



# **LICENSING POLICY MADE UNDER THE**

# **LICENSING ACT 2003**

POLICY REVIEW JANUARY 2008

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## **1. Introduction**

- 1.1 This statement provides guidance to Councillors, Council officers, applicants, objectors and interested persons on the general approach adopted by the Council on licensing matters. Despite this general approach being devised each licensing issue will be considered separately on its individual merits. The Council in adopting this statement of licensing policy 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.
- 1.2 The policy 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 revised 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the Act and the Guidance issued under Section 182. The policy will be published and reviewed every 3 years. Any changes considered necessary between the 3 yearly reviews will be referred to the full Council subject to consultation in accordance with the provisions of the Act.
- 1.4 Nothing in this policy document should be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden.
- 1.5 The Council may depart from this policy in exceptional circumstances, in any such case the Council will give full reasons, in writing, for this decision.

## **Scope**

- 1.6 This policy concerns how Mole Valley District Council will fulfill its role as the licensing authority under the Licensing Act 2003 and make its decisions in respect of licensable activities. Licensable activities are defined in the Act and are as follows:
  - 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
  - Provision of late night refreshment

Regulated entertainment is

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- Boxing or wrestling entertainment (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.
- Provision of entertainment facilities to enable the entertainment to take place

Where the entertainment, or the entertainment facilities, are provided:

- to any extent for members of the public , or a section of the public;
- exclusively for members and their guests of a qualifying club;
- or in any case not included above, for consideration and with a view to profit.

Late night refreshment means

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

## **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
- the protection of children from harm

2.2 Each objective has equal importance.

## **3. Consultation**

3.1 There are a number of groups who have an interest in this policy and how it might affect their work or their lives. The groups/individuals listed in Appendix A have been consulted on this policy. Their views have been given due weight in the final determination of the Statement.

## **4. Main Principles**

4.1 The Council acknowledges that the licensing function cannot be used for the general control of individuals' anti-social behavior once they are beyond the direct control of the licensee of any premises concerned.

4.2 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act, and conditions are likely to be attached to

licences, certificates and permissions that will cover matters which are within the control of individual licensees.

- 4.3 When considering these 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.
- 4.4 Nothing in the 'Statement of Policy' 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. Pre-application discussions between the applicants, the Council and the other relevant agencies will be encouraged and facilitated so that the licensing process itself can be as trouble-free as possible.
- 4.6 The Council will only attach conditions, in addition to any mandatory conditions or conditions contained in the operating schedule, if a valid representation is made concerning one or more of the licensing objectives.

## **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 crime and disorder implications of all of its decisions.
- 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 taking into account, as appropriate, local planning and transport policies, tourism, cultural and crime prevention strategies, when preparing their operating schedules for submission.
- 5.4 The Council will consider attaching conditions to licences to deter and prevent crime and disorder both inside and immediately outside the premises, and these may include conditions drawn from the Model Pool of Conditions relating to Crime and Disorder. As far as possible such conditions will reflect local crime prevention strategies.
- 5.5 In considering applications the Council will have regard to:
1. the ability of the person in charge of the premises to monitor the premises at all times it is open;
  2. the training given to staff in crime and disorder prevention measures;

3. features of the premises and their operation. This may include matters such as the position of cash registers, the location of alcohol on display, the standard of CCTV, the use of 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, music wind-down policies;
4. participation in a local Pubwatch scheme;
5. measures employed to prevent the consumption or supply of illegal drugs,
6. where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
7. the likelihood of any crime or public disorder arising if the application is granted.
8. whether the taking of glasses or glass bottles outside of the premises is proposed to be permitted
9. 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 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" - 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 pub etc is not an issue for the Council as the licensing authority. The question of need is a matter for the planning committee and the market. Cumulative impact is a proper matter for the licensing authority to consider. Currently the Council has not formed the opinion 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.
- 5.9 Clearly additional licensed premises in a locality might lead to serious problems of nuisance and disorder outside and some distance from the premises. 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 interested party 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 the 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 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.
- 5.16 The Council also recognises that, within this 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 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
  - confiscation of alcohol from adults and others in designated areas
  - 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 or residents to demand a review of the licence
  - enforcement action against those selling alcohol to people who are already drunk

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, when preparing their operating schedules for submission.
- 6.3 The Council will consider attaching Conditions to licences and permissions to protect public safety, and these may include conditions drawn from the Model Pool of Conditions relating to 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 have 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
  - 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 for applications including music and dancing. The key areas identified are:
    - Prevention of overcrowding;
    - Air conditioning and ventilation;
    - Availability of drinking water;
    - Further measures to combat overheating;
    - Overall safety.

