

Merton Council

Licensing Committee

Membership

Jeff Hanna (Chair)

David Simpson CBE (Vice-Chair)

Stan Anderson

Michael Bull

Tobin Byers

Pauline Cowper

Joan Henry

Philip Jones

John Sargeant

Linda Taylor OBE

Gregory Patrick Udeh

Jill West

A meeting of the Licensing Committee will be held on:

Date: 9 June 2015

Time: 7.15 pm

Venue: Merton Civic Centre

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

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

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Licensing Committee

9 June 2015

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Note on declarations of interest

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

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

LICENSING COMMITTEE

24 FEBRUARY 2015

(19.15 - 20.55)

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

ALSO PRESENT: Guy Bishop (Legal Services), Barry Croft (Licensing Manager),
David Ryan (Technical Officer, Street Trading); and
M.J.Udall (Democratic Services).

1 MEMBERSHIP (Agenda Item)

Officers advised that since the publication of the agenda, Councillor John Bowcott had been appointed to the Committee (in place of Councillor Michael Bull).

2 APOLOGIES FOR ABSENCE (Agenda Item 1)

None.

3 DECLARATIONS OF INTEREST (Agenda Item 2)

Councillor John Bowcott declared an interest (but not a disclosable pecuniary interest) in Item 5 (The designation of parts of the highway for the purposes of Street Trading) by reason that, prior to his recent appointment to this Committee, he had made representations pointing out defects in the proposal for a new licence streets designation for an area on the "Island Site" opposite 54 High Street, Wimbledon, SW19. He indicated that he felt able to take part in discussions on the proposal but would not vote on the proposal.

4 MINUTES OF THE PREVIOUS MEETING (Agenda Item)

Officers circulated a paper detailing a revised version of Minute (5) (The designation of parts of the highway for the purposes of Street Trading) including paragraph nos. for each site (as shown in the November agenda). It was also noted that in Minute (5) "Fizzle" should read "Frizzle".

RESOLVED: That the Minutes of the meeting held on 27 November 2014 be agreed as a correct record, subject to the existing Minute (5) being replaced by the revised version now circulated, subject to "Fizzle" reading "Frizzle".

5 LICENSING ACT 2003 POLICY WITH PROPOSED CHANGES INCLUDING CUMULATIVE IMPACT POLICY FOR MITCHAM (Agenda Item 4)

1. Barry Croft (Licensing Manager) introduced the report, including advising that, in order to obtain more evidence to justify introducing a Cumulative Impact Zone (CIZ) for Mitcham Town Centre, it was proposed to engage an organisation to do a survey of low level anti-social behaviour in the area.

2. The Committee then considered the recommended amendments to the revised Statement of Licensing Policy (as shown in Appendix A of the report), including seeking advice from officers on various queries. The Committee's comments and any further amendments are detailed below.

(a) Officers confirmed that if the Committee agreed to the recommended amendments, this would include the changes suggested by Counsel (also detailed in Appendix A)

(b) para. 3.11.2 (page 22) - Guy Bishop advised that the use of the word "appropriate" instead of "necessary" reflected the wording in the 2011 Act.

(c) para. 4.2.4 (top of page 25) – Barry Croft advised that the wording "extended police family" referred to the Metropolitan Police and other police bodies such as the Transport Police, but undertook to look at this wording.

(d) para. 7.1 (page 28) – A member suggested that the current wording of this paragraph implied that planning control could take account of "need" which was not the case except in relation to out of town shopping centres. The Committee agreed that the wording needed to be clarified.

(e) para. 7.10, line 3 (page 32) – A member suggested that "one or more" should read "any". Guy Bishop advised that this wording reflected the legislation, but could be altered if desired. The Committee agreed that "one or more" should read "any".

(f) para. 13.3 (page 41) – The Committee agreed that the 3rd sentence be deleted which reads -
"Residents can tolerate an element of noise disturbance in the earlier part of the night when ambient noise levels are higher but find it increasingly intolerable as ambient levels fall later at night when they expect to sleep."

(g) para. 14.1.5 (page 43) - A member suggested that this long section (relating to irresponsible drinks promotions) was difficult to understand. Barry Croft advised that this wording reflected the legislation and government guidance, but undertook to look at making this section clearer.

(h) para. 17.1, line 1 (page 48) – In response to a members query, Barry Croft advised that as the Council's enforcement policy was due to be upgraded, the wording "longstanding Enforcement Policy" should be in lower case and the word "longstanding" deleted. The Committee agreed to this change. Barry Croft also agreed to cross reference this section to the new enforcement policy when feasible.

(i) Pool of Conditions (Appendix 1, page 55) – Officers explained that it was proposed that (1) the Appendix detailing a Pool of Conditions be deleted from the Statement of

Licensing Policy, as this meant not having change the Statement when the Pool of Conditions was changed; and (2) a separate document be compiled detailing a Pool of Conditions. The Committee agreed to this suggestion as indicated below.

(j) Map showing the Proposed Area to be covered by the Mitcham Town Centre Cumulative Impact Zone (Appendix B, page 59) - *See later discussion below.*

3. Licensing Sub-Committee – Hearings Procedure – The Chair referred to the need for consistent arrangements for the conduct of Sub-Committee hearings (including more detail on the procedure once a Sub-Committee withdraws to make its decision), and suggested that such arrangements could be included as an Appendix to Statement of Licensing Policy. Officers explained that it was preferable that such arrangements not be an Appendix, but for a separate document (i.e. a code of conduct) to be compiled as required as this would meant not having change the Statement when adjustments were made to the arrangements for the conduct of Sub-Committee hearings. The Committee agreed to the officer suggestion as indicated below.

3.1 Officers also noted a member’s suggestion that a one page aide memoire summarising the procedure at hearings be also compiled for Sub-Committee Chairs.

4. Meeting with Responsible Authorities (para. 2.1, page 8) – The Committee agreed a suggestion that in relation to the revised Statement of Licensing Policy, the officers meeting with Responsible Authorities, also include the Chair and Vice-Chair.

5. Licensing Committee – Change of Autumn date – It was noted that
(a) the Statement of Licensing Policy was scheduled to go out to public consultation after the Committee’s next meeting on 9 June 2015; and
(b) the results of that public consultation would need to be considered at a meeting of the Licensing Committee prior to Statement’s submission to the Council meeting on 18 November 2015.

5.1 In the circumstances, the Committee agreed that its meeting scheduled for 26 November 2015 be brought forward to 20 October 2015 for this purpose.

6. Map showing the Proposed Area to be covered by the Mitcham Town Centre Cumulative Impact Zone (CIZ) (Appendix B, page 59)

6.1 The Chair advised that he had received various e-mails, mostly earlier the same day, from Ward Councillors and the local MP, including requests that the following additional areas be included in the proposed CIZ: -

Figges Marsh Councillor Geraldine Stanford - Extend the London Road north area as far as the junction with Armfield Crescent, so that the shops in Monarch Parade are included also.

Graveney Ward Councillor Linda Kirby -

(a) Streatham Road Shopping Parade. This is between Rustic Avenue and Elmhurst Avenue one side and Ashbourne Road and St Barnabas (Road) on

the other side.

(b) London Road from Inglemere Road to Seely Road. The other side of the street is Colliers Wood before the station bridge and Wandsworth after the bridge. The Colliers Wood bit needs to be included.

(c) There a couple of other shopping parades in Graveney Ward – Gorringe Park avenue – a small parade that already includes an off licence. Plus Seely Road at the junction of Eastbourne (Road) where there are two shops selling alcohol already.

Cricket Green Ward Councillor Ian Munn -

(a) Include all of London Road (south from Raleigh Gardens) up to the Mitcham Tram stop.

(b) Consider extending cover to include Western Road and Church Road.

Merton and Morden MP Siobhain McDonagh –

(a) Extend the (CIZ) boundary on the London Road down as far as the junction with Armfield Crescent.

(b) Extend the (CIZ) boundary down to the junction with Seely Road which is the Borough boundary. This would include the area around Tooting overground station.

6.2 As indicated below, the Committee agreed that the area proposed to be assessed by officers for a possible CIZ be extended as detailed above. It was noted that any final decision on the boundaries of the proposed CIZ to be put out to public consultation was not due to be made until the Committee's next meeting in June.

6.3 Following discussion, the Committee also agreed that, at this stage, the proposed CIZ, should cover all premises selling alcohol, and not just one category such as off licences, subject to any final decision being made at the Committee's June meeting when the evidence of need for a CIZ (and the type of premises to be included) would be considered prior to any public consultation.

6.4 The Committee also agreed that officers be authorised to pursue any further amendments to the proposed CIZ that might raised at the meeting with Responsible Authorities (referred to in para. 2.1, page 8) prior to the Committee's June meeting.

RESOLVED : That (1) the Licensing Committee approves the recommended amendments to the revised Statement of Licensing Policy for the purposes as set out below subject to the following being prepared as separate documents (and not included as appendices to the Statement) -

(a) a draft Pool of Conditions; and

(b) the arrangements for the conduct of Sub-Committee hearings.

(2) the Licensing Committee approves the proposal for officers to meet with the Responsible Authorities (as in para. 2.1) to include the Chair and Vice-Chair, and with a view to also considering any further amendments to be

incorporated into the revised Statement of Licensing Policy for consideration at the Committee's meeting on 9 June 2015.

(3) the Licensing Committee agrees to bring forward its meeting scheduled for 26 November 2015 to 20 October 2015, in order to consider comments and proposed amendments resulting from the public consultation prior to submitting the final draft of the Statement of Licensing Policy to Full Council on Wednesday, 18 November 2015 for adoption.

(4) the Licensing Committee requests officers to undertake a study to assess the need for a Cumulative Impact Zone (CIZ) covering the area of Mitcham town centre as shown in Appendix B of the officer report (as set out in para. 2.1), extending this to those areas requested by Ward Councillors and the local Member of Parliament (as detailed in para. 6.1 above).

(5) the Licensing Committee agrees to consider the revised draft of the Statement of Principles under the Gambling Act 2005 at its meeting on 9 June 2015, with a view to public consultation on this draft, the results of which will come to its meeting on 20 October 2015, in order to consider comments and proposed amendments resulting from the public consultation prior to submitting the final draft of the Statement of Principles under the Gambling Act 2005 to Full Council on Wednesday, 18 November 2015 for adoption.

6 THE DESIGNATION OF THE HIGHWAY FOR PURPOSES OF STREET TRADING (Agenda Item 5)

1. "Island Site" opposite 54 High Street, Wimbledon, SW19 5AX (para's 2.2 (b) & 4.7 (2))

1.1 David Ryan introduced the report on this proposal and indicated that he had with him, available for inspection, representations received later than the submission of the report, and the original petition included in the report without redactions.

1.2 The Committee then heard oral representations from Mr Headley, a resident in the Belvedere Estates area and a local business operator, in support of the application.

1.3 There was extensive discussion of the proposal. Officers advised that the Island Site currently included two sites designated for street trading as shown on Appendix B (page 72), namely -

- (a) Site 1, 3.6m x 3.6m, used as a flower stall; and
- (b) Site 2, 1.83m x 1.55m, currently vacant.

1.4 Officers advised that the current application was for a new area, 3.9m x 1.9m, which would partly overlap Site 2, and was proposed to be used by a food operator using a Citroen van converted to operate as a pizza van.

1.5 Members raised various concerns, including the type of vehicle to be used, the kind of food to be sold and the height of the canopy. Officers confirmed that if the

proposed designation was agreed, then officers could consider such issues when considering any licence application for the new pitch. Some members also raised other concerns, including its effect on the appearance and openness of the area.

1.6 Some members were concerned that if the proposal were granted, then there would be effectively three designated sites on the Island Site. Officers advised that as new proposal partly overlapped existing designated Site 2, it would be difficult for an operator to use Site 2. It was also noted that possible rescinding of licence streets designations was the subject of item 6 on this meeting's agenda.

1.7 The officers recommendation to grant designation in this case was carried by 6 votes to 2 (Councillors Linda Taylor and Jill West dissenting; and Councillor John Bowcott abstaining.)

RESOLVED: That the officers recommendation to grant the following new licence street designation be agreed -

A new area, 3.9m x 1.9m, on the Island Site" opposite 54 High Street , Wimbledon, SW19 as shown on Appendix B (page 72).

2. The Royal Surrey, 9 Abbotsbury Road, Morden SM4 5LH (para's 2.2 (a) & 4.7 (1))

David Ryan introduced the report on this proposal for an extension of the area outside The Royal Surrey PH to 11.7m x 2m.

RESOLVED: That the officers recommendation to grant this licence street designation be agreed as shown on Appendix B (page 71).

7 THE RESCINDING OF LICENCE STREETS DESIGNATION (Agenda Item 6)

Following on from the Committee's discussion of the previous item above relating to the "Island Site" opposite 54 High Street, Wimbledon, SW19, it was

RESOLVED: That (1) the licence street designation of Site 2, 1.83m x 1.55m, on the Island Site" opposite 54 High Street, Wimbledon, SW19 as shown on Appendix B (page 72) of agenda item 5, be rescinded, since the site has been replaced in another way (by the above designation of a new area on the Island Site); and

(2) the report be noted.

Committee: Licensing

Date: 9th June 2015

Agenda item:

Wards: All

Subject: The designation of an area outside 3 Church Road, Wimbledon for the purposes of Street Trading

Lead officer: Paul Foster

Lead member: Cllr. Judy Saunders

Forward Plan reference number:

Contact officer: John Hillarby

Recommendations:

- A. That committee resolves to designate the proposed area.
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report relates to requests for licence street designations and summarises comments received through a consultation process with interested parties.

