

**To be considered by Licensing Committee on 10<sup>th</sup> March 2014**

<b>Strategic Management Team Lead Officer</b>	Steve Ruddy
<b>Author</b>	John Pleasance
<b>Telephone</b>	01306 879351
<b>Email</b>	John.pleasance@molevalley.gov.uk
<b>Date</b>	Licensing Committee - 10 <sup>th</sup> March 2014

<b>Ward (s) affected</b>	All
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<b>Subject</b>	<b>Mole Valley District Council Statement of Licensing Policy made under section 5 of the Licensing Act 2003 – 2014 - 2019</b>
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**RECOMMENDATIONS**

That the Licensing Committee considers the attached revised Statement of Licensing Policy (**Policy**) and **RECOMMENDS** to the Council that

- a) the changes as shown be incorporated;
- b) the Policy as amended be adopted.

**SUMMARY**

With effect from 25 April 2012, the Licensing Act 2003 requires the Council to review its Policy every five years. The current Policy was adopted 7<sup>th</sup> January 2011 with a review date of 7<sup>th</sup> January 2014, as at that time the Licensing Act 2003 imposed a review every three years. For this reason, it is proposed that the proposed Policy be adopted by the Council with immediate effect.

New legislation such as the Police Reform and Social Responsibility Act 2011 and the Live Music Act 2012, as well as various statutory instruments amending the Licensing Act 2003, have been introduced since 7 January 2011. These changes have been reflected and incorporated in the proposed Policy. It has been necessary to make some minor changes to the wording within the Policy to make it clearer. These changes have been highlighted within the proposed Policy for clarity.

In accordance with new guidelines, a twelve week consultation was undertaken and concluded on 30<sup>th</sup> September 2013.

**Access to Services – Helping businesses and residents access the services they need**

This policy ensures a consistent and transparent approach to our Licensing responsibilities, as well as setting out clearly the approach taken in applying the

Licensing Act 2003. It demonstrates how we comply with our legal responsibilities whilst enabling us to listen to and respond to community concerns.

### **Environment - Maintaining the character and environment of Mole Valley**

We are helping to maintain the character and environment of Mole Valley through the delivery of our Licensing functions and by ensuring that we address the the four licensing objectives of the 2003 Act namely

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm

### **Value for Money - Delivering quality, value for money services**

The Licensing Act application fees are currently set by statute, and are used to fund the provision of our licensing activities.

**The Licensing Committee makes its recommendations to the Council who will resolve accordingly on 18<sup>th</sup> March 2014.**

## **1.0 Introduction**

- 1.1 The Council adopted its original Statement of Licensing Policy on the 7<sup>th</sup> December 2004 and it took effect on the 7<sup>th</sup> January 2005.
- 1.2 According to section 5 of the Licensing Act 2003 the Council is required to reconsider its policy every five years and to consult on any changes considered necessary. The last review was conducted and completed in January 2011.
- 1.3 The changes to the Council's licensing policy bring it up to date following recent legislative changes. These changes include:
  - the deregulation of certain aspects of regulated entertainment;
  - the replacement of the term 'interested parties' by 'any other persons' meaning that anyone can voice objections regardless of geographic vicinity provided the objections relate to the licensing objectives;
  - the replacement of the term 'necessary' by 'appropriate' in relation to the steps the Council as a licensing authority may take when determining applications for licences or requests for a review;
  - the relaxation of the time limits relating to Temporary Event Notices (TEN) and the increase in the duration of activities to 168 hours (formerly 96 hours) permitted by a TEN; and
  - the introduction of powers relating to Early Morning Alcohol Restriction Orders and a Late Night Levy.
- 1.4 The statutory guidance under Section 182 of the Licensing Act 2003 was amended in June 2013 and this has required the inclusion of some new

paragraphs in the proposed Policy. Apart from this only minor typographical corrections were needed.

## **2.0 Consultation Responses**

- 2.1 There have been two replies to the consultation. One reply was from Horsey Lightly Finn, Solicitors, requesting a few changes to the content (see paragraph 5 below for detail). These were considered and thought be appropriate to incorporate in the proposed Policy. The Police also responded and requested a minor change to the paragraph relating to Drugs (6.5) which was incorporated in the proposed Policy.

## **3.0 Proposed Changes**

- 3.1 The changes proposed to the existing policy arising out of the consultation are highlighted in the right hand margin of the draft policy. The proposed new policy is shown at **Appendix 1**, together with tracked changes.

## **4.0 Conclusion**

The Committee is asked to **RECOMMEND** that Council adopts the proposed Policy as amended.

## **5.0 Corporate Implications**

**Legal Implications** – Section 5 of the Licensing Act 2003 requires the Council to determine and publish its Licensing Policy every five years. During each five year period, the Council must keep its policy under review and make such revisions to it, at such times as it considers appropriate. The Council must publish either a statement of the revision or the revised licensing statement itself. This has not been necessary in during the lifetime of the current policy. In both cases the Council is required to consult with the statutory consultees who include:

- the police,
- fire and rescue service,
- the applicable local health board(s) and/or public health for its district,
- such persons as the Council (as licensing authority) considers representative of premises, club and personal licence holders, businesses and residents in its area.

Last summer the Council consulted with those organisations set out in Appendix A to the Policy, which were the consultees to the Licensing Policy adopted on 7 January 2011. Only two responses were received as set out in paragraph 2.1 above. Horsey Lightly Finn noted in its response that generally clients are unwilling to pay for their legal advisers to review and comment on local authorities' statements of licensing policy. This feedback has been noted and will need to be borne in mind in relation to the form and extent of future consultations.

A licensing policy may be challenged by judicial review on the ground that it is unlawful, for example for failure to consult properly or where the policy contains material which does not relate to the licensing objectives. As well as undertaking

the consultation as set out in the previous paragraph, the revised Licensing Policy has been drafted in accordance with section 13 of the Secretary of State's statutory guidance issued under s.182 of the Licensing Act 2003.

There are several other national consultations which have recently concluded or which are underway. These include a plan to scrap personal licences, further deregulation for community-based film exhibitions, and the proposal for local authorities to set local licence fees on a cost recovery basis. The Licensing Policy, if adopted, will need to be kept under review and revised where appropriate to reflect these changes.

**Monitoring Officer Commentary** – The legal implications have been taken into account as set out above.

**S151 Officer Commentary** – I confirm that all relevant financial implications have been taken into account.

**Risk Implications** – Failure to have a policy that has been agreed by Members could result in risk of legal challenge and reputational risk.

**Equalities Implications** – There are no equality implications that have been identified and if adopted this revision of the Licensing Policy would be applied consistently across the district to businesses and the community.

**Employment Issues** – There are no employment issues for the purposes of this report.

**Sustainability Issues** – There are no sustainability implications to consider.

**Consultation** – The consultation was commenced in 1 July 2013 and concluded on the 30 September 2013. Only two replies were received (a) from Surrey Police and (b) from Horsey Lightly Finn, Solicitors.

