
Statement of licensing policy 2022-2027

Licensing Act 2003



Elmbridge

Borough Council

... bridging the communities ...



Foreword

Welcome to Elmbridge Borough Council's Statement of Licensing Policy under the Licensing Act 2003.

We have been responsible for licensing alcohol, entertainment, and late-night refreshment premises since 2005. In our role as the licensing authority for Elmbridge, we work in partnership with agencies such as the police, to regulate licensable activities in the borough.

We have reviewed this policy to allow us to remain responsive to our local environment and to respond to current and emerging risks in Elmbridge. The changes we have made mean that we can take evidence-based decisions to address local issues that may affect communities in Elmbridge.

We have made several changes to our previous Policy as follows:

- changed the layout and style of this policy and written it in plain English that is easy to understand
- updated it to incorporate changes in national guidance
- removed sections of the previous policy that were out of date or no longer relevant
- Introduced new sections on large events, temporary event notices and complex events, and licence holder's responsibilities.

To avoid duplication, you should read this policy in conjunction with the 2003 Act, its associated regulations, and the latest edition of the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

We are confident that the revision we have made to this policy will ensure that responsible operators can continue to provide valued leisure activities to many of our residents and visitors. At the same time, we will have the tools available to promote the licensing objectives, support other key aims and purposes provided for in the legislation, and respond to problems if they do occur.

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Version control

Version No	Initial	Date	Changes Made
V1.0	DC	07/03/2022	1 st draft for consultation
V1.1	AK	11/11/2022	Final version for publication

You should read this Policy in conjunction with Elmbridge Borough Council's:

- [Environmental Services Enforcement Policy](#) and
- Guidance for applicants (available on our [website](#))
- [Guidance issued under Section 182 of the Licensing Act 2003](#)

Accessibility

We have actively considered the needs of blind and partially sighted people in accessing this document. We will make this document available in full on our website and you may download and translate into other accessible formats. If you have other needs in this regard, please contact the licensing team.

Contact us

You should send all correspondence to licensing@elmbridge.gov.uk or the Licensing Team, Planning and Environmental Health, Elmbridge Borough Council, Civic Centre, High Street, Esher, Surrey, KT10 9SD.

Chapter 1: Introduction

- 1.1 Elmbridge Borough Council (“the Council”) is the licensing authority under the Licensing Act 2003 (“the 2003 Act”) and has responsibility for regulating the sale and supply of alcohol, the provision of regulated entertainment, and the provision of late-night refreshment.
- 1.2 This statement of licensing policy (‘the policy’) sets out the principles we will apply in exercising our licensing functions under the 2003 Act.
- 1.3 It replaces our previous policy published on 13 November 2017 and covers the period from 13 November 2022 to 12 November 2027.
- 1.4 We will formally review this policy every five years and during that period, we will keep it under review to allow us to make any revisions we may consider appropriate.
- 1.5 We have written this policy with a view to promoting the four licensing objectives set out in the 2003 Act. These are:
 - a) the prevention of crime and disorder
 - b) public safety
 - c) the prevention of public nuisance
 - d) the protection of children from harm
- 1.6 Please see Chapter 3 for information about the four licensing objectives.

Guidance issued under section 182

- 1.7 In preparing this policy we have regard to guidance issued by the Secretary of State under section 182 of the 2003 Act (“the Guidance”).
- 1.8 In addition to promoting the licensing objectives, the Guidance identifies several other key aims and purposes which are vitally important including:
 - a) protecting the public and residents from crime, anti-social behaviour, and noise nuisance caused by irresponsible premises
 - b) giving the police and the Council powers to effectively manage and police the night-time economy, and act against those premises that are causing problems

- c) recognising the important role licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation, and supporting responsible premises
- d) providing a regulatory framework for alcohol which reflect the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area
- e) encouraging greater community involvement in licensing decisions and giving residents the opportunity to have their say regarding licensing decisions that may affect them.

1.9 From time to time, the Government may issue supporting guidance to encourage best practice. Although we do not have a statutory duty to have regard to such guidance, we will refer to it when making decisions or reviewing this policy.

Using our Policy

- 1.10 We aim through this policy, to set out our approach and to provide transparency and consistency for all parties with an interest in alcohol and entertainment licensing.
- 1.11 When we carry out our licensing functions, the Council and its officers will have regard to this policy and will apply the principles set out within it.
- 1.12 We will aim to avoid duplication with other regimes. We will not use this policy as a basis to attach conditions to licences which duplicate other regulatory regimes, or to attempt to impose standard conditions on licences without having regard to the merits of the individual case.
- 1.13 We acknowledge that this policy cannot predict every scenario or set of circumstances that may arise and sometimes, the individual circumstances of a case may lead us to make exceptions to this policy. If we do make an exception, we will give full reasons for doing so. In deciding whether we should make an exception to this policy, we will consider our reasons for the specific principle before deciding whether we would undermine the aims of this policy by making an exception to it.
- 1.14 Our policy will not undermine the right of any individual to make an application for a licence or other authorisation, and to have that application considered on its individual merits.

1.15 Our policy will not undermine the right of any individual to make a representation about an application or to have that representation considered on its individual merits.

Consultation

1.16 If we make any changes to the Policy, we are required by the 2003 Act to consult the following groups of people:

- a) The Chief Officer, Surrey Police;
- b) Surrey Fire & Rescue Authority;
- c) The Director of Public Health, Surrey County Council;
- d) Representatives of holders of existing premises licences, personal licences and club premises certificates within Elmbridge
- e) Representatives of businesses and residents within Elmbridge

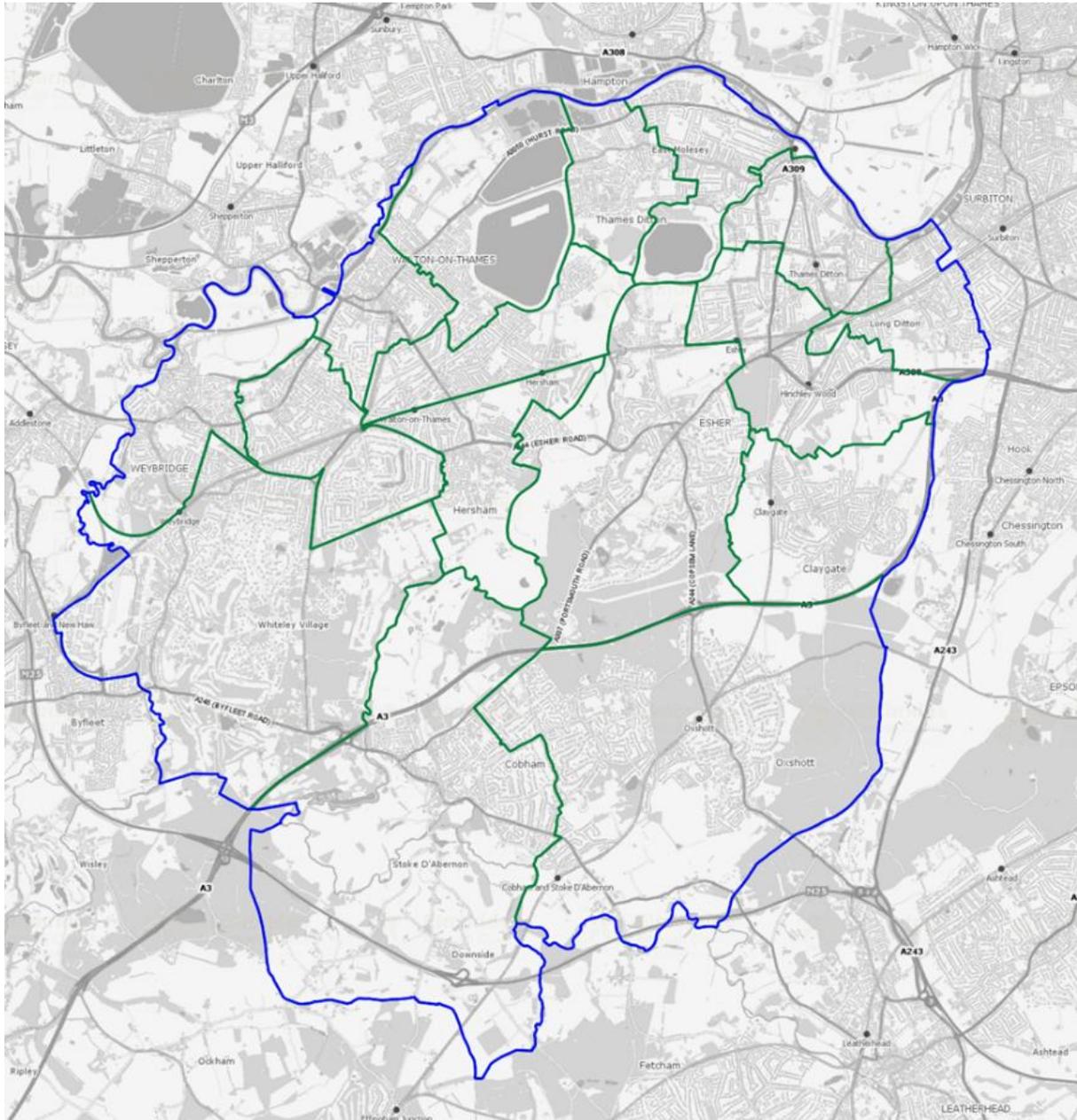
1.17 In reviewing this Policy, we consulted widely with licence holders, residents and many other groups or organisations with interest in alcohol and entertainment licensing in Elmbridge.

