

# Merton Council

## Licensing Committee

### Membership:

John Bowcott (Chairman)  
Steve Austin (vice – Chair)  
Jeremy Bruce  
Richard Chellew  
Gilli Lewis-Lavender  
Barbara Mansfield  
David Simpson  
Ron Wilson  
Philip Jones  
Russell Makin  
Judy Saunders  
Gregory Patrick Udeh  
Martin Whelton  
Krysia Williams

A meeting of the Licensing Committee will be held on:

**Date: 25 April 2007**

**Time: 19:15**

**Venue: Committee Rooms B & C**

**Merton Civic Centre, London Road, Morden, Surrey**

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

# Licensing Committee

## 25 April 2007

1. Declarations of Interest <sup>1</sup>
2. Apologies for Absence
3. Minutes of the Meeting held on 24 January 2007 3
4. Review of Merton's Statement of Licensing Policy 5

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

LICENSING COMMITTEE  
24 JANUARY 2007

(19:15 TO 20:15)

PRESENT: Councillor John Bowcott (in the Chair), Steve Austin, Jeremy Bruce, Richard Chellew, Philip Jones, Gilli Lewis-Lavender, Russell Makin, Barbara Mansfield, Judy Saunders, David Simpson, Gregory Udeh, Martin Whelton and Kryisia Williams.  
Steve Clark (Head of Planning and Public Protection), Richard Nash (Licensing Manager), Alan Powell (Licensing Officer), Solomon Agutu (Legal Services) and Colin Millar (Democratic Services).

Apologies for absence were received from: Councillor Ron Wilson.

1 MINUTES OF THE MEETING HELD ON 1 NOVEMBER

Apologies for absence from Councillor Russell Makin to be recorded for this meeting.

RESOLVED: That the minutes of the meeting as amended are agreed.

2 GUIDANCE FOR MEMBERS DEALING WITH LICENSING ISSUES

Members discussed the guidance and suggested that it should be kept as simple as possible. Members should be advised not to come forward for hearings where they felt they would have an interest.

Councillor Russell Makin asked about recording of votes in sub-committee. The Democratic Services Officer said that if a member wished to have dissent from a decision recorded this would be done at their request in accordance with constitutional provision on voting.

Members agreed that the recording of gifts and hospitality did not need to go beyond the provision made in the Code of Conduct as this would overcomplicate the provisions. Members could be expected to exercise judgement in these matters.

In respect of the provisions at Paragraphs 7.7 and 11 members agreed that these should be considered further by Licensing Committee after discussions had taken place between relevant officers.

Paragraph 5.4 should be reworded to make it clear that this applied to internal procedures.

Paragraph 4.9 needed to be reworded as advisory as the appointment of members to Licensing Committee is a matter for Party Groups and the full Council.

RESOLVED: That the Licensing Committee agrees to consider this matter further after Standards Committee consideration and subject to a further discussion between officers on the points identified above.

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**Committee:** LICENSING COMMITTEE

**Date:** 25 APRIL 2007

**Agenda item:** 4

**Wards:** All Wards

**Subject:** Review of Licensing Policy Statement

**Lead officer:** Head of Planning & Public Protection - Steve Clark

**Lead member:** Chair of Licensing Committee - Councillor John Bowcott

**Key decision reference number:** N/A

## **Recommendations:**

A: The Licensing Committee agree that the Draft Licensing Policy Statement is appropriate for publication for the purpose of public consultation.

### **1. Purpose of report and executive summary**

- 1.1 Merton's Licensing Policy Statement was first adopted on 05 January 2005, was applied to licence applications which were made during the "Transitional Period" and was enacted on the Second Appointed Day, 24 November 2005.
- 1.2 Merton and all other local authorities have a statutory duty to revise their Licensing Policy Statement within a three (3) year period. Appendix A (the new Draft Licensing Policy Statement) outlines the recommended amendments to the existing Policy Statement.

### **2. Effectiveness of the Current Licensing Policy Statement**

- 2.1 Generally speaking the existing policy has held Merton in good stead and, to some extent, may be considered as robust, effective and sustainable. It is not overly prescriptive and, once adopted, was not challenged in the High Court through the Judicial Review process. However, there have been some new developments and lessons learned during the course of its application.

#### **2.2 Appeals Before the Magistrates Court**

To date, there have been thirteen (13) appeals against the determinations of the Licensing Sub-Committee. Four (4) of the appeals were dismissed by the Court because they were lodged after the prescribed 21 day deadline. Four (4) were withdrawn. Two (2) were subject to an out of court settlement. In one (1) case, the appellants were successful and were allowed the hours originally applied for, although no costs were awarded against the Council. The penultimate appeal case related to the Rose & Crown Public House, in which the lack of available car parking space in and around Wimbledon Village had

featured strongly in residents' opposition to grant of later trading hours. The most recent appeal was concerning SWNineteen Restaurant & Bar, when the Licensing Sub-Committee agreed to the lifting of a condition which required that alcohol could only be sold during the last hour of trading to persons eating meals. In these two (2) most recent cases, Magistrates upheld the original decisions of the Sub-Committee and in the latter case ordered the appellant to pay costs to the Council.

### 2.3 Service Requests/Complaints Regarding Licensed Premises

To date, the numbers of complaints to the Licensing Section have been quite minimal and, interestingly, the concerns expressed have been borough-wide rather than concentrated in either of the special policy areas (namely Wimbledon Village and Wimbledon Town Centre).

### 2.4 Licensing Section - Inspection/Enforcement Protocols

Although resources are limited, the Licensing Section conducts daytime, evening and weekend inspections of Licensed Premises and Clubs to ensure that Operators are compliant with the conditions attached to their Licences or Certificates. Where serious or continual non-compliance is discovered due consideration is given to appropriate enforcement action. Premises which are the subject of complaint are visited on a priority basis throughout the Borough. There are some 500 licensed/certificated premises in Merton, and in the first instance Officers have concentrated their inspection efforts in the Wimbledon Village and Wimbledon Town Centre areas. Almost all of the premises in Wimbledon Village have now been inspected and were either already compliant or have been brought up to that standard.

### 2.5 Visits to other Local Authorities

In order to compare Merton's policies and performance with other local authorities, visits to two other Councils were conducted in 2006:

On 17 October 2006, the Chair of the Licensing Committee and the Licensing Manager went to Epsom and Ewell Borough Council. Following a meeting with their Chairman and Licensing Officers a field visit of Ewell Village took place. Epsom and Ewell which is on the borders of Greater London, about half the size of Merton, reported that they have not experienced any related problems from their licensed premises and did not have any special policy (CIZ) areas. In Ewell Village itself it was noted that there were few parking restrictions and a couple of available car parks.

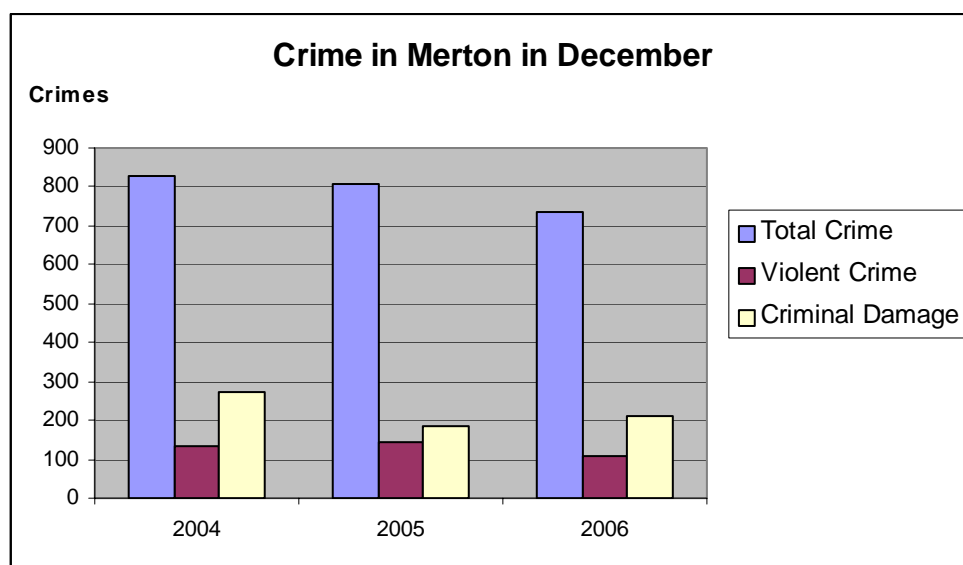
On 13 November 2006, the Chair and Vice-Chair of the Licensing Committee together with Licensing Officers visited colleagues at the London Borough of Lewisham. In terms of Licensed premises, Lewisham is about twice the size of Merton, they had not yet managed to pinpoint all of the premises requiring a licence (mainly late night refreshment venues), had not experienced any major

issues with regard to licensed premises and did not have any special policy (CIZ) areas – although there was some pressure from a minority group of local residents in Blackheath Village for the adoption of such a policy (to date, no special policy has been adopted for this area). A visit to Blackheath Village revealed similarities with Wimbledon Village in terms of its size, composition, popularity and numbers of licensed premises. One difference was that the premises in Blackheath Village had a variety of closing times ranging from 11.00pm until 02.30am. Blackheath Village itself has limited parking in the immediate vicinity of the commercial area, its own train station and car park and borders onto Blackheath common where parking is freely available in the evenings.

## 2.6 Crime Statistics

The Prevention of Crime and Disorder and the Prevention of Public Nuisance are the two Licensing Objectives which give rise to the greatest concern and are most complained about. For this reason, the table (Table 1) below compares crimes which might reasonably be considered as being related to the Night Time Economy, the consumption of alcohol and licensed premises.

