

# LONDON BOROUGH OF MERTON



## STATEMENT OF LICENSING POLICY

(Draft) TO BE ADOPTED 6<sup>th</sup> 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 These activities are known as “licensable activities”, repealed most of the existing legislation relating to liquor, entertainment and night cafe licensing (late night refreshment) and replaced it with a totally new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](http://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](http://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 recognition~~ that in a modern and vibrant society the licensable activities covered by this Act ~~covers~~ 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 ~~Borough~~ Borough of Merton will have better opportunities to enjoy their leisure time safely without fear of violence, intimidation or disorder. while on, arriving at or leaving licensed premises. Another intention of the policy is to ensure that local residents are not unreasonably disturbed, whether in the street or at home, by activities within licensed premises or by customers arriving at, or leaving, licensed premises.
- 1.10 An effective Licensing Policy, alongside other initiatives, can work towards promoting positive aspects 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 include are:
- 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 L~~icensing 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;



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- 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 amended). 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.



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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](http://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](http://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](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?





~~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](http://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



## Licensing Policy

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~~ ~~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





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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 on 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 ~~has~~will have a policy whereby valid applications will automatically be referred to the Building Control, Health & Safety or other appropriate departments and it will be for them to decide whether an inspection of the premises is required. 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.

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

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



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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](http://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](http://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](http://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.

DRAFT



Licensing Policy

**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](http://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 Web-site:— [www.merton.gov.uk/licensing](http://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](http://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.