## **Capacity**

- 6.5 The Council may impose conditions in relation to the maximum number of persons to attend the premises at any one time where it considers it to be necessary to ensure the safety of those persons 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 a range of nuisances impacting on people living, working or sleeping *in* the vicinity of the premises.
- 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 ensure staff leave the premises quietly;
  - the use of gardens and other open-air areas;
  - delivery and collection times;
  - the siting of external lighting;
  - the history of previous nuisance complaints.
- 7.3 The Council will consider attaching Conditions to licences and permissions to prevent public nuisance, and these may include Conditions drawn from the Model Pool of Conditions relating to Public Nuisances. The conditions may include restrictions on times when music or other licensable activities may take place and may impose technical restrictions on levels of sound at premises. However, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated in mainly residential areas or are located near sensitive premises such as places of worship and nursing homes. Light pollution and noxious smells may also cause nuisance and the Council will expect operating schedules to satisfactorily address these issues.
- 7.4 Applicants will be recommended to seek advice from the Council's Environmental Health Officers before preparing any plans and submitting any operating schedule.

## **Drugs**

- 7.5 The Council recognises that drug use by young people is not something that is relevant to all licensed premises. However, it is also recognised that 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.
- 7.6 Any applications for nightclub premises should show that they comply with the Home Office guidance Safer Clubbing. Advice should be sought from the Council and Police on devising a protocol for the handling of illegal drugs found on the premises.
- 7.7 Other late night premises where entertainment and alcohol are provided together may also need to demonstrate that suitable drug prevention measures are implemented and similar advice should be sought if necessary.

## **8 Prevention of Harm to Children**

### **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.
- 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 (contact details contained in annex A).
- 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 there have been convictions for serving alcohol to minors or with a reputation for underage drinking
  - 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 children may be present
- Limitations on ages below 18
- Limitations or exclusion when certain activities are taking place
- Requirements for an accompanying adult
- Full exclusion of people under 18 from the premises when 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 where necessary proof of a person's age is obtained by reference to one of the following:

- Passport
- Photocard driving licence issued in the EU
- Proof of age card issued by the Portman Group
- Citizen Card supported by the Home Office (see [www.citizencard.net](http://www.citizencard.net))
- Validate UK (see [www.validateuk.co.uk](http://www.validateuk.co.uk))
- Official identity card issued by HM Forces or an EU country bearing the photograph and date of birth of the bearer.

The Council recommends that any systems are approved by the British Retail Consortium's Proof of Age Standards Scheme (PASS).

### **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.

## **Access to Cinemas**

- 8.9 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.
- 8.10 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).
- 8.11 No film shall be exhibited at licensed premises which is likely to undermine the crime prevention objective eg by being likely to lead to disorder; or stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender.
- 8.12 If a licence holder is notified by the Council that a particular film in the opinion of the Council falls into that category and may not be shown, its decision is final in that respect.
- 8.13 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**

- 8.14 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.
- 8.15 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

- 8.16 The Council will expect the submitted Operating Schedules to satisfactorily address these issues.
- 8.17 The Council will consider attaching conditions to licences and permissions to prevent harm to children, and these may include conditions drawn from the Model Pool of Conditions.

## **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:
- the exclusion of persons under 18 at all times from premises where these activities take place
  - the prevention of views into the premises
  - prohibiting 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
  - prohibiting the participation of customers in performances
  - maintaining a minimum distance of one metre between performers and customers and between performers during performance (This is to ensure that it can be easily observed 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.
  - The Council may attach other conditions as appropriate
- 9.3 Applications will not generally be granted in close proximity to:
- a) Residential accommodation;
  - b) Schools;
  - c) Places of worship;
  - d) Community facilities or public buildings.
- 9.4 The Council will have regard to the cumulative effect of the number of such premises in any area within the District.

## **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 opening 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
- 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 Licensing Act 2003 allows small scale events (for less than 500 people at a time and lasting for no longer than 96 hours) which include any licensable activities to be held without the need for a premises licence. However advance notice must be given to the Council.
- 11.2 The Police must also be notified of the event to allow representations to be made to the Council if there are concerns over crime and disorder.
- 11.3 The Council would prefer that organisers give at least 28 days notice of a temporary event to allow Council Officers and the Police time to provide advice and guidance if necessary.