**Total Crime, Violent Crime and Criminal Damage: Table 1**



	December 2004	December 2005	December 2006
<b>Total Crime</b>	828	808	738
<b>Violent Crime</b>	133	142	107
<b>Criminal Damage</b>	274	185	213

The information above was taken from iQuanta (Home Office figures, provided by the Police Standards Unit). The figures are for the total number of offences occurring in December (Dec 04, 05, 06).

As you can see from the table and the graph at the top of the page, overall crime has reduced year on year. In total there has been a 10.87% reduction in total crime between Dec 04 figures and Dec 06 figures.

The table and graph above show that violent crime increased between the months of Dec 04 and Dec 05 (6.77%) to 142 offences however it reduced to its lowest point in Dec 06 to 107 offences.

Finally the graph and table above show that there was a reduction in criminal damage between the months of Dec 04 and Dec 05 (32.48%) when the total number of offences reduced to 185 however, there was an increase between the months of Dec 05 and Dec 06 (15.14%) when the total offences increased to 213. This was however, still below the total incidences of criminal damage in Dec 04 (274).

Fortunately, Merton has always been a low crime area, which is borne out by the statistics above. Furthermore, Table 1 illustrates that overall there has been a reduction in crime since the introduction of the new licensing regime. Table 2 below compares the crime statistics for Merton with those for the neighbouring boroughs. Again, the figures are encouraging.

## December (including New Year's Eve) Crime in South West London: Table 2

	Total Crime		Violent Crime		Criminal Damage	
	2005	2006	2005	2006	2005	2006
Merton	7.24	6.31	1.84	1.58	0.96	1.09
Wandsworth	8.17	8.33	2.19	2.22	0.87	0.82
Kingston	7.66	7.12	2.44	1.95	1.05	1.1
Croydon	8.17	6.75	2.48	2	1.06	1.22
Sutton	7.3	7.45	1.59	1.58	1.4	1.5
Lambeth	11.29	11.58	3.4	3.89	1.19	1.21

*All figures are per 1000 population*

### 2.7 Nuisance Statistics

As previously stated, the Prevention of Public Nuisance is an important element of the Licensing Regime and of Merton's Licensing Policy. The Council's Environmental Health Pollution Team records complaints regarding light, odour



and noise nuisance. Table 3 below shows the nuisance complaints in respect of licensed premises in Merton over the last two years.

### Nuisance Complaints for 2005 & 2006: Table 3

	2005	2006
Light	0	10
Odour	36	50
Noise	32	46
Totals	68	106

The levels of reported nuisance for the whole borough still remain quite low but it may be seen that there has been roughly a 50% increase since the new licensing system was implemented. There are, of course, other matters that may give rise to concern on the part of local business persons or residents and fall within the category of nuisance. These include anti social behaviour, graffiti, litter and, in some areas, insufficient car parking provision.

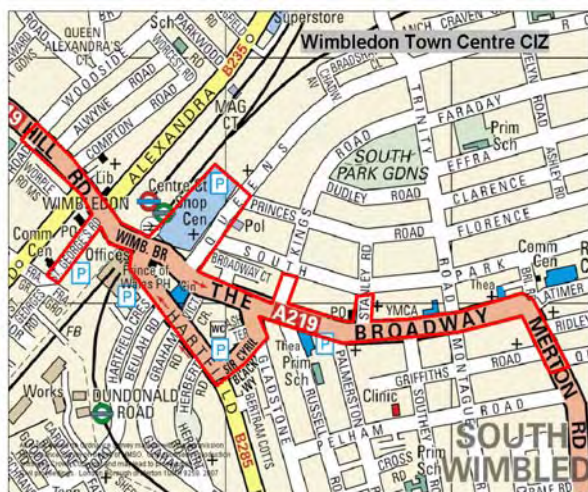
### 3. Cumulative Impact

3.1 In the original Licensing Policy Statement, the Council considered that it was appropriate and necessary to adopt a special policy regarding cumulative impact in two areas of the borough, specified parts of Wimbledon Town Centre and Wimbledon Village.

#### 3.2 Wimbledon Town Centre

In terms of numbers of licensed premises, the Town Centre area is about twice as big as that of the Village. Table 4 outlines the relevant crime statistics for the Town Centre and its immediate vicinity over the last three years.

### Wimbledon Town Centre – Crime Statistics: Table 4



	2003 – 2004	2004 – 2005	2005 - 2006
Total Incidents	32	35	25

A higher number of incidents occurred overall in the Wimbledon Town Centre CIZ. The CIZ is larger than that in the Village and hence being the main town centre has more licensed premises. There was an increase in offences during 2004-05 (9.38%) when the total offences rose to 35 however this was followed by a reduction in 2005-06 (28.57%) when the figure reduced to 25.

3.3 The recorded complaints for the last two years regarding nuisance are shown in Table 5.

**Wimbledon Town Centre – Nuisance Statistics: Table 5**

	2005	2006
Light	0	6
Odour	5	2
Noise	11	4
Totals	16	12

3.4 It should be noted that the licensed premises in the Town Centre have a variety of closing times (ranging from 11.00pm to 03.00am). Notwithstanding the

special policy for the Town Centre, the staggered closing times are in keeping with the Government's ethos and this is one of the main planks of the Licensing Act 2003. Given that the new licensing regime and Merton's Licensing Policy did not come into effect until 24 November 2005, it may reasonably be argued that the special policy in the Town Centre has contributed to a reduction in both crime and nuisance during the last year (2005 – 2006).

3.5 It is recommended that the special policy for Wimbledon Town Centre should remain unchanged and should be confirmed in Merton's revised Licensing Policy Statement.

3.6 Wimbledon Village

The licensed premises in Wimbledon Village number about half of those in the Town Centre. Table 6 outlines the relevant crime statistics for the Village and its immediate vicinity over the last three years.



**Wimbledon Village – Crime Statistics: Table 6**

The number of offences occurring in the Wimbledon Village CIZ is relatively small. There was an increase in 2004-05 when the total number of offences rose to 6.

	2003 – 2004	2004 – 2005	2005 -2006
Total Incidents	3	6	3

3.7 The recorded complaints for the last two years regarding nuisance are shown in Table 7.

**Wimbledon Village – Nuisance Statistics: Table 7**

	2005	2006
Light	0	1
Odour	1	1
Noise	8	5
Totals	9	7

3.8 It can be seen that the situation in the Village is somewhat different to that of the Town Centre for the following reasons:

i) There is hardly any relevant crime (Table 6) in the Village;

ii) The recorded complaints about nuisance (Table 7) are also minimal. However, through their representations, opposing the grant or variation of premises licences, and their submissions at Licensing Sub-Committee, local residents have clearly indicated that they are sometimes subjected to other types of nuisance. As stated above in section 2.7 of this report, these other types of nuisance include anti social behaviour, graffiti, litter and insufficient car parking provision.

iii) Excluding the Off Licensed premises which close at 11.00pm (30 minutes earlier on Sundays) and one restaurant/bar which closes at 01.00am (11.30pm on Sundays), all of the premises close between 11.30pm and 00.30am. Where engaged and because of the special policy, the Licensing Authority has not granted later hours of trading, but these times have been inherited as 'grandfather rights' when converting their licences during transition. This has however created a "pinch point" such that large numbers of people exit licensed premises between 11.30pm and 00.45am;

iv) Whilst the situation in (iii) above cannot be said to be in conflict with Section 7.12 ('fixed closing times') of the existing policy, it should be acknowledged that the current situation regarding closing times has occurred automatically rather than through the actions of Merton's Licensing Authority;

v) The special policy may raise some issues with regard to Sections 13.1, 13.2 and 13.3 of the existing policy.

As stated above, the "pinch point" gives rise to large numbers of persons leaving the Village premises between 11.30pm and 00.45am and Section 13.1 argues that longer licensing hours may help avoid this. Section 13.2 refers to "fixed trading hours within designated areas" which is otherwise known as "Zoning". This refers to significant movements of people to other areas because

they are seeking premises that have longer opening hours. There is an argument that there is some evidence of this and that some persons disperse either towards Raynes Park or Wimbledon Town Centre for this reason.

Section 13.3 has regard to the possible adverse impact upon residents which may occur when large numbers of customers leave licensed premises at the same time, giving rise to noise and/or anti-social behaviour. This is indeed a problem in the Village and is of particular concern during the so-called “pinch point” period.

vi) As previously stated {in 2.5 of this report} with regard to Blackheath Village, that village is situated close to Blackheath common where parking is freely available in the evenings. This is also the case in Wimbledon Village with the common nearby. It does however appear that patrons attending Wimbledon Village are unwilling to park on the roads traversing the common (where there are fewer or no residential properties) and then walk to their chosen venue. This creates considerable difficulties because by insisting on parking as close to their destination as possible they clog up the residential roads of the Village and cause annoyance/nuisance when returning to their cars and departing for home.

3.9 It should be noted that the only means by which the trading times or permitted activities of existing premises may be reduced is through the Review procedure.

3.10 Notwithstanding the points raised in section 3.8 of this report, it is reasonable to assume that if the special policy regarding Cumulative Impact in the Village was lifted then applications for later trading hours would ensue. Further, in the absence of a “rebuttable presumption”, there would be a general presumption that the Licensing Authority would endeavour to grant licences (with or without attached conditions). The likely effect of this is to move the so-called “pinch-point” to a later time than is presently the case.

3.11 For the reasons stated above, it is recommended that the special policy for Wimbledon Village should remain unchanged and should be confirmed in Merton’s revised Licensing Policy Statement.

