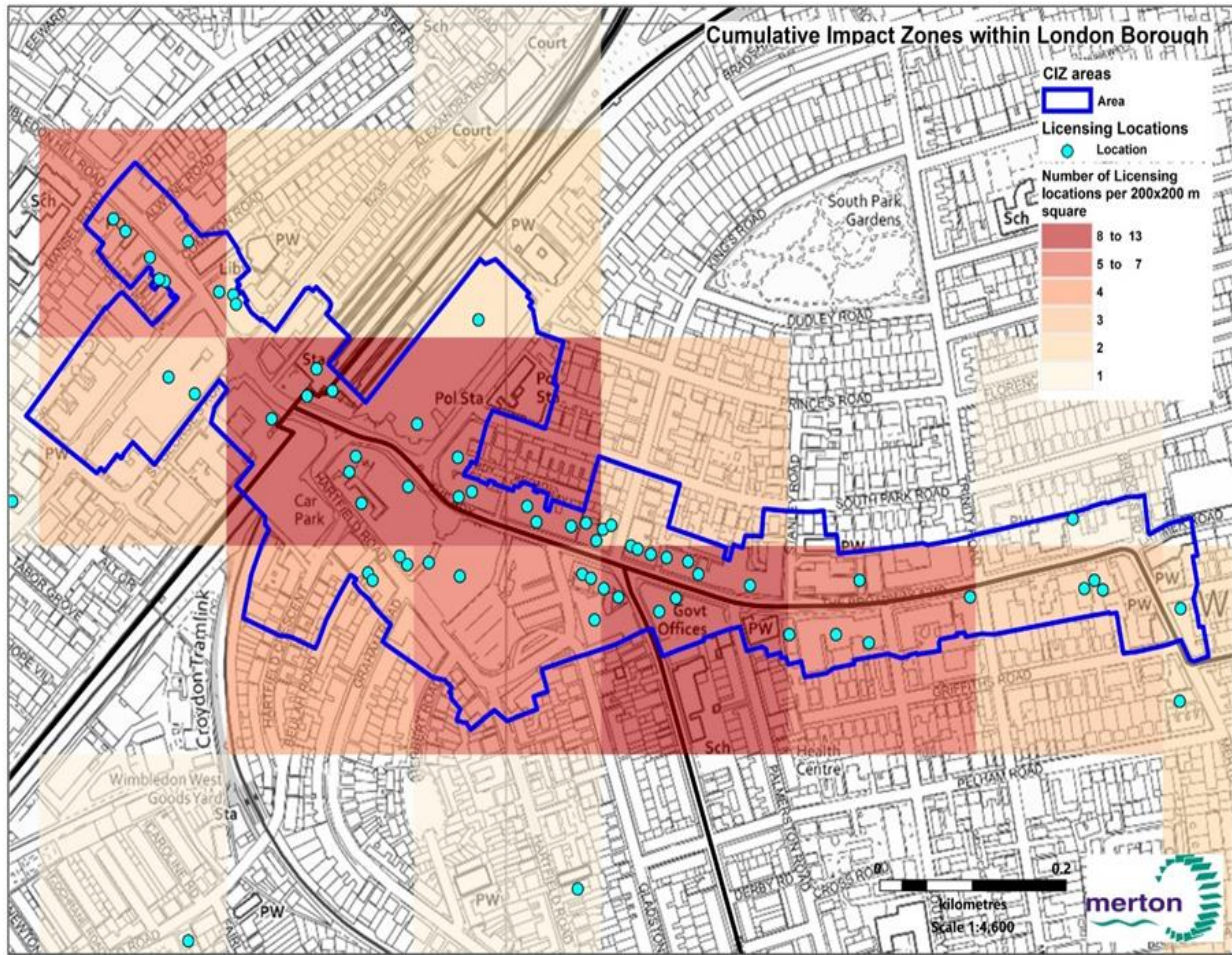
In view of the continuing problem with street drinking around Mitcham Town Centre and having regard to the data on levels of crime, anti-social behaviour, ambulance call outs and hospital admissions for alcohol related conditions the Authority approved the special policy on cumulative impact in Mitcham Town Centre as it relates to applications for off-sales of alcohol.

