



BROMLEY CIVIC CENTRE, STOCKWELL CLOSE, BROMLEY BRI 3UH

TELEPHONE: 020 8464 3333

CONTACT: Graham Walton
graham.walton@bromley.gov.uk

DIRECT LINE: 0208 461 7743

FAX: 020 8290 0608

DATE: 3 July 2012

To: Members of the

GENERAL PURPOSES AND LICENSING COMMITTEE

Councillor Tony Owen (Chairman)

Councillor Russell Mellor (Vice-Chairman)

Councillors Nicholas Bennett J.P., John Canvin, Roger Charsley,

Roxhannah Fawthrop, John Getgood, Julian Grainger, Will Harmer, Gordon Norrie,

Ian F. Payne, Charles Rideout, Diane Smith, Tim Stevens J.P. and

Pauline Tunncliffe

A meeting of the General Purposes and Licensing Committee will be held at Bromley Civic Centre on **WEDNESDAY 11 JULY 2012 AT 7.00 PM**

MARK BOWEN
Director of Resources

Copies of the documents referred to below can be obtained from
www.bromley.gov.uk/meetings

A G E N D A

1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

2 DECLARATIONS OF INTEREST

3 CONFIRMATION OF MINUTES OF THE MEETING HELD ON 29TH MAY 2012 AND MATTERS ARISING (Pages 3 - 10)

4 QUESTIONS FROM MEMBERS OF THE PUBLIC ATTENDING THE MEETING

In accordance with the Council's Constitution, questions to this Committee must be received in writing 4 working days before the date of the meeting. Therefore please ensure questions are received by the Democratic Services Team by 5pm on Thursday 5th July.

5 REVISIONS TO LICENSING POLICY FOLLOWING THE IMPLEMENTATION OF THE POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011 (Pages 11 - 38)

6 CHANGES TO THE LICENSING ACT 2003. THE LICENSING AUTHORITY AS A RESPONSIBLE AUTHORITY (Pages 39 - 44)

7 APPOINTMENTS TO OUTSIDE BODIES (Pages 45 - 48)

8 FINANCIAL REGULATIONS (Pages 49 - 52)

A copy of the amended Financial Regulations is being circulated under separate cover to members of the Committee and will be published on the Council website.

9 AUDIT SUB-COMMITTEE: MINUTES OF THE MEETING HELD ON 6TH JUNE 2012, EXCLUDING EXEMPT INFORMATION (Pages 53 - 56)

The Committee's attention is drawn to minute 8 (Internal Audit Progress Report), where the Sub-Committee refers the changes to Financial Regulations to this Committee for referral on to full Council.

10 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

The Chairman to move that the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

Items of Business

Schedule 12A Description

11 AUDIT SUB-COMMITTEE: EXEMPT MINUTES - 6TH JUNE 2012 (Pages 57 - 58)

Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

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Agenda Item 3

GENERAL PURPOSES AND LICENSING COMMITTEE

Minutes of the meeting held at 7.00 pm on 29 May 2012

Present:

Councillor Tony Owen (Chairman)
Councillor Russell Mellor (Vice-Chairman)
Councillors Nicholas Bennett J.P., John Canvin,
Roger Charsley, Simon Fawthrop, John Getgood,
Julian Grainger, Will Harmer, Gordon Norrie,
Charles Rideout, Diane Smith and Tim Stevens J.P.

7 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillor Roxhannah Fawthrop, who was replaced by Councillor Simon Fawthrop, and from Councillor Pauline Tunnicliffe, who was in another meeting.

8 DECLARATIONS OF INTEREST

There were no declarations of interest.

9 CONFIRMATION OF MINUTES OF THE MEETINGS HELD ON (A) 14TH MARCH 2012 AND (B) 16TH MAY 2012 AND MATTERS OUTSTANDING FROM PREVIOUS MEETINGS

RESOLVED that the minutes of the meetings held on 14th March and 16th May 2012 be confirmed.

10 QUESTIONS FROM MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions had been received.

11 LOCALISED PAY AND CONDITIONS OF SERVICE Report HHR12003

The annual pay award and various other staff terms and conditions were currently determined via joint employer/trade union negotiations conducted at national (NJC) and regional (GLPC) level. However, now more than ever before, the various challenges facing local authorities differed significantly according to their local circumstances. One effect of this was that the NJC and GLPC negotiating frameworks were hampered by the inevitable difficulties arising from the need for them to attempt to reconcile the different

policy approaches and financial circumstances of the various constituent local authorities.

Current challenges facing local authorities included operating with limited and decreasing resources and competing demands. It was therefore essential to ensure that decisions with significant financial implications were controlled locally, and aligned with budget setting processes and performance outcomes. Within this context the report set out proposals aimed at withdrawing Bromley from the national and regional collective bargaining arrangements and introducing localised pay and conditions for all staff except teachers.

The Assistant Chief Executive (HR) would embark on a process of formal consultation with the relevant recognised trade unions, staff and staff representatives.

RESOLVED that the proposals set out in the report be noted and the Assistant Chief Executive (HR) be authorised to progress to formal consultation with trade union and departmental representatives and staff.

12 LICENSING SUB-COMMITTEE: SCHEDULE OF MEETINGS
Report RES12071

The Committee considered the schedule of proposed meetings for the Licensing Sub-Committee for the remainder of the calendar year. The Chairman requested that if they were unable to attend any particular meeting Members arranged a swap with a colleague and/or advised Democratic Services.

RESOLVED that the schedule of meetings of the Licensing Sub-Committee for June to December 2012 be approved.

13 APPOINTMENT OF COUNCIL REPRESENTATIVES TO OUTSIDE BODIES AND PARTNERSHIPS 2012/13
Report RES12086

The Committee received a schedule of proposed appointments of Council representatives to serve on partnerships and outside bodies. These were mainly appointments for 2012/13, but there were also a small number of three and four year appointments.

It was noted that there was one error to be corrected in the schedule, where, under Bromley Arts Council, Councillor Peter Fortune had been listed twice when Councillor Jane Beckley should have been included.

RESOLVED that Council representatives be appointed to serve on partnership and outside bodies as set out in appendix 1 to these minutes.

**14 AUDIT SUB-COMMITTEE: MINUTES OF THE MEETING HELD
 ON 8TH MARCH 2012, EXCLUDING EXEMPT INFORMATION**

The Committee received the minutes of the meeting of the Audit Sub-Committee held on 8th March 2012 (excluding exempt information.)

**15 LOCAL JOINT CONSULTATIVE COMMITTEE: MINUTES OF
 THE MEETING HELD ON 22ND MARCH 2012**

The Committee received the minutes of the meeting of the Local Joint Consultative Committee meeting held on 22nd March 2012 (excluding exempt information.)

**16 PENSIONS INVESTMENT SUB-COMMITTEE: MINUTES OF THE
 MEETING HELD ON 8TH MAY 2012**

The Committee received the minutes of the meeting of the Pensions Investment Sub-Committee meeting held on 8th May 2012 (excluding exempt information.)

**17 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE
 LOCAL GOVERNMENT (ACCESS TO INFORMATION)
 (VARIATION) ORDER 2006 AND THE FREEDOM OF
 INFORMATION ACT 2000**

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**The following summaries
refer to matters
involving exempt information**

**18 AUDIT SUB-COMMITTEE: EXEMPT MINUTES - 8TH MARCH
 2012**

The Committee received the exempt minutes of the meeting of the Audit Sub-Committee held on 8th March 2012.

**19 PENSIONS INVESTMENT SUB-COMMITTEE: EXEMPT
 MINUTES - 8TH MAY 2012**

The Committee received the exempt minutes of the Pensions Investment Sub-Committee meeting held on 8th May 2012.