#### **4. Alternative options**

4.1 The revision of the Authorities Licensing Policy Statement is a statutory requirement and there is therefore no alternative option to revision although there are options of what additional information may need to be included in the policy document.

#### **5. Consultation undertaken or proposed**

5.1 When approved by the Licensing Committee and other relevant Council bodies, the revised Draft Licensing Policy Statement will be published for public

consultation. The views of Responsible Authorities such as Police, Fire Brigade, Trading Standards, Environmental Health etc. and the industry will be sought.

## **6. Timetable**

25 April 2007 - Licensing Committee

25 June 2007 - Cabinet

26 June to 17 September 2007 – Public Consultation

13 November 2007 (provisional date) – Licensing Committee

29 November 2007 – Full Council

## **7. Financial, resource and property implications**

7.1 The financial and resource issues raised by the Authority's Licensing duties have been taken into account as part of the 2007-8 budget setting process. It is expected that, during the financial year 2007/8, the Secretary of State will increase Licensing Fees (licences under the Licensing Act 2003 only) by a factor of 7%, in line with the findings of the report of the Independent Fees Review Panel.

## **8. Legal and statutory implications**

8.1 This is a document being prepared for consultation. The requirement is that consultation should be at a formative stage before any firm decisions are taken by the Council. Accordingly, it is important that the covering letter with the draft policy document identifies what exactly the community is being consulted on and what proposals the council has in relation to those matters.

## **9. Human rights, equalities and community cohesion implications**

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

## **10. Risk management and health and safety implications**

10.1 A further Risk Assessment will be carried out in April; all Corporate and Section Protocols and Procedures have been followed.

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

11.1 Appendix A – New Draft Licensing Policy Statement

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

12.1 Licensing Act 2003  
Government Guidance under Section 182 of the Licensing Act 2003

## **13. Contacts:**

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## **14. Useful links**

- 14.1 Merton Council's Web site: <http://www.merton.gov.uk>  
14.2 Readers should note the terms of the legal information (disclaimer) regarding information on Merton Council's and third party linked websites.  
14.3 <http://www.merton.gov.uk/legal.htm>  
14.4 This disclaimer also applies to any links provided here.

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# LONDON BOROUGH OF MERTON

## STATEMENT OF LICENSING POLICY (FIRST REVIEW)

Putting You First



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## 1. The Licensing Act 2003 – policy and scope

- 1.1. The Licensing Act 2003 (“the Act”) gained royal assent on 10 July 2003 and repealed most of the existing legislation relating to liquor, entertainment and night cafe licensing (late night refreshment) and replaced it with a totally new licensing regime. Responsibility for liquor licensing **was** transferred from the Magistrates Court to Local Authorities. All licence applications **are** published on Merton’s web site ([www.merton.gov.uk](http://www.merton.gov.uk)).
- 1.2. Under the Act, Local Authorities **became** licensing authorities for the purposes of liquor licensing, entertainment and late night refreshment.
- 1.3. Merton Council **became** the licensing authority within the London Borough of Merton under the provisions of the Licensing Act 2003. For the purposes of this policy reference to Merton is in relation to its function as a Licensing Authority unless otherwise specified.
- 1.4. The London Borough of Merton is situated in the South West of Greater London. Merton is generally “greener” and more suburban than most other London Boroughs. Predominantly a residential area, the borough comprises of properties, which are both wide ranging in character and are often of a high quality. The Council’s strategic objectives include improving the quality of life for residents and businesses. They will benefit from a cleaner and more attractive physical environment and improved access to high quality housing, transport systems, learning opportunities and jobs. The Council will also maintain our current position as a low crime borough and our residents will see Merton as a safe place to live, work and learn. Relationships between Merton’s many diverse communities will be positive.
- 1.5. The borough has five areas namely Raynes Park, Colliers Wood, Mitcham, Morden and Wimbledon. At present, the Council is responsible for the licensing of **some** 500 premises for the sale or supply of alcohol (e.g. off-licences, restaurants, public houses, registered clubs etc). In addition the licensing authority will be responsible for the grant of personal licences to those wishing to sell or supply alcohol. Some licensed premises are in residential areas. A greater number are located in town centres which are often on a single main road with commercial uses backing onto residential streets. In addition, town centre buildings may contain flats on their upper floors. Parking by customers of licensed premises may also take place in residential streets.
- 1.6. The busiest of these areas is Wimbledon town centre and Wimbledon Village which has the highest density of leisure and entertainment venues.
- 1.7. The Act requires Merton to carry out its various licensing functions so as to promote the following licensing objectives:
  - The prevention of crime and disorder
  - Public safety

- The prevention of public nuisance
  - The protection of children from harm.
- 1.8. Under the Act Merton is required to publish a Licensing Policy with respect to the exercise of its licensing functions. **Merton's first Statement of Licensing Policy was prepared in accordance with the provisions of the Act and with regard to the Guidance issued under Section 182 of the Act, and was adopted by the Council on 05 January 2005. In accordance with the Act, this document is the first review of Merton's Statement of Licensing Policy.**
- 1.9. The legislation is a recognition that in a modern and vibrant society the activities this Act covers require a more responsive and flexible system. One of the purposes of this Policy will ensure that local people and visitors to the London Borough of Merton will have better opportunities to enjoy their leisure time safely without fear of violence, intimidation or disorder while on, arriving at or leaving licensed premises. Another intention of the policy is to ensure that local residents are not unreasonably disturbed, whether in the street or at home, by activities within licensed premises or by customers arriving at or leaving licensed premises.
- 1.10. An effective Licensing Policy, alongside other initiatives, can work towards promoting positive aspects, such as increasing the leisure industry provision for the community and encouraging regeneration of town centres, as well as controlling the negative impacts which affects residents, such as an increase in noise, nuisance, anti-social behaviour and crime and disorder.

## **2. Types of Licences**

- 2.1. The types of licences **available under** the Licensing Act 2003 are:
- premises licences,
  - club premises certificates,
  - temporary events notices
  - personal licences in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.

## **3. The Policy**

- 3.1. The Act requires that Merton carry out its various licensing functions so as to promote the following four licensing objectives:
- the prevention of crime and disorder
  - public safety

- the prevention of public nuisance
- the protection of children from harm

3.2. This licensing policy serves 4 main purposes that are:

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

3.3. The scope of the 2003 Act covers:

- Retail sale of alcohol
- The supply of alcohol by or on behalf of a club, or the order of a member of a club
- The provision of regulated entertainment
- The provision of late night refreshment
- Personal licences in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment

3.4. Regulated entertainment is defined as follows:

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- A boxing or wrestling entertainment (indoor and outdoor)
- A performance of live music
- Any playing of recorded music
- A performance of dance

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

### 3.5. Main Principles

The following are the main principles underpinning this policy:

- Nothing in this policy will undermine any person from applying for a variety of permissions under this Act.
- Each application will be judged on its individual merits, having regard to this policy and national Guidance issued under s.182 of the Licensing Act 2003.
- Nothing in this policy overrides the right of any person to make representations on any application or seek a review of a licence or certificate.
- That appropriate weight will be given to all relevant representations unless they are frivolous, vexatious or repetitious
- Licensing is concerned with regulating licensable activities, so conditions will focus on matters within the control of operators, centering on premises and their vicinity.
- For the purposes of this Policy Statement, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, that person:
  - (a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
  - (b) Has business interests that might be affected by the authorised activities;
  - (c) Represents persons who satisfy (a) or (b) above.
- The legislation relating to licensing is not the primary mechanism for the general control of anti social behaviour by individuals once they are away from the premises and beyond the direct control of the licence holder. Nonetheless, it is a key aspect of such control and licensing law will always be part of the holistic approach to the management of the evening and night-time economy in Merton.
- Conditions will be tailored to the individual style and characteristics of the premises and events, and standardised conditions will be avoided, although selection may be made from pools of conditions suggested in other publications. A list of such

publications is set out in Appendix 1. For the purposes of the imposition of conditions, the principal source is Annexes D to G of the national Guidance issued under section 182 of the Licensing Act 2003.

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

3.7. Consultation on Policy Document

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

- The Chief Officer of Police for the area
- The Fire Authority (LFEPA Croydon)
- Person/bodies representative of local holders of premises licences
- Person/bodies representative of club premises certificates
- Person/bodies representative of local holders of personal licences
- Person/bodies representative of businesses and residents in the area

3.8 The following organisations or individuals **will also be** consulted:

- Merton Partnership Against Crime
- British Transport Police
- Local Accident & Emergency Hospital Departments
- The Musician's Union & Equity
- Local Childrens Safeguarding Board
- The Area Forums
- Neighbouring Local Authorities
- All Councillors
- Persons representative of existing licence holders and certified clubs.

3.9 In addition, the Policy **will be** available on the Internet on Merton's web site ([www.merton.gov.uk](http://www.merton.gov.uk)).

3.10 In agreeing this policy proper weight **will be** given to the views of the persons and bodies consulted.

### 3.11 Duplication

- 3.11.1 This policy seeks to avoid duplication with other regulatory regimes so far as is possible. This policy statement is not intended to duplicate existing legislation and regulatory regimes that already places obligations on employers and operators in respect of employees and or members of the public e.g. the Health & Safety Act 1974, The Environmental Protection Act 1990, Disability Discrimination legislation, Anti Social Behaviour Act 2003 and Fire Safety legislation.
- 3.11.2 Conditions will only be attached to licences if they are necessary for the promotion of the licensing objectives. If a necessary condition is not already provided for in other legislation, it will generally be considered necessary in the context of licensing law. However, the fact that a matter is covered by other legislation does not necessarily mean that a condition will not be necessary for the purposes of licensing. It may be that current legislation or regulation might not cover particular circumstances that arise out of the type of activity at specific premises. In those situations it may be necessary for conditions to be attached that reflect those particular circumstances. However, Merton will not simply duplicate a condition which is already provided for under other legislation.