2 DETAILS

- 2.1. The Street Trading Service has received an application from a trader interested in utilising the highway for the purposes of street trading.
- 2.2. This report concerns an application for 1 new licence street designation.
An area of 2.8m x 0.7m located outside Two Sisters Home, 3 Church Road, Wimbledon, SW19 5DW. Proposed trading hours 10am to 6pm, Monday to Sunday inclusive.
- 2.3. Plans and photographs of the proposed areas are included in Appendix B.
- 2.4. Street Trading is regulated by the London Local Authorities Act 1990 as amended.
- 2.5. All street trading is administered and regulated by the Council using this legislative framework. The London Local Authorities Act 1990 permits a street trading licence to be granted for “not less than six months and not more than three years”. There are two types of street trading licence granted in the Borough. A permanent licence that is valid for 1 year and a temporary licence valid from 1 day to 6 months to facilitate market trading and temporary events. It is unlawful to trade on the street without a valid street trading licence.
- 2.6. A one year Street Trading Licence can only be granted for areas designated as licence streets.

- 2.7. Merton licences specific locations (pitches) within a street rather than the street as a whole. The designation of specific locations on the street as opposed to the entire street gives greater control to the Council in regulating street trading and its impact on the environment. Street trading licences are renewable annually.
- 2.8. Comprehensive regulations and standard conditions are in place to facilitate regulation and enforcement of street trading in the Borough and provide a framework for all aspects of trade. These regulations are included for information as Appendix C.
- 2.9. Street trading licence fees for the year 2015-2016 are shown in Appendix E.

3 ALTERNATIVE OPTIONS

- 3.1 Designations shall not be granted.
- 3.2 Temporary licences can be issued where there are specific concerns requiring further assessment.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. The consultation process and consultees are defined by the London Local Authorities Act 1990.
- 4.2. A notice was placed in the Local Guardian newspaper advising the public of the consultations and requesting comments. A copy of the notice is included in Appendix A.
- 4.3. Notices were attached to street furniture in the immediate vicinity of the proposed areas.
- 4.4. Electronic copies of the notices were also sent to all ward councillors, residents associations and interested parties as part of a Licensing group email.
- 4.5. As part of the consultation process comments were invited from both external and internal agencies such as, LBM Highways, LBM Planning and the Police.
- 4.6. **Ward Councillors Representations:** No representations received.
- 4.7. **Street Trading Service comments –**
 - 1) Two Sisters Home, 3 Church Road, Wimbledon. The owners have applied for a licence to allow the placement of goods outside their shop. There is sufficient space on the highway outside the property to allow the placement of goods without causing undue inconvenience to the public. The operators have been using the area under a temporary licence for one month and no complaints have been received regarding its usage. A range of goods is displayed outside (see photograph in Appendix B) some smaller items however ordinarily it is used for the display of larger items, this means that the area is often used to its maximum extent but there are times it is used to a reduced level depending on stock. Whilst the area can be busy during the Wimbledon Championships and as such a note shall be placed on

any licence granted to indicate a need to remove the goods if problems are encountered during this peak period.

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

5 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

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

6 LEGAL AND STATUTORY IMPLICATIONS

- 6.1. Part III of the London Local Authorities Act 1990 (as amended), hereinafter in these implications referred to as the "Act", regulates trading on the street and provides a statutory consultation framework.
- 6.2. Unless provided for in the Act, Section 23 states that it is unlawful for a person to engage in street trading in any licence street within a borough unless the person is authorised to do so by a street trading or a temporary licence.
- 6.3. Under section 21 of the Act, a street trading licence means a licence granted for no less than 6 months and no more than 3 years. Regulations made by the London Borough of Merton pursuant to section 27(3) of the Act prescribe that these types of licences are only granted for a year. Temporary licences are defined as licences granted for a single day or such period as may be specified in the licence not exceeding 6 months.
- 6.4. It would also be unlawful for street trading to take place if the street or part of the street that is being licensed for these purposes have not first been designated by resolution as a "licence street" pursuant to section 24 of the Act.
- 6.5. Section 24(4) to (8) of the Act prescribes the consultation process which has to be carried out before a resolution can be passed to designate a licence street and this process has been carried out by the Council. This includes the advertisement in a local newspaper, service of notice on the local Highway Authority, and receipt of the necessary consent from the local Highway Authority.
- 6.6. The officer recommendation in this report is for the Committee to grant the designations. The Committee should decide to grant or refuse the designations after considering the officer recommendations, representations that have been made and all relevant facts before them.
- 6.7. The Committee would be expected to consider some of the following issues:
 - highway safety,
 - highway obstruction,
 - street furniture or bus stop safety,
 - volume of traffic,

- access for emergency services,
- over use of area,
- risk of danger to pedestrians and other road users with the presence of a trading unit/stall,
- detriment or annoyance to residents from the proposed street trading.

- 6.8. Each application must be considered on its own merits and be reasonable. In making a balanced and reasonable decision, it should be considered whether an 'unsightly' pitch or a site with an issue involving enough 'space', is sufficient reason to refuse a designating resolution. A decision could reasonably be made to address those issues through the conditions of the licence e.g. the trading days and times permitted.
- 6.9. The Council is legally obliged to consider all applications and to only refuse on the grounds set out in the London Local Authorities Act 1990 (as amended).
- 6.10. It should be noted that many representations received during the consultation phase relate to the type of trading and not the designation of a licence street to which Committee is concerned.
- 6.11. Under Section 24 (9) of the Act, after the Borough Council have considered those representations, they may if they think fit, pass such a resolution relating to the street.
- 6.12. Under section 24(3) of the Act, if a Borough Council passes a designating resolution, the designating of the street takes effect on the day specified in the resolution. This date must not be before the expiration of the period of one month beginning with the day on which the resolution is passed.
- 6.13. Under section 24(10) of the Act, the Borough Council has to publish a notice of the passing of such a resolution in a local newspaper circulating in their area on two consecutive weeks. Under section 24(11) of the Act, the first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.
- 6.14. The issuing of the street trading licence and associated conditions are to be taken by officers under delegated powers. The designation of licence streets has followed this process since the Act was enacted, with some sites previously designated under the Highways Act 1980.

7 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

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

8 CRIME AND DISORDER IMPLICATIONS

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

9 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

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

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

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

11 BACKGROUND PAPERS

- 11.1. None.

Appendix A

LONDON BOROUGH OF MERTON

(hereinafter referred to as "the Council")

PART III OF THE LONDON LOCAL AUTHORITIES ACT 1990

(hereinafter referred to as "the Act")

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

TAKE NOTICE THAT pursuant to Sections 24 & 25 of the Act, the Council is seeking to designate 1 area (hereinafter referred to as "the street") as licence streets where street trading will be permitted by the Council subject to obtaining a Street Trading Licence and 4 licences.

- 1) The Council has been requested by Mr Trevor Nightingale of Wigmore Road Gillingham, to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a flower stall on the existing pitch at the corner of Buttermere Close Morden on Sunday's and occasional Saturday's. **Ref: WK/201409609.**
- 2) The Council has been requested by Mr M Agha of York Close Morden, to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of goods on the existing area outside Khyber Discount Stores 172 Chestnut Grove Mitcham CR4 1RB 8am – 8pm Monday – Sunday inclusive. **Ref: WK/201500138.**
- 3) The Council has been requested by Mr Abdinassir Ali of Upper Green West Mitcham, to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the existing area outside 221 London Road Mitcham CR4 2JD 6.30am – 10pm Monday – Sunday. **Ref: WK/201500654.**
- 4) The Council has been requested by Ms Carole Simb of Morley Road Sutton, to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a crepe van at Hartfield Market Wimbledon Wednesday – Sunday inclusive. **Ref: WK/2015.**
- 5) An area of 2.8m x 0.7m outside Two Sisters Home 3 Church Road Wimbledon SW19 5DW. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of goods for sale on the designated site 10am – 6pm Monday – Sunday inclusive. **Reference WK/2015.**

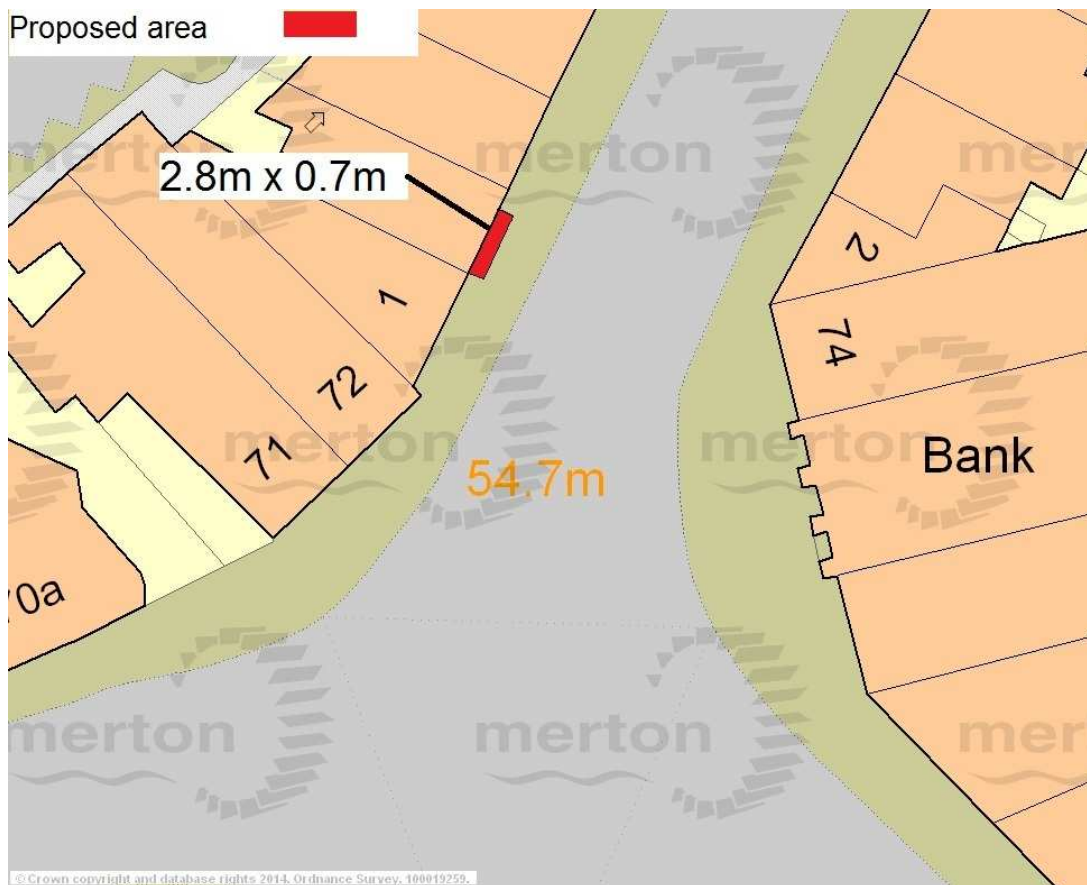
If you wish to make representations to the Council regarding the designation of parts of the highway as licence streets or the issuing of street trading licences, you should write to the Council at **Trading Standards, London Borough of Merton, Civic Centre, London Road, Morden, Surrey, SM4 5DX** quoting the appropriate reference. Any

representations made must clearly state the grounds and reach the Council before the 28th May 2015. The Council will consider all representations received before a final decision is made as to whether to designate parts of the street as a licence streets and whether to issue licences for street trading. Dated this the 30th April 2015

Appendix B

Two Sisters Home, 3 Church Road, Wimbledon.





Appendix C

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

DEFINITIONS

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

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

'Street' includes:-

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

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

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

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

THE FOLLOWING ARE THOSE DEFINED BY THE COUNCIL

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

'The Council' means the London Borough of Merton.

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

'Assistant'

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

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

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

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

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

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

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

'Harassment' includes but is not limited to:-

- (a) Violence or threats of violence towards any person;
- (b) Abusive or insulting words or behaviour;
- (c) Damage or threats of damage to property belonging to another person;
- (d) Writing threatening, abusive or insulting graffiti;

- (e) Any act or omission calculated to interfere with the peace or comfort of any person or to inconvenience such person;
- (f) Refusal to serve or permit access to a stall, licensed site, premises or services.

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

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

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

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

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

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

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

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

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

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

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

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

GENERAL

The grant of a Street Trading Licence shall not be deemed to give any approval or consent which may be needed under any Bye-law, enactment, or Regulation other than under the Act. The stall, trade, business, activity etc. shall comply and be conducted in a manner that conforms with other relevant legislation enforced by the Local Authority or other Agencies. These include General Health and Safety, Food Safety, Trading Standards and Fire Prevention and Highways Regulations.

INFORMATION

- (i) Headings inserted in these regulations are for the purpose of convenience only and shall not in any way affect the meaning or construction thereof.

(ii) Where in these conditions there is reference to the consent or agreement of the Council such consent or agreement may be given on such terms and conditions and subject to such restrictions as may be so specified.

(iii) These conditions may be dispensed with or modified by the Council in any individual case by means of a Licence Variation in accordance with the statutory requirements.

(iv) If a trader wishes any of the terms of a Licence to be varied or the Council's agreement under these rules, application must be made in writing to the Council in accordance with the statutory requirements.