The Meeting ended at 7.02 pm

Chairman

**LONDON BOROUGH OF BROMLEY
APPOINTMENTS TO OUTSIDE BODIES
AND PARTNERSHIP BODIES 2012/13**

(a) Annual Appointments for 2012/13

(i) London Councils' Appointments

Leaders' Committee (S.101 Joint Committee)

Councillor Stephen Carr (representative)

Councillor Colin Smith (deputy)

Transport and Environment Committee (Associated S.101 Joint Committee)

Councillor Colin Smith (representative)

Councillors William Huntington-Thresher (deputy 1) and Peter Fortune (deputy 2)

Grants Committee (Associated Joint Committee)

Councillor Stephen Carr (representative)

Councillors Robert Evans (deputy 1), Judi Ellis (deputy 2) and Diane Smith (deputy 3)

Greater London Employment Forum

Councillors Tony Owen (representative)

Councillor Colin Smith (deputy)

Lead Members

Children & Young People: Councillor Stephen Wells

Crime and Public Protection: Councillor Tim Stevens

Culture, Tourism and London 2012: Councillor Peter Morgan

Economic Development: Councillor Peter Morgan

Health and Adult Services: Councillor Graham Arthur (public health) and Councillor Robert Evans (adult services)

Housing: Councillor Robert Evans (operations) & Councillor Peter Morgan (strategic planning)

(ii) Partnership Appointments

Safer Bromley Partnership Strategic Group

Councillor Tim Stevens (representative)

Councillors Reg Adams and Julian Benington (non-voting members).

Children & Young People Partnership Board

Councillors Robert Evans and Stephen Wells

Economic Partnership

Councillor Peter Morgan

Health, Social Care and Housing Partnership Board

Councillors Robert Evans and Judi Ellis.

Councillor Diane Smith (deputy).

Mental Health Joint Board

Councillor Diane Smith (representative)

Councillor Robert Evans (deputy).

(iii) Care Services Appointments

Age Concern (Greater London)

Councillor Judi Ellis

Community Links Bromley

Councillors Judi Ellis and Tony Owen

(iv) Education Appointments

Management Committee of Wood Lodge Living Skills Centre

Councillor Kate Lymer

Bromley “Y” Project

Councillors Nicky Dykes and David Hastings.

Mentoring Steering Group

Councillor Tim Stevens

Management Committee for Pupil Referral Service

Councillors Robert Evans and Stephen Wells

Early Years Development & Child Care Partnership

Councillor Lydia Buttinger

(v) Environment Appointments

Green Chain Joint Committee

Councillors William Huntington-Thresher and Colin Smith

London Road Safety Council

Councillor William Huntington-Thresher

Southern Regional Flood Defence Committee

Councillor Colin Tandy (LB Bexley)

(vi) Renewal and Recreation Appointments

Bromley Arts Council

Councillors Reg Adams, Jane Beckley, Peter Fortune and Alexa Michael

Bromley College of Further and Higher Education Governing Body

Councillor Julian Benington

The Crystal Palace Community Development Trust

Councillor John Canvin

Greater London Enterprise

Councillor Peter Morgan

London Youth Games

Councillor Mrs Catherine Rideout

Orpington Town Centre Steering Group

Councillors William Huntington-Thresher, John Ince and Peter Morgan

(1 vacancy)

Proactive Bromley

Councillor Paul Lynch

(vii) **General Appointments**

Biggin Hill Airport Consultative Committee

One representative of the Council and freeholder –

Councillors Alexa Michael (representative) and Eric Bosshard (deputy)

One representative of Biggin Hill Ward –

Councillors Gordon Norrie (representative) and Julian Benington (deputy)

One representative of Darwin Ward –

Councillors Richard Scoates (representative) and Harry Stranger (deputy)

Bromley Town Twinning Association

Councillors Ruth Bennett and Jane Beckley

Affinity Sutton Group – London Regional Scrutiny Group

(formerly Broomleigh Housing Association)

Councillor Paul Lynch

Bromley Healthcare Council of Governors

Councillor Diane Smith

(b) **Three and four Year Appointments**

Oxleas NHS Trust – Council of Governors (3 years to May 2015)

Councillor Michael Turner

Phillips and Lubbock Foundations (3 years to 31st May 2014)

Councillor Charles Joel (to fill the vacancy following the death of Mrs K B Freeman)

William Mosyer Charity, St Mary Cray (4 years to May 2014)

Mr Graham Collins (to fill one of two vacancies following the resignations of Honorary Alderman John Holbrook and Mr Malcolm Brown – one further nomination required.)

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Agenda Item 5

Report No.
ES 12103

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **General Purposes and Licensing Committee**

Date: **11 July 2012**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **Revised Statement of Licensing Policy following changes introduced by the Police Reform and Social Responsibility Act 2011**

Contact Officer: Paul Lehane, Head of Food, Safety and Licensing
Tel: 020 8313 4216 E-mail: paul.lehane@bromley.gov.uk

Chief Officer: Nigel Davies – Director of Environmental Services

Ward: All Wards

1. Reason for report

The Licensing Act 2003 has been amended by the Police Reform and Social Responsibility Act 2011, and the Secretary of State's Guidance has been updated to reflect this, consequently the Councils Statement of Licensing Policy also needs to be revised.

2. **RECOMMENDATION(S)**

Members are asked to agree the proposed changes and

that statutory consultation be undertaken on the basis of the attached draft Statement of Licensing policy as required by Section .

Following a period of consultation a further report will be made to this Committee to consider any representations before referring the Statement of Licensing Policy to full Council for approval.

Corporate Policy

1. Policy Status: Existing Policy: The Council adopted a Statement of Licensing Policy for the period 2011 – 2014 as required by Section 5 of the Licensing Act 2003. That Policy was revised in March 2012, however a further revision is now necessary following the enactment of sections in Part 1 of the Police Reform and Social Responsibility Act 2011.
 2. BBB Priority: Children and Young People Excellent Council Quality Environment Safer Bromley Vibrant, Thriving Town Centres:
-

Financial

1. Cost of proposal: Estimated Cost There will be a cost associated with the consultation process estimated at about £500 for postage and materials. The production of the final policy document is estimated to be about £600
 2. Ongoing costs: Non-Recurring Cost
 3. Budget head/performance centre: Public Protection
 4. Total current budget for this head: £6m
 5. Source of funding: Existing Total Revenue Budget 2012/13 (controllable & non-controllable budgets)
-

Staff

1. Number of staff (current and additional): 74fte
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory Requirement The Council as the Licensing Authority is required to adopt and publish a Statement of its Licensing Policy (Section 5 Licensing Act 2003). The Policy is formally reviewed at periods set out in the Act (now every 5 years) but must also keep the policy under review and amend it as necessary. This review is prompted by changes to the provisions of the Licensing Act 2003 and the accompanying Statutory Guidance issued by the Secretary of State.
 2. Call-in: Not Applicable:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

3.1 The Licensing Act 2003 has been amended by the Police Reform and Social Responsibility Act 2011 and the accompanying statutory Guidance issued by the Secretary of State has been revised. Details of these changes are found in report of the Director of Environmental Services ref ES12076 for the meeting of the General Purposes and Licensing Committee for 11 July 2012. These changes will require a revision of our Statement of Licensing Policy to ensure it is up to date.

3.2 A copy of the revised draft Statement of Licensing Policy is attached as appendix 1, the main changes being

- a) The changes agreed by this committee in March 2012 have been incorporated
- b) Reference to the policy being revised every three years has been changed to five years
- c) References to the Secretary of States Guidance have been updated
- d) The Primary Care Trust – Director of Public Health has been added as a Responsible Authority
- e) Page 9 Para 2 (trading hours) has been revised to take in to account the revised statutory guidance
- f) Underage sales on page 11 has been revised to refer to Members own Review Guidelines
- g) Page 13 para 4 has been revised to refer to Statutory Guidance and Members own Review Guidelines
- h) Page 14 Public Safety – reference made to occupancy limits and the Council’s Health & Safety Team
- i) Page 16 –Criminal records. Altered to reflect the revised statutory guidance. Allow Members more discretion to grant a Personal licence where relevant convictions exist
- j) Page 18. Revised to cover the Suspension of a Licence for non payment of the annual fee
- k) Page 19 Temporary Event Notices (TENs). Updated to refer to the new times and numbers of TENs that can be applied for
- l) Page 25. Culture and Equality. Completely re-written
- m) Page 26 Licensing Conditions. Revised to refer to the Councils guidance on voluntary conditions
- n) Page 29 Reviews. Revised to refer to Members Guidance on Reviews
- o) Page 32 Table of delegated functions updated to include the Director of Environmental Services acting on behalf of the Licensing Authority as a ‘Responsible Authority.
- p) Page 34. Paragraph referring to ‘Interested Parties’ removed.