## 4. Integrating Strategies

- 4.1. There are many organisations including this Authority whose policies and strategies impact or involve the licensing objectives eg. Prevention of crime and nuisance.
- 4.2. Many of their strategies deal in part with the licensing function, and Merton will liaise with such groups to ensure proper integration of local crime prevention, planning, transport, tourism, economic development and cultural strategies and alcohol harm reduction, where necessary. Examples of these strategies are as follows: -

### 4.2.1 Alcohol Harm Reduction Strategy

On 15 March 2004 the Government published its 'Alcohol Harm Reduction Strategy for England' ("the Strategy") in which they identified the problems associated with the consumption of alcohol and suggest measures to tackle those problems.

The key measures contained within the policy are:

- Working with the drinks industry to ensure that advertising does not promote or condone irresponsible or excessive drinking. This would include creating a Social Responsibility Charter for drinks producers requiring them to put "sensible drinking" messages on packaging; information about units of alcohol on bottles and cans and ensuring that products are not created to appeal to under-age drinkers.



- The strategy states that at local level, there will be new “code of good conduct” schemes for retailers, public houses and clubs, which would be run locally by a partnership of the industry, police and local authorities. These will ensure that industry works alongside local communities that are of concern such as: underage drinking and making town centres safer and more welcoming at night. However any such scheme would be voluntary.
- The strategy contains measures for combating alcohol related disorder in town and city centres. These include an increase in the use of exclusion orders and fixed penalty fines and better enforcement of existing rules governing under-age drinking and serving people who are already drunk.
- The strategy identifies the social and health problems associated with the consumption of alcohol and propose to combat them by promoting greater awareness among health service workers, in schools and by information campaigns.

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

- monitoring the sale or supply of alcohol to minors
- where there are relevant representations the licensing authority may attach conditions requiring licensees to require customers who appear to be under 18 to provide evidence of their age
- when relevant representations are made, the licensing authority may attach conditions which are in part, or as a whole, suggested by the “Code of Good Conduct”.

#### 4.2.2 Crime and Disorder Strategy

The Crime and Disorder Act 1998 places a duty on Local Authority Chief Executives and Borough Police Commanders, in partnership with other agencies, to work together to reduce crime and disorder in the Borough. Merton’s Crime and Disorder Strategy complements central Government strategies and other initiatives, as well as the plans of the other member agencies.

The Merton Partnership Against Crime (MPAC) group has agreed seven key objectives for the Merton Crime and Disorder Strategy (available on Merton’s web site [www.merton.gov.uk](http://www.merton.gov.uk) or on request at the Civic Centre), and the licensing authority’s Licensing Policy will integrate with those objectives in the following ways:

- promotion of the four statutory licensing objectives namely prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm
- where there are relevant representations, providing a pool of

appropriate conditions to new licences or reviewing existing licences

- monitoring licensed and unlicensed activities
- prosecution of offences in accordance with the enforcement concordat and any other policies that may relate to enforcement
- the review of the licensing policy itself will also enable Merton to respond to changes in the types of crime and disorder in the Borough and take into account changes in this Council and central Governments strategies.

#### 4.2.3 Metropolitan Police Drugs Strategy

- The Metropolitan Police drugs strategy has two strands, namely reducing supply and reducing demand, and this will be achieved by forging a partnership approach between the Police, Merton Council and the local community.
- The Police strategy supports the development, and use of, intelligence garnered from appropriate sources to target those involved in any form of drug dealing.
- The use, and sharing of, intelligence provided by all relevant organisations is emphasised as necessary to identify those areas of drug misuse that cause particular concern to the community.
- Merton is developing a protocol with the Metropolitan Police with regard to enforcement and part of the protocol will relate to the sharing of information generally and specifically in the area of misuse of drugs
- Merton Council through the promotion of the licensing objectives and the carrying out of its licensing function will contribute to achieving the aims stated in this section.
- In this way, Merton's Licensing Policy will integrate with both the Police and Courts in seeking to properly address the "Crime & Disorder" objective of the Licensing Act 2003.

#### 4.2.4 Door Supervisors

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

- Increasing public confidence in the private sector security industry
- Improving training, standards and professionalism
- Promoting and spreading best practice
- Strengthening the extended police family by encouraging and supporting further engagement of the private security

industry

Under the PSIA 2001, **door supervisors are required to be licensed by the SIA.**

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

#### 4.2.5 Test Purchases

A Code of Best Practice concerning test purchases has been compiled by the Local Authorities Co-ordinators of Regulatory Services (LACORS). This Code has been approved by Central Government and this Council has signed up to this code as a means to gather evidence and prosecute where appropriate.

#### 4.2.6 Merton Neighbourhood Renewal Strategy

The Council's strategy includes the following objectives:

- To create a more sustainable community through the promotion of business growth, revitalisation of Mitcham Town Centre and the improvement of employment prospects of local people
- Enhancing community cohesion by improving prospects for young people, building better relations between communities, increased community participation and encouraging closer working relationships between statutory bodies and the voluntary sector
- Improve well-being through the reduction of crime and the fear of crime and the incidence of anti-social behaviour
- To improve transport provision within the borough

This Policy Statement endeavours to carry out a balancing exercise whereby Merton in promoting the Licensing Objectives also takes into account the Council's policy on neighbourhood renewal. Examples of how this will be achieved are:

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

#### 4.2.7 Transport Strategy

To support the vision of London as an exemplary sustainable world city, the Greater London Authority Transport Strategy seeks to increase the

capacity, reliability, efficiency, quality and integration of the transport system to provide the world class transport system the capital needs. Three of the ten key transport priorities, which flow from this, are:

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

Underpinning bullet points 2 and 3 above is the strategic action plan to increase late night public transport (e.g. bus and underground services) as a consequence of the revenue gained from congestion charging. Merton's own Transport Strategy generally mirrors the Greater London Authority's objectives.

The G L A Transport Strategy will facilitate easier dispersal of customers leaving late night venues, and will encourage them to return home rather than remain in the vicinity after premises have closed.

This will integrate with the licensing authority's policy in promoting the Crime and Disorder and Prevention of Public Nuisance Objectives. If relevant representations are made Merton will consider whether the transport provision existing at the date of its decision is inadequate and so may cause nuisance or affect the promotion of any of the licensing objectives."

#### 4.2.8 Prohibition of Smoking in Enclosed Public Buildings

From 1 July 2007, the Health Act 2006 will prohibit smoking in enclosed licensed premises and certified clubs. These new restrictions are the responsibility of the Council's Commercial & Trading Standards Section and are not enforceable through this Policy or the Licensing Act 2003.

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

## 5. Promotion of Racial and Gender Equality

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

between persons of different racial groups and to promote gender equality.

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

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

- 6.1. In its role of implementing local authority cultural strategies, the Council recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community, particularly for children. The Council is particularly concerned to increase cultural opportunities for children.
- 6.2. When considering applications for such events and the imposition of conditions on licences or certificates, Merton will carefully balance the cultural needs with the necessity of promoting the licensing objectives.
- 6.3. Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused.
- 6.4. As a Local Authority, the London Borough of Merton will be applying to the Licensing Authority for premises licences for all properties and sites owned by the Council. The effect of this will mean that those individuals or organisations who may wish to use such venues will be relieved of the necessity to apply for licences. Further information can be found at [www.merton.gov.uk](http://www.merton.gov.uk)
- 6.5. Merton will monitor the impact of licensing on regulated entertainment, particularly music and dancing, to ensure that unnecessary restrictions are not being placed on the development of entertainment activities in the borough. Where there is evidence of such a negative impact, Merton will have regard to this in reviewing the Licensing Policy Statement.

## **7. Cumulative Impact**

- 7.1. The Council will not take 'need' into account when considering an application for a licence, as this is a matter for the market. However, it recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder outside and within the vicinity of the premises.
- 7.2. In such circumstances the impact of those premises when taken as a whole can be far greater than that arising from individual premises and it may not be possible to distinguish a specific premises as being the sole cause, or even a major contributing factor of a particular problem. It is the "Cumulative Impact" of all of the premises that causes problems for a wider area. As stated above this should not be

confused with the issue of “need” which relates to commercial demand for licensed premises. “Need” is not a matter which can be taken into account when determining licence applications.

- 7.3. It may become apparent to the Council by way of representations made to it by responsible authorities and/or interested parties that an area has or is becoming saturated with premises, making it a focal point for many and/or large groups of people to gather and circulate away from licensed premises themselves, creating exceptional problems of disorder and nuisance over and above the impact from the individual premises.
- 7.4. In these circumstances the Council may consider that the attachment of conditions is unlikely to address these problems and it may then consider the adoption of a special policy of refusing new premises licences or club premises certificates because the area is saturated with licensed premises and the granting of any more would undermine one of the licensing objectives.
- 7.5. **When consulting upon its original Licensing Policy Statement, the Council took** the following steps in considering whether to adopt a special policy:
- Identification of concern about crime and disorder or public nuisance
  - Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises and if so identifying the area from which the problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
  - Consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole statement of licensing policy;
  - Subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of the Guidance in the statement of licensing policy;
  - Publication of the special policy as part of the statement of licensing policy required by the Act.
- 7.6. **In 2005 and having** regard to the evidence available **then**, the Council **considered** that there **were** two specific areas in Merton where a special policy **was** appropriate and necessary. Those areas are Wimbledon Town Centre and Wimbledon Village.