1.18 A full list of consultees is attached at Appendix 1

Chapter 2: Welcome to Elmbridge

Elmbridge's geographical area

2.1 The map below shows the geographical area to which this policy applies.



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- 2.2 Elmbridge is one of eleven Surrey borough and district councils and is situated South West of London in north east Surrey. The principal town centres are Walton, Weybridge, Esher, Molesey, and Cobham.
- 2.3 The Borough provides a mix of residential and business properties and the area enjoys the influence of the capital, being mainly within the boundaries of the M25, and bordering two London Boroughs.
- 2.4 Elmbridge has a population of 131,400, comprised of a total of 56,785 households within an area of 96 square kilometres¹.
- 2.5 The population is in general affluent, resulting in a considerable number of restaurants, bars and retail outlets clustered around the town centres and within our communities.
- 2.6 We value a vibrant and thriving Elmbridge and wish to further promote a range of entertainment provision in our area that is available to all our residents and visitors to Elmbridge. We recognise that the provision of such entertainment opportunities has the potential to impact on the well-being of our residents and, by promoting the licensing objectives, we aim to strike the proper balance between a thriving entertainment economy and a pleasant and safe place to live and work.
- 2.7 On 1 March 2022, there were 397 premises licences and 48 club premises certificates in effect within Elmbridge. On average we process 500 temporary event notices a year and issue 85 new personal licences. Since the introduction of the Licensing Act 2003, we have issued 1755 personal licences.

The role of licensing in Elmbridge

- 2.8 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs, and at temporary events within the terms of the 2003 Act. It is not concerned with the 'need' or commercial demand for licensed premises.
- 2.9 In general, the nighttime economy in Elmbridge does not give us or other 'responsible authorities' any significant concerns in relation to its impact on the licensing objectives. We aim to prevent problems occurring by working with licence holders and our partners, and to monitor licensed premises. Whilst problems can occur, we normally deal with them by investigating complaints and by taking appropriate enforcement action under the 2003 Act.

¹ Source: 2011 Census, Office for National Statistics and DCLG live tables 2015/16

- 2.10 If evidence of significant or more widespread issues arise during the life of this policy, we will aim to work with responsible authorities and other relevant partners to achieve a more closely aligned approach to address those concerns. Currently, no specific measures exist within the Elmbridge Core Strategy or Community Safety Partnership Action Plan to address issues of anti-social behaviour or nuisance directly from licensed premises.
- 2.11 Licensing is not a mechanism for the general control of anti-social behaviour by individuals who are beyond the direct control of those in charge of licensed premises. However, the licensing regime can play a key role in ensuring premises are well run and the licensing objectives are promoted. The 2003 Act provides a range of powers to address issues from licensed premises that are responsible for, or contribute to anti-social behaviour, and where less formal steps (where appropriate) have not been successful. They include:
- 2.12 **The power to review a premises licence or club premises certificate.** This power is exercisable by responsible authorities including the licensing authority, its elected Councillors, and by the public and businesses;
- 2.13 **Closure notices and/or prosecution** in respect of those that carry on licensable activities without the appropriate authorisation such as a licence, or in breach of a condition of the licence;
- 2.14 **Fixed penalty notices or prosecution** of personal licence holders or members of staff at licensed premises, who sell alcohol to those under-age or who are drunk;
- 2.15 **Closure orders** and other powers to close premises under separate legislation, for example the Anti-Social Behaviour Act 2003);
- 2.16 **Early Morning Alcohol Restriction Orders (EMROs)** and the introduction of a **late-night levy** which enables licensing authorities to raise a contribution for late-opening alcohol suppliers, towards policing the nighttime economy.

Safeguarding

- 2.17 We are required to indicate which body we consider appropriate to act as the responsible authority in relation to the protection of children from harm. We have designated Surrey County Council Safeguarding Children Unit as competent because the unit is:
- a) responsible for child protection matters for an area covering the whole of the borough of Elmbridge and
 - b) answerable to democratically elected persons, rather than a particular 'vested interest' group.

Equalities duty

- 2.18 The Equality Act 2010 imposes a duty on the Council as the licensing authority to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations between people with different protected characteristics.
- 2.19 To meet the Equality Duty the Council publishes an Equalities Plan, available at www.elmbridge.gov.uk.
- 2.20 The protected characteristics are:
- Age
 - Disability
 - Gender reassignment
 - Marriage and civil partnerships
 - Pregnancy and maternity
 - Race (this includes colour; nationality; ethnic and national origins)
 - Religion or belief
 - Sex or sexual orientation
- 2.21 Treating a person with a protected characteristic less favourably than another constitutes discrimination.
- 2.22 The Equality Act 2010 also imposes a duty on any person providing a service to the public, including operators of licensed premises, to make reasonable adjustments to enable disabled people to access the service, where a disabled person would be at a substantial disadvantage compared to a non-disabled person.
- 2.23 We encourage applicants and existing operators to be proactive in meeting their legal responsibilities and plan for these. Further information and guidance is available from the Home Office².

² <https://www.gov.uk/government/organisations/home-office/about/equality-and-diversity>

Chapter 3: The licensing objectives

Prevention of crime and disorder

- 3.1 We are committed to reducing crime and disorder across the borough and ensuring that Elmbridge is a safe and a vibrant part of Surrey. The Council's vision is to reduce crime and the fear of crime across the borough by working together with partners and the communities we serve.
- 3.2 National and local crime statistics and research indicate that alcohol is often a significant contributory factor to levels of crime and disorder. We recognise that impacts from premises differ according to their styles and characteristics. Statistics show that late night venues, for example, contribute disproportionately highly to alcohol related violent crime when compared with other licensed venues.

Hate and intolerance

- 3.3 We expect licence holders to consider carefully, the possible impact on the local community of allowing their premises to be used by performers or organisations that promote messages of hate or intolerance.
- 3.4 We will notify licence holders of our concerns if the event appears to be in some way detrimental to equalities, local community cohesion and local public order. We also remind licence holders of their responsibility to uphold the licensing objectives, and that crime or disorder resulting from such an event, could lead to a review of the licence.

Drink spiking

- 3.5 Drink 'spiking' is when alcohol or drugs are added to someone's drink without their knowledge. Spiking a drink is illegal and subject to high maximum sentences if a person is found guilty. The UK has seen a rise in the incidences of spiking in licensed premises.
- 3.6 We expect applicants and licence holders to consider the risk associated with spiking on their premises and recommend that measures to deal with his risk are included within their existing drug policies.

Psychoactive substances

- 3.7 The UK has seen a rise in new substances and products that mimic the effects of traditional drugs such as cannabis, cocaine, amphetamine and ecstasy. The

Psychoactive Substances Act 2016 came into effect in May 2016 and bans these substances.

- 3.8 We expect applicants and licence holders to consider the risk associated with psychoactive substances on their premises and recommend that measures to deal with this risk are included within their existing drug policies or a separate psychoactive substances policy.

Capacity

- 3.9 For the purposes of this policy, the capacity of a premises is defined as the number of people who can use the premises at any one time and in some circumstances, may include the number of people that can use the premises throughout the whole period that the premises provides licensable activities.

Outside drinking

- 3.10 Some premises may wish to supply alcohol for consumption in an outside area such as a beer garden or on the pavement adjacent to the premises. In such circumstances, we expect applicants to include all outside areas within their proposed plan, and to consider the risk associated with outside drinking and include measures in their operating schedule to uphold the licensing objectives. We also expect licence holders to exercise control over their customers, particularly in instances where the outside drinking takes place on the pavement to which the public has access. If the licence holder fails to exercise such control, we may take enforcement action and apply to review the premises licence.
- 3.11 If you wish to place tables and chairs on the public highway adjacent to your premises, you must also obtain a pavement licence. Further information is available on our website³.

Crime and disorder risks

- 3.12 The following provides a non-exhaustive list of risks associated with the crime and disorder objective that applicants should consider (where relevant) when preparing their operating schedule. We also expect licence holders to consider the same risks and review their current procedures if necessary:
- a) **crime and disorder near the premises:** this may include the risk of crime and disorder arising from persons queuing to enter the premises, persons exiting the premises and customers smoking

³ <https://www.elmbridge.gov.uk/licensing/pavement-licences/>

eating or drinking in outdoor areas and on the highway outside the premises. This can also include crime arising from pickpockets and bag snatchers, particularly in open spaces or crowded areas where alcohol is being consumed.