- q) Appendix C Responsible Authority list updated to include Primary Care Trust – Director of Public Health.
- r) Appendix F Contact details updated.

4. POLICY IMPLICATIONS

The Council as the Licensing Authority is required to adopt and publish a Statement of its Licensing Policy (Section 5 Licensing Act 2003). The Policy is formally reviewed at periods set out in the Act (now every 5 years) but must also keep the policy under review and amend it as necessary. This review is prompted by changes to the provisions of the Licensing Act 2003 and the accompanying Statutory Guidance issued by the Secretary of State.

5. LEGAL IMPLICATIONS

The Licensing Act 2003 has been amended by the Police Reform and Social Responsibility Act 2011 and the accompanying statutory Guidance issued by the Secretary of State has been revised. These changes have been incorporated in to a revised Statement of Licensing Policy

Non-Applicable Sections:	FINANCIAL IMPLICATIONS PERSONNEL IMPLICATIONS
Background Documents: (Access via Contact Officer)	Licensing Act 2003 , Police Reform and Social Responsibility Act 2011 and Secretary of States guidance issued under Section 182 Licensing Act 2003 April 2012

2014-2016

Statement of *Licensing Policy*





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Introduction

Bromley Council is the Licensing Authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, temporary event notices and personal licences in the Borough for the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment. The Licensing Authority has delegated its licensing functions to the General Purposes and Licensing Committee. Members of this Committee will be responsible for the detailed administration of the Council's licensing function assisted by officers. The decisionmaking arrangements between the Licensing Authority (The Council), the Licensing Committee and officers is set out in this policy statement.

Background

This is the Licensing Authority's third statement of licensing policy. It will apply for a maximum period of five (5) years up to January 2016 and will be kept under review throughout this period and maybe revised in the light of experience or changing circumstances.

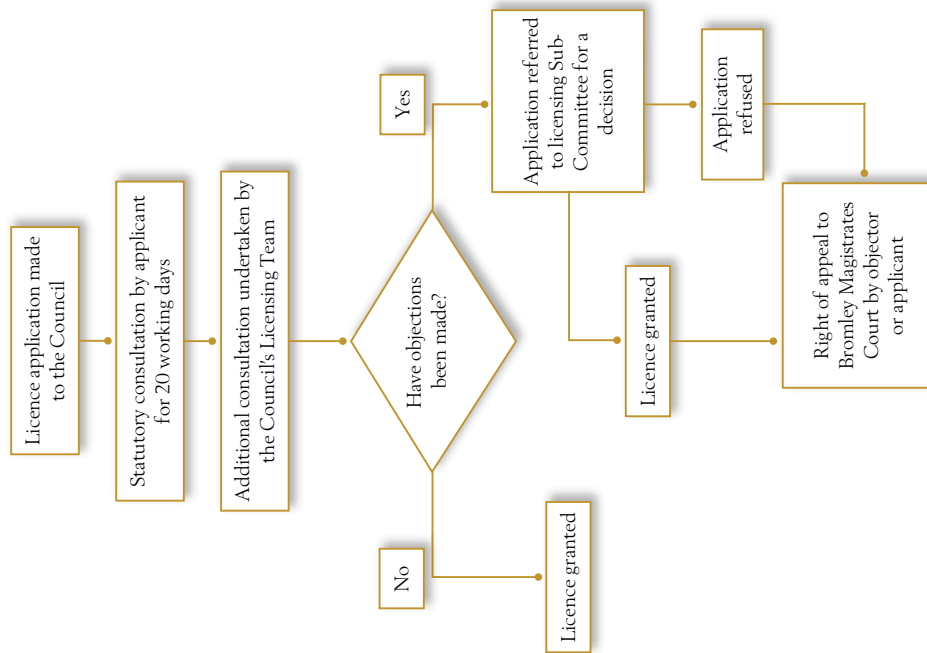
- Bromley has over 900 licensed premises including:
- Pubs, bars and nightclubs
 - Restaurants
 - Members Clubs
 - Off Licences
 - Late night food venues
 - Premises offering regulated entertainment and
 - Over 2000 Personal Licences

The Licensing Authority has a wide range of responsibilities including helping to develop and promote a strong sustainable local economy. Thriving food, drink and entertainment businesses in the Borough are an important part of that local economy and this policy is critical to their continuing success and for attracting further investment and opportunity to the Borough. Balanced against this is the Council's legal duties and commitment with its partners to reducing crime and disorder and the fear of crime. It is also important to protect and maintain our environment so that residents, visitors and other businesses can enjoy the opportunities for living, visiting and working within the Borough safely and free from nuisance. Bromley values its younger people and is active in ensuring they are offered a wide range of opportunities

and experiences to develop whilst seeking to protect them from harm. For these reasons the Licensing Authority takes its responsibilities under the Licensing Act very seriously and will use all the available powers to promote the four licensing objectives:

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

Through the Licensing Act 2003 the Government has provided opportunities for businesses to develop and flourish in socially responsible ways and has simplified and lightened the administrative burden of licensing. However, the Act contains strong powers for both the Police and the Licensing Authority. These will be used to their fullest extent where businesses blatantly infringe the law or undermine one or more of the licensing objectives. To help Councillors make consistent decisions and to ensure that all relevant information is taken into account, a decision-making aide memoir has been developed. The aide memoir will be applied to all applications for premises licences and club premises certificates referred to a Licensing Sub Committee for a hearing. The aide memoir will be refined and developed with use. (An example of the points contained within the aide memoir is contained in Appendix A).



The Policy Statement

Scope of the Licensing Policy

The Licensing Act 2003 sets out the legal framework for the Licensing Authority to licence the following activities:

- Retail sale of alcohol
- The supply of alcohol by or on behalf of a club
- Regulated entertainment
- Late night refreshment.

These activities are controlled through a system of:

- Premises licences
- Club premises certificates
- Personal licences
- Temporary event notices

See Appendix B for definitions of these activities.

The Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives. The Act also requires the Licensing Authority to prepare and publish a statement of its licensing policy every five years. This statement of licensing policy fulfils this requirement and has been prepared in accordance with the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 (April 2012).

Consultation

In determining its policy the Licensing Authority has consulted with the following people and organisations:

- Chief Officer of Police for Bromley
- London Fire Brigade
- Chief Planning Officer
- Bromley Safeguarding Children Board
- Health and Safety Executive and Bromley's Health and Safety Enforcement Team
- Public Health Team (Public Protection)
- Trading Standards Service (Public Protection)
- Primary Care Trust - Director of Public Health
- Pub Watch Groups, and the LVA / Guild of Master Victuallers (being bodies representing holders of Premises Licences)
- Holders of premises licences
- Sports and Social Clubs (representing club premises certificate holders)
- Residents' Associations,
- Bromley Business Focus
- Chambers of Commerce (being bodies representing businesses)
- Ward Members
- Crime and Disorder Reduction Partnership
- Public Carriage Office for London
- Transport for London (TfL)
- The London Boroughs of Bexley, Greenwich, Lewisham, Southwark, Lambeth and Croydon •
- Sevenoaks District Council and Tandridge District Council
- Bromley NHS Hospital Trust (A&E Dept)
- Bromley Arts Council
- Individuals who have requested a copy of the draft policy.

Proper weight will be given to the views of all the persons/bodies consulted before this policy statement takes effect.

Fundamental Principles

This policy statement sets out a general approach to making licensing decisions, and acknowledges the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits. Similarly, this policy statement does not override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

Licensing is about the control of licensed premises, qualifying clubs, temporary events and individuals within the terms of the 2003 Act. Any conditions or restrictions attached to a premises licence or club premises certificate will be focused on matters, which are within the control of individual licensees, and others granted relevant permissions. These matters will centre on the premises and places being used for licensable activities and the impact of those activities in the vicinity of those premises and places.