## Wimbledon Town Centre

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

## Wimbledon Village

Wimbledon Village has not experienced the same development pressures as Wimbledon Town Centre. However, the usage and opening hours of existing public houses and conversion of shops to restaurants has impacted on the locality. There are fewer crimes recorded in the Village as compared to the Town Centre. However, it is clear from the significant number of consultation responses received from residents and Residents Associations that many people experience regular disturbance and nuisance as a result of the proximity of a large number of licensed premises. **In 2004 in the first consultation process**, the Police supported the designation of Wimbledon Village as a cumulative impact zone.

By designating these areas as cumulative impact zones, the Council is promoting the licensing objectives and complying with its statutory duty under Section 17 of the Crime and Disorder Act 1998 to prevent crime and disorder in its area.

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

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

- Wimbledon Hill Road from the junction with Mansel Road and Woodside Road to the Broadway including Wimbledon Bridge;
- The Broadway to its junction with Merton Road;
- Kings Road from its junction with The Broadway to South Park Road;
- Stanley Road from its junction with The Broadway to South Park Road
- Merton Road from its junction with The Broadway to its junction with Griffiths Road and Quicks Road;

- Hartfield Road from its junction with Wimbledon Bridge to Sir Cyril Black Way
- Sir Cyril Black Way
- Gladstone Road from its junction with The Broadway to Sir Cyril Black Way;
- Worple Road from Wimbledon Hill Road to its junction with Raymond Road and Francis Grove; and
- Centre Court Shopping Precinct.

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

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

7.8 Subject to the forthcoming public consultation on this Statement, the Council considers that it may be necessary and appropriate to continue a special policy for the two designated cumulative impact zones (CIZs). Where relevant Representations have been received the special policy will affect applications for new premises licences and club certificates or variations of existing licences or certificates. It will be for the applicants to show (in their operating schedules and/or by their submissions at a Licensing Sub-Committee hearing) that what is proposed will not add to the cumulative impact already being experienced. In this context, the provision of any advance information will enable Responsible Authorities and/or Interested Parties to determine whether or not they wish to make a Representation either opposing or in support of the application. Applications for new premises licences or club premises certificates or material variations will normally be refused unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced.

7.9. The presumption of a refusal does not, however, relieve Responsible Authorities or Interested Parties of the need to make a relevant representation before a licensing authority may lawfully consider giving effect to its special policy. If no representation is received it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted. The Licensing Sub-Committee is only engaged when relevant Representations are received. However, Responsible Authorities, such as the Police or interested parties, can make a written Representation making reference to the special policy, maintaining that it is necessary to refuse the



application for the promotion of the prevention of crime and disorder or public nuisance and referring to information that had been before the licensing authority when it developed its Statement of Licensing Policy.

- 7.10. This special policy is not absolute. The circumstances of each application will be considered properly and it is possible for licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives to be granted. Following receipt of representations in respect of a new application or for a variation of a licence or certificate, the Licensing Authority will consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. If the Licensing Sub-Committee decides that an application should be refused, the Licensing Sub-Committee is required to give (oral and written) reasons for its decision and demonstrate why attaching conditions to the licence or certificate would be ineffective in preventing the problems involved.
- 7.11. This special policy cannot be used as a ground for revoking an existing licence or certificate when relevant representations are received about problems with those premises. The special policy can also not be used to justify rejecting applications to vary an existing licence or a certificate except where refusal of those modifications are directly relevant to the policy and are strictly necessary for the promotion of the licensing objectives.
- 7.12. This special policy relating to cumulative impact does not include provisions for a terminal hour in a particular area. The Council acknowledges that it would be wrong not to apply the special policy to applications that include provisions to open no later than, for example, midnight, but to apply the policy to any other premises that propose opening later. The effect would be to impose a fixed closing time akin to that under the “permitted hours” provisions of the Licensing Act 1964. The Council recognises that terminal hours were abolished by statute to avoid the serious problems that arise when customers exit licensed premises simultaneously. The Council does not intend to attempt to fix a terminal hour in any area so as directly to undermine a key purpose of the 2003 Act.
- 7.13. This special policy does not impose quotas – based on either the number of premises or the capacity of those premises – that restrict the consideration of any application on its individual merits or which to seek to impose limitations on trading hours in particular areas. Quotas that indirectly have the effect of pre-determining the outcome of any application will not be used because they have no regard to the individual characteristics of the premises concerned. Public houses, night clubs, restaurants, hotels, theatres, concert halls and cinemas all could sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be given to those differences and the differing impact they will have on the promotion of the licensing objectives.
- 7.14. Notwithstanding the special policy the Council will continue to work with all appropriate partners to help meet the licensing objectives through local initiatives and good practice, including the provision of CCTV surveillance, police enforcement of general law, ongoing measures to create a safe and clean environment, and working in partnership with licensees.

- 7.15. This special policy will be reviewed regularly to assess whether it is needed any longer or whether it needs expanding.

## **8. Crime and Disorder**

- 8.1. Under section 17 of the Crime and Disorder Act 1998, the London Borough of Merton, as a Local Authority, has a duty to do all it reasonably can to prevent crime and disorder in the borough. As previously stated the prevention of crime and disorder is also one of the four licensing objectives that this Licensing Authority is to promote.
- 8.2. Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.
- 8.3. In deciding licence applications where relevant representations are made, it will be the policy of the Council to consider the adequacy of measures proposed to deal with the potential for crime and disorder having regard to all the circumstances of the case. In particular the authority may consider the following:
- (i) the levels of crime and disorder in and around the venue;
  - (ii) the level of compliance with conditions on existing licences;
  - (iii) the measures to be put in place to prevent underage drinking;
  - (iv) the measures proposed to prevent the consumption or supply of illegal drugs, including search procedures, provision of CCTV, design of premises, monitoring of toilets, surrender and seizure procedures;
  - (v) the measures proposed to discourage binge drinking and drunkenness and to promote sensible drinking;
  - (vi) the measures proposed to prevent violence on the premises, including the threat of violence to staff;
  - (vii) whether door supervisors are to be provided and, if so, how many and the hours of employment;
  - (viii) measures to be put in place to react to any situations of disorder should they occur;
  - (ix) 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;
  - (x) any steps that are to be taken to reduce thefts from patrons

using the premises;

- (xi) for new applications, the extent to which the layout has been designed to minimise crime and disorder; and any steps that are to be taken to reduce the risk of spiking of drinks.

- 8.4. Merton will expect Operating Schedules to satisfactorily address these issues from the design of the premises through to the daily operation of the business.
- 8.5. Applicants are recommended to seek advice from the Council's Licensing Officer and the Metropolitan Police, as well as taking into account, as appropriate, local planning & transport policies, tourism, cultural and crime prevention strategies, when preparing their plans and Schedules. In general, conditions will, so far as possible, reflect local crime prevention strategies.
- 8.6. Merton, where appropriate and necessary, will consider attaching conditions to licences and permissions to deter and prevent crime and disorder both inside and within the vicinity of the premises and these may include the conditions that are in appendix 1 of this statement.
- 8.7. Merton also recognises that there are a number of other mechanisms available to address the impact of crime and disorder and anti-social behaviour. Examples of these are as follows:
- ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments
  - designation of parts of the Borough as places where alcohol may not be consumed publicly
  - regular liaison with local Metropolitan Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk; confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise from the premises
  - the power of the police, other responsible authority or a local resident or business to seek a review of the licence or certificate

## **9. Public Safety**

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

- 9.3. The Council will expect Operating Schedules to fully address these issues. Applicants are advised to seek advice from the Council's Licensing team, Building Control Officers, the London Fire and Emergency Planning Authority, the Police and Health & Safety (both the Executive and the Council's department) before preparing and submitting their plans and Schedules.
- 9.4. Merton, where appropriate and necessary, will consider attaching conditions to licences to promote safety, and these may include the conditions that are in Appendix 1 of this statement.

## **10. Prevention of Nuisance**

- 10.1. Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 10.2. The concerns mainly relate to noise nuisance, light pollution and noxious smell. Merton will expect Operating Schedules to address these issues. Applicants are advised to seek advice from the Environmental Health Department (Housing & Pollution) before preparing their plans and Schedules.
- 10.3. The Council in its capacity as a licensing authority is concerned to ensure the necessary protection of residents, members of the public and businesses in the vicinity of licensed premises, whose living, working and sleeping can be adversely affected by nuisance. The applicant must demonstrate within their operating schedule how they intend to promote the licensing objective relating to the prevention of nuisance.
- 10.4. Merton, where appropriate and necessary, will consider attaching conditions to licences to promote **avoidance of nuisance**, and these may include Conditions as attached at appendix 1.
- 10.5. The following are some examples of problems that may give rise to concern and should be addressed where appropriate:
- noise and vibration escaping from the premises, including
  - music, noise from ventilation equipment, and human voices.
  - disturbance by customers arriving at or leaving the premises.
  - Queuing, either by pedestrian or vehicular traffic
  - parking by patrons and staff
  - the provision for public transport in the locality (including taxis and private hire vehicles) for patrons
  - the level of likely disturbance from associated vehicular movement
  - the use of licensed premises gardens and other open-air areas
  - littering or glass dispersal in the immediate vicinity
  - the delivery and collection areas and times
  - the siting of external lighting, including security lighting that is installed inappropriately

- the impact on refuse storage and litter (including fly posters and illegal placards)
- the generation of odour, e.g. from the preparation of food.
- any other relevant activity likely to give rise to nuisance.