(v) These regulations replace the regulations previously approved by the Council.

1. INSURANCE

(a) The Licence Holder shall take out third party insurance cover with a minimum liability of at least two million pounds.

(b) In respect of Licences granted for the display of goods outside shop premises and tables and chairs outside catering establishments this may be incorporated in an insurance policy of the business.

(c) Satisfactory evidence of such insurance must be produced to the Council before a Licence will be granted or renewed.

(d) Evidence of such insurance shall also be produced by a Licence Holder on demand to an Authorised Officer of the Council or a Police Officer.

2. DAYS AND TIMES

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

3. DISPLAY OF NAMES

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

4. CHARGES AND FEES

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

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

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

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

5. LICENCE AND INSPECTION OF LICENCE ETC.

- (a) Licence Holders shall produce their Licence for Inspection when requested to do so by an Authorised Officer of the Council or Police Officer.
- (b) In respect of displays outside shop premises and catering establishments the Licence shall be exhibited within the premises in the safe vicinity of the entrance so that it can be seen by an Authorised Officer of the Council or Police Officer.
- (c) Where the Council has issued a Certificate of Variation to a Licence that shall be produced and displayed with the Licence.
- (d) All other Licence Holders in their absence shall ensure that the Licence is retained on the stall so that it can be produced by an assistant on demand to an Authorised Officer of the Council or Police Officer.
- (d) If alcoholic beverages are consumed at a licensed site, the Licence Holder or Assistant shall produce on demand, where appropriate, licenses that are required by the Licensing Act 2003 to an Authorised Officer of the Council or Police Officer.
- (e) Once issued to a Street Trader a Licence shall remain in force until the expiry date indicated therein or until revoked by the Council in accordance with the Act.
- (f) Where, in accordance with Section 26 of the Act, the holder of a Street Trading Licence has nominated a relative as his successor and that holder dies then the nominated successor may continue to engage in Street Trading within the terms of that Licence for a maximum period of 28 days provided that successor pays any charges due.
- (g) On the death or retirement through age or ill health of a Licence holder, the Council may issue a Licence to a nominated relative to trade from the Licensed Pitch shown in that Licence in accordance with Section 26 of the Act. For the purposes of Section 26 of the Act a person shall be treated as being related to another if the latter is the wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half daughter of the former and shall be deemed to be so related notwithstanding that he is so related only through illegitimacy or in consequence of an adoption.

6. POSITION

- (a) The Licence Holder shall only use the licensed site prescribed in the Licence (which may be marked or denoted on the ground by means of white lines, contrasting paving or other device by the Council) unless the circumstances under 6(e) shall arise.
- (b) The Licence Holder shall not cause or permit stalls, goods, receptacles; (except refuse containers under Regulation 16c) to project whether grounded or suspended beyond the licensed site or to be placed or to stand anywhere else in the street.
- (c) In respect of catering establishments, tables and chairs shall not be placed or used outside of the site defined in the Licence. This may be denoted by the Council marking the boundary by White Lines or other means.
- (d) The Licence Holder or Assistant shall inspect the licensed site whilst in use at least every hour to ensure that tables and chairs are not outside of the licensed area.
- (e) If the licensed site is obstructed by roadworks or other hazard the Licence Holder may consult an Authorised Officer of the Council or failing that a Police Officer in uniform and produce their Licence. Temporary trading elsewhere whilst the obstruction persists shall be at the discretion of the Officer consulted. The name of the Council Officer or the number of the Police Officer must be noted by the Licence Holder.

7. SIZE

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

8. PERMITTED GOODS AND SERVICES

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

9. DEALING WITH THE PUBLIC

- (a) Licence Holders and their assistant shall ensure that the public are treated fairly and with courtesy.
- (b) Licence Holders are responsible to ensure that assistants are competent, courteous and helpful.
- (c) Admission or service shall not be refused to any person on the grounds of gender, race, ethnic origin or the grounds of sexual orientation.
- (d) The Licence Holder shall not use or permit any activity, omissions or practice in the conduct of the business that will cause harassment to any person on the grounds of their disability, skin colour, religion, gender, age, sexual orientation and so on.
- (e) The serving of customers shall not take place in the road.
- (f) A Licence Holder or assistant offering a service shall make clear the nature and cost of that service by way of a notice on the stall or within the licensed area.
- (g) All goods shall be clearly marked with a price, and where appropriate an indication of the unit quantity in which they are being offered for supply.
- (h) Where the licensed site is in the road or adjacent, scales and cash registers shall be placed on the stall at the furthest point from passing vehicular traffic.
- (i) The customer should clearly be able to view the goods being weighed, measured etc. before they confirm their intention to purchase.
- (j) In respect of goods selected by customers from displays outside shops the requirement in Regulation 8(i) shall be carried out within the shop premises.

- (k) A Licence Holder or assistant shall not use a megaphone or amplification equipment or a loud voice to shout out the price of goods etc. in order to attract customers.
- (l) Radios or other audio equipment shall not be used in or around the licensed site other than by written agreement of the Council.

10. RECEPTACLES & CONSTRUCTION OF STALL

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

11. ROOFING OF STALLS ETC.

- (a) The distance between ground level and any support of the roof, awning or supports of the stall or goods suspended from any of these, shall be at least 2.4m unless otherwise specified in the Licence.
- (b) A Licensed Street Trader shall not permit the awning or roof of the stall to project outside the area of the pitch, save as provided in Regulation 11(c).
- (c) The awning or roof of a stall may project over the footway for a distance not exceeding 0.6 metres from the boundary of the pitch unless otherwise specified or restricted by a further condition of the Licence.
- (d) The roof or awning shall be safely constructed and must not shed water over customers or passers by.
- (e) No awning other than a parasol may be used as part of a stall for displays outside catering establishments.
- (f) A Street Trader, or his Assistant, shall immediately remove any Awning on the instruction of an Authorised Officer or a police constable and shall, in any case, remove any Awning outside the permitted hours for Street Trading.

12. ELECTRICITY SUPPLY ETC.

- (a) The only connection between stalls in the street and other premises shall be for the purposes of electric lighting and power for the operation of electronic scales, measuring

- equipment and cash registers and the testing of electrical goods or other agreed services; and any such electrical or other connections shall be readily detachable and the detailed arrangements agreed with the Council. No connection shall be made with any other stall.
- (b) Where the Council provides an electrical supply system to the stall, the trader shall pay to the Council upon demand the installation costs and for the supply and maintenance of the service and equipment.
- (c) All electric power supplies shall have the appropriate consent from the Council before seeking installation from the Electricity Board.
- (d) All electrical wiring and components shall comply with the basic Electricity Board Specification and be earthed and insulated accordingly.
- (e) All electrical cables that are suspended over the public footway shall have a minimum clearance of 2.4 metres from the footway surface, and 5.1 metres from the surface of the roadway.
- (f) Any suspended lighting shall be safely protected and shall not expose the public, Licence Holder or assistants to any form of risk.
- (g) In respect of displays outside shop premises and catering establishments, mains electrical power may be supplied from the permanent premises to the trading area providing that all equipment and wiring shall be placed, installed, maintained and operated in accordance with the provisions of the Health and Safety at Work, etc. Act 1974 and all other relevant Regulations.
- (h) In all such cases an automatic circuit breaker must be installed within the premises between the point of supply and the equipment in the trading area.

13. GENERATORS

- (a) Electrical generators shall not be used at displays outside shop premises and catering establishments.
- (b) When mobile electrical generators are permitted they shall be so positioned that:-
- (i) they do not present a danger to the public, and
 - (ii) they do not present a fire or similar hazard risk to the stall or goods displayed thereon, or to persons engaged on or about the stall, and
 - (iii) they do not cause any noise or fume nuisance, and
 - (iv) any inflammable fuel is stored away from the stall in a container and position approved by the Council.
- (c) Heat producing equipment shall be so placed within the licensed site as to offer maximum safety to the public. The position of any equipment in relation to other goods and materials shall be agreed with the Council in writing.

14. LOADING AND UNLOADING

- (a) Any cart, barrow, trolley or similar conveyance owned or hired by the Licence Holder or assistant shall not be used except for the purpose of loading, unloading and transporting goods.
- (b) Loading and unloading shall be restricted to twenty minutes and resumption shall not occur until a further hour has elapsed.
- (c) Loading and unloading must not be continually interrupted by the serving of a customer.
- (d) The cart, barrow or trolley or similar conveyance used for replenishing or moving goods shall be stored on the Licence Holder's vehicle or at the storage facilities or in respect of displays outside shop premises within the shop premises and not on the street.
- (e) Loading or unloading shall be abandoned for any duration ordered by an Authorised Officer of the Council or Police Officer if in their opinion the activity obstructs pedestrian flow or causes any other form of obstruction or nuisance.

- (f) The Licensed Street Trader or his assistant shall not use a vehicle for loading or unloading at or near the licensed site unless it can lawfully be there.
- (g) Licence Holders or assistants shall replenish displays outside shop premises from stocks held within the shop premises and not directly from any vehicle.
- (h) A Street Trader, or his Assistant, shall ensure that there is no undue obstruction of vehicular or pedestrian traffic whilst re-stocking the Licensed Pitch or loading and unloading Goods or other articles used for or in the course of Street Trading. When, in the opinion of an Authorised Officer or a police constable, there is likely to be undue obstruction of vehicular or pedestrian traffic the Street Trader, or his Assistant, shall immediately cease re-stocking, loading or unloading and within 15 minutes clear any Goods or other articles used for or in the course of Street Trading or for re-stocking, loading or unloading from any position in the Street other than within the Licensed Pitch.
- (i) A Street Trader, or his Assistant, shall not place, keep or use a vehicle at or near his Licensed Pitch in contravention of any legal parking or loading restrictions nor shall a Street Trader, or his Assistant, place, keep or use a vehicle at or near his Licensed Pitch which does not display a current disc showing that any road tax, or similar, has been paid.

15. REMOVAL OF STALLS ETC.

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

16. PROVISION OF STALL BY THE COUNCIL

- (a) The Licence Holder shall use any stall provided by the Council.

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

17. REFUSE

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

18. ATTENDANCE BY LICENCE HOLDER

- (a) Traditional Licence Holders must be in attendance throughout the whole or part of the day that the stall is set up for trading unless engaged on the following:-
 - (i) A meal break or visit to the toilet.
 - (ii) Sickness of short duration.
 - (iii) Hospital, dental or doctor's appointment.
 - (iv) Occasional attendance at the office of an accountant, tax inspector, bank or Council cash office.
 - (v) On holiday.
 - (vi) Or for any other sufficient reason that may be approved by the Council from time to time.
- (b) In respect of displays outside shops and catering establishments the Licence Holders usual place of work shall be within the premises.
- (c) At approved Street Festivals the Licence Holder shall be in attendance at the stall throughout the event save that prescribed in 18(a)(i).
- (d) No Licence Holder shall sub-let the stall or any part of the stall or the licensed site, or install a manager to operate the Licence.
- (e) A Licence Holder if required by an Authorised Officer and/or Solicitor to the Council shall furnish the Council with a Medical Certificate obtained at the Licence Holders own

expense or other documentary evidence to support the reasons for any continual or repetitive absences.

19. NAMES OF ASSISTANTS AND RESTRICTION OF EMPLOYMENT ETC.

(a) The Licence Holder shall notify the Council of the names of any assistants within seven days of their commencement. This shall be by letter or on a form prescribed by the Council.

(b) The Licence Holder shall give any other information regarding assistants as required by the Council.

(c) A Licence Holder shall not have as an assistant any child in the business of street trading including the putting out or stocking of receptacles, clearance of refuse, attending a stall or any related activity.

(d) A Licence Holder and assistant shall not bring or have care and control of a child whilst the business is being set up, operated or dismantled.

(e) The failure of an Assistant to comply with the conditions of the Street Trading Licence held by the employer shall be deemed to be a failure by the Licence Holder.

20. ADMINISTRATION

(a) Licence Holders and assistants must give every reasonable assistance to Council Officers and their contractors in carrying out their duties.

(b) A Licence shall cease to have effect (*other than being revoked or having expired or on the death of the trader*) only upon it being surrendered by the Licence Holder in exchange for a written receipt at the Council's Trading Standards Office.

(c) A Licence Holder making application for the renewal of a Licence shall bring the completed application form and prescribed fee to the Council Officer by appointment. The three photographs prescribed in the Act if not already forwarded by the Licence Holder shall be handed to the Officer at this time.

(d) A Licence Holder having appeared before a committee of the Council where, although there were sufficient grounds to revoke the Licence it was decided to deal with the matter by way of a Warning Letter shall acknowledge receipt of the Warning Letter by signing and dating and returning one copy of the letter to the Council in the envelope provided within 21 days of its receipt.

(e) Licence Holders shall notify the Council in writing of any change of their title, name or home address as soon as it occurs.

(f) The sending of letters and Notices from the Council by the General Postal Service to the last notified address by the Licence Holder shall be taken by the Council as proper and good service of documents.

(g) All notifications (*excluding payments of weekly/monthly charges*) given by the Licence Holder to the Council shall be to the Council's address as it appears on the Licence or that subsequently amended and notified in writing to the Licence Holder.

Appendix D

London Local Authorities Act 1990 Section 24

Designation of licence streets

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

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

Provided that a borough council shall—

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

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

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

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

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

(5) This subsection applies—

- (a) where the resolution relates to a street which is owned or maintainable by a relevant corporation; and
- (b) where the resolution designates as a licence street any street maintained by a highway authority;

and in subsection (4) above “necessary consent” means—

- (i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation; and
- (ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.