The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises, on members of the public living, working or engaged in normal activity in the area concerned. Licensing law is not a mechanism for the general control of nuisance or antisocial behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. Nonetheless, the controls exercised through the provisions of the Act are key aspects to the control of nuisance and antisocial behaviour and will form part of the Council's holistic approach to licensing. In this respect, the Licensing Authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues arising out of the operation of licensed premises, including:

- The Council's Crime and Disorder Strategy
- Planning controls
- Ongoing measures to create a safe and clean environment in partnership with local businesses, transport operators and other Council Departments
- Designation of parts of the Borough as places where alcohol may not be consumed publicly
- Regular liaison with Borough Police on law enforcement issues regarding disorder and antisocial behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk; confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise from the premises.

The Council is currently addressing many of these issues through Bromley's Community Safety Strategy, in line with the strategic objectives for crime and disorder reduction within the Borough.

Cumulative Impact Policy and Areas

The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Licensing Authority to consider in its statement of Licensing Policy.

Cumulative impact means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

Representations that an area is at, or is approaching, the point at which it will be subject to cumulative impact may be received from a 'responsible authority', an 'interested party' or from Councillors or officers. Such representations may be made either:

- As a result of ongoing liaison, monitoring and review
- Following representations arising from an application for the grant or variation of a licence, or
- As part of the Licensing Policy review at least every three years.

Where representations are made that an area is already subject to cumulative impact, or that the grant or material variation of a further licence will result in cumulative impact, the Licensing Authority will take the following

- Satisfy themselves that there is concern about crime and disorder or public nuisance in the vicinity
- Consider whether it can be demonstrated that crime and disorder or public nuisance are arising and are caused by the customers of licensed premises
- Identify the area from which the problems are arising and the boundaries of the area, or that the risk factors are such that the area is reaching a point when cumulative impact is imminent
- Consult with those organisations or individuals set out in Section 5(3) of the Act, namely:
Police
Fire
Persons representing holders of premises licences
Persons representing holders of club premises

certificates
Persons representing Personal Licence holders
Persons representing businesses.

and state its findings and where a decision is made to include a 'Special Policy on Cumulative Impact', publish the decision as a supplement to this Statement of Licensing Policy.

In any area declared to be subject to a Special Policy of Cumulative Impact it would be the Licensing Authority's intention to refuse to grant new premises/club licences or material variations, unless the application is such that the grant of the licence would have no further detrimental impact on the area and the promotion of the licensing objectives.

This policy applies to all new premises licences and club premises certificates, including but not limited to night clubs, wine bars, pubs, restaurants, take-away premises, supermarkets, shops, theatres and cinemas and leisure services which include licensable activities e.g. sports centres.

Off licences are specifically included in the cumulative impact policy as they can contribute to problems of crime and disorder and nuisance including street drinking, proxy purchasing, underage drinking, dispersal issues, preloading and excessive drinking.

The presumption of refusal does not relieve Responsible Authorities or Interested Parties of the need to make relevant representations. If no representations are received the Licensing Authority must grant the application in terms consistent with the operating schedule submitted

When determining whether an area is or should be subject to a special policy of cumulative impact the Licensing Authority will have regard to the following matters: (The decision as to cumulative impact is not based solely on these matters and it is open to the Licensing Authority to consider any other matters that it feels are relevant)

- The nature of the area
- The number and types of licensed premises in the area

Licensing hours

- The capacity of those premises
- The hours of operation of those premises
- The approved operating schedules of the premises
- The history of the premises
- The arrangements for the management of the premises

- The customer profile of the premises
- Recorded crime or disorder in the vicinity
- The views and experiences of those who live or work in the area
- The presence of other high-risk characteristics identified by the decision aide memoir: such as themed operations, price reductions.

The Licensing Authority will periodically review any areas subject to special policies of cumulative impact to see whether they have had the effect intended, and whether they are still needed.

The Licensing Authority will not use such policies solely as the grounds for removing a licence when representations are received about problems with existing licensed premises, or to refuse **material variations** to a licence, except where the **material variations** are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits.

The Licensing Authority will publish separate details of any additional areas declared to be subject to a special policy of cumulative impact. The area covered by the special policy and the reasons for considering it to be subject to cumulative impact will be set out.

The Licensing Authority recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community when considering applications in saturated locations.

It therefore, also recognises that within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation, (such as **Restaurants**) and will consider the circumstances of each individual application. In areas not subject to a special policy

of cumulative impact but where representations of cumulative impact are made, the Licensing Authority will consider each application individually.

The following special policies on cumulative impact have been declared:
NO 1 Bromley Town Centre
NO 2 Beckenham Town Centre (see Appendix E)

The Licensing Authority is committed to the principle of special policies of cumulative impact and that the establishment of these two policies have made a significant contribution to the promotion of the 4 Licensing Objectives in Bromley Town Centre and Beckenham Town Centre.

The Licensing Authority reaffirms its commitment to make all decisions on applications for new licences or variations in those areas strictly in accordance with those policies. The Licensing Authority wish to make it clear to all applicants that the presumption of refusal of all new licences and **material variations** stands, or where the applicant satisfies the Licensing Authority on the balance of probability that the application can be granted without having a detrimental affect on the promotion of the 4 Licensing Objectives eg **restaurants**.

Sale of Alcohol for Consumption on the Premises

The Licensing Authority recognises that longer licensing hours for the sale of alcohol may avoid large numbers of people leaving premises at the same time, which in turn could reduce disorder and disturbance. It also recognises that there is the opportunity for significant detrimental impact on local residents where licensed premises operate late.

The Licensing Authority notes the guidance of the Secretary of State on hours of Trading which states that 'different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application' Paragraph 10.20).

Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested (Paragraph 10.21) and

Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours (Paragraph 10.22)

The Licensing Authority will use its powers to control the hours of operation of any licensed premises where it has received a representation against an application and there are reasonable grounds

to believe that if the licence was granted without that restriction, nuisance, antisocial behaviour or crime and disorder might arise. Such situations are most likely to arise where licensed premises are located close to residential areas.

Where objections are received, the application will be referred to a Licensing Sub Committee in accordance with the scheme of delegation included in this Policy. When hearing an application the Sub Committee will seek assurances from the applicant that the Four Licensing Objectives will not be undermined by the grant of the application. Where the Sub Committee upholds objections it may apply licensing conditions including limiting the hours of operation. The Sub Committee will pay particular attention to applications where the operating schedule indicates the sale of alcohol after 11pm Monday to Saturday and after 10.30pm Sunday.

Fixed trading hours within designated areas will not be set as this could lead to significant movements of people across boundaries at particular times seeking premises opening later, with the attendant concentration of disturbance and noise.

Sale of Alcohol for Consumption off the Premises-Shops, Stores and Supermarkets

Where no objections are made to an application the Licensing Authority will licence shops, stores and supermarkets to sell alcohol for consumption off the premises at the times stated in the application.

Where objections are made against the grant of a new licence, the Licensing Authority will consider restricting those hours where there are good reasons for doing so and this would promote the licensing objectives. For example, where shops, stores or supermarkets are known to be the focus of disorder and disturbance or where underage sales have occurred.

On an application to 'review' an existing licence where

there is evidence that shops, stores and supermarkets are a focus for disturbance because youths congregate there and cause nuisance and engage in antisocial behaviour, the Licensing Authority will consider restricting opening hours as a mechanism of combating such problems and promoting the licensing objectives.

Regulated Entertainment and Late Night Refreshment

Not all regulated entertainment will be associated with the sale of alcohol. There will be times when alcohol is not provided for many reasons or in other circumstances it would be unnecessary or illegal to have alcohol available, for example, events for children. In other circumstances regulated entertainment could finish earlier or later than the sale of alcohol.

The provision of Late Night Refreshment covers the supply of hot food or hot drink to members of the public at any time between the hours of 11pm and 5am. This will include the traditional takeaway food premises but will also cover restaurants and mobile vehicles.

In each case the hours being sought for regulated entertainment or late night refreshment should be set out in the application and operating schedule. Where objections are received the Licensing Sub Committee will consider the merits of each application in determining the hours of operation taking into account the licensing objectives.

Protection of Children from Harm

Access to Licensed Premises

The wide range of premises that require licensing under the Act means that children can be expected to visit many of these, often on their own, for food and/or entertainment. Where no relevant representations are received and an applicant volunteer's prohibitions or restrictions in relation to the admission of children, those will become conditions attached to the licence.