## **BACKGROUND PAPERS**

Licensing Act 2003 (as amended).Guidance issued under Section 182 of the Licensing Act 2003

# **LICENSING POLICY 2014 - 2019**

**(MADE UNDER THE  
LICENSING ACT 2003)**

POLICY REVIEW MARCH 2014

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## 1. Introduction

- 1.1 This statement of licensing policy (**Statement**) provides guidance to Councillors, Council officers, applicants, objectors and others with an interest on the general approach adopted by Mole Valley District Council (**Council**) on licensing matters. Despite this general approach, each licensing matter will be considered separately and on its individual merits. The Council in adopting this Statement is making it clear that wider considerations other than the fitness of the applicant and suitability of the premises will be taken into account in reaching decisions on licensing issues under the Licensing Act 2003 (the **Act**).
- 1.2 The Council aims to strike a balance between the needs of residents and visitors for a safe and healthy environment and the importance of entertainment, recreational and cultural premises to the local economy and vibrancy of the town centres and district as a whole. The Council recognises that balancing the interests of owners, employees, customers and neighbours of pubs, clubs and off-licences will not always be straightforward.
- 1.3 This Statement has been prepared in accordance with the provisions of the Act (section 5) and the statutory guidance issued under section 182 of the Act. The Statement will be regularly reviewed and formally re-published every 5 years. Any changes considered necessary between the 5 yearly reviews will be referred to the full Council, subject to consultation in accordance with the provisions of the Act, and revisions published accordingly.
- 1.4 Nothing in this Statement should be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden.
- 1.5 As this Statement cannot cater for every scenario or set of circumstances, the Council may depart from this Statement where, in the Council's view, the matter requires it; in any such case the Council will give full reasons, in writing, for this decision.

### Scope

- 1.6 This Statement sets out how the Council will fulfill its role as the licensing authority under the Act and make its decisions in respect of licensable activities. Licensable activities are defined in the Act as the:
- Retail sale of alcohol;
  - supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
  - provision of regulated entertainment; and/or
  - Provision of late night refreshment.

Regulated entertainment is:

- a performance of a play;
- an exhibition of a film;
- an indoor sporting event (other than a boxing or wrestling entertainment);
- boxing or wrestling entertainment or which combines boxing or wrestling with one or more martial arts combined fighting sport (also known as Mixed Martial Arts (MMA)) (indoors and outdoors);
- a performance of live music;
- any playing of recorded music;



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

Where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience, and is provided:

- to any extent for members of the public, or a section of the public; **or**
- exclusively for members and their guests of a qualifying club; **or**
- in any case not included above, for consideration (which may be a charge/fee but could constitute some other form of consideration) and with a view to profit; **and**
- the premises on which the entertainment is provided are made available for the purpose, or for purposes which include the purpose of enabling the entertainment to take place.

Late night refreshment means:

- the supply on or off any premises between the hours of 11pm and 5am of hot food or hot drink for consumption.

1.7 Where certain conditions are met, some forms of entertainment are no longer a licensable activity under the Act. Further information is set out in paragraphs 12.4 to 12.9.

## 2. Fundamental Objectives

2.1 The Council will carry out its various licensing functions with a view to promoting the four licensing objectives:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm

2.2 Each objective has equal importance.

2.3 However, the licensing legislation also supports a number of other key aims and purposes. They include:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the police and the Council the powers we need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers the Council to make and enforce decisions about the most appropriate licensing strategies for its district; and
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them.

### **3. Consultation**

- 3.1 There are a number of groups who have an interest in this Statement and how it might affect their work or their lives. The groups/individuals listed in Appendix A were originally consulted on this Statement and their views given due weight in the determination of this Statement.
- 3.2 However, as a result of changes to statutory legislation in April and October 2012, this Statement has been revised and a consultation with the responsible authorities has taken place between July 2013 to October 2013.

### **4. Main Principles**

- 4.1 The licensing function aims to balance a number of competing considerations; the demand for licensed establishments, the economic benefit to the licensee and to the locality by attracting visitors against the effect on law and order, and the impact of those who live and work in that locality.
- 4.2 The Council acknowledges that the licensing function cannot be used for the general control of nuisance and individuals' anti-social behavior once they are away from a licensed premises and beyond the direct control of the licensee of that premises.
- 4.3 Licensing gives the Council the ability, where appropriate, to regulate licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. Conditions, in addition to the mandatory conditions prescribed by the Act, may, where appropriate, be attached to licences, certificates and permissions to cover matters which are within the control of individual licensees i.e. the premises and its vicinity.
- 4.4 When considering conditions, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 4.5 The Council will review the conditions submitted by the applicant in the operating schedule, but reserves the right to vary these where appropriate to do so, and it may attach additional conditions, if a valid representation is made concerning one or more of the licensing objectives which is not adequately addressed by the applicant's operating schedule.
- 4.6 Nothing in the Statement will:
- undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits, and/or
  - override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the Act.
- 4.5 The Council recognises that a partnership approach is more likely to ensure the licensing objectives are achieved and maintained. The Council strongly recommends that the applicant enters into pre-application discussions with the Council and the other relevant authorities, which the Council will facilitate where it is able, so that the licensing process itself can be as trouble-free as possible. In particular, where it is likely that conditions will be appropriate to promote the licensing objectives, pre-application discussions enable draft conditions to be given advance consideration.

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

- 5.1 The Council recognises its duty under Section 17 of the Crime and Disorder Act 1998 to consider the implications of all its decisions on crime and disorder (including anti-social and other behaviour adversely affecting the local environment) and the misuse of drugs, alcohol and other substances.
- 5.2 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.
- 5.3 Applicants will be encouraged to seek advice from the Council's Licensing Officers and Surrey Police, as well as to take into account, as appropriate, local planning and transport policies, tourism, cultural and crime prevention strategies, when preparing their operating schedules for submission. The Council will also seek advice from Surrey Police on matters relating to the promotion of the crime and disorder licensing objective.
- 5.4 The Council will consider attaching conditions to licences to deter and prevent crime and disorder both inside and immediately outside the premises. As far as possible such conditions will reflect local crime prevention strategies and advice received from the Security Industry Authority.
- 5.5 In considering applications the Council will have regard to:
- the training given to staff in crime and disorder prevention measures;
  - features of the premises and their operation such as:
    - the position of cash registers,
    - the location of alcohol on display,
    - the standard of CCTV, its location inside and outside the premises, together with CCTV storage and retention policies,
    - the use of polycarbonate drinkware and/or toughened glasses designed not to have sharp edges when broken,
    - the secure storage of waste that could potentially be used as weapons,
    - limiting sales of bottled alcohol for immediate consumption,
    - the use of responsible pricing promotions and procedures/training in place to avoid irresponsible promotions,
    - music wind-down policies,
  - participation in a local Pubwatch scheme;
  - measures employed to prevent the consumption or supply of illegal drugs;
  - where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
  - the likelihood of any crime or public disorder arising if the application is granted;
  - whether the taking of glasses or glass bottles outside of the premises is proposed to be permitted;
  - whether licensed door supervisors are to be employed.