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

- (a) British Railways Board;
- (b) London Regional Transport;

* * * * *

- (d) Network Rail Infrastructure Limited; and
- (e) Transport for London.

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

- (a) contain a draft of the resolution to which it relates; and
- (b) state that representations relating to it may be made in writing to the borough council within such period, not less than 28 days after the publication of the notice, as may be specified in the notice.

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

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

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

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

Appendix E

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

NOTICE IS HEREBY GIVEN UNDER SECTION 32 OF THE ABOVE NAMED ACT OF THE
STREET TRADING LICENCE FEES FOR THE FORTHCOMING YEAR
VALID FROM 1ST April 2015 – 31ST March 2016

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

Administrative Fees

| | |
|--|-----|
| New Street Trading Licence Application Fee | £50 |
| Renewal Licence Processing Fee | £25 |
| Variation of existing Licence | £75 |
| Market Trading Registration Fee | £25 |

Forecourt, and Tables and Chairs Licence

| | |
|----------------------------|--------|
| Up to 1 sq m | £103 |
| Over 1 sq m up to 6 sq m | £578 |
| Over 6 sq m up to 12 sq m | £867 |
| Over 12 sq m up to 18 sq m | £1,156 |
| Over 18 sq m | £1,735 |

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

| | |
|----------------------------|-------|
| Up to 1 sq m | £8.50 |
| Over 1 sq m up to 6 sq m | £48 |
| Over 6 sq m up to 12 sq m | £72 |
| Over 12 sq m up to 18 sq m | £96 |
| Over 18 sq m | £145 |

Other Pitches

| | |
|--|--------|
| Remote pitch not on a market e.g. catering van | £1,360 |
|--|--------|

Market Fees (Temporary Licence per pitch per trading day)

| | |
|----------------|-----|
| Regular Market | £12 |
| Casual Market | £20 |

Specialist Market Fee (minimum ten stalls/pitches for up to 4 days or part thereof)
£515

Other Temporary Licences (up to 2 months in any year)

| | |
|---------|--------|
| Daily | £52.50 |
| Weekly | £263 |
| Monthly | £1051 |

These fees are calculated to reflect the reasonable costs of the Council in administering street trading in the borough.

Street Trading
London Borough of Merton
Merton Civic Centre

**London Road
Morden SM4 5DX
Appendix F
Representations**

No representations received.

Committee: Licensing Committee

Date: 9 June 2015

Agenda item:

Wards: All.

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

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

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

Forward Plan reference number: N/A

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

Recommendations:

- A. The Licensing Committee to approve the recommended amendments to the revised Statement of Principles under the Gambling Act 2005 (Gambling Policy) before the start of the public consultation processes.
-

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

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

2. DETAILS.

2.1 Review of the Statement of Principles under the Gambling Act 2005.

There is a statutory requirement under section 349 of the Gambling Act 2005 (the Act) for the Council to review its Statement of Principles under the Gambling Act 2005 every three years. The Council's current Statement of Principles under the Gambling Act 2005 will expire on 31 January 2016.

The Gambling Commission has recently commenced a consultation of their Guidance to Licensing Authorities (GLA) with significant changes proposed. It is essential that any new or revised Statement of Principles adopted by the London Borough of Merton should reflect this guidance and any new codes of practice that the revised GLA is based upon.

The Gambling Commission consultation on the revised GLA is a twelve week consultation period, ending on 22 June 2015. Following the close of the consultation period responses will need to be collated and considered by the Gambling Commission. It is therefore anticipated the full revised GLA will not be published by the Gambling Commission until the latter part of this year.

Unfortunately, the Licensing Authority cannot leave the current Statement of Principles in place without re-consulting and republishing its Statement of Principles under the Gambling Act 2005 as required by section 349 of the Act.

It is therefore proposed to update the Council's current Statement of Principles under the Gambling Act 2005 by making changes brought about by legislation and previous guidance updates only, and to start the twelve week public consultation process at the same time as the revised Statement of Licensing Policy under the Licensing Act 2003. If members agree the consultation process will start on Monday 22 June 2015 and finish on Monday 14 September 2015.

As part of the work already undertaken legal and licensing amendments arising from legislative changes have been made to the draft Statement of Principles under the Gambling Act 2005, which is attached at appendix "A". The draft document contains track changes for members to consider and approve before the start of the public consultation processes.

The Licensing Authority does not propose to distribute paper copies of the draft Statement of Principles under the Gambling Act 2005, but it will be available in electronic format on the Council's website.

Details of the responsible authorities are as follows:

- The local Chief Officer for the Metropolitan Police;
- The London Fire and Emergency Planning Authority;
- The local Planning Authority;
- The Director of Public Health;
- The local Children's Safe Guarding Board;
- The Manager of the local Environmental Health Team; and
- The Manager of the local Trading Standards Team;

The Licensing Authority will also notify the following organisations or individuals:

- Safer Merton;
- The British Transport Police;
- All local Ward Councillors;
- Local area forums;
- The Musician's Union and Equity;
- Persons/bodies representing local holders of premises licenses;
- Persons/bodies representing local holder of club premises certificates;

- Persons/bodies representing local businesses; and
- Local residents associations.

Electronic submissions of responses to the consultation for the revised Statement of Principles under the Gambling Act 2005 will be encouraged. This will ensure the process is cost efficient, and it should save time for local residents, businesses, responsible authorities and any person wishing to make comment of the proposed changes.

Following the end of the public consultation period, which it is proposed will end at midnight on Monday 14 September 2015; officers of the Licensing Authority will collate comments received. Details of the comments received and any suggested changes to the draft Statement of Principles under the Gambling Act 2005 will be made available to members for open discussion at a meeting before the Licensing Committee on Tuesday 20 October 2015.

Following this meeting, if Committee members agree to the proposed amendments to the draft Statement of Principles under the Gambling Act 2005, the Licensing Committee shall recommend adoption by Full Council.

It is proposed to take the final draft of the Statement of Principles under the Gambling Act 2005 to a Full Council meeting scheduled to take place on Wednesday 18 November 2015 for formal adoption.

3. Alternative options.

3.1 None for the purposes of this report.

4. Consultation undertaken or proposed.

4.1 A twelve week (three month) public consultation to be undertaken on the proposed revisions the revised Statement of Principles under the Gambling Act 2005.

5. Timetable.

5.1 Public consultation for the revised Statement of Principles under the Gambling Act 2005 to start on Monday 22 June 2015 for a twelve week period and to finish on Monday 14 September 2015.

5.2 Comments received during the public consultation period and the final draft of the Statement of Principles under the Gambling Act 2005 to be submitted before the Licensing Committee on Tuesday 20 October 2015.

5.3 Statement of Principles under the Gambling Act 2005 to go to Full Council meeting for adoption on Wednesday 18 November 2015.

6. Financial, resource and property implications.

6.1 None for the purposes of this report.

7. Legal and statutory implications.

7.1 None for the purposes of this report.

8. Human rights, equalities and community cohesion implications.

8.1 These are statutory functions and are applied globally.

9. Crime and Disorder Implications.

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

10. Risk management and health and safety implications.

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

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

11.1 Appendix “A” Draft revised Statement of Principles under the Gambling Act 2005 showing proposed changes using track changes.

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

12.1 The Gambling Act 2005; and

12.2 Gambling Commission Guidance to Local Authorities (to be revised and re-published late 2015).

London Borough of Merton

Statement of Principles under the Gambling Act 2005

(Draft) January 2016

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1 STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005

1.1 Introduction

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

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

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

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

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

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

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

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

1.2 The London Borough of Merton

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

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

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

1.3 Glossary of Terms

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

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

For the purposes of this Act, the following are responsible authorities in relation to premises:

| | |
|------------------------|---|
| Responsible Authority: | 1. The London Borough Of Merton; |
|------------------------|---|

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

Interested Party:

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

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

1.4 Types of Licence

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

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

1.5 Licensable Premises and Permits

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

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

1.6 General Principles

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

The Licensing Objectives are as follows:

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

Nothing in this Statement of Policy will: -

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

The starting point in determining applications will be to grant the application without conditions, other than the mandatory conditions or default conditions laid down by the Secretary of State or reject the application. Conditions, where allowed, will only be considered where they are needed to meet the requirements of the licensing objectives

and the criteria above in Section 153 of the Gambling Act 2005, and any conditions applied will be proportionate. Conditions will be considered unnecessary if they are already adequately covered by other legislation or in the Default or Mandatory Conditions.

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

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

Interested Parties

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

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

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

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

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

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

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

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

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

1.7 Consultees

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

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

Information exchange

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

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

2 LEGISLATION, POLICIES AND STRATEGIES

2.1 Legislation

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

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

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

2.2 Relationship with Planning Policies

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

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

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

2.3 National Strategies

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

2.4 Local Strategies and Policies

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

2.5 Integrating Strategies

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

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

Relevant plans and strategies include:

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

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

- ❖ **Human Rights** – The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right. The Licensing Authority will have particular regard to the following provisions of the European Convention on Human Rights, in particular: -

- Article 6 that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;

- Article 8 that everyone has the right to respect for his home and private and family life;
 - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.
- ❖ Proper integration will be assured by the Licensing Authority's Licensing Committee providing reports, when appropriate, to the Planning Committee on the situation regarding licensed premises in the area, including the general impact of gambling related crime and disorder, to enable the Planning Committee to have regard to such matters when taking its decisions.
 - ❖ Tourism and Town Centre Management – The Licensing Authority aims to promote a high quality thriving nighttime economy.
 - ❖ The Licensing Authority will ensure that the Licensing Committee receives reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations.
 - ❖ Economic Strategies – The Licensing Authority will ensure that the Licensing Committee is appraised of the employment situation in the area and the need for new investment and employment where appropriate.
 - ❖ Enforcement Policy – All licensing enforcement will be conducted in accordance with the regulatory compliance code.

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

3 DECISION MAKING

3.1 Terms of Reference

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

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

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

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Licensing Officers, who will make the decisions on whether representations

or applications for licence reviews should be referred to the Licensing Sub-Committee. Where representations are rejected, the person making that representation will be given written reasons as to why that is the case. The Gambling Act 2005 provides no right of appeal in these circumstances, although other avenues of legal challenge, for example Judicial Review, may be available.

3.2 Allocation of Decision Making Responsibilities

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

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

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

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

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

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

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

3.3 Licensing Reviews and Applications

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

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

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

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

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

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

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

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

Representations may include issues relating to the following:

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

4 LOCAL STANDARDS

4.1 Applications

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

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

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

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

4.2 Assessment of Need

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

4.3 Conditions

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

4.4 Enforcement

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

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

Such protocols will be agreed by the Licensing Committee.

4.5 Casinos

There are currently no casinos operating within the Borough.

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

4.6 Bingo

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

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

4.7 Betting Offices

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

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

4.8 Family Entertainment Centres (Licensed)

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

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

4.9 Family Entertainment Centres (Unlicensed)

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

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

- 1 Unlimited numbers of Category D machines

5 PREVENTION OF CRIME AND DISORDER OBJECTIVE

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

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

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

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

1. The design and layout of the premises
2. The training given to staff in crime prevention measures appropriate to those premises
3. Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed
4. Where premises are subject to age restrictions, the procedures in place to conduct age verification checks
5. The likelihood of any violence, public order or policing problem if the licence is granted

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

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

7 PROTECTION OF CHILDREN AND OTHER VULNERABLE PERSONS OBJECTIVE

7.1 Access to Licensed Premises

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

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

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

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

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

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

7.2 Vulnerable Persons

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

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

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

9 COMPLAINTS AGAINST LICENSED PREMISES

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

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

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

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

FURTHER INFORMATION

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

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

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

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

website: www.gamblingcommission.gov.uk

Tel: 020 7306 6219

Appendix A

DELEGATION OF LICENSING FUNCTIONS

DRAFT

Appendix B

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

GAMING MACHINE CATEGORIES

| Category of Machine | Maximum Stake | Maximum Prize |
|---------------------|---------------|---------------|
| | | |

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

*** These machines are “Fixed odds betting terminals (FOBTs)”*

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

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

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

Appendix C

REGULATORS COMPLIANCE CODE & ENFORCEMENT POLICY

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

This document can be accessed by the following web link:

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

DRAFT

Committee: Licensing Committee

Date: 9 June 2015

Agenda item:

Wards: All.

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

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

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

Forward Plan reference number: N/A

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

Recommendations:

- A. The Licensing Committee to approve the recommended amendments to the revised Statement of Licensing Policy, with amendments following the responsible authorities meeting, and the previous Licensing Committee meeting, which took place on 24 February 2015, before the start of the public consultation.
 - B. The Licensing Committee to discuss and debate recommendations contained within this report in respect of the proposed Cumulative Impact Zone (CIZ) Mitcham Town Centre, including the roads and areas as discussed by Members during the Licensing Committee meeting, which took place on 24 February 2015, and will be part of the public consultation processes for the revised Statement of Licensing Policy.
-

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 There is a statutory requirement under section 5 (1) of the Licensing Act 2003 (as amended) for the Council to review and re-publish its Statement of Licensing Policy every five years.
- 1.2 Combined with the review and re-publication of the Council's Statement of Licensing Policy, consideration is to be given to a new Cumulative Impact Zone (CIZ) for Mitcham Town Centre (roads and areas have been revised following the meeting which took place on 24 February 2015), the extent of the proposed CIZ and the type of licensed premises the CIZ is to cover, before the Licensing Authority starts its public consultation. It is proposed that the CIZ for Mitcham Town Centre and surrounding areas shall cover the following:

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

2. DETAILS.

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

As reported in the previous Licensing Committee report, which was discussed by Members of the Licensing Committee at the meeting held on the 24 February 2015, there is a statutory requirement under the Licensing Act 2003 for the Council to review and re-publish its Statement of Licensing Policy every five years.