Apart from the specific restrictions set out in the Licensing Act 2003 there is no presumption of permitting or refusing access to licensed premises. Each application and its circumstances will be considered on its own merits.

The Licensing Authority will only seek to limit the access of children to licensed premises where it is necessary for the prevention of physical, moral or psychological harm. The Licensing Authority will consult the Bromley Safeguarding Children Board on any application that indicates there may be concerns over access for children. The Licensing Authority will judge the merits of each application before deciding whether to impose conditions limiting the access of children.

The following are examples of premises that will raise concern:

- Where entertainment or services of an adult or sexual nature are commonly provided
- Where there have been convictions of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
- A known association with drug taking or drug dealing
- Where there is a strong element of gambling on the premises
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

Examples of entertainment or services of an adult or sexual nature include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong or offensive language.

The Licensing Authority will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:

- Limitations on the hours when children may be present
- Limitations on the presence of children under certain ages when particular specified activities are taking place
- Limitations on the parts of premises to which children might be given access



Crime & Disorder

- Limitations on ages below 18
- Requirements for an accompanying adult
- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee.

The 2003 Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the Police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children. Bromley Trading Standards have an agreed protocol with the Police for enforcing age related sales of alcohol. This will continue to be applied.

The Service will also undertake monitoring and test purchasing for compliance with other age related sales and services applicable to the Licensing Act 2003. Consideration will also be given to initiatives which could assist in the control of alcohol sales to children e.g. Home Office campaigns. The Licensing Authority is also fully supportive of and actively encourages recognised proof of age schemes and 'Challenge 25' policies in all licensed premises as a means of controlling under age sales premises.

Children and Cinemas

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

Where an application for a Premises Licence or Club Premises Certificate includes the showing of films, the Licensing Authority will expect the operating schedule to include arrangements for restricting children from viewing age restricted films classified by the British Board of Film Classification or by the Licensing Authority itself.

All Premises Licences and Club Premises Certificates granted for the exhibition of films will contain a condition restricting the admission of children either in accordance with the age classification by a film classification body under Section 4 of the Video Recordings Act 1984 or the Licensing Authority's recommendation.

It will be the Licensing Authority's policy to specify that the British Board of Film Classification will be stated on the licence as the film classification body where a film has such a classification, however, where there is no such classification or, under such other circumstances as the Licensing Authority sees fit, its own classification may be imposed.

Children and Entertainment

Many children go to see and/or take part in entertainment arranged especially for them, for example children's film shows, discos and dance or drama school productions, and additional arrangements are required to safeguard them while at the premises. Where an application for a Premises Licence or Club Premises Certificate includes the provision of entertainment for children or by children, the Licensing Authority will expect the operating schedule to include arrangements for protecting children.

Where representations are made and upheld the Licensing Authority will make full use of Licensing Conditions to secure the protection of children from harm. Conditions will be imposed where necessary, based on the individual application being considered and the Licensing Authority will have regard to the Model Pool of Conditions contained in the guidance issued by the Secretary of State under Section 182 of the Act.

Underage Sales

The Licensing Authority is committed to protecting children from harm and supports / encourages the programme of underage test purchases arranged by the Trading Standards Service and Police.

Where underage sales are found the Licensing Authority supports the use of warnings, fixed penalty notices, reviews and prosecution as a means of promoting the licensing objectives and enforcing the Licensing Act proportionately.

In keeping with the Secretary of State's Guidance (April 2012) and Bromley's own guidance for Members of Licensing sub committees hearing Reviews consideration will be given to the suspension or revocation of a licence bought in respect of under age sales.

Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder.

The Licensing Authority will expect operating schedules to satisfactorily address these issues from the design of the premises through to the daily operation of the business.

Applicants are recommended to seek advice from the Police and the Borough's Officers (contact details for both are contained within the Responsible Authorities contact sheet in appendix C), as well as taking into account, as appropriate, local planning and transport policies, and tourism, cultural and crime prevention strategies, when preparing their operating plans and schedules.

When addressing crime and disorder, the applicant should initially identify any particular issues that are likely to affect adversely the promotion of the crime and disorder objective. They should then include in the operating schedule how they will deal with those matters. In addition to the requirement for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough.

Consideration will be given where appropriate to the powers available under the Violent Crimes Reduction Act 2006, the use of Designated Public Places Orders and Alcohol Exclusion Zones.

Where objections are received and upheld by the Licensing Sub Committee, conditions may be attached to licences to prevent crime and disorder both inside and in the vicinity of the premises, and these may include conditions drawn from the Model Pool of Conditions relating to Crime and Disorder contained in the guidance issued by the Secretary of State under Section 182 of the Act.

Crime Prevention

When making decisions about an application the Licensing Sub Committee will have regard to the Borough's Crime Prevention Strategy and any conditions attached to licences or certificates will so far as possible reflect local crime prevention strategies.



Dispersal

The Licensing Authority considers the orderly dispersal of customers from licensed premises to be an important factor in promoting the licensing objectives. In considering any application for the grant or variation of a licence serious consideration will be given to the dispersal arrangements from the premises and the effect that granting the licence might have on the dispersal arrangements of other licensed premises in the area. The Licensing Authority will pay particular attention to an application which may delay orderly dispersal or is likely to encourage people to remain in the vicinity.

Drugs

The Licensing Authority recognises that drug misuse is not something that is relevant to all licensed premises however it is committed to the reduction and eradication where possible of drugs from licensed premises as part of its role in promoting the Crime and Disorder/licensing objective.

The Licensing Authority expects all licence holders to actively support this aim in the way that they plan, manage and operate their premises. Applicants and licence holders attention is drawn to the Home Office and London Drugs Policy Forum guidance 'Safer Clubbing' (Available on the Bromley Website www.bromley.gov.uk).

If relevant representations are received following an application for the grant or variation of a licence, special conditions may be imposed to support the prevention of the sale, supply and consumption of drugs. Advice on conditions will be sought from the Drug Action Team and / or the Police.

In premises where drugs misuse is problematic and where the Police or others apply for a 'Review' of the licence, the Licensing Authority will consider this as being very serious and will give appropriate consideration to the full range of options available including the suspension and revocation of the licence in accordance with the Secretary of States Guidance and Bromley's own guidance for Members of Licensing sub committees hearing Reviews. The Licensing Authority recognises that each case is individual and will be decided on the facts and its specific merits.



Public Safety

Public Safety

The 2003 Act covers a wide range of premises and activities, including cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants and fast food outlets/takeaways. Each of these type of premises presents a mixture of risks to public safety, with many common to most premises and others unique to specific operations. It is essential that premises are constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.

The Licensing Authority will expect operating schedules to satisfactorily address these issues and applicants are advised to seek advice from the Borough's Licensing Officers, Health & Safety Officers and the London Fire Brigade (contact details can be found in appendix C) before preparing their plans and schedules.

Where an applicant identifies an issue relating to public safety (including fire safety and occupancy limits) that is not covered by existing legislation, the applicant should identify in their operating schedule the steps that they will take to ensure public safety.

Where representations are received and upheld at a hearing, the Licensing Authority will consider attaching conditions to licences and permissions to promote safety, and these may include Conditions drawn from the Model Pool of conditions relating to 'Public Safety' and 'Cinemas and Fire Safety' contained in the guidance issued by the Secretary of State under Section 182 of the Act.

Prevention of Nuisance

Licensing Sub Committees will be mindful that licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.

When addressing public nuisance the applicant should identify any particular issues that are likely to affect adversely the promotion of the licensing objective to prevent public nuisance. They should then include in the operating schedule how they will deal with those

matters. The concerns mainly relate to noise nuisance from within the premises or from the use of any outside areas, light pollution, smoke and noxious smells. Due regard will be given to the impact these may have and the Licensing Authority will expect operating schedules to satisfactorily address these issues.

Applicants are advised to seek advice from the Council's Environmental Health Officers (contact details can be found in appendix C) before preparing their plans and operating schedules. Where representations are received and upheld at a hearing the Licensing Authority will consider attaching conditions to licences and permissions to prevent public nuisance, and these may include conditions drawn from the Model Pool of Conditions relating to 'Public Nuisance' contained in the guidance issued by the Secretary of State under Section 182 of the Act.