## 11. Prevention of Harm to Children

### 11.1. Access to Licensed Premises

- 11.1.1 The wide range of premises that require licensing means that children and young persons may visit many of these, sometimes on their own, for food and/or entertainment.
- 11.1.2 The Act creates the following two offences:
- to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under authorisation of a premises licence, club premises certificate etc.
  - to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate etc. Outside these hours, this offence does not prevent the admission of unaccompanied children under 16 to various types of premises where the consumption of alcohol is not the exclusive or primary activity at those venues. It should also be noted that between 5 am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and those pubs where the main activity is the consumption of both food and drink.
- 11.1.3 Subject to the provisions of the Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. Merton will not attach conditions requiring the admission of children.
- 11.1.4 Merton will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.
- 11.1.5 Each application shall be considered on its merits. However, there may be particular areas of concern in respect of children including the following examples:
- premises where there have been convictions for serving alcohol to minors or with a reputation for underage drinking
  - premises with a known association with drug taking or dealing
  - premises where there is a strong element of gambling on the

premises (but not, for e.g. the simple presence of a small number of fruit machines, slot machines or any other cash prize gaming machines)

- premises where entertainment or services of an adult or sexual nature are commonly provided
- premises where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided

11.1.6 The following options are possible alternatives which Merton may consider attaching as conditions for limiting the access of children where it is necessary for the prevention of harm to children:

- Limitations on the hours when children may be present
- Limitations on ages below 18
- Limitations or exclusion when certain activities are taking place
- Requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult)
- Full exclusion of people under 18 from the premises when any licensable activities are taking place

These alternatives can be adopted either individually or in combination in order to promote this licensing objective.

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

11.2. Access to Cinemas

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

11.2.2 In the past, films that have been shown at cinemas or film exhibitions in Merton have been classified by the Board of Film Classification (BBFC). It is not anticipated that this will change.

11.2.3 Applicants for licences in relation to premises showing film

exhibitions will be expected to address arrangements for restricting children from viewing age-restricted films (as classified by the BBFC) in their operating schedules.

11.2.4 The Act also provides a mandatory condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to the exhibition of any films to be restricted in accordance with the recommendations given to films by the BBFC or the licensing authority if it so desires.

### 11.3. Children and Public Entertainment

11.3.1 Many children go to see and/or take part in an entertainment arranged especially for them, for example children's film shows and dance or drama school productions.

11.3.2 In order to promote the protection of children, Merton may attach conditions where it is appropriate and necessary to safeguard them whilst they are on the premises.

Examples of such conditions may be:

- concerning the presence of adult staff at places of public entertainment to control the access and egress of children and to protect them from harm
- age restrictions of children or young persons if unaccompanied by a responsible adult

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

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

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

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

## 12. Tourism, Employment, Planning & Building Control

12.1. Planning, Building Control and the Licensing functions will be properly separated to avoid duplication and inefficiency.

12.2. In order to ensure proper integration the Licensing Committee where appropriate, will provide regular reports to the Planning Committee on the situation regarding the licensed premises in



the area, including the general impact of alcohol related crime and disorder. This would enable the Planning Committee to have regard to such matters when taking its decisions and avoid unnecessary overlap.

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

12.4. Arrangements will also be made for the Licensing Committee to receive reports on the following matters to ensure members are aware of them when making decisions:

- the needs of the local tourist economy and cultural strategy for the Borough, and,
- the employment situation in the Borough and the need for investment and employment where appropriate

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

### **13. Licensing Hours**

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

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

13.3. Merton recognises that hours of trading are a critical factor in assessing adverse and beneficial impacts in its area. Whilst the Borough does not have in general a problem with large numbers of customers leaving licensed premises at the same time, there is a problem with noise and anti social behaviour which affects local residents. Residents can

tolerate an element of noise disturbance in the earlier part of the night when ambient noise levels are high but find it increasingly intolerable as ambient levels fall and later at night when they expect to sleep. Noise can come from within premises, a potentially controllable source, and from revellers in the street.

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

- whether the licensed activity may result in a reduction or an increase in crime and anti-social behaviour in the area;
- whether the licensed activity would not be likely to cause adverse effect on the safety and amenity of local residents, or, if there is any potential to cause adverse effect, whether any and if so what measures will be put in place to prevent it;
- whether there will not be an increase in any cumulative adverse effect from the activity on local residents in the vicinity;
- whether there is a high level of public transport accessibility to and from the premises for the hours requested or whether other effective methods of dispersal will be put in place which will not themselves add to adverse impact on local residents in the vicinity.

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

13.6. Particular areas of concern that may be taken into account by Merton include:

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

#### Shops, Stores and Supermarkets

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

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

## **14. Conditions**

### **14.1. Mandatory Conditions**

14.1.1 Section 19, 20 and 21 of the Act, provides for certain mandatory conditions to be included in a premises licence.

14.1.2 Under section 19, Merton will be required to attach to any premises licence authorising the supply of alcohol the conditions that at any time when such supplies under the premises licence are made

- There must be a 'designated premises supervisor' who is the holder of a valid personal licence, and
- Every supply of alcohol under the premises licence must be made by a personal licence holder (although not necessarily by the designated premises supervisor) or an individual authorised by a personal licence holder

14.1.3 Where a premises licence authorises the exhibition of a film, section 20 makes it mandatory for a condition to be included in the premises licence requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the licensing authority itself. When the Licensing Act was passed the only body designated under section 4 of the Video Recordings Act 1984 was the British Board of Film Classification.

14.1.4 Section 21 applies where the provision of door supervision is a requirement of the premises licence. It requires the licence to provide that anyone carrying out such a security function must be licensed by the Security Industry Authority established under the Private Security Industry Act 2001. However, S21(2) specifies some exceptions to the requirement (e.g. theatres). The provisions of the Private Security Industry Act 2001 are amended by paragraph 118 of schedule 6 to the Act.

### **14.2. Prohibited conditions**

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

### 14.3. Standard Conditions

14.3.1 Conditions may only be imposed on licences and certificates where they are necessary for the promotion of one or more of the four licensing objectives. Standard conditions will be avoided. The pool of conditions from which this Licensing Authority may draw necessary and proportionate conditions in particular circumstances can be found with reference to the documents referred to in Appendix 1 to this policy.

## 15. Applications for Premises Licences

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

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

15.3. An application for a premises licence must be in a prescribed form to this Licensing Authority and be copied to each of the responsible authorities (see Section 13 of the 2003 Act) and it must be accompanied by:

- The required fee
- An operating schedule (see below)
- A plan of the premises in a prescribed form to which the application relates; and
- If the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the designated premises supervisor
- Copies of appropriate certificates of training

15.4. If the application form is not completed correctly the application will be returned to the applicant immediately.

15.5. Further, Merton will not determine an application which has not been properly made, for example by failing to provide material information requested by the form, or failing to advertise or notify responsible authorities as required by regulations.

15.6. Merton will expect applicants for premises licences or for major variations of such licences to conduct a thorough risk assessment with regard to the licensing objectives when preparing their

applications.

15.7. Merton will have a policy whereby valid applications will automatically be referred to the Building Control, Health & Safety or other appropriate departments and it will be for them to decide whether an inspection of the premises is required, and if any breaches are found these will be dealt with under other relevant legislation.

15.8. There will not be a routine inspection of premises carried out by the Licensing Team, but inspections may take place for example in the following circumstances:

- Where applications are received for new premises where there are concerns that arise out of the operating schedule
- Where there have been complaints raising concerns with regard to the promotion of the licensing objectives
- If there is a level of risk associated with the type of entertainment to be offered at the premises,
- In rare situations where relevant representations have been received to cause Merton's confidence in the management of the premises to be questioned,
- The history of the premises
- Any other relevant factor
- Where other regulating authorities (internal or external) recommend action

## **16. Operating Schedule (Licensed Premises and Registered Clubs)**

16.1. As part of an application for a premises licence (or club premises certificate) an Operating Schedule must be submitted. The Operating schedule **is required to** include information that is necessary to enable Merton (or an interested party/responsible authority) to assess whether the steps to be taken to promote the licensing objectives are satisfactory. The following are a few examples of the type of information that would be useful:

- Descriptions of the style and character of the business to be conducted on the premises (e.g. supermarket, bar, restaurant etc.)
- If alcohol were being sold for consumption on the premises, it would be valuable for the applicant to indicate the extent of seating available as research has shown that the amount of seating can be relevant to the prevention of crime and disorder.
- The type of activities available in the premises whether licensable under the 2003 Act or not e.g. if there is dancing it would be helpful for a brief description to be given of the type of dancing and whether it is members of the public or professional performers.

16.2. An applicant **is required to** ensure that the operating schedule sets out the following details:

- the relevant licensable activities to be conducted on the premises
- the times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year)
- any other times when the premises are to be open to the public
- where the licence is required only for a limited period, details of that period
- where the licensable activities include the supply of alcohol, the name and address of the individual (who must hold a valid personal licence) to be specified as the designated premises supervisor who will be responsible on a day-to-day basis for conducting business in the premises in a manner consistent with the terms and conditions of the licence, in accordance with the Act and with the promotion of the licensing objectives
- where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both
- the steps which the applicant proposes to take to promote the licensing objectives.
- Such other matters as may be prescribed

16.3. Applicants are reminded that the 2003 Act provides that where an operating schedule (or club operating schedule) has been submitted with an application and there are no relevant representations made with regards to the application, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required by the Act.