The requirement to review and re-publish the Council's Statement of Licensing Policy was extended from three to five years by an amendment to the Licensing Act 2003 brought about by the Police Reform and Social Responsibility Act 2011. The current Statement of Licensing Policy will expire on 6 January 2016.

As part of the work already undertaken by the Licensing Manager and the Senior Lawyer and legal advisor to the Licensing Sub-Committee, work has been completed showing legal and licensing amendments arising from legislative changes. These changes are shown in the attached draft Statement of Licensing Policy, at appendix "A" with track changes for members to consider.

Further changes have been made to the document including the addition of the Council's Health and Wellbeing Strategy, which appears in section four "integrating strategies" at bullet point 4.2.5. The changes as requested by Members at the last Licensing Committee meeting on the 24 February 2015, and recorded in the minutes of that meeting at paragraphs A to J, have been incorporated into the draft Statement of Licensing Policy attached at appendix "A".

A meeting with Responsible Authorities took place on Monday 11 May 2015 chaired by Councillor Simpson to discuss the proposed changes to the Council's Statement of Licensing Policy. Various representatives attended and support was given to the proposed changes before the start of the public consultation processes.

Colleagues from Public Health have asked for the Council's Health and Wellbeing Policy to be referred to in the draft document, and these changes have been made to this version of the draft Statement of Licensing Policy, which is attached at appendix "A".

Representatives from the Responsible Authorities have been advised to make any comments regarding the proposed changes to the Statement of Licensing Policy during the public consultation period, which is due to start on Monday 22 June.

Model pool of conditions currently being put together by the Institute of Licensing, and yet to be published, will be available as an appendix document to the Statement of Licensing Policy for consideration and use by applicants, Responsible Authorities and Licensing Sub-Committee Members. At the time of writing this report the date of publication of this document is unknown. An update will be available and reported as part of the Licensing Committee report for the meeting scheduled to take place on the 20 October 2015.

If members agree, the draft Statement of Licensing Policy will be circulated for public consultation starting on the 22 June 2015. It is recommended that the public consultation period shall last for a minimum period of twelve weeks (three months).

As part of the consultation processes, following the Licensing Committee meeting on 9 June 2015, the Licensing Authority will write to all responsible authorities notifying them of the start of the public consultation period and of the proposed changes.

The Licensing Authority does not propose to distribute paper copies of the draft Statement of Licensing Policy, but it will be available in electronic format on the Council's website.

Details of the responsible authorities are as follows:

- The local Chief Officer for the Metropolitan Police;
- The London Fire and Emergency Planning Authority;
- The local Planning Authority;
- The Director of Public Health;
- The local Children's Safe Guarding Board;
- The Manager of the local Environmental Health Team; and
- The Manager of the local Trading Standards Team;

The Licensing Authority will also notify the following organisations or individuals:

- Safer Merton;
- The British Transport Police;
- All local Ward Councillors;
- Local area forums;
- The Musician's Union and Equity;

- Persons/bodies representing local holders of premises licenses;
- Persons/bodies representing local holder of club premises certificates;
- Persons/bodies representing local businesses; and
- Local residents associations.

Electronic submissions of responses to the consultation for the revised Statement of Licensing Policy will be encouraged. This will ensure the process is cost efficient, and it should save time for local residents, businesses, Responsible Authorities and any person wishing to make comment of the proposed changes.

Following the end of the public consultation period, which it is proposed will end at midnight on Monday 14 September 2015; officers of the Licensing Authority will collate comments received. Details of the comments received and any suggested changes to the draft Statement of Licensing Policy will be made available to members for discussion at a meeting before the Licensing Committee on Tuesday 20 October 2015.

Following this meeting, if Committee members agree to the proposed amendments to the draft Statement of Licensing Policy, the Licensing Committee shall recommend adoption by Full Council.

It is proposed to take the final draft of the Statement of Licensing Policy to a Full Council meeting scheduled to take place on Wednesday 18 November 2015 for formal adoption.

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

At the previous Licensing Committee meeting held on the 24 February 2015 a section of a report published for that meeting covered a proposal to introduce a Cumulative Impact Zone (CIZ) for Mitcham Town Centre.

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

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

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

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

1. Identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm;
2. Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm;
3. If such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent;
4. Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise); and

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

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

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

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

The consultation process involves contacting various parties, namely:

- The Chief Officer of Police for the Licensing Authority’s area;
- The Fire and Emergency Planning Authority for that area;
- Such persons as the Licensing Authority considers to be representative of holders of premises licences issued by that authority;

- Such persons as the Licensing Authority considers to be representative of holders of club premises certificates issued by that authority;
- Such persons as the Licensing Authority considers to be representative of holders of personal licences issued by that authority; and
- Such other persons as the Licensing Authority consider being representative of business and residents in its area.

Part of the twelve week (three months) public consultation process will focus on the proposed introduction of a CIZ for Mitcham Town Centre and surrounding areas. It will also ask for comment and take views on the proposed area of the CIZ in Mitcham Town Centre and surrounding areas it may cover. Attached to this report at appendix “B” is a map showing the proposed area of the CIZ (revised following the meeting which took place on 24 February 2015) for Mitcham Town Centre, the surrounding area and the roads to be covered, which include:

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

Members are asked for their views on this proposal to ensure the area and roads suggested to be covered by the Mitcham Town Centre and surrounding area CIZ (revised following the meeting which took place on 24 February 2015) are suitable and sufficient before the start of the public consultation. Members should also note the map attached at appendix “B” shows a dotted line for the following roads:

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

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

area CIZ. Members are asked to consider this additional change before the start of the public consultation processes.

Evidence will be sought from Responsible Authorities including Safer Merton, Public Health England and the Local Police. Details of evidence collated will be made available to members at a later Licensing Committee hearing (20 October 2015), together with details of the responses received during the public consultation period.

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

As part of the evidence gathering processes, it had been decided to engage the services of an organisation who will conduct a survey of low level antisocial behaviour in the proposed area for the Mitcham Town Centre and surrounding areas CIZ. Quotations have been received and a decision by senior Officers is yet to be made as to which organisation is to be appointed based on cost and tender documents submitted.

Results of the survey work and any other evidence supplied by Responsible Authorities will be presented to the Licensing Committee along with the replies received during the public consultation processes when the Licensing Committee meets on Tuesday 20 October 2015.

3. Alternative options.

- 3.1 Members may wish to wait for the outcome of the public consultation processes and consider comments made about the proposed area to be covered by the Mitcham Town Centre and surrounding area CIZ.
- 3.2 Members may choose not to implement or agree to the proposed Cumulative Impact Zone for Mitcham Town Centre and surrounding area.

4. Consultation undertaken or proposed.

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

5. Timetable.

- 5.1 Public consultation for the revised Statement of Licensing Policy (Licensing Act 2003), the proposed new CIZ for Mitcham Town Centre and surrounding area to start on Monday 22 June 2015 for a twelve week period and to finish on Monday 14 September 2015.
- 5.2 Comments received during the public consultation period and the final draft of the Statement of Licensing Policy to be submitted before the Licensing Committee on Tuesday 20 October 2015.

- 5.3 Statement of Licensing Policy under the Licensing Act 2003 to go to Full Council meeting for adoption on Wednesday 18 November 2015.
- 6. Financial, resource and property implications.**
- 6.1 None for the purposes of this report.
- 7. Legal and statutory implications.**
- 7.1 None for the purposes of this report, save as already outlined above.
- 8. Human rights, equalities and community cohesion implications.**
- 8.1 These are statutory functions and are applied globally.
- 9. Crime and Disorder Implications.**
- 9.1 The service has a statutory duty to contribute to the reduction of crime and disorder within the London Borough of Merton under Section 17 Crime and Disorder Act 1988. The prevention of crime and disorder is also one of the licensing objectives as defined in the Licensing Act 2003 and in the Council's current Statement of Licensing Policy.
- By examining issues raised such as the possible adoption of a ClZ in Mitcham town centre, including the surrounding area and the possible introduction of a scheme to limit the sale of high strength alcohol the licensing authority is contributing to that commitment.
- 10. Risk management and health and safety implications.**
- 10.1 All risk and health and safety implications have been considered when compiling this report. None are apparent.
- 11. Appendices – the following documents are to be published with this report and form part of the report.**
- 11.1 Appendix "A" Draft revised Statement of Licensing Policy showing proposed changes using track changes and Counsels opinion. This document includes all of the changes and alterations requested by Members during the meeting, which took place on 24 February 2015.
- 11.2 Appendix "B" A map showing the proposed area (revised following the comments received during the meeting on 24 February 2015) of the Cumulative Impact Zone for Mitcham Town Centre and surrounding area.
- 12. Background Papers – the following documents have been relied on in drawing up this report but do not form part of the report.**
- 12.1 The Licensing Act 2003; and
- 12.2 Revised guidance issued under section 182 of the Licensing Act 2003.

LONDON BOROUGH OF MERTON



STATEMENT OF LICENSING POLICY

(Draft) TO BE ADOPTED 6th JANUARY 2016



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Comment [GG1]: Page numbers will need correcting once draft is finalised (they do not currently match the actual pagination)

Comment [BC2]: Page numbers to be updated after the Licensing Committee Meeting which is due to take place on 20 October 2015 and before full Council adoption which is due to take place on 18 November 2015.



1. The Licensing Act 2003 – Policy and Scope

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

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Licensing Policy

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

Each of these licensing objectives is of equal importance.

- 1.8 Under the Act, the Licensing Authority Merton is required to publish a Statement of Licensing Policy with respect to the exercise of its licensing functions. Merton's-The London Borough of Merton's first Statement of Licensing Policy was prepared in accordance with the provisions of the Act and with regard to the Secretary of State's Guidance issued under Section 182 of the Act. It and was adopted by the Council on 05 January 2005. In accordance with the Act, our Policy document was reviewed and re-adopted by the Full Council in December 2007. -This document is the second review of Merton's-the London Borough of Merton's Statement of Licensing Policy.
- 1.9 Licensing law and policy The legislation is a r-recognition that in a modern and vibrant society the licensable activities covered by thies Act eovers require a more responsive and flexible system that balances the interests of commerce and its customers with the rights of residents to enjoy their homes and locality without being unreasonably disturbed. One of the purposes of this Policy is to will ensure that local people and visitors to the London BoroughBorough 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 of the licensed economy, such as increasing the leisure industry provision for the community, -and encouraging regeneration of town centres and providing communal hubs, as well as controlling the negative impacts which affects residents, such as an increase in noise, nuisance, anti-social behaviour and crime and disorder.

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2. Types of Licences

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

Comment [GG3]: This paragraph is a repeat of paragraph 1.7, so I have removed it. Paragraph numbering will need altering on final version.

3.2 This Statement of L-licensing Policy serves 4 main purposes: ~~that are:~~

- To ~~reinforce guide to~~ elected Members sitting on the Licensing Committee and Sub-Committees, as well as and Officers with delegated authority, on the boundaries and powers of the licensing authority, and to provide them with guidance parameters u when n der which making decisions ~~to make their decisions.~~ MembersThe committee and officers should be able to test any the application against the criteria set out in this Pe policy ~~and if necessary add conditions to those set out in the operating schedule;~~
- To inform and assist the licence potential applicants for a licence s of the expectations of the licensing authority and -factors that will be considered parameters under which the licensing authoritywhen making will make licensing decisions; ~~and therefore how a licensed premises is likely to be able to operate within an area;~~
- To inform and assist responsible authorities and other persons (including residents and residents' bodies) authorised persons, interested parties and responsible authorities of the parameters under which the licensing authority will make licence decisions, and therefore how their needs and concerns can will be addressed; and
- To inform a Ceourt of Law of the policy considerations taken into account by the ~~how the~~ Licensing authority when making arrived at its decisions ~~if it is when these are challenged in a court, and to support these decisions. challenged.~~

3.3 The ~~scope of the 2003~~ Act covers these licensable activities:

- The sale by retail sale of alcohol;
- The supply of alcohol by or on behalf of a club to, or ~~toat~~ the order of a member of thea club;
- The provision of regulated entertainment; and
- ~~The provision of late night refreshment; and~~
- ~~Personal licences in respect of the sale and/or supply of alcohol.~~

3.4 Regulated entertainment is defined as follows:

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



Licensing Policy

- A performance of dance; ~~and~~
- Entertainment of a similar description ~~to to that falling within the~~ performance of live music, ~~any~~the playing of recorded music ~~or~~and the performance of dance.

However, the Live Music Act 2012 deregulated live music performances, as follows:

- Unamplified live music between 8am – 11pm is no longer a licensable activity;
- Amplified live music between 8am – 11pm before audiences of no more than 200 persons is not a licensable activity in a premises that has a Premises Licence or Club Premises Certificate for the sale or supply of alcohol for consumption on the premises or is a workplace (that is not licensed or is only licensed for the purposes of late night refreshment).