Late Night Refreshment with Alcohol for consumption off the premises

The Licensing Authority is concerned about the potential for crime and disorder and public nuisance from premises that remain open late for the sale of late night refreshment and where alcohol is sold for consumption off the premises.

Where such applications are received the Licensing Authority will consider them very closely and will expect the applicant to satisfy them that the grant of the licence would have no detrimental impact on the promotion of the licensing objectives.

Smoking and the Use of External Areas

Where an application includes provision of a smoking shelter then the Licensing Authority expects the shelter to be situated as far as possible from neighbouring residential premises. In relation to smoking outside licensed premises, it is expected:

- Suitable receptacles for customers will be provided and maintained to dispose of cigarette litter in areas used, or likely to be used, for smoking
- Licensees will take all reasonable steps to discourage

smoking on the public highway close to residential premises, particularly after 10pm. This could include measures such as a ban on customers taking drinks outside on to the public highway, the use of door supervisors, or imposing a time after which readmissions to the premises will not be permitted

- Garden areas to be cleared at a reasonable time where not doing so could cause nuisance to neighbouring residents.

Entertainment Involving Striptease or Nudity

The Licensing Authority will give particular consideration to the promotion of the four licensing objectives in cases where the application includes entertainment involving full or partial nudity or striptease or any other kind of sex-related entertainment.

The Licensing Authority's policy is that premises providing such entertainment may constitute a public nuisance if they are in or near residential areas. This is particularly the case if the premises are close to schools, community or youth facilities. Such premises may potentially generate particular crime and disorder, public nuisance and safety concerns within the community from lewd acts and disorder.

It is the view of the Licensing Authority that where a valid representation is received, an application involving such entertainment will only be granted if it is satisfied, having regard to all the circumstances including the nature and extent of the activities, the location of the premises, and the conditions proposed by the applicant or which might properly be imposed by the authority, that the proposals are compatible with the promotion of the four licensing objectives.

In particular, while each application will be considered on its own merits, such applications will not normally be granted where the premises are located:

- Near residential accommodation
- Near places of worship, community facilities or public buildings
- Near schools, youth clubs, shops, parks, leisure and recreational establishments and any other similar

premises directed at, or primarily used by children or families

- Within sight of pedestrian routes or bus or railway stations serving the above.

It is expected that applicants will indicate in their operating schedules what measures they propose to have in place to ensure the good management of the premises. Conditions should be provided in the operating schedule prohibiting the participation of customers in the performance. The Licensing Authority expects the following conditions to apply:

- The maintenance of a minimum distance of one metre between performer and customers during the performance
- The provision of CCTV and the maintenance of a library of recordings
- A code of conduct for dancers shall be in place including appropriate disciplinary procedures for failure to comply with the code
- Rules of conduct for customers shall be in place, including appropriate procedures for breach of these rules
- The provision of Security Industry Authority registered supervisors and security staff.
- Procedures to ensure that all staff employed in the premises have pre-employment checks including suitable proof of identity, age and (where required) permission to work
- There will be no advertisements for striptease displayed on the outside of the premises,
- When striptease is being provided on the premises notices will be displayed on the premises stating 'Only people over 18 will be allowed on the premises'
- The striptease entertainment will not be able to be viewed from the street.

Applicants must also note that as part of the process of ensuring that applications that include entertainment entailing nudity or striptease receive proper consideration, the application form and all public notices in respect of such applications must clearly state the details of the proposed entertainment. The nature of the proposed entertainment will be clearly stated in the consultation letter sent by the Licensing Authority to local residents and businesses.

Personal Licences

To sell alcohol in licensed premises at least one person needs to hold a 'Personal Licence' which has been granted by the Licensing Authority where they live. This requirement does not apply to 'qualifying clubs'.

Holders of a 'Personal Licence' must hold a recognised licensing qualification, (currently there are five (5) accredited personal licence qualification providers, details of these are contained in appendix D), be over 18 years of age and not have certain types of criminal conviction. Proof of a licensing qualification together with endorsed photographs of the holder are needed as part of an application for a Personal Licence.

In some premises there may be more than one person holding a 'Personal Licence' and it is important that one person is named as being in control, this person is called the 'Designated Premises Supervisor'. The name of the 'Designated Premises Supervisor' will be stated on every Premises Licence granted by the Licensing Authority.

There is one exemption from the need for a personal licence holder and "Designated Premise Supervisor" in line with the mandatory requirements of the Licensing Act 2003 section 19(2) and 19(3). That is in the case where a community premises (church and village halls etc.) has applied for and been granted an application to disapply these mandatory conditions.

Note:

Further information on this can be found in the Secretary of State guidance issued under section 182 of the Licensing Act 2003 published April 2012.

In determining applications for personal licences the Licensing Authority will have regard to the guidelines issued by the Secretary of State under section 182 of the Licensing Act 2003 and any secondary legislation. The promotion of the four licensing objectives applies to the consideration of applications for personal licences equally as it does to applications for premises licences.

Criminal Records

The Licensing Authority will require applicants for personal licences to produce a certificate detailing any current criminal convictions (this must be of an approved type and must have been issued less than one calendar month prior to the application, details of the approved type of certificate can be found in Appendix D).

Applicants for Personal Licences are requested to send a copy of their application form and certificate of current criminal record to the Metropolitan Police (For address see Appendix C).

All applicants will also be required to make a clear statement as to whether or not they have been convicted outside England and Wales of any relevant offences or foreign equivalents.

When considering applications for personal licences the Licensing Authority will have due regard to any previous unspent convictions for relevant offences. Where unspent convictions for relevant offences exist the Licensing Authority will liaise closely with the Police.

Where Police object to the grant of a personal licence on the grounds of previous criminal records, the applicant will be given the opportunity to have his or her application heard by the Licensing Sub Committee as soon as possible.

The Licensing Authority notes that where an applicant has an unspent conviction for a relevant or foreign offence, and the police object to the application on crime prevention grounds, the applicant is entitled to a hearing before the licensing authority. If the police do not issue an objection notice and the application otherwise meets the requirements of the 2003 Act, the licensing authority must grant it (Paragraph 4.9), and that certain offences can never become spent. However, where an applicant is able to demonstrate that the offence in question took place so long ago and that they no longer have any propensity to re-offend, a licensing authority may consider that the individual circumstances of the case are so exceptional and compelling and any risk to the community so diminished that it is right to grant the application. Under the Human Rights Act 1998 each applicant has the right to a fair hearing and the Licensing Authority will judge each application individually.

Premises Licences and Club Premises Certificates

Premises Licence

A premises licence is needed for the

- Sale of alcohol
- Provision of regulated entertainment or
- Sale of hot food and drink to the public between 11pm and 5am.

Club Premises Certificates

Some activities carried out by clubs need to be licensed under the Act but generally clubs are treated differently to proprietary clubs and commercial premises. A club is an organisation where members have joined together for a particular reason i.e. social, sporting or political and have combined to buy alcohol in bulk as members of the organisation for supply to members. In order to apply for a Club Premises Certificate the club needs to be a 'Qualifying Club'.

A qualifying club:

- Has members. Membership is not instant. There is a minimum of 2 days between applications for membership and admission. This includes the privileges of membership (i.e. use of facilities and the consumption of alcohol)
- Has at least 25 members
- The club is conducted in good faith and has full accountability to its members
- Where alcohol is purchased and supplied, that it is done so by an elected committee of the club.

This will entitle them to certain benefits:

- No need for Personal Licence Holders on the premises
- No need for Designated Premises Supervisors
- More limited rights of entry for the Police and Authorised Persons (Licensing Officers) as the

premises is considered private and not generally open to the public

- No instant closure powers by the Police for disorder or noise
- To sell hot food and drink between 11pm and 5am to members and guests without the need for a licence.

In determining applications for Premises Licences and Club Premises Certificates the Licensing Authority will have regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 and any secondary legislation.

It is important that applications for Premises Licences and Club Premises Certificates properly address the four licensing objectives.