In publishing this cumulative impact assessment the authority is setting down a strong statement of approach to considering applications or the grant or variation of "off-sales" premises licences in the Mitcham Town Centre CIZ. The authority considers that the number of "off-sales" premises licences in the Mitcham Town Centre CIZ is such that is likely that granting further licences would be inconsistent with the authority's duty to the licensing objectives.



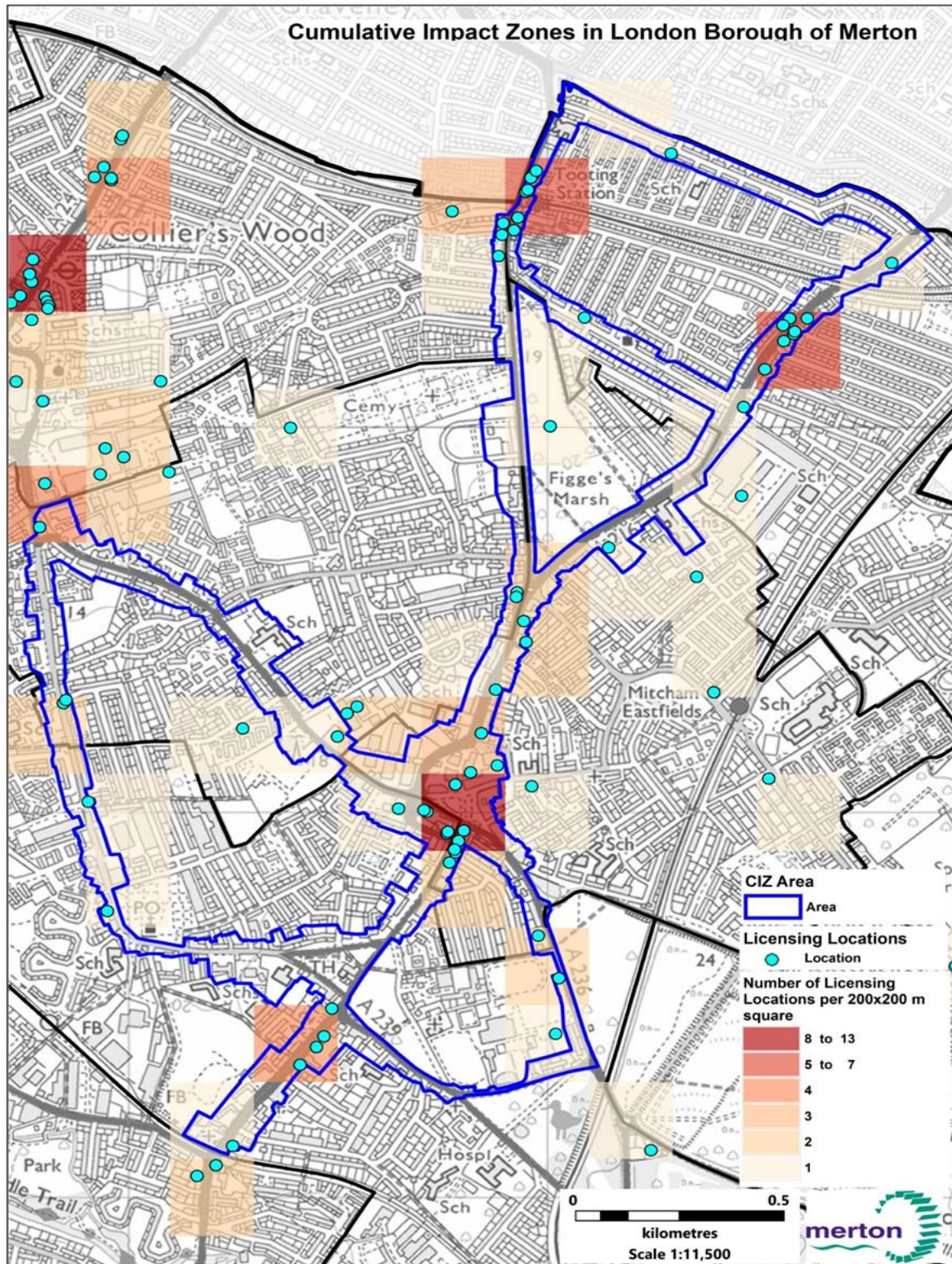
**APPENDIX 4**

**Fig 1 Wimbledon Town Centre Cumulative Impact Zone**



**Fig 2. Mitcham Town Centre Cumulative Impact Zone**





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