## **12 Live Music, Dancing and Theatre Etc 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 the community and the right of everyone to take part in cultural life. (International Covenant on Economic, Social and Cultural Rights Article 15).
- 12.2 The Council recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community. 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.

### **13 Race Equality**

- 13.1 The Council is mindful of its obligations under the Race Relations Act 1976 (as amended) to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. In implementing this policy due regard will be had to both the legal duties placed on the Council but also its own Racial Equality Scheme.
- 13.2 The Council will conduct a review after 12 months, in line with its Racial Equality Scheme, to see if this policy 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 race equality, culture, 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 will be established to monitor such matters for the future and 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
- 14.4 The Development Control Committee will be kept apprised of any relevant Licensing Committee issues.
- 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 the planning application. The Council expects that applications for premises licences and club registration certificates for permanent premises should normally be for premises with planning consent. The granting of a premises licence or club registration certificate does not remove the obligation to secure planning permission or any other necessary consents.
- 14.6 An application for a licence may be refused if representations are made by the Planning Authority if the:
- activity to be authorised would amount to an unlawful use of the premises;
  - hours being sought exceed those authorised by any planning permission.

It will be for the applicant to demonstrate special circumstances to justify a departure from this policy if representations are received from the planning authority. Guidance is available from the local planning authority (see contact details at annex A)

- 14.7 The Council recognises the need to avoid so far as possible duplication with other regulatory regimes.
- 14.8 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 necessary 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 ensure compliance with 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 co-ordinating inspections where appropriate.

## **15 Standard Conditions**

- 15.1 Conditions attached to licences or certificates will be tailored to the individual style and characteristics of the particular premises and events concerned wherever practicable.
- 15.2 Where considered necessary and appropriate for the promotion of the Licensing Objectives, the Council will consider attaching conditions drawn from the relevant Model Pools of Conditions.
- 15.3 Conditions applied in each case will be those which are mandatory and any considered necessary and appropriate by the licensing authority.

## **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 (set out at Annex B). 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 to ensure this. The Council will seek to target resources at 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 Licensing Act or the Criminal Justice and Police Act 2001 will be subject to a review.
- 17.5 The Council has signed up to the Enforcement Concordat and has published its general enforcement policy that is available on the Council's web-site. The Enforcement Concordat was a voluntary code of practice introduced by the government in 1989. The Code was intended to bring clarity to regulatory regimes and was based on the principles that businesses should:
- receive clear explanations from enforcers of what they need to do and by when;
  - have opportunities to resolve differences before enforcement action is taken – unless immediate action is needed;
  - receive an explanation of their rights of appeal
- The Concordat is expected to be replaced in April with a new statutory Compliance Code in April 2008.
- 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**

- 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.

The tables following provide more detail.

<b>Representations</b>		
<b>Licence type/issue</b>	<b>Relevant parties</b>	<b>Grounds</b>
Premises licence or club certificate – application	Interested parties Responsible authorities	Likely effect of the grant on the promotion of the licensing objectives
Premises licence-application to vary	Interested parties 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	Interested parties Responsible authorities	Likely effect on the licensing objectives
Interim authority notice	Police	Undermine crime prevention objective
Club premises certificate-application	Interested parties Responsible authorities	Likely effect of the grant on the promotion of the licensing objectives
Club premises certificate – application to vary	Interested parties Responsible authorities	Likely effect of the grant on the promotion of the licensing objectives
Personal licence-Application/renewal	Police	Undermine crime prevention objective
Temporary Event Notice	Police	Undermine crime prevention objective
<b>Applications for Reviews</b>		
Premises licence – existing	Interested parties Responsible authorities	Application must relate to one or more licensing objective
Club certificates - existing	Interested parties Responsible authorities Club members	Application must relate to one or more licensing objective
Personal licences – existing	None	

- 19.2 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.
- 19.3 Representations can only be considered if they are concerned with one of the four licensing objectives:
- (1) crime prevention
  - (2) public safety
  - (3) prevention of nuisance
  - (4) prevention of harm to children.
- 19.4 'Relevant representations' are representations:
- a) About the likely effect of the Premises Licence on the promotion of the licensing objectives;
  - b) Made by an interested party or a responsible authority, that have not been withdrawn and, in the case of representations made by an interested party, they are not in the Council's opinion frivolous or vexatious.
- 19.5 'Interested Party' means any of the following:
- a) A person living in the vicinity of the premises;
  - b) A body representing persons who live in that vicinity;
  - c) A person involved in a business in that vicinity; or
  - d) A body representing persons involved in such a business.
- 19.6 'Responsible authority' means
- a) The chief officer of police;
  - b) The fire authority;
  - c) The local planning authority;
  - d) The local authority exercising statutory functions in relation to minimising or preventing the risk of environmental pollution or of harm to human health;
  - e) A body representing those responsible for or interested in matters relating to the protection of children from harm and recognised by the licensing authority as competent to advise it on such matters.
- 19.7 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.
- 19.8 Ward Councillors play an important role in their local communities. They can make representations in two ways. Firstly they can make representations on an interested party's behalf, if specifically requested to do so. Secondly they can also make representations as an interested party in their own right if they live or are involved in a business in the vicinity of the premises in question.