The Licensing Authority has developed a decisionmaking aide memoir (see Appendix A) for use by the Licensing Committee when considering applications for premises licences that have been subject to objections by a 'Responsible Authority' or 'Interested Party'. The use of the aide memoir will assist Members of the Licensing Committee achieve a consistent approach to decisions and seeks to reassure others that Bromley's Licensing Committee decisions are fair and transparent.

The Licensing Committee will give full verbal and written reasons for its decisions for each application it hears.

Variations (Minor and Major)

Both Premises Licences and Club Premises Certificates may be varied under the Licensing Act 2003. Minor variations generally fall into four categories they are:-

- 1 Minor changes to the structural layout which does not constitute any of the following:-
 - Increase the capacity for drinking (increasing floor area for drinking etc)
 - Affecting access or egress (blocking fire exits or escape routes).
 - Impeding or removing noise reduction measures at the premises (removing acoustic lobbies etc).
- 2 Removal of a licensable activity or licence condition,
- 3 Addition of a volunteered condition or conditions.
- 4 Addition of a licensable activity where similar activities already exist.

The above is not an exhaustive list and licensing officers will bring their own experience and knowledge to bear when considering applications.

Note:-

Further explanations on the above can be found in the Guidance issued under section 182 of the Licensing Act 2003 published April 2012.

A minor variation is a simplified process with a set statutory fee applicable to all premises and clubs. Decisions on a minor variation are delegated to licensing officers. In the case of a decision by a licensing officer being contested by a ward councillor which cannot be resolved the decision will be deferred to the licensing sub committee.

There is no requirement to consult all responsible authorities on an application, however, licensing officers may consult with any party if there is any doubt about the impact of the variation on the licensing objectives and there is a need to obtain specialist advice

Two specific cases are identified as being excluded from the minor variation process they are :-

- To extend the licensing hours for the sale of alcohol for consumption on or off the premises between 23.00 and 07.00
- To increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises.

The Licensing Authority takes the view that the removal of seating or tables from premises which has the effect of increasing the floor area for vertical drinking and is not suitable for the Minor variation procedure. Such application should be made under the major variation procedure. The Licensing authority will expect applicants to demonstrate how the removal of seating or tables will promote the Licensing Objectives.

In all cases the overall test is whether the proposed variation could impact adversely on the licensing objectives if in any way it does or it does not fall within the scope of the four areas identified then a full major variation will be required.

Fees & Charges

Licensing fees and charges are set by Government so they are the same across the Country. Details can be found on the Councils Website (www.bromley.gov.uk) and on the Home Office website <http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol-alcohol-licensing/fee-levels/>

Once granted a licence does not expire but the licence holder is required to pay an annual charge. Failure to pay this on demand will result in the Council suspending the operation of the premises licence or club premises certificate until all outstanding fees are paid.

Whilst the annual charge is being paid regularly the licence will remain in force even if the premises are not used for a licensable purpose.



Temporary Events Notices

Anyone may give the Licensing Authority a Temporary Event Notice. This procedure allows people to hold an event involving licensable activities without having to apply for a Premises Licence or Club Premises Certificate.

Temporary Event Notices may be obtained for:

- The sale of alcohol
- The provision of regulated entertainment
- The sale of hot food or drink between 11pm and 5am.

A Temporary Event Notice must be submitted to the Licensing Authority a minimum of 10 working days before the proposed event, however a limited number of applications can be made giving no less than 5 working days notice (Late TENs) but will be refused if representations are made by either the Police or the Council's Environmental Health Officers.

There are certain limitations to Temporary Event Notices:

- Maximum number of people attending must not exceed 499 at any time
- The event cannot last longer than 168 hours
- No premises can host more than 12 events in a year
- The maximum number of days covered by Temporary Event Notices cannot exceed 21 days in a year
- A personal licence holder can apply for up to 50 temporary events with 10 of these being late
- Any other person can apply for 5 temporary events with 2 of those being late.

Consultation

The consultation process associated with applications for Premises Licences and Club Premises Certificates allows for representations to be made by various bodies and individuals.

Responsibility for undertaking statutory consultation lies with the applicant.

It is Bromley's policy to undertake additional (non statutory) consultation with ward councillors, residents, residents' associations and businesses in the vicinity of the premises.

This will be by letter addressed to ward members, residents' associations, and local residents/businesses in the vicinity of the application site. Where an application site is close to a ward boundary, ward members and residents' associations in the neighbouring ward will also be consulted.

For local residents and businesses, the size of the area subject to consultation will be determined by the Licensing Team and will take into account the nature of the application and its location.

For variations to licences where no detrimental impact on the promotion of the four Licensing Objectives could reasonably be expected to occur, non statutory consultation will be limited to ward Councillors and residents' associations

Making representations about an Application

Representations about an application must be made in writing to the Council's Licensing Team (contact details in Appendix C) within the time period given.

Written representations include letters (posted or faxed) and emails.

Representations received after the end of the public consultation period cannot legally be accepted. (See Albert Court Residents Association V Westminster City Council [2010] EWHC 393 (Admin)

Representations must contain

- the name, full address & post code, of the person making them.
- The reasons for their representation and
- Which of the 4 Licensing Objectives the representations relate to
 - Crime and disorder
 - Public Nuisance
 - Public safety
 - Protection of children from harm

Representations which do not meet this requirement may be rejected as being frivolous or vexatious.

All valid representations will form part of a committee report that will become a public document. It will be given to the applicant, his agent and another party requesting a copy as well as the Licensing Sub-committee 10 days prior to the hearing. Whilst representations cannot be made anonymously we can, if requested, remove the objectors name and house number from individual representations.

Petitions

Petitions may be submitted (see note below) but are not as informative as individual correspondence and as such may be given less weight when considered by a licensing Sub Committee.

Petitions will only be accepted if on each sheet it clearly shows

- the name and address of the application site ,
- the licensable activities and their hours
- Reasons for the representation and
- which of the 4 Licensing Objectives are relevant

Each petitioner must give their name, full address including post code,

Failure to comply with any of the above requirements could lead to the petition being rejected.

A suggested format for a petition sheet is available on the Bromley Website – www.bromley.gov.uk

When making a Representation the Council asks that a contact phone number and email address are provided. These help the Council to quickly contact respondents if the details of the application are altered as a result of objections or the date of the hearing has to be changed at short notice.

Irrelevant, Vexatious and Frivolous Representations

The Licensing Authority accepts the guidance of the Secretary of State concerning the judgments of representation as being irrelevant, vexatious and frivolous.

A representation would be 'irrelevant' if it does not relate to the application or to the promotion of the licensing objectives in the context of the application. In considering whether or not a representation is 'vexatious or frivolous' the Licensing Authority must determine whether any ordinary and reasonable person would consider the matter to be vexatious or frivolous. Vexation may arise where, for example, there is a dispute between rival businesses. Frivolous representations would be categorised by a lack of seriousness.

Such judgments should be objective and not based on political judgments and as such are best made by officers following enquiries as may be necessary. Where a representation is found to be irrelevant, vexatious or frivolous, the person making it will be informed and that representation will be disregarded.

Repeat Applications

The Licensing Authority will give particular attention to applications which have the effect of replicating to a large extent, the terms of a previous application(s) at the same premises / club which may have been refused or granted subject to conditions.

Where representations are made, the Licensing Committee will consider each application on its merits including:

- The applicants' justification or explanation as to the change of circumstances warranting a different decision by the Committee

- The extent to which the terms of the new application overcome previous concerns
- The extent to which the new application (including the operating schedule and any suggested conditions) will promote the Licensing Objectives.