16.4. Therefore, it is important that all schedules should be precise and clear about the measures that it is proposed to take to promote each of the licensing objectives, in particular in relation to the protection of children.

16.5. It is also important for the applicant to ensure that the steps suggested by the schedule are realistic and within the control of the applicant and management of the premises. If a licence is granted with conditions attached requiring the implementation of such steps, a failure to comply with the condition is a criminal offence.

16.6. Applicants for new premises licences/Club Operating Schedules and those seeking variations to existing premises licences, are advised to consult with the following organisations before preparing their schedules or at the earliest possible stage in order to avoid disputes:

- Police and local authority community safety officers– crime and disorder
- Local community groups- nuisance especially in relation to noise
- Local environmental Health officers – nuisance including noise
- Fire brigade – fire precautions and public safety
- Environmental Health Department of the London Borough of Merton – public safety
- Any other organisations or groups interested in the promotion of the licensing objectives in the area concerned.

## 17. Enforcement

17.1. The Council has a long-established enforcement Policy, based around the principles of consistency, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat and which also takes into account the Attorney General's Guidelines to Crown Prosecutors for bringing prosecutions. A leaflet concerning the enforcement concordat can be obtained from [www.cabinet-office.gov.uk/regulation](http://www.cabinet-office.gov.uk/regulation)

17.2. Enforcement decisions will be taken in line with the principles contained in the concordat.

17.3. The Council will comply with all laws and standards that govern the way enforcement action is to be dealt with. (e.g. The Licensing Act 2003 & Guidance, Police and Criminal Evidence Act 1984, Criminal Procedure and Investigations Act 1996, Data Protection Act 1998, Human Rights Act 2000, Regulation of Investigatory Powers Act 2000 etc).

17.4. Merton will work closely with the Metropolitan Police to establish protocols on enforcement issues to ensure an efficient deployment of Police and Council Officers engaged in enforcing licensing law and inspecting licensed premises. This protocol will provide for the targeting of agreed problems and high-risk premises that require greater attention. In turn a lighter touch will be adopted in respect of low risk premises.

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

18.1 In order to obtain a personal licence under Part 6 of the 2003 Act the requirements are that the applicant:

- Must be aged 18 years or over
- Must possess a licensing qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent) or is a person of a description prescribed by the Secretary of State by regulations
- must not have forfeited a personal licence within five years of his or her application; and,
- must produce a Criminal Record Bureau certificate,
- must not have an objection notice from the police about the grant of a personal licence following notification of any unspent relevant offence or foreign offence; or
- must show that any unspent relevant offence should not be considered on crime and prevention grounds if an objection is received by the police; and
- must pay the appropriate fee to the Council.

18.2. Applicants with unspent criminal convictions for relevant offences set out in the Licensing Act are strongly encouraged to first discuss their intended



application with the Police and the Licensing Team before making an application.

- 18.3. A personal licence is valid for 10 years. A designated premises supervisor must hold a personal licence.
- 18.4. Further information about personal licences can be found on Merton's Web-site ([www.merton.gov.uk](http://www.merton.gov.uk)) in Merton's Public Libraries or by contacting the Licensing Section of Merton Council.

## **19. Temporary Event Notices**

- 19.1. This deals with temporary permitted activities carried on in accordance with a statutory notice.
- 19.2. An individual who wants to use premises for one or more licensable activities in a period not exceeding 96 hours has to give a Temporary Event Notice to Merton.
- 19.3. This notice must be in the form prescribed by regulations and must give:

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

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

- 19.4. The Temporary Event Notice has to be sent in duplicate to Merton and a copy has to be sent to the Chief Officer of Police no less than 10 working days before the event period begins. The Police then have 48 hours to lodge an objection. The grounds for an objection must concern the crime prevention objective. No other person or body can lodge an objection.
- 19.5. Notwithstanding that the law states that a minimum of ten working days notice must be given, it is recommended that applicants give Merton and the Metropolitan Police at least three months' notice of the events, to allow them to help organisers plan their events safely.
- 19.6. Organisers of temporary events are strongly advised to contact the Licensing Team at the Council and the Police for advice at the earliest opportunity when planning events, to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.
- 19.7. If the police raise an objection there must be a hearing unless

both parties agree it is unnecessary and if Merton is in agreement with the police, it may serve a Counter Notice at least 24 hours before the event is to start

- 19.8. There are limits on the number of Temporary Event Notices in any one year. The limit for a Personal Licence Holder is 50 and a non personal holder is 5. Further, no more than 12 Notices may be served in respect of a premises for events during a single calendar year, and premises may not be used for temporary events on more than 15 days in that year. If the limits are exceeded, Merton will give the premises a Counter Notice prohibiting licensable activities being held at the event.
- 19.9. Police and Council Officers have a right of entry at reasonable times but only to assess the effect of the event on the crime Protection objective.
- 19.10. Further information on temporary event notices can be found on the Merton web site ([www.merton.gov.uk](http://www.merton.gov.uk)), in leaflets and in the guidance.

## **20. Registered Clubs**

- 20.1. Part 4 of the 2003 Act deals with registered clubs.
- 20.2. Merton can grant a Club Premises Certificate for the sale of alcohol and regulated entertainment to qualifying clubs.
- 20.3. There are various conditions that have to be complied with for a club to qualify e.g.
- Two day wait before becoming a member
  - Club having at least 25 members

There are also requirements about the supply of financial information to members and the keeping of financial records. The club also has to be managed by an elected Management Committee.

- 20.4. The provisions with regards to making an application for the Club Certificate are similar to those for a premises licence
- 20.5. Further information can be found on the Merton web site [www.merton.gov.uk](http://www.merton.gov.uk), in leaflets at public libraries and in the guidance issued by the Government.

## **21. Dealing with complaints about Premises**

- 21.1. Where after the grant of a premises licence, responsible authorities (e.g. police, fire brigade, environmental health) and interested parties (e.g. residents living in the vicinity) may

wish to make complaints about problems associated with crime and disorder, public safety, public nuisance or the protection of children.

- 21.2. The Act provides for a process whereby responsible authorities and/or interested parties can make an application for a review of the licence and provide their written representations.
- 21.3. Written representations may be amplified at a subsequent hearing or may stand in their own right. Representations in addition to those already made in writing may not be heard at a subsequent hearing. Therefore it is important that any representation made is clear concise and to the point.
- 21.4. Furthermore, these representations must relate to particular premises for which a premises licence is already held and must be relevant to the promotion of the licensing objectives. The review process is not an opportunity to revisit the earlier representations made to the Licensing Authority when the original application for a premises licence was determined.
- 21.5. On receiving the representations from interested parties complaints will be looked at to decide if they are frivolous or vexatious or repetitious. A representation is repetitious when it is identical or substantially similar to a representation made on a previous review or when the application for the licence was itself determined, and a reasonable interval has not elapsed since that time. In considering whether a reasonable interval has elapsed, Merton will have regard to whether operation of the premises has begun or changed since the previous representation was made.
- 21.6. On receiving applications for a review from responsible authorities and/or interested parties (that are relevant), Merton must arrange a hearing before councillors.
- 21.7. In circumstances where there are complaints by interested parties, Merton will seek to encourage alternative methods of resolving the complaints before an application is made for a review. However this does not override the right of any interested party to seek a review of a licence or certificate.
- 21.8. In the first instance, interested parties are encouraged to raise the complaint directly with the licensee or business concerned. Responsible authorities are also encouraged to give licence holders early warnings of their concerns and of the need for improvement.
- 21.9. Merton will take a particularly serious view where the grounds for review are substantiated and relate to:
  - use of licensed premises for the sale and distribution of drugs and the laundering of the proceeds of drugs crimes
  - use of licensed premises for the sale and distribution of illegal

firearms

- evasion of copyright in respect of pirated films and music
- underage purchase and consumption of alcohol
- use of licensed premises for prostitution or the sale of unlawful pornography
- use of licensed premises for unlawful gaming
- use of licensed premises as a base for organised criminal activity
- use of licensed premises for the organisation of racist, homophobic or, sexual abuse or attacks
- use of licensed premises for the sale of smuggled tobacco or goods
- use of licensed premises for the sale of stolen goods
- Police are frequently called to attend to incidents of disorder
- prolonged and/or repeated instances of public nuisance
- serious risks to public safety and the management is unable or unwilling to address these matters
- serious risks to children

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

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

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

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

- 22.1. A scheme of delegations will be agreed by the Licensing Committee and published with this policy
- 22.2. The Licensing Committee will receive regular reports on decisions made by officers so that they maintain an overview of the situation

## **Publication of the policy**

The Licensing Policy is available on the Merton Web-site - [www.merton.gov.uk](http://www.merton.gov.uk)

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

- Albanian
- Arabic
- Bengali
- Chinese
- Farsi
- 23.1. • French
- 23.2. • Greek
- 23.3. • Gujarati
- Hindi
- Italian
- Korean
- Punjabi
- Somali
- Spanish
- Tamil
- Turkish
- Urdu