[The Legislative Reform (Entertainment Licensing) Order 2014 comes into force on 6th April 2015, which will further de-regulate entertainment so it may be referred to here when it comes into force].

3.5 Main Principles

The following are the main principles underpinning this Policy:

- Nothing in this Policy ~~restricts will undermine~~ any person from making an application applying for a variety of licences or permissions under this Act;
- Each application will be judged on its individual merits, having regard to this Policy, ~~and the Secretary of State's Revised national~~ Guidance issued under section 182 of the Licensing Act 2003 ~~and the law of England and Wales;~~ Guidance issued under section 182 of the Licensing Act 2003 is under constant review following amendments to relevant legislation. At the time of publication of this policy the last amendment to the section 182 guidance was published by the Home Office in October 2014;
- Nothing in this Policy ~~restricts overrides~~ the right of any person to make relevant representations in response to any application or to seek a review of a premises licence or club premises certificate because of a matter arising at the premises in connection with any of the four licensing objectives;
- ~~That appropriate weight will be given to all relevant representations unless they are deemed frivolous, vexatious or repetitious, by an officer of the Licensing Authority or the Licensing Sub-Committee;~~
- ~~Licensing is concerned with regulating licensable activities, therefore all conditions shall relate to matters that are within the control of operators, centering on the premises and their locality;~~
- 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.



- As well as responsible authorities, any person, body or business is entitled to make representations to the licensing authority in relation to applications for the the grant, variation, minor variation or review of a premises licence or a club premises certificate, regardless of their geographical proximity to the premises. Appropriate weight will be given to all relevant representations by persons unless they are deemed frivolous, vexatious or repetitious by an officer of the Licensing Authority or the Licensing Sub-Committee;
- 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. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in the London Borough of Merton.
- Conditions will only be imposed on a licence or other authorisation if they are appropriate for the promotion of the licensing objectives and are proportionate. Since licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events, any conditions attached will be focussed on matters that are within the control of individual licence holders (i.e. the premises and its vicinity). Conditions will will be tailored to the size, type, location, characteristics and activities taking place at the premises concerned and will be determined on a case-by-case basis. individual style and characteristics of the premises and eventsS, and standardised conditions will be avoided, although selection may be made from pools of conditions. All conditions must be expressed in unequivocal, enforceable, and unambiguous terms 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 E of the national Guidance issued under section 182 of the Licensing Act 2003 (as ammended). A Schedule of Model Conditions will be made available on the Council's website.

Comment [GG4]: I suggest deleting reference to Appendix 1 : Some of the listed publications are out of date, withdrawn, or irrelevant. I understand you are working on your own pool of conditions so perhaps this can be attached or made available if and when they are ready?

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

3.7 Consultation on Policy Document

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

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



Licensing Policy

3.8 The following organisations or individuals ~~will also be~~ have been consulted:

- Safer Merton;
- British Transport Police;
- Local Accident & Emergency Hospital Departments;
- The Musician’s Union & Equity;
- Local Childrens Safeguarding Board;
- ~~The Area Forums;~~
- ~~Neighbouring Local Authorities which border the London Borough of Merton;~~
- All ~~Ward~~ Councillors; and
- ~~Merton and Sutton Primary Care Trust~~ Public Health Merton, local Pubwatch organisations and local business organiations.

Comment [GG5]: Who among this list represents local businesses (Area Forums?) and licence holders? Perhaps you have a pubwatch or similar you could also consult?

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

3.10 In ~~determining agreeing~~ this ~~P~~policy ~~appropriate~~proper weight will be given to the views of the persons and bodies consulted.

3.11 Duplication

3.11.1 This ~~P~~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 at Work etc. Act 1974, ~~The~~ Environmental Protection Act 1990, ~~d~~Disability dDiscrimination and equality legislation, Anti-Social Behaviour Act 2003, Anti-Social Behaviour, Crime and Policing Act 2014 and Fire Safety legislation).

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

4. Integrating Strategies

4.1. There are many organisations and bodies including this Authority whose policies and strategies impact on, or involve, one or more of the licensing objectives. Where necessary, eg. Prevention of crime and nuisance.

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



4.2.1 Alcohol Harm Reduction Strategy

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

In June 2007, the government published a further report identifying the Next Steps in the National Alcohol Strategy. This strategy, known as "Safe, Sensible, Social", builds upon the foundations, which have been laid, and the lessons learnt since 2004. It will forge a clearer national understanding of what is acceptable drinking behavior, in order to reduce the amount of harm that alcohol causes to individuals, families and communities. Safe, Sensible, Social outlines a concerted approach to support a change in drinking culture and shows how the police, local communities, local authorities, the NHS, voluntary organisations, the alcohol industry and others all have a role to play.

The key measures contained within the policy are:

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

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

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

4.2.2 Crime and Disorder Strategy

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



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

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

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

4.2.3 Metropolitan Police Drugs Strategy

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

4.2.4 Door Supervisors

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



- Increasing public confidence in the private sector security industry
- Improving training, standards and professionalism
- Promoting and spreading best practice
- Strengthening the Metropolitan Police and other enforcement agencies 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 integrates with and is compatible with the SIA strategy by requiring such persons to be SIA licensed.

Comment [BC6]: Change made following Licensing Committee request as detailed in the minutes of the meeting which took place on 24 February paragraph C.

4.2.5 Health and Wellbeing Strategy (Public Health).

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

Comment [BC7]: New entry for consideration by members of the Licensing Committee at the meeting due to take place on Tuesday 9 June 2015.

The strategy has five key themes:-

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

Creating an environment and culture that prevents problem drinking and tackling the harms resulting from alcohol misuse is central to achieving the outcomes of the strategy. Promotion of the licensing objectives therefore has a direct impact on the strategy's aims in the following ways:-

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



~~4.3 Test Purchases for the Sale by Retail of Alcohol.~~

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

~~4.4 Merton's Business Plan and the Community Plan set out within the document is organised around six key themes.~~

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

4.4 Merton's Business Plan and the Community Plan set out within the document is organised around six key themes.

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

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

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

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

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

The Partnership is made up of three tiers:

The Merton Partnership – this is the full partnership body that provides the governance, overall leadership and representation to ensure that the Partnership delivers the community's priorities. It is chaired by the Leader of the Council, the person with the clearest democratic authority in the Borough. It provides the strategic direction for the work of the Partnership.

Comment [GG8]: Do we really need all this detail about the organisational pyramid of the Partnership? I wouldn't have thought it would interest many/any licensees or residents? Perhaps consider deleting this section from "The Partnership" down to "Sustainable Communities and transport"?



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

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

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

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

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

• Safer and Stronger Communities

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

• Healthier Communities

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

• Older People

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

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Comment [BC9]: New entry for consideration by members at the Licensing Committee meeting due to take place on Tuesday 9 June 2015.

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active ageing:

• Children and Young People

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

• Corporate capacity

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

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

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

4.6 Test Purchases for the Sale by Retail of Alcohol.

A Code of Best Practice concerning test purchases has been compiled by the Department of Business Innovation and Skills, Better Regulation Delivery Office, Code of Practice on Age Restricted Products This Code has been approved by Central Government and this Council has signed up to this code as a means to gather evidence and prosecute persons for unlawful sales of alcohol where appropriate. The Code (published in April 2014) can be accessed here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/29937/3/13-537-code-of-practice-age-restricted-products.pdf

Comment [GG10]: I assume this is the new Code we are referring to?

5. Promotion of Racial and Gender Equality

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

The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000 and the Sex Discrimination Act 1975, as amended by the Disability

Comment [GG11]: These following Acts have all been repealed so I have deleted them: Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000 and the Sex Discrimination Act 1975, as amended by the Disability Discrimination Act 1995. The relevant Act is the Equality Act 2010. I have taken this paragraph from the s 182 guidance as reflecting current law. We are supposed to indicate HOW we will comply with our Equality Duty – I suggest you investigate this with the appropriate department and complete the next paragraph appropriately?



Licensing Policy

~~Discrimination Act 1995 and the Equality Act 2010, places a legal obligation on this Council to have due regard to the need to eliminate unlawful discrimination.~~

~~5.2. This statement of Licensing Policy will be taken into account with regards to Merton Council's Race Equalities Scheme. In complying with our Equality Duty, this Statement of Licensing Policy will be taken into account.~~

6. Live Music, Theatre & Dancing

6.1. In its role of implementing local authority cultural strategies, the Council recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community, ~~to include children~~. The Council is particularly concerned to increase cultural opportunities for children.

6.2. When considering applications for such events and the imposition of conditions on licences or certificates, ~~the Licensing Authority Merton~~ will carefully balance the cultural needs with the ~~necessity of promoting~~ promotion ~~of~~ the licensing objectives.

6.3. Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused.

6.4. As a Local Authority, the London ~~Borough Borough~~ of Merton, ~~has been has applied to the Licensing Authority for premises licences and has been~~ granted premises licences for ~~regulated entertainments for~~ a number of properties and sites owned by the Council. The granting of such premises licences means that those individuals or organisations who may wish to use ~~thesesuch~~ venues ~~to provide regulated entertainment~~ have been relieved of the ~~necessity requirement requirement~~ to apply for ~~regulated entertainment a~~ licences or other authorisation. Further information can be found at www.merton.gov.uk

6.5. ~~The Licensing Authority Merton~~ will monitor the impact of licensing on regulated entertainment, particularly music and dancing, to ensure that ~~unnecessary inappropriate~~ restrictions are not being placed on the development of entertainment activities in the ~~borough 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 as licensing authority cannot will not~~ take 'need' (i.e. commercial demand) into account when considering an application for a ~~premises licence or a club premises certificate, as this is a matter for the market forces and planning control.~~

7.2. ~~Cumulative impact means the potential impact upon the promotion of the licensing objectives by a significant number of licensed premises concentrated in one area. However, it~~ The Council recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder outside and within the ~~vicinity locality~~ of these premises. In such circumstances the impact of those premises when taken as a whole can be far greater than that arising from individual premises and it may not be possible to distinguish a specific premises as being the sole cause, or even a major contributing factor of a particular problem. It is acknowledged that it is the "Cumulative Impact" of all of the premises that causes problems for a wider area.

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Comment [BC12]: Paragraph reworded at the request of the Licensing Committee during the meeting which took place on 24 February 2015. Request as per minutes of the meeting at paragraph D.



Licensing Policy

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

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

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

Wimbledon Town Centre

There has been a significant increase in the number and scale of licensed premises in Wimbledon Town Centre over recent years. This has resulted in a significant number of alcohol related crimes and of complaints being made to the Council concerning nuisance. The Police have provided evidence regarding alcohol related crime and disorder and the connection between the offences and licensed premises. Anti-social behaviour has led to the Metropolitan Police



designating part of the town centre as a dispersal area under the Anti -Social Behaviour Act 2003. Residents and Residents Associations in Wimbledon Town Centre have made representations that the Town Centre is at saturation point. The Police support the designation of Wimbledon Town Centre as a cumulative impact zone.

Wimbledon Village

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

Mitcham Town Centre

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

Comment [GG13]: Subject to evidential justification for this new CIP in Mitcham Town Centre and whether it will be only applicable to off or all licences?

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

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

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



- The forecourt and platforms of Wimbledon Station;
- Hartfield Crescent to number 31 – commercial premises;
- Worplesdon 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 Hillside including 120 Wimbledon Hill Road (120 Wimbledon Hill Road has frontage on the Ridgway).

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

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

Comment [gb14]: To be inserted if Mitcham CIP is approved.

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Comment [BC15]: Additional Road and areas included at the request of Members during the meeting held on 24 February. Evidence will be required if these roads are to be included

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



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representations. ~~Failure to provide such information to the Licensing Sub-Committee may result in refusal. The presumption will be that where proposed operations are material to the policy they will normally be refused. The effect of the cumulative impact policy is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives.~~ However, the process allows applicants to rebut the presumption of refusal in their applications, and to make the case before a Licensing Sub-Committee ~~why their application should be granted as an exception to our cumulative impact policy. to allow an application.~~ Where an application engages the is material to the special policy the burden of proof lies on the applicant to rebut the presumption.

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

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

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

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

- To substitute one type of premises with another which is likely to have a lesser impact on the licensing objectives;
- To substitute one licensable activity with another of less or equal impact;
- To effect a real reduction in capacity;
- To replace vertical drinking with seated consumption and/or condition alcohol sale or supply as ancillary to substantial food;

Comment [BC16]: Change as requested by mebers at the meeting which took place on 24 February 2015.



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- To make alterations to the premises that maintain the status quo or enhances the premises without negatively impacting on the licensing objectives; or
- Where a reduction in hours of operation is proposed.

This list is not intended to be an exhaustive or prescriptive list of when exceptions may be found as each case will be determined on its individual merits. There are other factors that might contribute to an application being considered as an exception, such as the licensable activities sought, the hours of operation, management standards applied or to be applied to the operation inside and outside of the premises, including door supervision, acoustic controls, CCTV coverage inside and outside the premises, smoking controls, safe capacities, management of exterior spaces, and neighbour considerations.