### **Door Supervisors**

- 5.6 Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must be licensed by the Security Industry Authority. The Council may consider that certain premises require strict supervision for the purpose of promoting the reduction of crime and disorder. In such cases, the Council may impose a condition that an appropriate number of licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

## Cumulative impact

- 5.7 "Cumulative impact" means the potential impact on the promotion of the licensing objectives of the number and type of licensed premises concentrated in one area.
- 5.8 The "need" for another licensed premises is not an issue for the Council as the licensing authority. The question of need is a matter for the Council as the local planning authority and the market.
- 5.9 Cumulative impact is a proper matter for the licensing authority to consider. The Council has not formed the opinion, or been advised, that there is a particular concentration of licensed premises anywhere in the district which is already causing a significant cumulative impact on one or more of the licensing objectives. Accordingly, the Council does not have a special saturation policy (also known as a cumulative impact policy.)
- 5.10 Additional licensed premises in a locality might lead to serious problems of nuisance and disorder outside and some distance from the premises. However, the Council recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community.
- 5.11 The Council is keen to stress however, that as well as the licensing function there are a number of other mechanisms for addressing issues of unruly behaviour, which occur away from licensed premises. These include:
- planning controls;
  - ongoing measures to provide a safer and cleaner environment in partnership with local businesses and others;
  - powers to designate parts of the district as places where alcohol may not be consumed publicly and/or to confiscate alcohol from adults and others in designated areas (in the form of Alcohol Consumption in Designated Public Places Orders for Dorking Town Centre and Leatherhead Town Centre);
  - police enforcement of the law with regard to disorder and anti-social behaviour;
  - police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;
  - the power of police, local businesses, residents or councillors to demand a review of the licence;
  - enforcement action against those selling alcohol to people who are already drunk.
- 5.12 The Council will address a number of these issues in line with the strategic objectives for crime and disorder reduction within the district.

## 6. Public Safety

- 6.1 The Act covers a wide range of premises that require licensing, including cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants and fast food outlets/takeaways.
- 6.2 As already mentioned, applicants will be encouraged to seek advice from the Council's Licensing Officers, Surrey Police and Surrey Fire and Rescue Service as well as taking into account other relevant local strategies, such as crime prevention strategies and the locality, when preparing their operating schedules for submission.

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**Deleted:** Nevertheless cumulative impact will only be considered in the context of the individual merits of an application. ¶

<#>¶  
5.10 . Representations may be received from a responsible authority or other person that an area has become saturated with premises making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves. It could be asserted that this situation is creating exceptional problems of disorder and nuisance over and above the impact from the individual premises. .

¶  
5.11 . In these circumstances, the Council may consider that the imposition of conditions is unlikely to address these problems. Accordingly the Council may 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. The Council must be satisfied there is an evidential basis for including a special policy within its statement of licensing policy. ¶

<#>¶  
<#>5.12 . Any special saturation policy adopted will not be regarded as absolute. The Council will review any special saturation policies on a regular basis to see whether they have had the effect intended, and whether they are still needed. ¶

¶  
<#>5.13 . Any special saturation policy will not be used as a means of introducing a fixed terminal hour into a particular area. Neither will it be used to apply quotas of premises in a particular area.¶

¶  
<#>5.14 . The Council will not use such policies solely:¶  
<#>as grounds for removing a licence when representations are received about problems with existing licensed premises, or,¶

... [1]

**Deleted:** The Council also recognises that, where there is such a policy, it may be able to approve licences that are unlikely to add significantly to the saturation, and will consider the circumstances of each individual application. ¶

<#>¶  
5.17 .

6.3 The Council will consider attaching conditions to licences and permissions to protect public safety.

6.4 To promote public safety the Council will take into account the following considerations where relevant in determining applications and reviews:

- whether appropriate and satisfactory general and technical risk assessments, management procedures and certificates have been made available to the relevant responsible authority and to the Council that demonstrate that the public will be safe within and in the vicinity of the premises;
- whether the premises already has a licence or a fire certificate that specifies the maximum number of people that can attend it or be present and if not, whether a risk assessment has been undertaken as to the maximum number of people who can be present in various parts of the premises so that they can evacuate the premises safely in the event of an emergency;
- ensuring appropriate access for emergency services such as ambulances;
- good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (this may also support the prevention of crime and disorder);
- ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- ensuring appropriate and frequent waste disposal, particularly of glass bottles (this may also support the prevention of crime and disorder);
- considering the use of CCTV in and around the premises (this may also support the prevention of crime and disorder);
- whether there are procedures proposed to record and limit the number of people on the premises with opportunities for “pass outs” and readmission;
- whether patrons can arrive at and depart from the premises safely;
- whether there may be local overcrowding in parts of the premises;
- whether music and dance venues and performance venues will use equipment or special effects which may affect public safety (e.g. moving equipment, vehicles, pyrotechnics, strobe lights, smoke machines);
- whether due account has been given to the measures outlined in the Home Office’s ‘Safer Clubbing’ publication, or other applicable industry guidance or best practice, for applications including music and dancing. The key areas identified in ‘Safer Clubbing’ are:
  - prevention of overcrowding;
  - sound limiters;
  - air conditioning and ventilation;
  - availability of drinking water;
  - further measures to combat overheating;
  - supervision;
  - overall safety.

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## Drugs

- 6.5 The Council recognises that drug use by individuals is not something that is relevant to all licensed premises. However, where it is considered to be a risk (for example nightclubs and other venues where both entertainment and alcohol are available), special conditions may need to be imposed on certain premises to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. In all cases, where conditions are to be imposed, advice will be taken from the local Drugs Action Team and the Police.
- 6.6 The applicant should seek advice from the Police on devising a protocol for the handling of illegal drugs found on the premises.

## Capacity

- 6.7 If no safe capacity has been imposed through other legislation, the Council may impose conditions in relation to the maximum number of persons to attend the premises at any material time when the licensable activities are taking place where it considers it to be appropriate to ensure the safety of those persons, prevent disorder at the premises, or to ensure adequate means of escape from fire. The Council will have regard to advice from the Fire Authority regarding fire safety.

## 7. Prevention of Public Nuisance

- 7.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause public nuisance. This may take the form of low-level nuisance, affecting a few local residents, or a major disturbance affecting the wider community. Public nuisance may also involve the reduction of the living and working amenity and environment of other persons living, working, carrying on a business, or who are regularly in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects.
- 7.2 In considering applications the Council will have regard to the following:
- the steps taken or proposed to be taken to prevent noise and vibration escaping from the premises;
  - the steps taken or proposed to be taken to prevent disturbance by customers arriving at or leaving the premises;
  - the steps taken or proposed to be taken to ensure staff leave the premises quietly;
  - the use of gardens and other open-air areas;
  - delivery and collection times;
  - the location of external lighting (balanced against the prevention of crime disorder licensing objective);
  - litter/refuse management arrangements (balanced against the public safety and prevention of crime disorder licensing objective);
  - the history of previous nuisance complaints (where relevant and appropriate).