- b) **crime and disorder in the premises:** drugs, psychoactive substances, weapons and violence.
- c) **event type:** in some cases, the type of regulated entertainment proposed could increase the possibility of violence and/or disorder occurring in, or near, the premises. For example, some externally promoted live music events carry an increased risk of violent crime and disorder. It may be appropriate to carry out a risk assessment of the activities proposed and share these with us, in some cases, to provide such risk assessment to the police licensing team before the event is agreed.
- d) **the risk associated with selling alcohol for consumption on or off the premises:**
 - 1) what measures are necessary to prevent underage or proxy sales? Proxy sales are when a person who is 18 years or older buys alcohol for a person who is underage.
 - 2) what measures are necessary to prevent alcohol from being sold outside permitted hours where the operating hours of the premises exceed those for the sale of alcohol.
 - 3) whether there are procedures in place to prevent sales of alcohol to intoxicated persons (with attention to street drinkers).
- e) **licensed premises and late-night refreshment:** applicants and licence holders should demonstrate they have assessed the risk of intoxicated persons congregating in large numbers near their premises. Where appropriate, applicants and licence holders should demonstrate suitable measures to address this problem.
- f) **premises environment:** applicants and licence holders should consider the physical environment of the premises and have regard to issues that could increase the likelihood of customers becoming agitated or aggressive. This may include procedures regarding door supervision, identification and management of drunken customers and issues of overcrowding and capacity.

Measures to address crime and disorder risks

3.13 In proposing steps or conditions to be included in the operating schedule, we expect applicants to consider the following non-exhaustive list of measures and issues that we consider may be relevant to licence applications. We also expect licence holders to consider the same issues and measures, and review their current procedures if necessary:

- a) alternatives to glass: restricting the use of glass bottles and drinking vessels to customers in preference for containers made from soft and environmentally friendly materials, polycarbonates, shatterproof or toughened glass that comply with weights and measures legal requirements.
- b) CCTV: using CCTV inside and/or outside the premises together with appropriate procedures and staff training for the ongoing maintenance and operation of such systems.
- c) dispersal procedures: establishing appropriate dispersal procedures to minimise the potential for crime and disorder when customers are leaving the premises.
- d) dealing with and reporting crime and disorder: training for staff and door security aimed at reducing crime and disorder in the premises and its vicinity and dealing with and reporting incidents if they occur.
- e) door staff: considering the use of Security Industry Authority (SIA) registered door staff and the appropriate number of door staff for the premises.
- f) drinks promotions: adopting policies to discourage excessive drinking. This might include adherence to good practice guides and industry codes on drinks promotions such as happy hours, buy one get one free and so on, in addition to adherence with the mandatory licensing condition regarding irresponsible promotions.
- g) drugs, psychoactive substances and weapons: applicants should pay attention to search procedures, procedures for the safe storage and surrender of seized drugs, psychoactive substances and weapons and consideration given to adoption of a “zero tolerance” policy in this area.
- h) incident and occurrence book: keeping an incident book on the premises so staff can record any instances of crime, disorder, refused sales, ejections and intimidating behaviour.

- i) promotion/event risks: ensuring compliance with guidance from the police relating to specific event risk assessments for externally promoted live music events well in advance of the event.
- j) excessive drinking: training for staff to recognise when customers are becoming drunk and adopting appropriate 'cut off' procedures for drunken customers, to reduce the likelihood of fights or aggressive behaviour.
- k) getting home safely: providing information to customers and staff (including contact telephone numbers) regarding safer options available for travelling home late at night - including licensed taxis and private hire vehicles (mini-cabs).
- l) local schemes: joining and attending meetings of the local Pubwatch.
- m) overcrowding developing policies and procedures regarding capacity to prevent overcrowding and customers becoming aggressive
- n) prevention of theft: using bag hooks and signage to warn customers of pickpockets and bag snatchers
- o) queue management: establishing appropriate procedures to avoid the need for customers to queue before entering the premises or, where queuing cannot be avoided, to manage customers in the queues to minimise the potential for crime and disorder
- p) sales for consumption off the premises: applicants should consider:
 - 1) using shutters to prevent alcohol from being selected in non-licensed periods
 - 2) having appropriate numbers of staff on duty to deal with possible 'intimidation' to sell alcohol
 - 3) restricting the sale of high strength beer/drink promotions
 - 4) using an incident and occurrence book to record incidents

Public safety

3.14 Licensable activities may involve potential risks to the safety of performers and the public attending licensed premises.

- 3.15 We expect visitors and performers to be kept safe on licensed premises. Accordingly, where other legislation (such as the Regulatory Reform (Fire Safety) Order, or the Health and Safety at Work Act) fails to make suitable provision to ensure public safety, we will exercise our licensing functions to secure the safety of members of the public and performers.
- 3.16 The steps required to ensure public safety vary according to the individual style and characteristics of the premises, the nature of the proposed licensable activities/regulated entertainment, and the anticipated number of people attending the premises.

Possible measures to ensure public safety

- 3.17 In proposing steps or conditions to be included in the operating schedule, we expect applicants to consider the following non-exhaustive list of measures and issues that we consider may be relevant to licence applications. We also expect licence holders to consider the same issues and measures, and review their current procedures if necessary:
- a) blocking of public areas: this may apply to both inside and outside areas. For example, applicants may need to consider the possible impact of customers congregating in areas close to the premises and the safety risk arising from customers or others having to step off the pavement as a result
 - b) emergencies: issues in relation to fires, bomb threats, emergency management, contingency planning and evacuation
 - c) environment: an environment that is too hot or too cold can make customers uncomfortable and can lead them to become irritable and less likely to exhibit desirable behaviour. Operators should adequately heat and ventilate the premises to avoid this. If premises are in a noise sensitive area, we do not recommend keeping doors and windows open as a means of ventilation due to public nuisance considerations, and licence conditions may even prohibit this. In such cases, operators should provide some form of mechanical ventilation to ensure comfort levels are maintained
 - d) safe capacity: we do not generally set safe capacity limits for premises. For many, the venue risk assessment will determine the premises safe capacity. This risk assessment should consider factors such as floor space, numbers of toilets, potential queuing time, and available fire exits. Consideration should be given as to the number of staff that is necessary to deal comfortably with the needs of persons attending the premises. If the venue has a capacity limit,

operators should ensure it is not exceeded by putting a counting mechanism in place.

- e) special effects: if special effects are to be used on the premises such as flame, lasers, pyrotechnics, smoke, fog, foam or replica firearms, we encourage risk assessment to be carried out in respect of each such activity, detailing the steps to be taken to prevent and control risk to customers and staff.
- f) Generally, operators should not use special effects at the premises without our prior consent.

Public nuisance

- 3.18 We expect the operation of licensed premises not to unreasonably interfere with the personal comfort or amenity of immediate neighbours or the nearby community.
- 3.19 It is important to remember that the public nuisance could include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include, in some circumstances, the reduction of the living and working amenity and environment of other persons near licensed premises.
- 3.20 In recent years, the impact of increasing night-time activity has seriously concerned some residential and business communities in the borough. Licensing law can help to prevent these problems arising at licensed premises.

Potential causes of public nuisance

- 3.21 We expect applicants to consider the following non-exhaustive list of risks associated with the public nuisance licensing objective when preparing their operating schedule:
 - a) amplified music: noise from music played on the premises.
 - b) customer noise: this takes many forms, but the following are of concern:
 - 1) customers queuing to enter or leave the premises
 - 2) customers loitering outside the premises waiting for transport
 - 3) alcohol-related drunken behaviour and shouting
 - 4) customers eating, drinking, or smoking in external areas such as beer gardens, forecourts, and other open areas adjacent to the premises

- 5) car horns/car radios/slamming of car doors late at night in the vicinity of licensed premises
 - 6) use of external play equipment and noise from children using the provided facilities.
- c) deliveries: deliveries outside daytime hours, especially early morning and late evening or night
 - d) collections: early morning and late night clearing up and collection of waste. We are particularly concerned about the noise associated with the movement and collection of glass waste as this may cause significant noise nuisance and can be heard over a wide area
 - e) lighting: excessive artificial lighting near licensed premises
 - f) litter/waste: litter and waste generated by the carrying out of licensable activities, for example, food wrappers and cigarette butts
 - g) obstruction: customers blocking footpaths when eating, drinking and smoking near to the premises
 - h) plant and machinery: noise from plant and machinery, including air conditioning units, refrigeration units and kitchen extractors. This may include smell nuisance from ventilation ducting and kitchen extractors.

3.22 The Environmental Protection Act 1990 provides powers to control these matters. Although this legislation empowers Environmental Health Officers to take pre-emptive action in appropriate cases, there is no statutory requirement for operators to notify us about activities that might give rise to problems. Furthermore, there are limits on the action Environmental Health Officers can take in respect of problems on the adjacent highway.