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



8. The Prevention of Crime and Disorder

- 8.1 Under section 17 of the Crime and Disorder Act 1998, the London Borough of Merton, as a Local Authority, has a duty to do all that it reasonably can to prevent crime and disorder within the Borough. As previously stated the prevention of crime and disorder is also one of the four licensing objectives that this Licensing Authority has a duty 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 significant source of crime and disorder. problems.
- 8.3 In determining existing licence applications where relevant representations have been are made, it will be the policy of the Council to consider the adequacy of measures proposed to deal with the potential for crime and disorder having regard to all the circumstances of the case. In particular the authority may consider the following:
- the levels of crime and disorder in and around the venue;
 - the level of compliance with conditions on existing licences;
 - the measures to be put in place to prevent underage drinking;
 - the measures proposed to prevent the consumption or supply of illegal drugs, including search procedures, provision of CCTV, design of premises, monitoring of toilets, surrender and seizure procedures;
 - the measures proposed to discourage binge drinking and drunkenness and to promote sensible drinking including the use of low % ABV conditions on licences or certificates;
 - the measures proposed to prevent violence on the premises, including the threat of violence to staff and the use of polycarbonate drinking vessels to avoid injury to staff and customers;
 - whether door supervisors are to be provided and, if so, how many and the hours of employment;
 - measures to be put in place to react to any situations of disorder should they occur;
 - in the case of premises selling alcohol on the premises, any measures to be put in place to prevent glass or bottles from being taken into the street;
 - any steps that are to be taken to reduce thefts from patrons using the premises; and
 - for new applications, the extent to which the layout has been designed to minimise crime and disorder; and any steps that are to be taken to reduce the risk of spiking of drinks.
- 8.4 The London Borough of Merton will expect an applicant's operating schedule Operating Schedule to satisfactorily address these issues from the design of the premises through to the daily operation of the business.



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

9. Public Safety

- 9.1 The Licensing Act 2003 covers a wide range of premises that require the authorisation of a premises licence or a club premises certificate 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 the applicant's Operating Schedule to fully address these issues. Applicants are advised to seek advice from the Council's Licensing team, Building Control Officers, the London Fire and Emergency Planning Authority, the Police, Public



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Health Merton, and Health & Safety (both the Executive and the Council's department) before preparing and submitting their application, plans and supporting documents Schedules.

9.4 The London Borough of Merton, as the Licensing Authority, where appropriate, and necessary will consider attaching conditions to licences to promote public safety where appropriate, and these may include the conditions that are in Appendix 1 of this statement are listed in the Schedule of Model Conditions or from other sources or officers.

10. The Prevention of Public Nuisance

10.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can may cause a range of public nuisances impacting on people living, working or sleeping in the locality vicinity of the premises.

10.2 The concerns mainly often relate to noise nuisance, light pollution and noxious smells. The London Borough of Merton will expect applicants' operating schedules to address these issues. Applicants are advised to seek advice from the Environmental Health Pollution Team before preparing their plans and Schedules supporting documents.

10.3 The Council recognises that it is necessary to in its capacity as the Licensing Authority will actively protect promote and encourage the necessary protection of residents, members of the public and businesses in the locality vicinity of licensed premises from disturbances linked to licensed premises or their customers that amount to a public nuisance. Such a nuisance can impact on the quality of life of residents and the ability of other businesses to operate effectively, whose living, working and sleep can be adversely affected by nuisance linked to licensed premises. The applicant must demonstrate within their operating schedule how they intend to promote the licensing objective relating to the prevention of public nuisance.

10.4 The London Borough of Merton, where appropriate and necessary, will consider attaching conditions to licences to promote avoidance of public nuisance, and these may include conditions that are listed in the Schedule of Model Conditions or from other sources or officers include Conditions as attached at appendix 1.

10.5 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. The following are some examples of problems that may give rise to concern and should be addressed where appropriate:

- noise and vibration escaping from the premises, including;
- music, noise from ventilation equipment, and human voices;
- disturbance by customers arriving at or leaving the premises;
- queuing, either by pedestrian or vehicular traffic;
- parking by patrons and staff;
- the provision for public transport in the locality (including taxis and private hire vehicles) for patrons;



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

11. The Protection of Children from Harm

11.1 Access to Licensed Premises

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

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

- to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under authorisation of a premises licence, club premises certificate etc.
- to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate etc. Outside these hours, this offence does not prevent the admission of unaccompanied children under 16 to various types of premises where the consumption of alcohol is not the exclusive or primary activity at those venues. It should also be noted that between 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 Licensing Act 2003 and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The Licensing Authority Merton will not attach conditions requiring the admission of children.

11.1.4 The Licensing Authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.



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11.1.5 Each application ~~shall~~will be considered on its merits. However, there may be particular areas of concern in respect of children including the following examples:

- premises where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
- premises with a known association with drug taking or dealing;
- premises where there is a strong element of gambling on the premises (but not, for e.g. the simple presence of a small number of fruit machines, slot machines or any other cash prize gaming machines);
- premises where entertainment or services of an adult or sexual nature are commonly provided; and
- premises where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided.

11.1.6 The following options are possible alternatives; which the The Licensing Authority Merton may consider attaching as conditions for limiting the access of children where it is appropriate~~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); and
- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

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

11.1.7 The Licensing Authority Merton recognises ~~that~~ the Safeguarding Children Board as being competent to ~~advise on~~ as the responsible authority in relation matters relating to the protection of children from harm ~~objective~~ and is a "responsible authority" and that can make relevant representations. As a responsible authority, the applicant is required to copy details of their applications to the Safeguarding Children is Board when an application is made. The Board may be contacted at Children, Schools & Families Department, London Borough of Merton.

11.2 Access to Cinemas.

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

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



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- 11.2.3 Applicants for licences in relation to premises showing film exhibitions will be expected to address arrangements for restricting children from viewing age-restricted films (as classified by the BBFC) in their operating schedules.
- 11.2.4 The Licensing Act 2003 also provides a mandatory condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to the exhibition of any films to be restricted in accordance with the recommendations given to films by the BBFC or the licensing authority if it so desires.
- 11.3 Children and Public Entertainment.
- 11.3.1 Many children go to see and/or take part in an entertainment arranged especially for them, for example children's film shows and dance or drama school productions.
- 11.3.2 In order to promote the protection of children, [the Licensing Authority 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; [and](#)
 - age restrictions of children or young persons if unaccompanied by a responsible adult.
- 11.3.3 The [Licensing Authority Merton](#) expects, where relevant, that submitted operating schedules will address the licensing objective relating to the protection of children and public safety.
- 11.3.4 The [Licensing Authority Merton](#) will consider attaching Conditions to licences and permissions to promote these licensing objectives and these may include [include conditions that are listed in the Schedule of Model Conditions or from other sources or officers](#)~~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 the Licensing Authority regarding the child protection objective is the Safeguarding Children Board, which may be contacted at Children, Schools & Families Department, London Borough of Merton. [Following are conditions that this Licensing Authority may also attach where it is appropriate:](#)~~

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

- ~~• [Age restrictions attached to children being admitted to any entertainment unless such child is accompanied by and is in the charge of a responsible adult person](#)~~
- ~~• [no child unless accompanied by an adult to be permitted in the front row of any balcony](#)~~
- ~~• [no standing to be permitted in any part of the auditorium during the performance](#)~~

Comment [gb17]: Inserted from conditions appendix removed below.



- an adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof

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

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

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

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

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

12. Tourism, Employment, Planning & Building Control

12.1 Planning, Building Control and the Licensing functions will be properly separated ~~in accordance with statutory requirements in order~~ to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice-versa.

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

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

- the needs of the local tourist economy and cultural strategy for the Borough; and
- the employment situation in the Borough and the need for investment and employment.



~~12.4 However, some regulations do not cover the unique circumstances of some entertainment. The Licensing Authority 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 In the Secretary of State's Guidance, the Government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application

Comment [GG18]: The s 182 guidance on hours has changed significantly so I have quoted from para 13.43 of the October 2014 revision.

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

Comment [GG19]: Reconsider this sentence.

Comment [BC20]: Deleted at the request of members during the meeting which took place on 24 February 2015.

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

- whether the licensed activity is likely ~~may to~~ result in a ~~reduction or an~~ increase in crime, disorder ~~and~~ anti-social behaviour in the area;
- whether the licensed activity ~~is would not be lik~~ likely to lead to a public nuisance ~~disturbing~~ ~~re~~ ~~cause~~ ~~adverse~~ ~~effect~~ ~~on~~ ~~the~~ ~~safety~~ ~~and~~ ~~amenity~~ ~~of~~ ~~local~~ ~~residents~~ ~~or~~ ~~other~~ ~~businesses~~ ~~in~~ ~~the~~ ~~vicinity~~, and ~~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;



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- whether there will ~~not~~ be an increase in any cumulative adverse effect from the activity on local residents or other businesses in the vicinity; and
- ~~whether there is a high~~the level of public transport accessibility to and from the premises for the hours requested, or whether other effective methods of dispersal will be put in place that which will prevent not themselves the licensing objectives being undermined, add to adverse impact on local residents in the vicinity.

13.5 The Licensing Authority 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 the Licensing Authority Merton when considering appropriate operating hours include:

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

Shops, Stores and Supermarkets

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

13.87 If there is more than one business trading from the same premises (e.g. hypermarkets, malls etc) which require separate premises licences, Merton the Licensing Authority, where appropriate, 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 the Licensing Authority will be required to attach to any premises licence authorising the supply of alcohol the conditions that at any time when such supplies under the premises licence are made



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

14.1.3 Where a premises licence authorises the exhibition of a film, section 20 makes it mandatory for a condition to be included in the premises licence requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the licensing authority itself. When the Licensing Act 2003 was passed the only body designated under section 4 of the Video Recordings Act 1984 was the British Board of Film Classification.

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

14.1.5 In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –

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

Comment [BC21]: Members have asked for this section to be re-worded. Minutes record BC advised this wording is taken from s182 Guidance to the Licensing Act 2003.

Legal advice given this section should not be re-worded because the text is a direct lift from s 182 Guidance under the Licensing Act 2003. Paragraph G in the minutes of the meeting which took place on 24 February 2015.



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

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

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

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

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

The responsible person must ensure that –

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

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

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

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

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

Where –

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

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

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

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

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

Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

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

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

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

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

14.2 Prohibited conditions

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

14.3 Standard Conditions

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

Comment [GG22]: Do we really need this paragraph bearing in mind conditions are dealt with earlier on?

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



Licensing Policy

licence either on a permanent basis or for a time limited basis.

- 15.2 Furthermore, a wide range of other individuals and bodies set out in section 16 of the 2003 Act may apply for this type of licence e.g. government departments, local authorities, hospitals, schools and police.
- 15.3 An application for a premises licence or a club premises certificate must be on the prescribed form and served onto this Licensing Authority and be copied to each of the responsible authorities (see Section 13 of the 2003 Act) or online where it will be copied to this Licensing Authority and each of the Responsible Authorities (that are listed in Appendix 1) and it must be accompanied by:
- The required fee;
 - An completed operating schedule (see below);
 - A plan of the premises in a prescribed form to which the application relates or to a scale agreed by the licensing authority; and
 - If the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the designated premises supervisor.
- 15.4 If the application form is not completed correctly the application will-may be returned to the applicant.
- 15.5 Further, the Licensing Authority-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 The Licensing Authority Merton—recommends that applicants for premises licences, club premises certificates or for major variations of such licences to conduct a thorough risk assessment with regard to the licensing objectives when preparing their applications.
- 15.7 The Licensing Authority Merton haswill 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. If, 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 Officers of the Licensing Authority 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 situations where relevant representations have been received to cause the London Borough of Merton's confidence in the management of the premises to be questioned;



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- The history of the premises;
- Any other relevant factor; **and**
- Where other regulating authorities (internal or external) recommend action.

16. Operating Schedule (Licensed Premises and Registered Clubs)

- 16.1 As part of an application for a premises licence (or club premises certificate) an operating schedule must be submitted. The operating schedule is required to include information that is necessary to enable the Licensing Authority 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; **and**
 - The type of activities available in the premises whether licensable under the 2003 Act or not e.g. if there is dancing it would be helpful for a brief description to be given of the type of dancing and whether it is members of the public or professional performers.
- 16.2 An applicant is required to ensure that the operating schedule sets out the following details:
- the relevant licensable activities to be conducted on the premises;
 - the times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year);
 - any other times when the premises are to be open to the public;
 - where the licence is required only for a limited period, details of that period;
 - where the licensable activities include the sale or supply of alcohol, the name and address of the individual (who must hold a valid personal licence) to be specified as the designated premises supervisor (“DPS”). (The main purpose of the DPS is to ensure that there is always one specified individual who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder in a manner that promotes the licensing objectives) 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;



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

17. Enforcement

- 17.1 The Council has a long established Enforcement Policy 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.
- 17.2 Enforcement decisions will be taken in line with the principles contained in the concordat and our Enforcement Ppolicy.

Comment [BC23]: Alterations made at members request during the meeting held on 24 February 2015.



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

18. Applications for Personal Licences to Sell or Supply Alcohol

18.1 In order to obtain a personal licence under Part 6 of the Licensing Act 2003 ~~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;
- must show that any unspent relevant offence should not be considered on crime and prevention grounds if an objection is received by the police; and
- must pay the appropriate fee to the Council.

18.2 Applicants with unspent criminal convictions for relevant offences set out in the Licensing Act 2003 are strongly ~~advised-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 an indefinite period for 10 years~~. A designated premises supervisor must hold a personal licence.

18.4 Further information about personal licences can be found on the London Borough of Merton's web-site (www.merton.gov.uk/licensing) in the Borough's Public Libraries or by contacting the Licensing team at the London Borough of Merton.