- 7.3 The Council will consider attaching conditions to licences and permissions to prevent public nuisance.
- 7.4 Conditions relating to noise nuisance will be tailored to the type, nature and characteristics of the premises, the business and the licensable activities. For example, stricter conditions may be considered in relation to the most sensitive periods, such as when people are attempting to go to sleep or are sleeping, where premises are situated in mainly residential areas or are located near sensitive premises such as places of worship and nursing homes. They may include:
- restrictions on times when music or other licensable activities may take place;
  - ensuring that doors and windows are kept closed after a particular time;
  - the installation of acoustic curtains or rubber speaker mounts;
  - noise limiters.
- 7.5 The Council recognises that noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 7.6 Light pollution and noxious smells may also cause nuisance and the Council will expect operating schedules to satisfactorily address these issues.
- 7.7 Applicants are recommended to seek advice from the Council's Environmental Health Officers before preparing any plans and submitting any operating schedule.

## **8 Protection of children from harm**

### **Access to licensed premises**

- 8.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.
- 8.2 The Act does not prohibit children from having free access to any licensed premises. The Council recognises that limitations may have to be considered where it appears necessary to protect children from harm. Harm can be moral, psychological or physical and arise not only from alcohol, but also exposure to strong or sexual language.
- 8.3 The Council will consult with the appropriate Area Child Protection Committee on any application that indicates there may be concerns over access for children.
- 8.4 The Council will judge the merits of each separate application before deciding whether to impose conditions limiting or prohibiting the access of children to individual premises. The following are examples of premises that will raise concern:
- where a member or members of the current management has or have been convicted for serving alcohol to minors or with a reputation for underage drinking;
  - it is known that unaccompanied children have been allowed access;
  - where there is a known association with drug taking or dealing;
  - where there is a strong element of gambling on the premises;
  - where entertainment of an adult or sexual nature is commonly provided;
  - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of services provided at the premises.

- 8.5 The Council will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:
- limitations on the hours when minors may be present;
  - limitations on admission of children under certain specified ages;
  - limitations or exclusion when certain activities are taking place;
  - requirements for an accompanying adult;
  - full exclusion of people under 18 from the premises, or part of the premises, when and/or where any licensable activities are taking place.
- 8.6 No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee or club.
- 8.7 The Council expects personal licence holders, and others working under their supervision, not to serve alcohol to children under 18, except in the limited circumstances allowed for by law. The Council recommends that when complying with the mandatory age verification policy, proof of a person's age is obtained by reference to one of the following:
- passport;
  - photocard driving licence issued in the EU;
  - cards issued by local schemes that have been verified through the Proof of Age Standards Scheme (PASS) and bear the official PASS hologram; or
  - national identity card, or official identity card issued by HM Forces or an EU country, bearing the photograph and date of birth of the bearer and a holographic mark.

#### **Illegal Sales of Alcohol**

- 8.8 The Council, Surrey Trading Standards Service and Surrey Police take a serious view on the illegal sale of alcohol to minors. Surrey Trading Standards Service will continue to seek to ensure that there are no illegal sales of alcohol to minors. The Council will expect measures to be implemented to ensure the following:
- staff are trained on the law relating to underage sales of alcohol;
  - training should include the checking of identification for proof of age (see paragraph 8.7);
  - records of such training should be maintained and made available for inspection by a Licensing Officer, Police Officer or Trading Standards Officer;
  - the maintenance of a register recording the date, time and reason for the refusal of any sale of alcohol which should be made available for inspection by a Licensing Officer, Police Officer or Trading Standards Officer;
  - staff warning notices displayed where an electronic point of sale system (EPOS) is in use, especially where alcohol is not the main item sold.
- 8.9 Licence holders/applicants should consider carefully the additional steps, including additional procedures and staff training, which they are required to take to comply with the age verification requirements under the Act in relation to sales of alcohol made remotely (online, by telephone and/or alcohol delivery services). Before alcohol is physically delivered to the customer, the licence holder must be satisfied that the customer is aged 18 or over. It is, therefore, the responsibility of the person serving or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.



## **Access to Cinemas**

- 8.10 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example, scenes of horror, violence or a sexual nature that may be considered unsuitable for children within certain age groups.
- 8.11 In order to prevent children from seeing such films, the Council will expect suitable arrangements to be made clear in operating schedules and will impose conditions requiring licensees to restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification (BBFC).
- 8.12 In connection with a film exhibition, conditions will specify that immediately before each exhibition at the premises of a film (other than a current newsreel) passed by the BBFC, there shall be exhibited on screen for at least ten seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of a certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the category of the film. For the film passed by the Council, conditions will require notices to be displayed both inside and outside the premises so that persons entering can readily read them and be aware of the category attached to any film or trailer.

## **Children and public entertainment**

- 8.13 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, and additional arrangements are required to safeguard them while at the premises.
- 8.14 Where a regulated entertainment is specially presented for children, the Council will require the following arrangements in order to control their access and egress and to assure their safety:
- 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;
  - 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;
  - arrangements for the safe care of lost children until they are re-united with their parent or guardian.
- 8.15 The Council will expect the submitted operating schedule to satisfactorily address these issues.
- 8.16 The Council will consider attaching conditions to licences and permissions to protect children from harm.

## **9 Nudity, Striptease and Sex Related Entertainment**

- 9.1 Applicants should specify in their operating schedule whether they propose to have entertainment involving nudity or striptease or any other activity involving full or partial nudity, e.g. topless waitresses etc, or sex related entertainment such as the showing of films or other recordings with an 18 restricted category.
- 9.2 Applications involving nudity or striptease or sex related entertainment will be subject to appropriate conditions which promote the licensing objectives. These may include conditions relating to:

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- the exclusion of persons under 18 at all times from premises where these activities take place;
- the prohibition of these activities from taking place at a time when children are likely to be in proximity to the premises (e.g. end of the school day);
- the prevention of views into the premises;
- the prohibition of exterior advertising of the sex related entertainment at the premises, and the leafleting or touting for business;
- requiring that all service is to seated customers;
- the prohibition of the participation of customers in performances;
- maintaining a minimum distance of one metre between performers and customers and between performers during performance (to monitor that no touching or other acts that would constitute disorder take place);
- the installation and operation of CCTV and retaining recordings of performances;
- the employment of supervisors;
- other conditions as appropriate.

9.3 Applications will not generally be granted in close proximity to:

- residential accommodation;
- schools;
- places of worship;
- community facilities or public buildings;
- hospitals or other healthcare providers;
- youth clubs.

9.4 The Council will have regard to the cumulative effect of the number of such premises in any area within the district.

9.5 The licensing of sexual entertainment venues is controlled by the Local Government (Miscellaneous Provisions) Act 1982. These venues include: lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows. For any other regulated entertainment or the sale or supply of alcohol included in the premises, a premises licence or club premises certificate will also be required.