Measures to address public nuisance

3.23 We expect applicants to consider the following non-exhaustive list of measures/issues in their operating schedule:

- a) deliveries: ensuring arrangements are in place to prevent unreasonable disturbances caused by delivery of goods and services to the premises
- b) collections: ensuring arrangements are in place to prevent unreasonable disturbances caused by collections, especially of glass waste. For example, these collections could be restricted so that

they only take place at certain times, such as Monday to Saturday 08:00 to 20:00 and Sunday 10:00 until 20:00

- c) litter: where licensable activities give rise to the risk of customers dropping litter in the vicinity of the premises, whether adequate arrangements are in place to prevent littering and/or clearing it up
- d) noise or vibration escaping the premises: we will be particularly concerned with premises located close to noise sensitive properties who propose to provide music and entertainment. We encourage applicants to supply an acoustic report confirming there will be no noise breakout from the premises that is likely to cause public nuisance to persons living or working in the vicinity of the licensed premises
- e) plant and equipment: applicants should demonstrate that plant and equipment (air handling units, ventilation/extraction ducting and other equipment) is suitable and enough for the purpose intended without causing nuisance to residents by way of noise, odours or vibration
- f) people entering and leaving the premises: whether consideration has been given to possible public nuisance issues caused by customers and staff entering and leaving the premises. We will pay regard to queuing arrangements and arrangements for the orderly dispersal of customers
- g) customers smoking, eating and drinking in outdoor areas and on the highway outside the premises: possible measures that may address this issue include:
 - 1) providing prominent signage asking customers to keep noise to a minimum when using outdoor areas
 - 2) restricting the number of customers permitted in certain outside areas and/or at certain times
 - 3) using door supervisors and employees to monitor public nuisance issues
 - 4) not allowing customers who are smoking to take drinks outside with them
 - 5) restricting the use of external areas at a certain time
 - 6) removing furniture from smoking areas or preventing it's use after a certain time to discourage smokers from loitering outside the premises
 - 7) locating smoking areas away from residential premises
 - 8) using portable ashtrays to prevent cigarette litter

- 9) only allowing seated customers to use external areas that are authorised to be used by a tables and chairs licence
- h) queuing: an effective door and queuing policy to encourage good behaviour outside the premises. This might include training for door staff to deal with conflict and drunkenness
- i) signs: signs encouraging customers to leave the area quietly, to minimise rowdy behaviour whilst waiting for transport and to minimise nuisance and/or disturbance to residents
- j) vehicles: whether there are measures to reduce the impact of customers and staff parking vehicles in the vicinity of the premises and measures taken to minimise noise generated by other vehicles attending the premises, for example taxis and minicabs

Protection of children from harm

Reasons for the policy approach

- 3.24 Activities associated with premises that sell alcohol or provide regulated entertainment may in certain circumstances, give rise to concerns for the health and welfare of children (a child is any person under the age of 18).
- 3.25 We are committed to protecting children from harm and applicants will therefore need to demonstrate how they will promote this licensing objective. Where appropriate, we will impose conditions preventing or restricting the admission of children. We will not however impose any condition that requires the operator to admit children to licensed premises.

Measures to protect children from harm

- 3.26 We expect the applicant to consider the following non-exhaustive list of measures/issues to ensure the protection of children from harm:
- a) prevention of underage sales: this may include:
 - 1) operating a 'challenge 25' policy
 - 2) requirements for adults to accompany a person under 18 at all times
 - 3) having a recognised proof of age scheme in place and training all staff in its implementation, displaying posters advertising the scheme and giving details of acceptable identification
 - 4) providing regular staff training on the sale of alcohol. Maintaining a written staff training record. Not allowing staff to sell alcohol until they have completed the training.

- 5) keeping a refusals log on the premises and ensuring it is completed whenever sales are refused to a person who appears to be under the age of eighteen
 - 6) displaying posters stating that it is an offence to purchase alcohol on behalf of an underage person (proxy sales)
 - 7) ensuring alcohol is displayed in an area where access to it can be monitored and controlled by members of staff, for example behind the counter
 - 8) use of till prompts
- b) access to premises: restricting access for children to licensed premises:
- 1) limitations on the hours when children may be present
 - 2) limitations which exclude the presence of children under certain ages when specified activities are taking place
 - 3) limitations on the parts of the premises to which children might be given access
 - 4) age limitations (below 18)
- c) unaccompanied children: where unaccompanied children are to be present at public entertainment, we will expect the venue to provide a member of adult staff (over 18 years of age) for every 50 (or part 50) children present, whose sole responsibility and purpose is to protect those children from harm and to control access and egress
- d) child performers: where children are present at an event as performers or entertainers, there should be a nominated adult responsible for those children in order to protect them from harm. Where necessary we will apply conditions to prevent harm to children who are performing
- e) age restricted films: where appropriate, applicants should detail their arrangements for restricting children from viewing age-restricted films classified according to the British Board of Film Classification (BBFC) or by the Council.

Safeguarding the vulnerable

3.27 We expect operators of all consider appropriate safeguarding for all vulnerable people (both children and adults) and consider including conditions which assist in keeping vulnerable people safe. This may include:

- a) Dispersal policies including provisions for the safe dispersal of the vulnerable; and/or

- b) Policies concerning the safe and responsible ejection or refusal of entry of vulnerable or potentially vulnerable people.

Public Health

- 3.28 In January 2012 Public Health as the Local Health Board became a responsible authority for the purposes of the Licensing Act 2003. This provides an opportunity for and imposes an obligation on Surrey Public Health to consider and respond to licence applications where they have concerns about the promotion of the licensing objectives at a specific premises.
- 3.29 Although 'protecting and improving public health' is not a licensing objective, we are concerned about the potential risk of alcohol related harm in Elmbridge. Therefore, we will always consider health related harms where they are relevant to the promotion of the licensing objectives. Accordingly, when making representations, Public Health may demonstrate a link between health concerns and the licensing objectives and may provide information such as ambulance callouts and admissions to hospital specifically caused by alcohol.
- 3.30 Public Health may also use the powers available to them as a responsible authority, to work with our partners to promote sensible drinking messages and support the approach to managing the local availability of alcohol, ensuring the links between density of licensed premises, alcohol availability and indicators of health related harm to inform licensing decisions.
- 3.31 We recognise that licensees are generally supportive of the need to address health issues relating to alcohol. We expect applicants to consider the health impacts of their proposed activities in relation to the licensing objectives, and have set out below, some best practice for applicants to consider when completing their operating schedules. We also expect licence holders to consider this best practice, and review their current procedures if necessary:
- a) restricting special offers such as cheap shots, 'happy hours', 'buy one, get one free', 'buy two glasses of wine and get the whole bottle'. This slows down consumption, the rate at which blood alcohol concentrations increase and the peak levels are reached by drinkers. Rapidly ascending and high blood alcohol concentrations are shown to be associated with violence and uninhibited behaviour.
 - b) aligning price with alcohol by volume (ABV), and ensure that non-alcoholic drinks are much cheaper than alcoholic drinks
 - c) increasing seating for customers to reduce intensive drinking

- d) reducing the volume of music because loud music can increase alcohol consumption.
- e) actively promoting designated driver schemes where a driver is offered discounted or free non-alcoholic drinks
- f) making food available in late venues
- g) starting the sale of alcohol later in the day and not aligning it purely with opening hours
- h) not advertising alcohol in the shop window
- i) storing alcohol behind the shop counter
- j) not using display boards or other advertising on the shop floor
- k) restricting the sale of beer or cider over 5.5% ABV
- l) not selling alcohol where they could attract underage purchasers

3.32 Where the applicant fails to offer appropriate measures to promote the licensing objectives in relation to public health this may give rise to representations from Public Health or the licensing authority acting in our capacity as a responsible authority.

Chapter 4: Preparing and submitting applications

- 4.1 This chapter sets out our expectations in respect of licence applications. It is important that applicants take note of the issues we expect them to address and structure their applications accordingly. Applicants should consider our online guidance⁴ and if necessary, seek legal advice prior to preparing the operating schedule. In some cases, it will be appropriate before applying, for the applicant to consult with local people, responsible authorities and any other persons in order to establish whether they have any concerns.
- 4.2 Being a licence holder carries extensive responsibilities. Consequently, we expect all applicants to demonstrate that they will run licensed premises responsibly. It is essential that applicants make a realistic effort to assess the implications of their proposals and, having regard to this policy and this chapter, include measures and conditions to manage such impacts in their operating schedule.
- 4.3 Responsible authorities and any other persons may examine applications for club premises certificates and premises licences and may make representations to us where they believe the application undermines one or more of the licensing objectives.
- 4.4 It may be difficult for responsible authorities and any other persons to understand the potential impacts of applications that are not properly structured and presented. Such applications are therefore much more likely to attract representations.
- 4.5 In many cases, it will be impractical for the Licensing Sub-Committee to draft an extensive list of additional conditions during a hearing. We are more likely to refuse applications that include an inadequately drafted operating schedule therefore, it is in the best interests of all parties to ensure that they properly draft their operating schedules prior to submitting the application.
- 4.6 We strongly advise applicants to reference this Statement when preparing their applications. Responsible authorities or any other persons should also reference this Statement when making representations.
- 4.7 Officers will grant unopposed applications under delegated powers and the operating schedule will form the conditions of the premises licence or club premises certificate, together with mandatory conditions imposed by law. In

⁴ elmsbridge.gov.uk/licensing/guidance-alcohol-and-entertainment/

the case of unopposed applications, these matters will form the only conditions on the licence or certificate.

- 4.8 If we receive relevant representations, a Licensing Sub-Committee consisting of three elected Councillors will determine the application. Where there is opposition to an application, the sub-committee may:
- a) amend the conditions volunteered in the operating schedule
 - b) restrict the hours during which licensable activities may take place
 - c) limit the type of licensed activities that may be carried out
 - d) impose further conditions on the licence or certificate
 - e) refuse the application

Negotiation and compromise

- 4.9 We strongly encourage a spirit of negotiation and compromise between parties. Where an application attracts representations, these can often be fully or partially, addressed through an applicant engaging in dialogue with the parties raising the representations prior to the Licensing Sub-Committee hearing. Licensing issues can sometimes be emotive, so when an applicant does seek to negotiate, it is imperative that such negotiations are conducted in a courteous, sensitive and respectful way.
- 4.10 As negotiation can lead to parties withdrawing representations or agreeing to conditions to address concerns, we encourage applicants to engage in 'positive' negotiations with other parties. This may help to demonstrate that the applicant is a reasonable and responsible person or body and has sought to listen to and address concerns. Where negotiations would clearly have been helpful and an applicant has not sought to initiate them, the Licensing Sub-Committee may have regard to this in their determination.
- 4.11 We expect the applicant to ensure that negotiations take place as far in advance as possible of the Sub-Committee hearing. The applicant should seek to involve all (and not just some) of the parties who have made representations in the negotiations, or at the very least keep all parties informed in writing of progress and outcomes. To allow the sub-committee to consider negotiations, the applicant must inform us in writing of the outcome of any negotiations at least two working days before the scheduled sub-committee hearing takes place.