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

## Appendix 1 - Pool of Conditions

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

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

- Code of Guidance issued under section 182 of the 2003 Act ([www.dcms.gov.uk](http://www.dcms.gov.uk))
- Model National and Standard Conditions for the Places of Public Entertainment and Associated Guidance ISBN 1 904031 110 (Entertainment Technology Press-ABTT Publications) ([www.abtt.org.uk](http://www.abtt.org.uk))
- Alcohol Harm Reduction Strategy ([www.strategy.gov.uk](http://www.strategy.gov.uk))
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 07176 2453 6 ([www.hse.gov.uk](http://www.hse.gov.uk))
- The Guide to Safety at Sports Grounds (The Stationery Office 1997) (“The Green Guide”) ISBN 011300095 2 ([www.hse.gov.uk/lau/lacs](http://www.hse.gov.uk/lau/lacs))
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network. ([www.streetartsnetwork.org/pages/publications](http://www.streetartsnetwork.org/pages/publications))
- The London District Surveyors Association’s “Technical Standards for Places of Public Entertainment” ISBN 0 9531229 2 1 ([www.londonbuildingcontrol.org.uk](http://www.londonbuildingcontrol.org.uk))
- The Portman Group Code of Practice on the Naming Packaging and Promotion of Alcoholic Drinks. ([www.portman-group.org.uk](http://www.portman-group.org.uk))
- The Portman Group PASS Accreditation system - proof of age ([www.portmangroup.org.uk](http://www.portmangroup.org.uk))
- Safer Clubbing and the “Updated Drug Strategy” ([www.drugs.gov.uk](http://www.drugs.gov.uk))
- Health & Safety Executive (HSE) ([www.hse.gov.uk](http://www.hse.gov.uk))

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

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

- (i) Where a regulated entertainment is specially presented for children, the Council may require the following arrangements when necessary in order to control their access and egress and to ensure their safety:

Age restrictions attached to children being admitted to any entertainment unless such child is accompanied by and is in the charge of a responsible adult person

- no child unless accompanied by an adult to be permitted in the front row of any balcony
- no standing to be permitted in any part of the auditorium during the performance
- an adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof

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

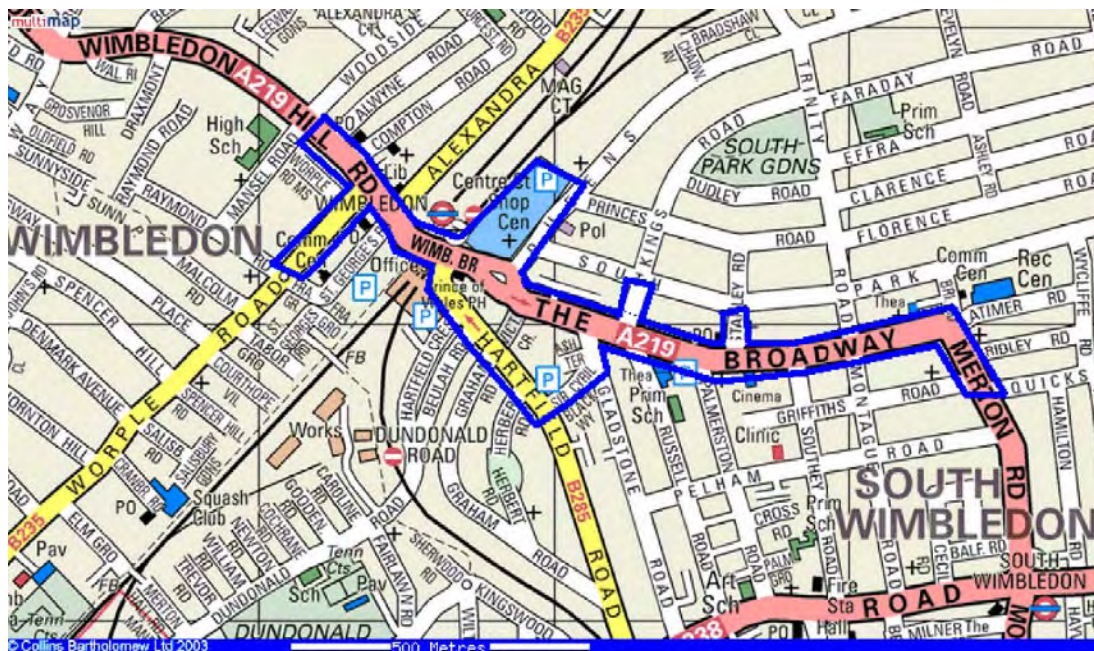
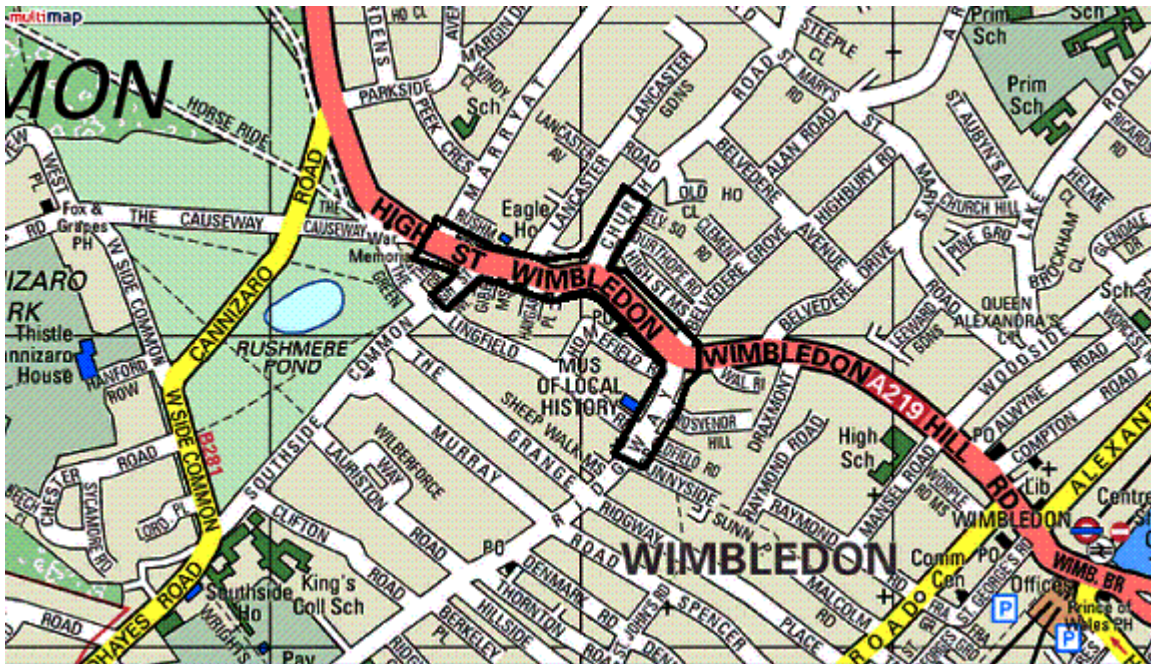
- attendants wearing a conspicuous white armband not less than 4" wide with the wording "CHILDRENS ATTENDANT" marked thereon
- Police checks of staff that are dealing with children for relevant offences that may make them unsuitable to be dealing with children.

(ii) The following are also conditions that may be attached with regards to prevention of harm to children

- Limitations on the hours when children may be present
- Limitations on ages below 18
- Limitations or exclusion when certain activities are taking place
- Requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult)

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

Appendix 2





DECLARATION OF INTEREST

NAME : \_\_\_\_\_

DATE : \_\_\_\_\_

MEETING : \_\_\_\_\_

EXISTENCE OF INTEREST : PERSONAL / PREJUDICIAL

NATURE OF INTEREST : I have declared a \_\_\_\_\_ interest in

agenda item no. \_\_\_\_\_ because \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SIGNED : \_\_\_\_\_

**NOTE:** Please hand this form signed and completed to the Democratic Services Officer present who will pass the original to the Head of Civic & Legal Services

## **ADVICE TO MEMBERS ON DECLARATIONS OF INTEREST**

### **1. Do you have a *personal interest* in any matter on the agenda?**

You will have a personal interest if (for example) :-

- (a) The report relates to something, which you have already registered on the Register of Interests. The Register of Interests will include your employment; business; corporate bodies (companies) in which you have shares (with a nominal value of over £25k or 1:100 of the share capital); contracts with the Council; paid directorships; land or property in which you have an interest (includes freehold, leasehold, tenancy or licence over 28 days) or any partnership or company in which you are involved, or
- (b) A decision on the matter may be regarded as affecting your well being or that of a friend or relative of yours to a greater extent than it will affect the well-being of others living/working in the Borough.

Note :           A decision on the matter may be regarded as affecting the well being of one of the following; you; or your relative or your partner, or any employment / business / partnership / Directorship / company in which you or they have a share (exceeding £5k), bodies where you represent the Council, other public bodies, charity, bodies whose purpose is to influence the Council or Trade Unions or professional association.

### **2. If you have a *personal interest***

You should state this at the beginning of the meeting (or as soon as you realise you have one during the meeting). You need to state the item the interest relates to, the nature of the interest (i.e. that it is personal) and why you have a personal interest (i.e. the facts which give rise to the interest).

You may stay throughout the meeting, take part in the debate and vote unless the interest is also prejudicial.

### **3. When will a Member's *personal interest* also be *prejudicial*?**

A personal interest will be prejudicial when the interest is such that it may reasonably be regarded by the public as significant enough that it is likely to prejudice judgement of the public interest.

However, it may not be prejudicial if it arises because of your involvement in another public authority, or any body to which you have been appointed by the Council, or the housing functions of the Council where you are a tenant/leaseholder (provided you are not in arrears of rent/service charge and the decision does not relate directly to your property); or the decision relates to school meals, travel, etc and you are a parent/governor at a school (unless your child attends that school); or the matter relates to Member's allowances. In these cases Members should consider whether there are any other facts which would still warrant declaring the interest as prejudicial.

### **4. If your *personal interest* is also *prejudicial***

**The Member must state that as well as personal the interest is prejudicial and at the point the item is discussed should leave the room. The Member may return once that agenda item (or items) is concluded.**