9.6 [The Council has no separate policy relating to sexual entertainment venues.](#)

## 10 Licensing Hours

10.1 The Council recognises that longer licensing hours for the sale of alcohol would avoid large numbers of people leaving premises at the same time. This in turn could reduce the friction at late night fast food outlets and sources of transport that can lead to disorder and disturbance.

10.2 Fixed licensing hours within designated areas will not be set as this could lead to significant movements of people across boundaries at particular times seeking premises which open later, with the attendant concentration of disturbance and noise. This would treat residents in one area less favourably than those in another, as well as causing the peaks of disorder and disturbance the Act is trying to avoid.

10.3 The Council will generally deal with the issue of licensing hours having due regard to the individual merits of each application. These considerations will include:

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- the proposed hours of the licensable activity and when customers will be permitted to remain on the premises;
- the proposed hours when any music, including incidental music, will be played;
- the hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises;
- the existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity;
- whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night;
- the capacity of the premises;
- in attaching conditions on hours the Council will generally require that customers should not be allowed to remain on the premises later than half an hour after the time that activities are licensed to take place;
- in attaching conditions on hours the Council will generally require that the sale of alcohol for consumption on the premises stops no less than half an hour before customers are required to leave the premises;
- the Council may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives.

### **Late Night Refreshment**

- 10.4 Applications for premises offering late night take away food and drink will be considered on their individual merits. However, the impact upon the licensing objectives of people gathering at such premises after other licensed premises have closed can be considerable, and in determining licensing hours, regard will therefore be had to the density and closing times of other licensed premises in the vicinity.

### **Shops, Stores and Supermarkets**

- 10.5 The Council will generally permit stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping.
- 10.6 However, it may consider there are very good reasons for restricting those hours, for example, where police representations made in respect of shops known to be the focus of disorder and disturbance.

## **11 Temporary Event Notices (TEN's)**

- 11.1 The Act allows small scale events (for less than 500 people at a time and lasting for no longer than 168 hours) which include any licensable activities to be held without the need for a premises licence. It is a light-touch regime, however advance notice (in the form of a TEN) must be given to the Council 10 working days excluding the day on which the TEN was submitted and the date of the event itself. A working day is any day except Sunday, Christmas Day, Good Friday and any bank holiday.
- 11.2 A Late TEN can be submitted but it must be no more than 9 working days before and no less than 5 working days excluding the day on which the late TEN was submitted and the date before the event itself. A personal licence holder. A Personal Licence Holder is allowed 10 late TENs. late applications per year and a non-personal licence holder is allowed two late TENs per year and these count towards the limits on TENs per year, which are 5 TENs per year for non-personal licence holders and 50 TENs for personal licence holders. No more than 12 TENs can be given for any particular premises in any one year and the maximum total duration cannot exceed 21 days.

- 11.3 The Police and Environmental Health team must also be given notice. The Police or Environmental Health team may intervene to prevent such an event taking place. In relation to a standard TEN, if the Police or Environmental Health send an objection to the Council no later than three working days from being given the notice, the Council must consider on the basis of the licensing objectives whether the event should go ahead. If the standard TEN is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. Alternatively the Police and or the Environmental Health team may agree directly with the TENs user changes to the proposed arrangements. If there is an objection to a late TEN from either the police or EHA, the event will not go ahead.
- 11.4 The Council would prefer that organisers give at least 28 days notice of a temporary event to allow Council Officers, the Police and the Environmental Health team time to provide advice and guidance if necessary.

## **12 Live Music, Dancing and Theatre and Community Cultural Life**

- 12.1 The Council recognises the importance of the various forms of regulated entertainment to the health of the cultural life of its district and the right of everyone to take part in cultural life (International Covenant on Economic, Social and Cultural Rights Article 15).
- 12.2 When considering applications for such events and the imposition of conditions on licences or certificates, the Council will consider the wider cultural benefits as well as the potential for disturbance when seeking to promote the licensing objectives. Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment.
- 12.3 Only conditions strictly necessary for the promotion of the licensable objectives will be attached to a licence for activities of this nature as the Council is aware of the need to avoid imposing substantial indirect costs.
- 12.4 With the introduction of The Live Music Act 2012 which came into effect on the 1<sup>st</sup> October 2012, the exemption for music accompanying Morris dancing has been extended so that it applies to the playing of live or recorded music as an integral part of a performance of Morris dancing or similar activity.
- 12.5 Live music in licensed venues is deregulated where:
- premises are open for the supply of alcohol (i.e. during alcohol licensed hours); and
  - it is between 8:00 am and 11:00 pm; and
  - either it is unamplified or is amplified but the audience does not exceed 200; and
  - conditions relating to live music have not been specifically included on the licence or certificate following a review.
- 12.6 Live music in workplaces which are unlicensed for alcohol or entertainment is deregulated where the audience does not exceed 200 and it is performed between 8:00 am and 11:00 pm.
- 12.7 Live unamplified music is deregulated where it takes place between 8:00 am and 11:00 pm (no restriction on audience numbers). An unamplified symphony orchestra performing up to 11:00 pm before an unlimited audience is deregulated.

- 12.8 Further deregulation of entertainment has been introduced by The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013. A performance of a play is deregulated where it takes place between 8:00 am and 11.00pm and the audience does not exceed 500; an indoor sporting event is deregulated where it takes place between 8:00 am and 11.00pm and the audience does not exceed 1,000; and a performance of a dance is deregulated where it takes place between 8:00 am and 11.00pm, the audience does not exceed 500 and it is not sex-related entertainment.

**Deleted:** To take advantage of the deregulation introduced by The Live Music Act 2012 relating to live music in licensed venues or workplaces, the capacity must be in accordance with the recommendation made by the fire and rescue authority on the capacity of the premises under the 2005 Order. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the "permitted capacity" of those premises should be.

12.9 .

### 13 Equality

- 13.1 The Council is mindful of its obligations under the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination, harassment and victimization, to advance equality of opportunity and to foster good relations between persons with different protected characteristics. The protected characteristics are age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Council will have due regard to its own Equality Strategy.
- 13.2 The Council will conduct a review after 12 months, in line with its Equality Strategy, to see if this Statement has had an impact on any of the issues covered by the scheme.

### 14 Integrating Strategies and Avoiding Duplication

- 14.1 There are many strategies that can have implications for licensing, including equality schemes, cultural strategies, planning, transport, tourism, and crime prevention. The Council recognises that it is important these different policy strands are "joined-up". In order to assist this process, views will be invited from various stakeholders on how the licensing policy might affect or be affected by these other strategies.
- 14.2 As an on-going measure an inter-departmental licensing forum, the Special Advisory Group, monitors such matters for the future and one of its objectives is to ensure all policies are properly integrated.
- 14.3 Arrangements will be made for the Licensing Committee to receive reports on the following matters to ensure these are reflected in their decisions:
- the needs of the local tourist economy;
  - the cultural strategy for the district;
  - the employment situation in the district;
  - the need for new investment and employment;
  - the local evening transport issues;
  - local crime and disorder situation;
  - alcohol related crime and disorder;
  - hospital/accident and emergency admissions relating to alcohol;
  - equality impact assessment of the licensing policy.
- 14.4 The Development Control Committee will be kept apprised of any relevant Licensing Committee issues and vice-versa.
- 14.5 The Council recognises that there should be a clear separation of the planning/building control and licensing regimes and licensing applications should not be a re-run of a planning application. The granting of a premises licence or club registration certificate does not remove the obligation on the applicant to secure planning permission or any other necessary consents, and/or to comply with the terms of planning permission (including any planning conditions).