Risk assessments

4.12 While the production of a risk assessment to accompany an application under the 2003 Act is not mandatory, we encourage applicants to complete one prior to making an application so all parties can consider the impact of their proposals. The following provides a non-exhaustive list of factors that risk assessments should have regard to:

- a) the location of the premises, for example, the nature of nearby premises, the times they are used, what they are used for, and whether this could affect the proposed activities at the licensed premises. This could include circumstances where the applicant intends to provide late night refreshment and the adjacent premises is a late-night bar or club. Applicants should consider what risks might be associated with large numbers of customers trying to gain access to the premises after the bar/club closes. If the surrounding premises are houses, applicants should consider the risk of causing nuisance to residents.
- b) the individual style and characteristics of the premises, for example are they double-glazed to minimise noise breakout? Is there adequate ventilation, or is it likely that doors and windows will have to be kept open to provide ventilation? Are there adequate means for customers to escape if there is a fire? If people must queue to gain admission, can they do so safely without causing an obstruction or compromising their own safety by mingling with traffic?
- c) the proposed licensable activities and use
- d) the proposed hours of operation
- e) the anticipated number of persons who will be on the premises when licensable activities are taking place
- f) the expected customer profile: what kind of person are the premises likely to attract? How might these people behave? Bear in mind customer profiles may change depending on the time of day and the time of the week
- g) the potential for public nuisance arising from customers smoking, eating and drinking in outdoor areas and on the highway outside the premises

4.13 The Health and Safety Executive provides guidance on producing a risk assessment on its website⁵.

The operating schedule

4.14 We expect applicants to follow their risk assessments by implementing operating procedures and other steps to minimise and mitigate the risks identified. Applicants should detail these in the operating schedule.

4.15 The operating schedule forms part of the application. It sets out the proposed licensable activity; the times during which the applicant proposes that licensable activities will take place; any other times during which the premises are to be open, and the steps that the applicant will take to promote the licensing objectives.

4.16 The following types of applications have operating schedules set out within the application form:

- a) applications for new premises licences and new club premises certificates
- b) variations of premises licences and club premises certificates
- c) applications for provisional statements

4.17 Premises can vary and it is important that operating schedules are specific to the premises and the proposed use of the premises in respect of which the application is made. Applicants should therefore make informed judgments as to the steps that they may need to take to promote the licensing objectives and consider whether these steps need to be included within the operating schedule.

4.18 When preparing their operating schedule, applicants should have regard to the relevant premises policies referred to in this policy.

4.19 The operating schedule will form the basis of conditions attached to any licence if granted. The following applies:

- a) if no relevant representations are made, we will grant the licence in accordance with the application and with conditions that are consistent with the operating schedule and the relevant mandatory

⁵ [hse.gov.uk/risk/index.htm](https://www.hse.gov.uk/risk/index.htm)

conditions. We may need to change pre-worded conditions in the operating schedule and applicants should not necessarily expect their proposed conditions to be duplicated verbatim on the licence or certificate.

- b) if any relevant representations are made, we will (unless all parties agree otherwise) hold a hearing. Where we hold a hearing, the Licensing Sub-Committee has discretion as to whether to grant the application as set out in paragraph 4.6 above.
- 4.20 When determining applications at a hearing, we will consider the adequacy of the steps or conditions offered by the applicant in the operating schedule.
- 4.21 Applicants should be aware that breaching the conditions of a premises licence or club premises certificate is a criminal offence. Therefore, applicants should only volunteer conditions in their operating schedule that they can comply with and are willing to do so.
- 4.22 If applicants volunteer conditions in the operating schedules, they should express the conditions in clear, meaningful and unambiguous terms. For example, an applicant should not make the statement “door supervisors shall be provided at the premises” without stating the number of staff to be provided and the times or precise circumstances during which those staff shall be deployed.
- 4.23 The Guidance recognises that conditions are important in setting the parameters within which a premises can lawfully operate. It is essential that conditions on the licence or certificate
- a) must be appropriate for the promotion of the licensing objectives;
 - b) must be precise and enforceable;
 - c) must be unambiguous and clear in what they intend to achieve;
- 4.24 In this regard, we may where necessary reword meaningless, unenforceable, or ambiguous conditions proposed in operating schedules, in order to ensure the licensing objectives are upheld.

Planning consent

- 4.25 Licensing and planning are two separate regimes with different criteria and the law does not allow us to refuse an application because premises do not have the appropriate planning consent. However, we strongly advise the applicant

to obtain planning permission, listed building consent or building regulations approval where appropriate.

Chapter 5: Large scale events

- 5.1 This Chapter relates to applications for large events that are temporary in nature but cannot be authorised under a temporary event notice (TEN) because of the number of persons who will be present or because the event spans more days than permitted by a TEN.
- 5.2 We may license these events under a time limited premises licence lasting for the duration of the event.
- 5.3 We advise persons wishing to hold such events (event organisers) to contact us for advice prior to making an application. Depending on the scale and complexity of the event, we recommend contacting us 6 to 12 months ahead of the proposed event.
- 5.4 We also advise event organisers to read “The Purple Guide to Health, Safety and Welfare at Music and Other Events”⁶ which replaces “The Event Safety Guide” (HSG195) published by the Health and Safety Executive.
- 5.5 Usually, and if one is available, we will ask event organisers seeking a premises licence for a large event to attend a meeting of the Safety Advisory Group (SAG).
- 5.6 The SAG consists of officers from responsible authorities such as the police, our pollution and health and safety teams, the fire authority. Officers from other relevant departments and agencies such as the ambulance service, and the highways authority may also attend from time to time, where it is considered appropriate in the circumstances.
- 5.7 In cases where we consider a SAG meeting is necessary, we will contact the event organiser to advise them of the requirement for a meeting and arrange a suitable date, and time for the meeting.
- 5.8 We will invite event organisers to present their application and details of their event to the SAG. We expect the applicant to send us a draft event management plan (EMP) at least 10 working days before the meeting so the members can consider whether the event would be run safely and cause minimum disruption to the environment in terms of nuisance, traffic management etc.

⁶ <http://www.thepurpleguide.co.uk/>

- 5.9 The SAG does not determine licence applications or impose conditions, but its members will advise event organisers on producing an acceptable EMP for their event.
- 5.10 An EMP is a statement of how an event organiser will run their event. It incorporates such areas as risk assessment, traffic and transport planning, first aid, stewarding, site layout, emergency planning and evacuation plans, noise management, litter disposal, and communication protocols etc.
- 5.11 We strongly urge event organisers to consult the SAG and produce a comprehensive draft EMP prior to submitting their licence application. Where a responsible authority considers an EMP is inadequate to promote the licensing objectives, it may make a representation to us about the application.
- 5.12 If an event organisers does not attend a SAG, we will still expect them to submit a comprehensive EMP with their licence application.
- 5.13 Generally, we advise applicants to offer only the following conditions in their operating schedule:
- a) The Licensee shall comply with the event management plan submitted to the licensing authority and no changes shall be made to the event management plan without the prior written consent of the licensing authority.
 - b) The Event shall be run in accordance with the site plan submitted to the licensing authority. No changes shall be made to the site plan without the prior written consent of the licensing authority.
- 5.14 This approach allows the event organiser flexibility to make changes to the layout of the event or to specific activities without the need to make a fresh application for a premises licence or an application to vary the existing premises licence. Without this approach, any changes made could be unauthorised and possibly result in enforcement action.
- 5.15 We also advise applicants to refer to the Purple Guide for guidance on producing an EMP.

Chapter 6: Varying a premises licence

6.1 This chapter explains our approach to variations of existing premises licences and club premises certificates

Full variations

6.2 An applicant who wishes to make changes to an existing premises licence or club premises certificate must do so by making an application to us to vary their existing authorisation.

6.3 A full variation application can be used to:

- a) extend the hours during which licensable hours activities can take place
- b) add licensable activities that may impact on one or more of the licensing objectives
- c) remove or amend conditions that may impact on one or more of the licensing objectives

6.4 If the licence holder intends to make changes to the building (such as using previously unlicensed parts) that would result in an increase in capacity of the licensed premises, we expect the licence holder to apply for a new licence.

6.5 We also expect the licence holder to apply for a new premises licence for any substantial changes to the nature of the premises, which may impact the licensing objectives (examples may include but are not limited to changing from a restaurant to a bar or from a bar to a nightclub).

6.6 If applicants are in any doubt as to whether a variation or new application is required, they should seek our advice prior to submitting their application.

Minor variations

6.7 The minor variations procedure allows licensees to apply to us for small changes to an existing premises licence or club premises certificate, without the need to make a full application to vary the existing authorisation.