- 19.9 In addition, ward Councillors who are not themselves an interested party or representing one will be kept informed of licensing related matters within the area, such as applications and reviews.
- 19.10 However, there are rules relating to prejudicial interests (i.e. an interest that a member of the public would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public good) in the Code of Conduct for Members. The rules apply to any member whether or not they were a member of the licensing committee. These rules allow Councillors with a prejudicial interest in an application to attend relevant meetings, to make representations, answer questions or give evidence, provided the public are allowed to do likewise, and they withdraw immediately afterwards. A member representing others or acting in their own right, who is also a member of the licensing committee, will be expected to disqualify themselves from any involvement in the decision-making process affecting the Premises Licence.

## **20 Hearings**

- 20.1 If a representation is made to the Council by a responsible authority or interested party concerning an application before it then, unless the representation is not relevant or withdrawn, the Council will convene a hearing so that both sides can present their views. Such hearings will be convened as quickly as possible and will normally be held before a sub-committee in the day time. It is appreciated that certain hearings will need to be convened extremely quickly. Hearings will normally be held within the time frame of the regulations which are within 20 working days beginning with the day after the end of the period during which representations may be made as prescribed.
- 20.2 Decisions as to whether representations are irrelevant, frivolous or vexatious must be made objectively and not on the basis of any political judgement. 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.
- 20.3 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.

## **21 Reviews**

- 21.1 Reviews of premises licences represent a key protection for the community where problems associated with disorder, public safety or disturbance 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 that 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 is encouraged by the statutory guidance to consider setting up a liaison group where all the interested parties 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 Turn-round Times**

- 24.1 The Act sets some limits on the time for processing certain applications. Notwithstanding these periods the Council intends always 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.

## **25 Annual Fees**

- 25.1 Subject to statutory exemptions the holder of a premises licence shall pay to the relevant licensing authority 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. This will be followed by a final reminder letter.

25.2 Failure to pay the Annual Fee by the Licence Holder(s) will result in the fee being requested through the Small Claims Courts where the legal costs to the Council will also be considered.

## 26 Register

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

## 27 County-wide 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.

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:

28.3

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COMMITTEE</b>	<b>SUB-COMMITTEE</b>	<b>HEAD OF ENVIRONMENTAL HEALTH</b>
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
Application to vary designated premises Supervisor		If a police objection	All other cases

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COMMITTEE</b>	<b>SUB-COMMITTEE</b>	<b>HEAD OF ENVIRONMENTAL HEALTH</b>
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 lead authority		All cases	
Determination of a police objection to a Temporary event notices		All cases	

28.4 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.

### **Contact Points for Advice**

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

Mark Wilkinson, Head of Environmental Health

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

## **APPENDIX A**

**Blake Laphorn Tarlo Lyons  
Halliwells LLP  
Horsey Lightly Fynn  
Lockett & Co  
Popleston Allen  
TLT Solicitors  
Winckworth Sherwood  
ASB Law  
Downs Solicitors  
Bond Pearce  
Stephen Thomas Law  
LACORS  
ACRE  
Surrey Police  
Surrey Fire & Rescue  
Surrey Child Protection Team  
Surrey Trading Standards  
Health & Safety Executive  
Punch Taverns  
Young & Co's Brewery  
Spirit Group Limited  
Hall and Woodhouse Limited  
Greene King Retailing Limited  
Mitchells and Butlers Leisure Retail Ltd  
Cross Oak Inns Plc  
Fullers, Smith and Turner Plc  
Hancock Inns (Southern) Ltd  
Admiral Taverns (Cygnet) Ltd  
JD Wetherspoon Plc  
Trust Inns Limited  
Merlin Inns Ltd  
Thresher Group  
Tesco Stores Ltd  
British Beer & Pub Association  
CAMRA Limited  
Endforth Limited**