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- 14.7 Where the terms of the premises licence granted are not compatible with the terms of any planning permission (including any planning conditions), the applicant should contact the local planning authority for advice.
- 14.8 The Council recognises the need to avoid so far as possible duplication with other regulatory regimes. However, some regulations do not cover the unique circumstances of some entertainment and the Council will consider attaching conditions to premises licences and club premises certificates where these are appropriate for the promotion of the licensing objectives and are not already provided for in any other legislation.

### **Inspections of premises**

- 14.9 A Council Officer will inspect any premises which has not been previously licensed to assess the likely effect of the grant of the application upon the licensing objectives and this policy. The Council may also inspect premises which have applied for a variation if deemed necessary. This decision will be made on a case to case basis but generally minor alterations will not require an inspection. Any such inspection will be arranged at the earliest suitable time after receipt of an application.
- 14.10 If other departments or agencies such as planning, fire service or the police need to inspect any premises on an application for variation the Council will aim to reduce inconvenience by coordinating inspections where appropriate.

### **15 Conditions**

15.1 In addition to the mandatory conditions of the Act, conditions attached by the Council to licences or certificates will be tailored to the individual style, location and characteristics of the particular premises and of the licensable activities and/or events concerned wherever practicable.

15.2 Applicants should apply their knowledge of the local area when formulating the appropriate steps they propose to take to promote the licensing objectives such as:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
- any risk posed to the local area by the applicants' proposed licensable activities; and
- any local initiatives which may help to mitigate potential risks.

15.3 Applications must not be based on providing a set of standard conditions to promote the licensing objectives.

**Deleted:** and applicants are expected to make it clear why the steps they are proposing are appropriate.

15.4 License conditions:

- must be appropriate for the promotion of the licensing objectives;
- evidenced;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- should not replicate offences set out in the Act or other legislation;
- should be proportionate, justifiable and be capable of being met;

- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave;
- should be written in a prescriptive format;
- be expressed in plain language capable of being understood by those expected to comply with them.

15.5 Conditions applied in each case will be those which are mandatory and any considered appropriate by the licensing authority and the wording, where appropriate, may be informed by the recommendations of the Police.

## **16 Self-regulation**

16.1 The Council recognises the merit of the PubWatch scheme and the contribution it makes to the promotion of the licensing objectives. The Council would encourage licensed premises to join the scheme. The Council also recognises and commends the Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. Compliance with the Code will contribute to the achievement of the licensing objectives and all suppliers of alcohol within the district are encouraged to comply with the Code.

## **17 Enforcement**

17.1 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act. The Council will make arrangements to monitor premises and take appropriate enforcement action in accordance with the Council's Environmental Health and Housing Enforcement Policy to ensure this. The Council will seek to target resources at agreed problem and high-risk premises.

17.2 The Council will work closely with Surrey Police to establish protocols to ensure an efficient deployment of Police and Council Officers engaged in enforcing licensing law and inspecting licensed premises. Appropriate arrangements will also be made with the Fire Service and Trading Standards.

17.3 The Act details a number of offences designed to protect children in licensed premises and the Council will work closely with the Police and Trading Standards to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.

17.4 The Council will ensure that licensed premises closed by the police using their powers under the Act or the Criminal Justice and Police Act 2001 will be subject to a review.

17.5 The Council is bound by the principles of good regulation set out in, and the statutory compliance Code (based on the Hampton Review published in 2005) made under, the provisions of the Legislative and Regulatory Reform Act 2006.

17.6 The Council will encourage written authorisations being provided, where appropriate, for non Personal Licence Holders involved in the sale of alcohol. When the Designated Premises Supervisor is absent from the premises the authorisations can be made available for authorised officers to examine.

## **18 Liaison with the Courts**

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18.1 Where a court has convicted a personal licence holder of a relevant offence and may or may not have ordered the suspension or forfeiture of a personal licence, the Council will be notified. The Council will promptly contact the personal licence holder so that the licence can be suitably endorsed or retained. The Police will be advised of any difficulties.

## 19 Representations

19.1 The Act provides for representations to be made by various parties concerning various licences and certificates. The Act also provides for representations to be made requesting that licences be reviewed.

19.2 The tables following provide more detail.

<b>Representations</b>		
<b>License type/issue</b>	<b>Relevant parties</b>	<b>Grounds</b>
Premises licence or club certificate – application	Other persons Responsible authorities	Likely effect of the grant on the promotion of the licensing objectives
Premises licence-application to vary	Other persons Responsible authorities	Likely effect of the grant on the promotion of the licensing objectives
Premises licence – application to transfer	Police	Undermine crime prevention objective
Proposed designated premises supervisor	Police	Undermine crime prevention objective
Provisional statement - application	Other persons Responsible authorities	Likely effect on the licensing objectives
Interim authority notice	Police	Undermine crime prevention objective
Club premises certificate-application	Other persons Responsible authorities	Likely effect of the grant on the promotion of the licensing objectives
Club premises certificate – application to vary	Other persons Responsible authorities	Likely effect of the grant on the promotion of the licensing objectives
Personal licence-Application/renewal	Police	Undermine crime prevention objective



Premises Licence/Club Premises Certificate – Minor Variation	Corporate Head of Service	Likely effect of the grant on the promotion of the licensing objectives
Temporary Event Notice	Police and Environmental Health	Undermine the promotion of the licensing objectives
<b>Applications for Reviews</b>		
Premises licence – existing	Other persons Responsible authorities	Application must relate to one or more licensing objective
Club certificates - existing	Other persons Responsible authorities Club members	Application must relate to one or more licensing objective
Personal licences – existing	None	

- 19.3 If relevant representations are made about an application the Council will hold a hearing to consider them unless the Council, the applicant and everyone who has made representations agrees that the hearing is not necessary.
- 19.4 Representations can only be considered if they are concerned with one of the four licensing objectives:
- the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance;
  - the protection of children from harm.
- 19.5 'Relevant representations' are representations which are:
- about the likely effect of the premises licence on the promotion of the licensing objectives;
  - made by an 'other person' or a responsible authority, that have not been withdrawn and, in the case of representations made by an 'other person', they are not in the Council's opinion frivolous or vexatious and in relation to an application for a review, not repetitious.
- 19.6 Formerly known as an 'interested party', the Act now refers to 'other persons' which can be any person, body or business, regardless of their geographic proximity. Other persons may request that a representative makes the representation on their behalf. A representative may include a legal representative, a friend, a Member of Parliament. A local ward or parish councillor can also act in such a capacity, subject to the considerations in paragraphs 19.7 - 19.9 below.