6.8 Minor variations will generally fall into five categories:

- a) minor changes to the structure or layout of the premises
- b) small adjustments to licensing hours

- c) the removal of out of date, irrelevant or unenforceable conditions
- d) addition of volunteered conditions
- e) addition of certain licensable activities

6.9 The minor variation process cannot be used to:

- a) add the retail or supply of alcohol
- b) extend the licensing hours for the supply of alcohol between 11 pm and 7 am
- c) increase the amount of time on any day during which alcohol may be supplied
- d) extend the period for which the licence has effect
- e) transfer the licence
- f) substantially vary the premises layout
- g) disapply the mandatory conditions

6.10 The applicant does not have to send a copy of the application for a minor variation to the responsible authorities. However, the applicant must display a 'white' notice at the premises for a period of ten working days starting on the first working day after giving the application to us.

6.11 Applicants should discuss their proposals with us before applying, and we will advise whether the minor variation process is appropriate.

6.12 The 2003 Act does not provide a right to a hearing to consider minor variations. The Council has delegated the power to determine a minor variation application to officers.

6.13 In making such decisions, we will have regard to any relevant representations received from interested parties within the statutory time limit. We will only regard representations as relevant where they relate to the likely effect of the grant of the application on one or more of the licensing objectives.

6.14 We will also consult, when and if necessary, with the relevant responsible authorities.

6.15 We will only approve an application for a minor variation where in our opinion the variation sought will not have an adverse impact on the licensing objectives.

Relevant considerations

- 6.16 We will consider the following matters when deciding whether to approve a minor variation application. This list is not exhaustive, and we cannot anticipate every scenario. We will determine each case on its individual merits.
- a) any of the factors in paragraph 8.8 above
 - b) whether the application increases the capacity for consuming alcohol on the premises
 - c) whether access to emergency exits or escape routes shall be blocked by the proposed changes
 - d) whether the alterations might affect the operation of noise reduction measures such as an acoustic lobby
 - e) whether the addition of a licensable activity might impact on the promotion of the licensing objectives, e.g. the addition of live or recorded music on the prevention of public nuisance objective
 - f) the proximity of the licensed premises to residential accommodation
 - g) conditions volunteered by the applicant to mitigate the effects of any changes
 - h) the previous history of the premises
 - i) the proximity and density of other licensed premises if customers from these premises may be attracted by the licensable activities being offered
 - j) whether the premises is already licensed during that period for other licensable activities
- 6.17 If we refuse an application for a minor variation, we will inform the applicant of our reasons for doing so. Where we refuse an application and the applicant subsequently applies for a full variation, the rules governing applications for full variations apply, including all relevant time limits.
- 6.18 If we fail to respond to a request for a minor variation within fifteen working days, the 2003 Act treats the application as refused and we will refund any fees paid in respect of the application. However, we may agree with the applicant to retain the fee and treat the undetermined application as if it were a new one.

Chapter 7: Representations

- 7.1 We will only consider representations in respect of applications under the 2003 Act that are relevant and are not frivolous or vexatious.
- a) 'relevant' means that they relate to the application and the way in which the application might impact on one or more of the licensing objectives
 - b) 'frivolous' means lacking in real substance;
 - c) 'vexatious' means submitted for an improper purpose.
- 7.2 Additionally, where a review is applied for, we will not consider representations which are 'repetitive'.
- 7.3 The decision as to whether a representation is frivolous, vexatious, irrelevant or repetitive will be taken by licensing officers. In borderline cases, we will give the benefit of the doubt about any aspect of a representation, to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 7.4 We have published guidance on making representations, and a form which should be used to submit representations. We have also published guidance on how we will assess representations. We encourage anyone considering a representation to consult that guidance before submitting the representation, and to consider to what extent the matters outlined in chapter 3 (licensing objectives) appear to have been considered within the application.
- 7.5 Where we judge a representation to be irrelevant, frivolous, vexatious and/or repetitive, we will notify the maker of that representation of our reasons.
- 7.6 Where a representation is made on behalf of a society, organisation, or group, we will expect a reasonable level of proof that the representation is indeed made with the authority of that society, organisation or group and not from an individual. Such proof might be a letter of mandate or minutes of a meeting authorising the representation to be made.
- 7.7 Generally, we do not encourage the submission of petitions in respect of a licence application. This is because each signatory could make an individual relevant representation.

- 7.8 If we do receive a petition, we will always ask how the petition was compiled, and whether each signatory signed in full knowledge of the facts of the application. This will allow us when determining the application, to assess how much weight, if any, to give to the petition.
- 7.9 Generally, a petition submitted during the consultation period is likely to be given minimal weight unless each name on the petition can be independently verified with an address. This will enable us to check that each person intended to make a representation for or against the application. If we can verify names in this way, we will treat each signatory as a 'relevant representation' in its own right.

Chapter 8: Temporary events

8.1 This chapter outlines our approach to authorising temporary events

Temporary event notices

8.2 A temporary event notice (TEN) authorises “one-off” licensable activities on a premises. There are two types TEN:

- a) a standard TEN (given at least 10 working days before the event)
- b) a late TEN (given at least five working days before the event)

8.3 There are certain restrictions relating to a TEN set out in the 2003 Act:

- a) You must be at least 18 years old to give a TEN
- b) You can only give a TEN if you are an individual (not a business or other organisation)
- c) the number of times a person (the “premises user”) may give a temporary event notice in a calendar year
- d) the number of times a temporary event notice may be given for any premises
- e) the length of time a temporary event may last
- f) the aggregate number of days covered by temporary event notices at any individual premises and
- g) the scale of the event in terms of the maximum number of people attending at any one time (less than 500).

8.4 A calendar year runs from 1 January until 31 December.

8.5 Where events fall outside the above limits, the premises user must apply for a premises licence.

8.6 The premises user must give the TEN using the prescribed form or use our online form⁷.

⁷ <https://www.elmbridge.gov.uk/licensing/temporary-event-notice-ten/>

- 8.7 Unless it is sent electronically, the premises user must give the TEN to the licensing authority, the Council's pollution team and the police no later than ten working days before the first day on which the event begins or no later than five working days for a late TEN. If the premises user gives the TEN electronically, we will send a copy to the pollution team and the police.
- 8.8 Working days do not include the day the notice was given, the first day of the event, weekends or bank holidays. We encourage premises users to give as much notice as possible. The Guidance contains further details regarding a TEN.

Objections to a TEN

- 8.9 The police and pollution team can object to a TEN if they believe that using the TEN at the premises will undermine the licensing objectives. The following non exhaustive list, are relevant grounds for an objection:
- a) scale of the event
 - b) location of the event
 - c) timing of the event
 - d) concerns about public nuisance or any other adverse effect of the event on the licensing objectives
 - e) history of complaints
- 8.10 The police or pollution team can agree with the premises user, to modify a standard TEN and allow the licensable activities to go ahead. If all parties agree to the modification, the event will be able to go ahead as agreed.
- 8.11 Where the premises user has given a standard TEN, and the parties cannot reach an agreement to modify the TEN, the Licensing Sub Committee will consider the objection at a hearing.
- 8.12 Where the premises user has given a late TEN, the notice will be invalid, and the event will not go ahead.

Nudity, striptease and other adult entertainment

- 8.13 Where the TEN includes relevant entertainment such as table dancing, we expect the premises user to consider carefully, how they propose to promote the licensing objectives.

- 8.14 The police or pollution team can object to prevent such an event. Due to the nature of the proposed activity, it is more likely that the TEN will attract an objection.
- 8.15 We expect in most cases, that the pollution team would not seek to modify the TEN and would instead refer the TEN to the Licensing Sub Committee to consider.

Hearings to impose conditions

- 8.16 At the hearing, the police or pollution team can make representations to the Licensing Sub Committee.
- 8.17 The Licensing Sub-Committee can
- a) allow the event to go ahead as stated in the TEN
 - b) impose conditions that already apply to an existing premises licence at the venue or
 - c) issue a counter notice to prevent the event going ahead

Temporary event notices for complex events

- 8.18 In general, we expect organisers of complex events such as mini music festivals, to apply for a premises licence even if the capacity for the event is below 500 people.
- 8.19 We would also expect organisers of events on premises which are artificially divided to create separate premises for the purposes of licensing, to apply for a premises licence even if the capacity of each separate event is below 500 people.
- 8.20 . For example, an event organiser may propose holding:
- a) a single live music event in a field for 2000 people, selling alcohol and providing live and recorded music or
 - b) four separate events (each for 499 people) in the same field at the same time
- 8.21 The organiser may want to divide the field into four separate areas (four artificial premises) and give us a TEN for each of the areas.
- a) Area 1 is to be used to sell alcohol and provide live music for up to 499 people

- b) Area 2 is to be used to sell alcohol and provide recorded music for up to 499 people
 - c) Area 3 is to be used to sell alcohol and provide live and recorded music for up to 499 people
 - d) Area 4 is to be used to sell alcohol for up to 499 people
- 8.22 In the same or similar circumstances to those set in paragraphs 8.18 to 8.21, we will consider this to be a 'complex event and expect the organiser to apply for a premises licence.
- 8.23 However, this requirement does not seek to undermine the premises users right to give a TEN or more than one TEN and to have each TEN considered on its individual merits.
- 8.24 When assessing a TEN for a complex event, and when determining whether using the TEN on the premises will undermine any of the licensing objectives, we will have regard to:
- a) the infrastructure required for each event such as stages and other temporary structures etc.
 - b) whether more than one TEN will be in use at the same time
 - c) the link/association between each event
 - d) access between each event