19. Temporary Event Notices

~~19.1 This section deals with temporary permitted regulated activities carried on in accordance with a statutory notice.~~

~~19.2 An individual who wants to use premises for one or more licensable activities in a period not exceeding 96 hours has to give a Temporary Event Notice to Merton.~~



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

- ~~• details of the proposed activities,~~
- ~~• the date & time during which 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 must be a minimum of 24 hours between the end of one event period and the start of another.~~

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

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

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

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

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

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

19.1 If the Licensing Authority receives a standard or late Temporary Event Notice ("TEN") and there are no representations made against it by the Police or Commercial Environmental Health department, then the Licensing Authority is obliged to issue the TEN subject to the statutory limits being complied with. Only the Police and Commercial Environmental Health team can object to a TEN and can do so in relation to any or all of the licensing objectives.

19.2 A **standard** TEN must be given to the licensing authority no later than 10 working days before the day on which the event period begins, and must be accompanied by the prescribed fee. An objection to a standard TEN must be made up to 3 working days following receipt by the Police or Commercial Environmental Health Team. If an objection is made to a standard TEN then the objection notice will be considered at a hearing and the licensing sub-committee will consider whether to issue a counter-notice.



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19.3 A late TEN must be given to the licensing authority no later than 5 working days, but no earlier than 9 working days, before the day on which the event period begins, and must be accompanied by the prescribed fee. If the Police or Commercial Environmental Health Team object to a late TEN then a counter-notice must be issued without a hearing. This counter-notice must be issued at least 24 hours before the beginning of the event.

19.4 The working days run from the day after the notice is received by the Licensing Authority, as the day the notice is received is deemed to be day zero. Public holidays and weekends are not counted, as they are not working days. For example, if a TEN was served on Tuesday, 13 November, the working days would begin to run from Wednesday, 14 November to Tuesday, 27 November and the event could be no earlier than Wednesday, 28 November.

19.5 The Licensing Authority may attach conditions to a TEN, where there is an unwithdrawn objection and where it is appropriate for the promotion of the licensing objectives, but only if the conditions to be applied are already on a Premises Licence or Club Premises Certificate relating to the premises where the event will take place and are not inconsistent with the TEN. In any event, the notice giver is responsible for ensuring that the event complies with all relevant legislation, including the avoidance of a statutory nuisance, and that the event complies with all health and safety requirements.

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

20. Registered Clubs

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

20.2 The Licensing Authority 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.

- Fourty–eight hour wait before becoming a member; and
- Club having at least 25 members.
- There are also requirements about-concerning the supply of financial information to members and the keeping of financial records. The club also has to be managed by an elected Management Committee.

20.4 The provisions with regards to making an application for the Club Certificate are similar to those for a premises licence.

20.5 Further information can be found on the Merton web site www.merton.gov.uk/licensing, in leaflets at public libraries and in the guidance issued by the Government.

21. Reviews and dealing with complaints about premises

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



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- 21.2 The Licensing Act 2003 provides for a process whereby responsible authorities and/or other persons~~interested parties~~ can make an application for a review of the licence and provide their written representations.
- 21.3 Written representations may be ~~expanded~~ amplified upon at a subsequent hearing or may stand in their own right. ~~However, generally, new r~~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, comprehenisve, ~~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 one of more of the licensing objectives. The review process is not an opportunity to revisit the earlier representations made to the Licensing Authority when the original application for a premises licence was determined.
- 21.5 Representations from other persons ~~interested parties~~ will be considered by the Licensing Team to decide if they are frivolous, vexatious or repetitious. If it is determined that such representations fall within one of these categories are either frivolous, vexatious or repetitious, then the application for review will~~will~~ not be accepted.
- 21.6 A representation is repetitious when it is identical or substantially similar to a representation made on a previous review or when the application for the licence was itself determined, and a reasonable interval has not elapsed since that time. In considering whether a reasonable interval has elapsed, the Licensing Authority~~Merton~~ will have regard to whether operation of the premises has begun or changed since the previous representation was made.
- 21.7 On receiving applications for a review from responsible authorities and/or interested other persons~~parties~~ that are relevant, the Licensing Authority~~Merton~~ will arrange a hearing before the Licensing ~~S~~sub-committee in accordance with the regulations made under attached to the Licensing Act 2003.
- 21.8 In circumstances where there are complaints by other persons ~~interested parties~~, (e.g. residents) the Licensing Authority~~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~~person~~ to seek a review of a licence or certificate.
- 21.9 In the first instance, interested persons~~parties~~ ~~ar~~ are encouraged to raise the complaint directly with the licensee or business concerned. Responsible authorities are also encouraged to give licence holders early warnings of their concerns and of the need for improvement.
- 21.10 The Licensing Authority~~Merton~~ will take a particularly serious view where the grounds for review are substantiated and relate to the use of the licensed premises:
- 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;
 - for the evasion of copyright in respect of pirated or unlicensed films and music;



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- ~~for the illegal purchase and consumption of alcohol by minors~~~~underage purchase and consumption of alcohol;~~
- ~~use of licensed premises~~ for prostitution or the sale of unlawful pornography;
- ~~use of licensed premises~~ for unlawful gambling;
- ~~use of licensed premises as~~ a base for organised criminal activity, particularly by gangs;
- ~~use of licensed premises~~ for the organisation of racist, homophobic or, sexual abuse or attacks;
- ~~use of licensed premises~~ for the sale or storage of smuggled tobacco and alcoholer goods;
- ~~use of licensed premises~~ for the sale of stolen goods;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter.
- where Police are frequently called to attend to incidents of crime and disorder;
- where there has been prolonged and/or repeated instances of public nuisance;
- where there are serious risks to public safety and the management is unable or unwilling to address these matters; and
- serious risks to children.

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

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

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



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

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22. Administration, Exercise and Delegation of Functions

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

Publication of the policy

The Licensing Policy is available on the Merton ~~W~~Web-site:— www.merton.gov.uk/licensing

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

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

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



Appendix 1 – Pool of Conditions

~~Conditions may only be imposed on licences and certificates where they are proportionate and 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~~
- ~~• Model National and Standard Conditions for the Places of Public Entertainment and Associated Guidance ISBN 1-904031-110 (Entertainment Technology Press-ABTT Publications)~~
- ~~• Alcohol Harm Reduction Strategy~~
- ~~• 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~~
- ~~• The Guide to Safety at Sports Grounds (The Stationery Office 1997) (“The Green Guide”) ISBN 011300095-2~~
- ~~• Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts~~
- ~~• The Street Arts Network~~
- ~~• The London District Surveyors Association’s “Technical Standards for Places of Public Entertainment” ISBN 0-9531229-2-4~~
- ~~• The Portman Group Code of Practice on the Naming Packaging and Promotion of Alcoholic Drinks~~
- ~~• The Portman Group PASS Accreditation system – proof of age~~
- ~~• Safer Clubbing and the “Updated Drug Strategy”~~
- ~~• Health & Safety Executive (HSE)~~

~~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~~

Comment [GG24]: For reasons given earlier I think you should delete this Appendix 1 – replace with a Pool of Conditions rather than referring to other documents, some of which are otiose and irrelevant.



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- ~~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 1 – Responsible Authorities Contact details

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

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

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

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

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

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

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

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

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

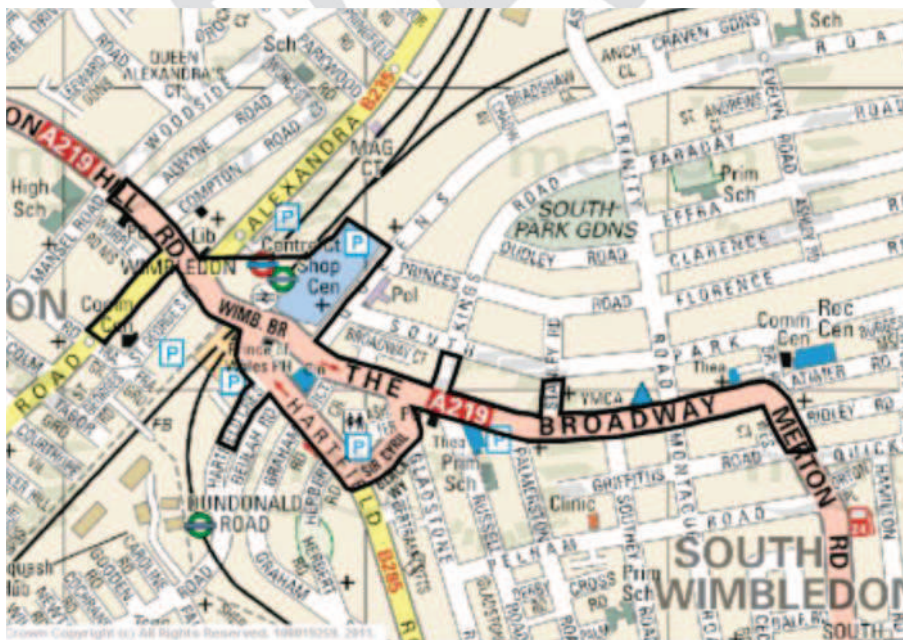
Any other licensing authority (Local Council), other than the relevant licensing authority, in whose area part of the premises is situated. (This would only apply to premises located on the boundary between Merton, Wandsworth, Kingston, Croydon, Lambeth or Sutton)

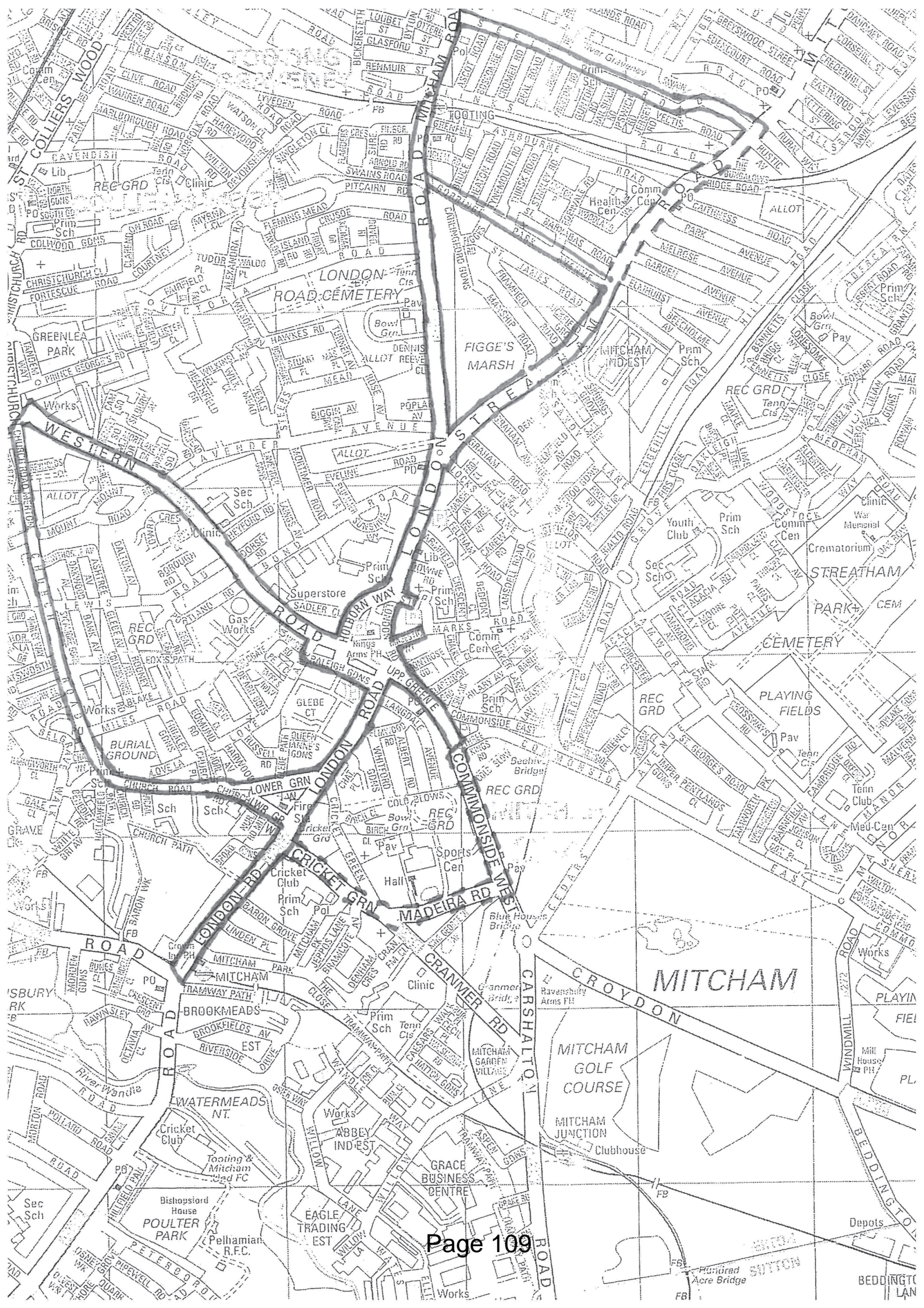
[Health & Safety at Work Act 1974 matters are already covered by your sending a copy of the application to the Environmental Health (Commercial) Manager]

The addresses and contact details above are subject to change and an up to date version is available on the website www.merton.gov.uk/licensing.

Appendix 2 – Maps showing Cumulative Impact Zone Boundaries

Comment [GG25]: Need to add Mitchan Town Centre map if approved as a CIP area.





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