19.7 'Responsible authority' means:

- the chief officer of police;
- the local fire and rescue authority;
- the local planning authority;
- the licensing authority;
- the local authority exercising statutory functions in relation to minimising or preventing the risk of environmental pollution or of harm to human health;
- a body representing those responsible for or interested in matters relating to the protection of children from harms and recognised by the licensing authority as competent to advise it on such matters;
- the local health board (successor to the Primary Care Trust (PCT));
- the local weights and measures authority (trading standards);
- the local enforcement agency for the Health and Safety at Work etc. Act 1974 etc. authority.

19.8 Councillors have a duty to act in the interests of all of their constituents. Their role as a community advocate must be balanced with their ability to represent specific interests.

19.9 A Parish councillor can be an 'other person' in their own right and can also be a representative of one or more 'other persons'. A parish council itself can be an 'other person'. For example, a parish councillor can speak at a hearing on behalf of a parish council, individual resident or organisation that has made a representation or in his own right.

19.10 However, there are rules relating to prejudicial interests, being an interest that a member of the public would reasonably regard as so significant that it is likely to prejudice the councillor's judgment of the public good, in the Code of Conduct for Members. The rules apply to any councillor whether or not a member of the licensing committee. These rules allow a councillor with a prejudicial interest in an application to attend relevant meetings, to make representations, answer questions or give evidence, provided the public is allowed to do likewise, and he or she withdraw immediately afterwards. A councillor representing others or acting in his or her own right, who is also a member of the licensing committee, will be expected to disqualify him- or herself from any involvement in the decision-making process affecting the application.

## **20 Hearings**

20.1 A hearing is not required where an application has been properly made and no responsible authority or other person has made a relevant representation. In these cases, the Council must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the Act. The Officers will reflect the proposals contained in the operating schedule to promote the licensing objectives in the form of clear and enforceable licence conditions.

20.2 If a representation is made to the Council by a responsible authority or another person concerning an application before it then, unless the representation is not relevant or is withdrawn, the Council will convene a hearing so that both sides can present their views.

20.3 Where only 'positive' representations are received, without qualifications, the Council will notify the persons who made representations and give them the opportunity to withdraw those representations no less than one day before the date of the hearing to avoid a hearing having to be held, unless the Council exercises its power to extend time limits in the public interest.

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- 20.4 Such hearings will be convened as quickly as possible and will normally be held before a sub-committee in the daytime. It is appreciated that certain hearings will need to be convened extremely quickly. The regulations require hearings to be held within 20 working days beginning with the day after the end of the period set out by the Act during which representations may be made.
- 20.5 Decisions as to whether representations are not relevant, or are frivolous or vexatious, or in the case of an application for review, repetitious, must be made objectively and not on the basis of any political judgment. The decision on whether a representation is put before a licensing sub committee will be made by Officers. If a representation is rejected, the person making the representation will be notified, in writing, of the reasons for its rejection. A report will then be made to the licensing committee indicating the grounds of the representation and the reason for its rejection.
- 20.6 A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause.
- 20.7 Ward councillors will not normally sit on a sub committee when considering matters relating to a premise located in an area represented by that councillor.
- 20.8 The Council sends out by post copies of its hearings procedures to ensure that those involved have the most current information.
- 20.9 The Council will give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. Notification of a decision will be accompanied by information on the right of the party to appeal.

## **21 Reviews**

- 21.1 Reviews of premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring. If representations are made, the Council is required to ensure they are not repetitious, frivolous or vexatious. If the representations are considered relevant a hearing will be convened to consider them unless the Council, the applicant and everyone who has made representations agrees that the hearing is not necessary. The decision on whether a representation or application for a licence review is put before a licensing sub-committee will be made by officers.

## **22 Internal Consultations**

- 22.1 There may be several Council departments which will have a view on a particular application. To ensure that all such views that relate to the licensing objectives are taken into account, information will be shared internally so that an informed decision can be made on each case.

## **23 External Communications**

- 23.1 The Council has set up a liaison group, known as the Special Advisory Group, where all parties with an interest can monitor developments, problems arising etc. The Council is also encouraged to have regular open meetings amongst the local community.
- 23.2 It is proposed to address this issue using the existing Police and Community Partnership Groups in the district. These groups meet regularly and also have open sessions.

## **24 Turnaround Times**

- 24.1 The Act sets some limits on the time (statutory time limits) for determining certain applications. The Council will acknowledge the application as quickly as possible, specifying the statutory time limits and the appeal process. Notwithstanding the statutory time limits, the Council aims to process applications as quickly as possible. Updating personal and premises licences with changes, and transfers of premises licences, will all be carried out as expeditiously as possible.
- 24.2 If required information in the application is missing or incorrect and these are not small e.g. factual errors which can be rectified with information already in the Council's possession, the Council may at its discretion 'hold' the application until the applicant has supplied all the required information. This effectively resets the period for determining an application and may be done any number of times until the application form is complete. If the Council does 'hold the application', it will notify the applicant as quickly as possible of the missing or incorrect information, and explain how this will affect the statutory timescale and advertising requirements. Applicants should not advertise the application in a local newspaper until they have received confirmation from the licensing authority that the application includes all the required information.
- 24.3 Plans must be in a format which is "clear and legible in all material respects". They must be accessible and provides sufficient detail for the Council to be able to determine the application, including the relative size of any features relevant to the application. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information.

## **25 Annual Fees**

- 25.1 Subject to statutory exemptions the holder of a premises licence shall pay the Council an annual fee, the amount of which shall be determined in accordance with the provisions of the current relevant regulations. It is the responsibility of the licence holder(s) to ensure that the annual fee is paid on the anniversary of the date the Premises Licence was granted. The Council Officers will send out a reminder letter to the Licence Holder(s) regarding the Annual Fee.
- 25.2 Failure to pay the Annual Fee by the Licence Holder(s) will result in the premises licence or club premises certificate being suspended until such time as the fee is paid. There is a grace period of 21 days because of an administrative error or because the holder disputed liability for the fee before or at the time of the due date. This period is intended to allow the Council and the licence or certificate holder an opportunity to resolve the dispute or error.

## **26 Register**

- 26.1 The Council will maintain a register in accordance with statutory requirements.

## **27 Countywide Liaison**

- 27.1 The Council will continue to support and participate in the Surrey Countywide Licensing Forum.

## **28 Exercise and Delegation of Functions**

- 28.1 The Council has delegated the licensing functions to the Licensing Committee.