Chapter 9: Personal licences

- 9.1 Persons who wish to supply or authorise the supply of alcohol, in accordance with a premises licence must apply for a personal licence. Applicants who live in the borough should apply to us but if applicants ordinarily live outside England or Wales, they can apply to any licensing authority.
- 9.2 Applicants must use the prescribed application form. We have provided further details regarding the qualifying conditions, the application procedure and application fee on our website.
- 9.3 Holders of personal licences issued by us must notify us of:
- a) any change in his/her name and/or address
 - b) any conviction of a relevant offence or foreign offence
 - c) any requirement to pay an immigration penalty

Authorising the supply of alcohol

- 9.4 A personal licence holder must authorise the sale of alcohol but does not have to be on the premises to do so.
- 9.5 We will have regard to the Guidance when deciding whether a personal licence holder has given authorisation to supply alcohol. The following constitutes “authorisation”:
- a) the person(s) authorised to sell alcohol at any premises should be clearly identified
 - b) the authorisation should have specified the acts which may be carried out by the person being authorised to supply alcohol;
 - c) there should be an overt act of authorisation, for example, a specific written statement given to the individual who is authorised to supply alcohol; and
 - d) there should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.
- 9.6 Although the 2003 Act does not require it, personal licence holders should consider giving specific written authorisations to individuals that they are authorising to retail alcohol. A single written authorisation could cover multiple

sales over an unlimited period. This would assist personal licence holders in demonstrating due diligence should enforcement issues arise; and would protect employees if they themselves are challenged in respect of their authority to sell alcohol.

9.7 Although the designated premises supervisor (DPS) or a personal licence holder may authorise other individuals to sell alcohol in their absence, they will remain responsible for any sales. Similarly, the premises licence holder remains responsible for ensuring that licensing law and licence conditions are observed at the premises.

9.8 We expect licence holders to have regard to the Guidance when authorising non-personal licence holders to make sales of alcohol.

Renewal of personal licence

9.9 A personal licence does not have to be renewed.

Chapter 10: Licence holder's responsibilities

- 10.1 Being a licence holder carries special responsibilities, and we expect all licence holders to give meaningful effect to the terms and conditions of the licence with a view to preventing problems arising.
- 10.2 If management issues do arise, it is essential that licence holders proactively engage with responsible authorities, local people and us in order to address them. In particular, the licence holder should listen to concerns and seek to identify specific steps they can take to deal with problems in a way that promotes the licensing objectives.
- 10.3 Where possible, we will try to give licence holders early warning of concerns about problems and the need for improvement. In some cases, (where time allows) we may also be able to facilitate mediation between the licence holder and people who are concerned about the operation of the premises. However, the responsibility for addressing problems lies with the licence holder. We will expect licence holders to take immediate action to deal with problems that are seriously affecting the quality of life of local people.
- 10.4 Failure on the part of the licence holder to respond proactively to management issues may lead us to take enforcement action (see Chapter 11). It may also trigger a party seeking a review of the licence. In considering such a review, we will have regard to the actions of the licence holder and the extent to which they have co-operated with other parties in attempting to deal with the issues.

Best practice

- 10.5 We consider the following matters to be indicative of best practice:
- a) Good neighbour principle: we expect the operators of all premises in Elmbridge to promote the licensing objectives regardless of the conditions on their premises licence. This is likely to include some or all, of the following:
 - b) Good communication with neighbouring properties, including early notification where unusual or non-standard events are scheduled to take place, including those authorised by a temporary event notice;
 - c) Offering the use of those premises as a temporary and 'safe-haven' for anyone in danger or distress, including (where appropriate) contacting the emergency services;

- d) Taking responsibility for contacting emergency services wherever necessary regardless of whether the incident justifying such contact arose on the premises;
- e) Contributing to keeping the area around the premises clean, tidy, safe and litter-free; and
- f) Reporting to us, any incidents of anti-social behaviour (including fly-tipping) that occur regardless of whether they directly or indirectly affect the premises themselves.
- g) Management remaining alive and responsive to feedback from neighbours

Reviews

- 10.6 A responsible authority or any other person may seek a review of a licence if they are concerned about the operation of the premises or following a police closure of the premises due to disorder.
- 10.7 A review must relate specifically to the premises that are the subject of the review.
- 10.8 We may reject an application for review from any other persons if it is frivolous, vexatious or repetitious, or if it is not relevant to the licensing objectives. We can only reject a review application from a responsible authority if it is not relevant to the licensing objectives.
- 10.9 We would only expect to receive an application to review a licence where other mechanisms to deal with problems at the premises have been exhausted. For example, a review application would not be appropriate, and we may regard it as vexatious, if the applicant for the review has not brought the problems to our attention previously and given us an opportunity to investigate their complaint.
- 10.10 At a review hearing, we may:
- a) add conditions to the licence
 - b) modify conditions of the licence
 - c) remove certain licensable activities from the licence
 - d) reduce the hours during which licensable activities may take place
 - e) remove the designated premises supervisor

- f) suspend the licence for up to three months
- g) revoke the licence

Expedited reviews

10.11 The Violent Crime Reduction Act 2006 gave the police powers to seek accelerated reviews of premises licences where the sale of alcohol is a licensable activity. The powers do not apply to other types of licence, or to club premises certificates.

10.12 The powers complement existing procedures in the 2003 Act for tackling crime and disorder associated with licensed premises. The existing powers, in Part 8 of the 2003 Act, provide for the instant closure of premises by the police in some circumstances, and allow the licensing authority to review the licence. The expedited review powers are aimed at tackling serious crime and serious disorder, including the use of guns and knives.

10.13 The powers allow:

- a) the police to trigger a fast track process where they consider that the premises are associated with serious crime or serious disorder (or both); and
- b) us to respond by taking interim steps quickly, where appropriate, pending a full review.

10.14 The police may apply to us for an expedited review of a premises licence where a senior police officer has issued a certificate stating that in his/her opinion the premises are associated with serious crime or serious disorder (or both).

10.15 On receipt of the application and the certificate, we must within 48 hours, consider whether it is necessary to take interim steps pending determination of the review of the premises licence. In any event, we must undertake a review within 28 days of receiving the application.

10.16 At the interim steps hearing, we may:

- a) modify the conditions of the premises licence
- b) exclude the sale of alcohol by retail (or other licensable activities) from the scope of the licence
- c) remove the designated premises supervisor from the licence

- d) suspend the licence.
- 10.17 Following the full review hearing, we may do any of the above, or revoke the licence.
- 10.18 “Serious crime” is defined as conduct that:
- a) constitutes an offence for which a person 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for three or more years or
 - b) involves the use of violence, results in substantial financial gain, or is conduct by a large number of persons in pursuit of a common purpose
- 10.19 The 2003 Act does not define “Serious disorder” but it should be understood in its ordinary English sense.
- 10.20 The premises licence holder may make representations against interim steps taken by us. There is no time limit for this, though in practice at some point this would be superseded by the full review, which must be completed within 28 days. If we receive representations, we must hold a hearing within 48 hours of receiving them (unless the representations are withdrawn). This does not include Saturdays, Sundays or bank holidays.
- 10.21 In the case of an expedited review, the interim steps taken by us remain in force during any period within which the licence holder can bring an appeal, until the determination of that appeal. Any decision we take at the full hearing will not take effect during this time.

The designated premises supervisor (DPS)

- 10.22 The main purpose of the designated premises supervisor (DPS) is to ensure there is always one specified individual who can be readily identified for the premises.
- 10.23 Licences that authorise the sale of alcohol must contain details of the designated premises supervisor, unless the exceptions relating to certain community premises apply (as outlined below).
- 10.24 We do not expect the DPS to be on the premises at all times when alcohol is being sold at the premises. However, we expect the DPS to be a person with day-to-day managerial control of the premises who will take reasonable steps to promote the licensing objectives and comply with the licence conditions.

- 10.25 If a DPS is going to be absent for a prolonged period, perhaps due to ill health, maternity leave or extended holiday, we would expect the licence holder to appoint a new DPS to cover the period of absence.
- 10.26 If a DPS is repeatedly absent, the police may apply for a review of the premises licence if this gives rise to concerns about the operation of the premises and its impact on the licensing objectives.
- 10.27 If a person named on the licence as the DPS stops working for the premises, no longer holds a personal licence or the personal licence is suspended, it is our view that the premises no longer has a DPS. In these circumstances, we expect that no sales of alcohol will take place at the premises, until the licence holder has applied to vary the DPS. This applies regardless of whether that person remains named as the DPS on the premises licence, or whether they have asked to remove their name from it. This will apply until we receive an application to nominate a new DPS.

Applications

- 10.28 Applicants for new licences that include the sale of alcohol should include in their operating schedule the prescribed information in respect of the individual who the applicant wishes to have specified in the premises licence as the designated premises supervisor. Applications must be in the prescribed form and accompanied by the specified documents and fee. The specified documents must include a consent form signed by the proposed DPS.