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28.2 The Committee has the power to delegate certain decisions and functions to sub-committees and officers. The Committee has adopted the following scheme for its delegated functions under the Act:

MATTER TO BE DEALT WITH	FULL COMMITTEE	SUB-COMMITTEE	OFFICERS
Application for personal licence		If a police objection	If no objection made
Application for personal licence, with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club registration certificate		If a relevant representation made	If no relevant representation made
Determination of minor variation application			All cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises registration		All cases	
Decision on whether a representation is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If police objection	All other cases
Determination of an objection to Temporary Event Notice		All cases	

28.3 All such matters dealt with by Sub-committee or Officers will be reported for information and comment only to the next available Licensing Committee meeting.

## 29 Early Morning Restriction Orders

29.1 An Early Morning Restriction Order (EMRO) may be made by the Council to restrict the sale of alcohol in areas where there is evidence of alcohol-related crime and disorder. The power was introduced by the Police Reform and Social Responsibility Act 2011 and came into force on 31st October 2012.

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- 29.2 An EMRO allows the Council to restrict the sale of alcohol if it considers this appropriate for the promotion of the licensing objectives. The Council may make an EMRO for the whole or a part of its district. This could apply, for example, to a town centre or a single street where problems associated with late night drinking have been identified. An EMRO is intended to be a flexible tool which may be applied for any period between midnight and 6.00 am and may be for a finite period or of unlimited duration. It may be made for the same time period every day or for different periods on different days.
- 29.3 A proposed EMRO must be advertised for a period of no less than 42 days. A Responsible Authority and any person who is likely to be affected by the proposed EMRO may make representations to the Council about it and, provided they are relevant, the Council must hold a hearing to consider them.
- 29.4 The only exceptions to an EMRO will be:
- premises authorised to sell alcohol only New Year's Eve (between midnight and 6.00 am on 1 January)New Year's Eve
  - premises such as hotels or similar premises supplying alcohol to persons consuming alcohol in the privacy of their room.
- 29.5 The Home Office has published guidance on EMROs and this can be viewed on the Home Office website
- 29.6 The Council has made no decision on whether to make an EMRO for any part of its district.

### **30 Late Night Levy**

- 30.1 The late night levy allows the Council to raise a financial contribution from late opening alcohol-licensed premises towards the cost of policing the night time economy. The power was introduced by regulations made under the Police Reform and Social Responsibility Act 2011 and came into force on 31st October 2012.
- 30.2 In deciding whether to implement the levy, the Council must consider "*the costs of policing and other arrangements for the reduction or prevention of crime and disorder in connection with the supply of alcohol between midnight and 6.00 am*".
- 30.3 The levy must be applied to the whole of the Council's district area. The Council is be able to choose the period between midnight and 6.00 am (the 'late night supply period') during which the levy will apply and can decide what exemptions and reductions should apply. The Council would have discretion to exempt the following premises from the levy:
- Premises with overnight accommodation (e.g. hotels, guest houses with non-public bars);
  - Theatres and cinemas;
  - Bingo halls;
  - Community premises;
  - Members of Business Improvement Districts;
  - Community Amateur Sports Clubs;
  - Public houses which are the sole public house in a community of less than 3,000 and entitled to rural rate relief;
  - premises which are licensed to supply alcohol on New Year's Eve (between midnight and 6.00 am on 1 January).

30.4 At least 70% of the proceeds generated by the levy must go to the police (although there is no requirement for the police to spend it in the Council's area) with the remainder of up to 30% going to the Council to fund relevant initiatives which promote the reduction of crime and disorder, public safety, reduction or prevention of public nuisance or the cleaning of any relevant highway or land. One example of such an initiative would be taxi marshal schemes).

30.5 The rates for the levy are shown in the table below.

Rateable Value of Premises	Amount of Levy
£0 - £4,300 (Category A)	£299
£4,301 - £33,000 (Category B)	£768
£33,001 - £87,000 (Category C)	£1,259
£87,001 - £125,000 (Category D)	£1,365
Over £125,000 (Category E)	£1,493
Category D that primarily or exclusively sell alcohol	£2,730
Category E that primarily or exclusively sell alcohol	£4,440

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30.6 In order to introduce the Levy, the Council must consult the local police force (the PCC), the Chief Officer of Police for the area and holders of late night licences and publish its proposals online and advertise them in a local newspaper. There is no provision for persons to make representations about a proposal to introduce the levy. However, the Council must fully consider all responses to the consultation. Licence holders who wish to avoid the levy will be able to apply for a free minor variation prior to the levy coming into force. The levy does not apply to premises licensed only for regulated entertainment or late night refreshment.

30.7 The Council should take into account the financial viability of implementing a levy in its area.

30.8 The Home Office has published guidance on the levy and this can be viewed on the Home Office website.

30.9 The Council has taken no decision at this stage on whether to apply the levy to its district.

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**Contact Points for Advice**

If you require any advice or explanation about this policy please contact:-

Richard Haddad, Environmental Health Manager

Tel 01306 879225

Or

John Pleasance, Senior Licensing Officer

Tel 01306 879351

Email: [licensing@molevalley.gov.uk](mailto:licensing@molevalley.gov.uk)

Fax 01306 879329

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## **APPENDIX A**

### **ACRE**

**Admiral Taverns (Cygnet) Ltd  
All Parish Councils  
ASB Law  
Blake Laphorn  
Bond Pearce  
British Beer & Pub Association  
CAMRA Limited  
Cross Oak Inns Plc  
Downs Solicitors  
Fullers, Smith and Turner Plc  
Greene King Retailing Limited  
Hall and Woodhouse Limited  
Halliwells LLP  
Hancock Inns (Southern) Ltd  
Health & Safety Executive  
Horsey Lightly Fynn  
JD Wetherspoon Plc  
LACORS  
Local Ward Councillors  
Lockett & Co  
Merlin Inns Ltd  
Mitchells and Butlers Leisure Retail Ltd  
Poppleston Allen  
Punch Taverns  
Primary Care Trust  
Stephen Thomas Law  
Surrey Child Protection Team  
Surrey Fire & Rescue  
Surrey Police  
Surrey Trading Standards  
TLT Solicitors  
Trust Inns Limited  
Winkworth Sherwood  
Young & Co's Brewery**

Nevertheless cumulative impact will only be considered in the context of the individual merits of an application.

- 5.10 Representations may be received from a responsible authority or other person that an area has become saturated with premises making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves. It could be asserted that this situation is creating exceptional problems of disorder and nuisance over and above the impact from the individual premises.
- 5.11 In these circumstances, the Council may consider that the imposition of conditions is unlikely to address these problems. Accordingly the Council may 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. The Council must be satisfied there is an evidential basis for including a special policy within its statement of licensing policy.
- 5.12 Any special saturation policy adopted will not be regarded as absolute. The Council will review any special saturation policies on a regular basis to see whether they have had the effect intended, and whether they are still needed.
- 5.13 Any special saturation policy will not be used as a means of introducing a fixed terminal hour into a particular area. Neither will it be used to apply quotas of premises in a particular area.
- 5.14 The Council will not use such policies solely:  
as grounds for removing a licence when representations are received about problems with existing licensed premises, or,  
to refuse modifications to a licence, except where the modifications are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits.
- 5.15