The DPS at community premises

- 10.29 Community premises may make an application to us to apply the alternative mandatory condition to their licence.
- 10.30 The alternative mandatory condition removes the requirement for a DPS, and the management committee must then make or authorise every supply of alcohol under the premises licence.
- 10.31 A “Management Committee” in relation to community premises, is a committee or board of individuals with responsibility for the management of the premises. We have provided further information concerning the requirements for a Management Committee below.
- 10.32 “Community premises” are
- a) a church hall, chapel hall or other similar building, or
 - b) a village hall, parish hall, community hall or other similar building and

- c) also premises that form part of such buildings.

10.33 In most cases it should be clear whether premises are “community premises”. However, if there is any doubt, we will consider each case on its merits, and we will give primary consideration as to how the premises are predominantly used.

10.34 Community premises are usually multi-purpose and we expect a variety of activities to take place in them, such as playschools, senior citizens’ clubs, indoor sports, youth clubs and public meetings. We would expect that in most circumstances, the following will be community premises:

- a) premises that are genuinely made available for community benefit most of the time
- b) premises accessible to a wide range of sectors of the local community, and
- c) premises used for purposes beneficial to the community as a whole.
- d) educational premises such as school halls. This will apply when the hall is used for the benefit of the whole community and not just for the school in question.

10.35 The availability of a school or private hall for hire by the community would not be enough to qualify the premises as “community premises”. Though this may be provision of a service to the community, we will consider whether halls used largely for private hire by individuals or private entities are genuinely by their nature “community premises”. When assessing an application, we will consider the predominant use of the premises and not only the usefulness of the premises for members of the community for private purposes.

10.36 Generally, we will not class premises whose use is restricted to members of a club or association as “community premises”. However, the hire of the premises to individual organisations and users who restrict their activities to their own members and guests would not necessarily conflict with the status of the premises as “community premises”, provided the premises are generally available for use by the community in the sense described above.

10.37 Qualifying clubs, which are entitled to apply for a club premises certificate to supply alcohol to their Members, should not apply for a premises licence with the alternative mandatory condition.

10.38 We must be satisfied that the arrangements for the management of the premises by the committee or board are enough to ensure the adequate supervision of the supply of alcohol on the premises.

- 10.39 We expect the management committee to be a formally constituted, transparent and accountable management committee or structure. The committee should provide sufficient oversight of the premises to minimise any risk to the licensing objectives. This could include management committees, executive committees and boards of trustees. The application form requires the applicants to provide the names of the management committee's key officers e.g. the Chair, Secretary, Treasurer.
- 10.40 Applicants must explain how they manage the premises, its committee structure and how they will supervise alcohol sales in different situations (for example when the hall is hired to private parties). They should also describe how responsibility is determined in individual cases and how they discuss and review arising issues within the committee procedure. The applicant must provide copies of any constitution or other management documents together with names of key officers such as the Chair, Secretary and Treasurer.
- 10.41 Where the management arrangements are less clear, we may ask for further details to confirm that the management board or committee is properly constituted and accountable before taking a decision on whether to grant the application. We will also obtain the police's views on this matter. Community premises may wish to check with us before making an application.
- 10.42 We strongly encourage the management committee to notify us of any key changes in the committee's composition, for example to the Chair, Secretary or Treasurer, and to submit a copy to the Chief Officer of police. Failure to do so may result in a review of the premises licence.
- 10.43 The management committee will be collectively responsible for complying with licence conditions and the law, and may remain liable to prosecution for any offences, even in cases where a member of the management committee is not present during licensable events.
- 10.44 We strongly advise management committees to provide hirers with a written summary of their responsibilities under the 2003 Act in relation to the sale of alcohol. The management committee should take reasonable steps to ensure that the hirer has read, understood and is able and willing to comply with the summary. In such cases, we are likely to consider that the management committee has taken adequate steps to avoid liability to prosecution if a licensing offence is committed.
- 10.45 In exceptional circumstances, the police can object to a request for inclusion of the alternative licence condition on the grounds of crime and disorder, and any responsible authority and/or interested party can seek reinstatement of the mandatory conditions through a review of the licence. The police will consider any history of incidents at an establishment in light of the actual or

proposed management arrangements, including the use of appropriate hire agreements. If the police issue a notice, seeking refusal of the application to include the alternative licence condition, we must hold a Licensing Panel hearing to decide whether to grant the application.

Chapter 11: Compliance and enforcement

- 11.1 This chapter outlines in general terms, our approach to monitoring the operation of premises, clubs, and other events, checking compliance with licence conditions and the law, and our approach to enforcement for non-compliance.
- 11.2 The primary aim of enforcement is to achieve compliance. Enforcement means the formal approach, but also includes advice and support to business to achieve compliance.
- 11.3 We will have regard to our Environmental Health and Licensing Enforcement Policy currently in force under which all our monitoring and enforcement practices operate.
- 11.4 We will also have regard to the Regulator's Code under which we should:
- a) carry out our activities in a way that supports those we regulate to comply and grow
 - b) provide simple and straightforward ways to engage with those we regulate and hear their views
 - c) base our regulatory activities on risk
 - d) share information about compliance and risk
 - e) ensure clear information, guidance and advice is available to help those we regulate meet their responsibilities to comply
 - f) ensure that our approach to their regulatory activities is transparent
- 11.5 Failure to comply with legislative requirements is a criminal offence. When we decide on the enforcement action we may take in respect of offences, we will always have regard to the individual circumstances of the case, the Council's policies about enforcement and other national guidance, such as the Code of Practice for Crown Prosecutor's.

Inspections and compliance

- 11.6 We may carry out visits and inspections with or without warning to ensure compliance with licence conditions and relevant legislation.

Enforcement

11.7 We will carry out our enforcement functions under the 2003 Act in a transparent and proportionate way. We will be consistent with our responsibilities under the Regulator's Code, and our enforcement policies. We will carry out inspections using a risk-based approach. This means that premises we consider to be lower risk will be inspected less frequently than those we consider to be higher risk.

Our enforcement partners

11.8 We will work in co-operation with our enforcement partners where the matter concerns licensed premises. For this purpose, we recognise

- a) Surrey Police as the body that is primarily responsible for enforcement under the Licensing Act 2003
- b) Buckinghamshire and Surrey Trading Standards as the body that is primarily responsible for enforcement in respect of sales of alcohol to children for
- c) Surrey Fire and Rescue as the body that is primarily responsible for enforcement of fire risk legislation in licensed premises and will usually take the lead on such matters,

11.9 Depending on the severity of an offence, we will usually look to lead on enforcement under s.136 of the 2003 Act (unauthorised licensable activities). In such cases we may seek the support of Surrey Police.

11.10 Nothing in paragraphs 11.8 and 11.9 prevents any other authority from taking enforcement action where they are empowered to do so, and where the circumstances justify.

11.11 Generally, we expect each responsible authority under the 2003 Act to be the primary agent for making representations and/or bringing a review where premises in Elmbridge fail to promote the licensing objective under their area of responsibility.

11.12 Where appropriate and in our capacity as a responsible authority, we will consider supporting representations made or reviews by other responsible authorities.

11.13 We have established protocols with Surrey Police regarding the enforcement under the 2003 Act. These include regular discussions and information-sharing about applications, notices, and complaints about licensed premises. This

helps us to efficiently deploy police and licensing officers to seek compliance with licensing law and inspect licensed premises where required.

Underage sales

11.14 We take a serious view of the sale and supply of alcohol to those under the age of 18 years. We will always share information and assist Surrey Police and Trading Standards in order to ensure a zero-tolerance approach to such sales.

11.15 If we receive complaints, we will always investigate and where appropriate, make unannounced visits or inspections by officers.

Annual fees

11.16 The licence holder is solely responsible for paying the annual fee by the due date. Whilst we may contact the licence holder to remind them about payment, we are not obliged to do so.

11.17 Where an annual fee for a licence or certificate has become due but has not been paid, we will suspend the licence until that fee is paid, unless the non-payment is due to:

- a) an administrative error, or
- b) where liability to pay is in dispute and that dispute has been raised prior to the fee falling due.

11.18 Normally, we will only provide the statutory minimum notice period before a suspension takes effect.

Appendix 1: Consultation

- 1 In reviewing this Policy, we consulted widely with licence holders, residents and many other groups or organisations with interest in Elmbridge or with alcohol and entertainment licensing.
- 2 We carried out the consultation between **(TBC)** and **(TBC)**.

List of consultees

- 3 We consulted the groups listed in paragraph 1.16 namely:
 - a) The Chief Officer, Surrey Police;
 - b) Surrey Fire & Rescue Authority;
 - c) The Director of Public Health, Surrey County Council;
 - d) Representatives of holders of existing premises licences, personal licences, and club premises certificates within Elmbridge
 - e) Representatives of businesses and residents within Elmbridge
- 4 We also consulted the following:
 - a) all current premises licence holders
 - b) all current club premises certificate holders
 - c) all current designated premises supervisors
 - d) all responsible authorities under the Licensing Act 2003
 - e) all neighbouring licensing authorities
 - f) relevant Council teams
 - g) Chambers of Commerce and business groups
 - h) Alcohol and entertainment trade organisations

Key dates for decisions

- 5 The following Committees considered the draft Policy and LAP before approval by the full Council on TBC

Licensing Committee
Licensing Committee
Full Council

(TBC) 21 March 2022
(TBC)
(TBC)