This policy does not apply to applications for:

- Changes to Designated Premises Supervisors
- Changes to the address of someone named on a licence
- Temporary Event Notices

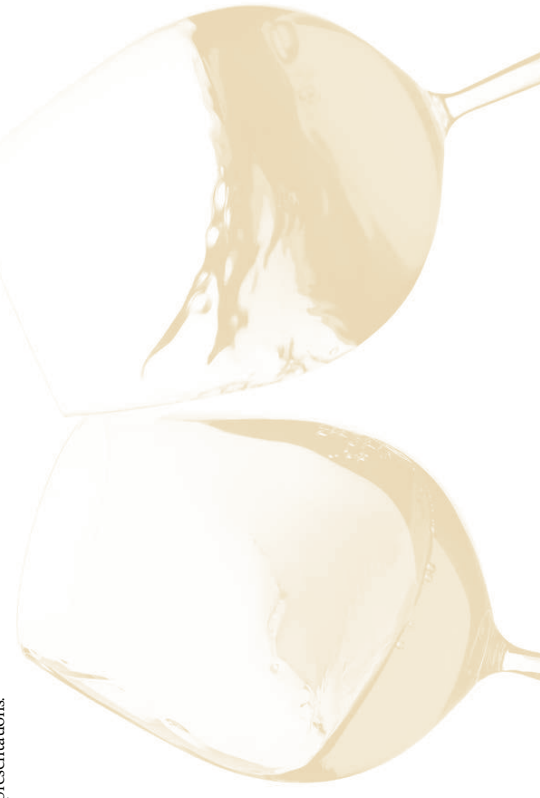
and is not designed to inhibit applications to make variations from 'time to time'.

Integrating Strategies and Avoiding Duplication

Many people and organisations are involved with, or affected by, the ways in which licensed premises are operated.

Most are involved, directly or indirectly, in the promotion of the licensing objectives, particularly those relating to the prevention of crime and disorder and public nuisance. Amongst the various stakeholders there will be a wide range of strategies that relate to, or are influenced by, the exercise of the Council's licensing function.

The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory regimes. Some regulations, however, do not cover the unique circumstances of some entertainment. The Licensing Authority will consider attaching conditions to Premises Licences and Club Premises Certificates where these are necessary for the promotion of the licensing objectives are not already provided for in any other legislation, are not contained within the applicant's operating schedule and if there are relevant representations.



Planning and Building Control

There should be a clear separation of the planning and building control functions and the licensing regimes. Licensing applications should not be a re-run of the planning application process.

The Licensing Authority will not grant an application for a new Premises Licence or Club Premises Certificate or for a **material variation** unless it is satisfied that all relevant planning permissions are in place where necessary. This condition will not apply to an application for a provisional statement under section 29 of the Licensing Act 2003.

When considering representations to the granting of a new Premises Licence or Club Premises Certificate or a **material variation** of an existing licence or certificate, which is not subject to any planning conditions, the Licensing Sub Committee may request information as to any planning conditions attached to similar premises in the locality. The Sub Committee may consider the reason for the implication of such conditions and consider those in relation to the application being determined.

Diversity and Equality

The Licensing Authority wishes to encourage the provision of a culturally diverse range of regulated entertainment within the Borough, particularly live music and dance which are accessible to all people.

Equality Act 2010

All licensed premises are subject to the Equality Act 2010 which lists a number of protected characteristics that must not be used as a reason to treat a person less favourably than another person, these 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, and sexual orientation.

Treating a person less favourably than someone else because that person has one or more of these characteristics is discriminatory.

The Equality Act 2010 also includes 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.

The Licensing Authority urges applicants and existing operators to plan ahead to meet their legal responsibilities under the Equality Act 2010. Further information and guidance can be obtained from the Home Office (<http://www.homeoffice.gov.uk/equalities/>) or <http://www.homeoffice.gov.uk/publications/equalities/equality-act-publications/equality-act-guidance/>

People with disabilities

It is a legal requirement that facilities for disabled people (including staff and performers) should be provided at places of entertainment. Duties imposed by the Equality Act 2010 provide that any person providing a service to the public must comply with the duty 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. This applies to disabled people employed by or those who wish to obtain goods and services from licensed premises.

No condition will be attached to a licence or certificate which conflicts with or duplicates this requirement. Service providers also have a duty to make reasonable adjustments to any physical features which put a disabled person at a substantial disadvantage in accessing a service, or they have to provide the service by a reasonable alternative means. Access to buildings and their facilities is also a matter addressed in Building Regulations and planned alterations affecting access may involve the need to apply for building control approval.

The Equality Act 2010 has introduced protection from three new forms of disability discrimination:

- direct discrimination because of disability in relation to goods, facilities and services
- indirect disability discrimination, and
- discrimination arising from disability.

Businesses also have an obligation to make reasonable adjustments to help disabled individuals access their goods, facilities and services.

Censorship

The performance of plays
The Licensing Authority will not attach conditions to a premises licence or club premises certificate which attempts to censor or modify the content of plays in anyway

Films

In general, other than in the context of film classification for film exhibitions, the licensing authority will not use their powers under the 2003 Act to seek to impose conditions which censor the content of any form of regulated entertainment.

This is not a proper function of licensing law and cannot be properly related to the licensing objectives. The content of regulated entertainment is a matter which is addressed by existing laws governing indecency and obscenity. Where the concern is about protecting children, their access should be restricted where appropriate, but no other limitation will normally be imposed.

Licence Conditions

General Conditions

Where responsible authorities or interested parties do not raise any representations about an application, it is the duty of the Licensing Authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed by the Act.

The Licensing Authority may not impose conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It may then impose conditions necessary to promote the licensing objectives arising out of the consideration of the representations. To minimise problems and the necessity for hearings, the Licensing Authority would encourage applicants to consult with the 'Responsible Authorities' when preparing their operating schedules.

The licensing authority has produced guidance to help applicants write their operating schedules with suggested wording for conditions which promote the Licensing Objectives. The guide can be found on the Council's web site (www.bromley.gov.uk)

Standard Conditions

The Licensing Authority recognises that it is important to balance any conditions attached to a licence or certificate so as not to be disproportionate or overly burdensome but to achieve the licensing objectives. Therefore, where conditions are necessary they will be tailored to the individual style and characteristics of the particular premises and event concerned. Where appropriate, and necessary for the promotion of the licensing objectives, the Licensing Sub Committee will consider attaching conditions including those drawn from the relevant Model Pools of Conditions set out in the guidance issued by the Secretary of State under Section 182 Licensing Act 2003.

Mandatory Conditions

The Act requires that certain conditions are applied to premises licenses and club premise certificates where they include:

- The retail sale of alcohol
- The provision of Door Supervisors
- The showing of films.

Additionally in all cases relating to:

- Irresponsible drinks promotions
- No alcohol is dispensed directly by one person into the mouth of another.
- Free tap water is available on request to all customers.
- An age verification policy is in place.
- Minimum measures of alcohol identified and made available to customers.

The Licensing Authority will apply such conditions as set out in Sections 19, 20 and 21 of the Act.

Mandatory Conditions - Sale of Alcohol

Where a premises licence authorises the sale of alcohol the following conditions will be included

- No supply of alcohol may be made under the premises licence at a time when there is no Designated Premises Supervisor or where the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended
- Every sale of alcohol must be made or authorised by a person who holds a Personal Licence. The Licensing Authority supports the principles set out in the Secretary of State's guidance and strongly recommends that Personal Licence Holders give specific written authorisations to individuals that they are authorising to retail alcohol. The Licensing Authority considers that the following factors should be relevant in considering whether or not an authorisation has been given: The person(s) authorised to sell alcohol at any particular premises should be clearly identified

- The authorisation should have specified the acts which may be carried out by the person being authorised
- There should be an overt act of authorisation, for example, a specific written statement given to the person being authorised
- 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.

Mandatory Conditions - Door Supervisors

Where a premises licence contains a condition that at any time one or more persons must be at the premises to carry out a security activity, such persons must be licensed by the Security Industry Authority (SIA) or be entitled to carry out that activity by virtue of section 4 of the Act. Whenever security operatives are employed at licensed premises to carry out any security function they must be licensed by the SIA. If a licensee directly employs security operatives he/she will need to be licensed by the SIA as a supervisor/manager. The Licensing Authority may look more favourably on licence applications that demonstrate that licensees have considered:

- Recruiting SIA licensed door supervision staff from a reputable company with SIA Approved Contractor Status
- What measures will be taken and what procedures are in place for licensees to check the SIA register of licensed door supervisors to ensure their premises and customers are only protected by door supervisors with an SIA licence.

Mandatory Conditions - Exhibitions of Films

Where a premises licence authorises film exhibitions the admission of children must be restricted in accordance with the certificate of the classification body. Elsewhere in the policy the Licensing Authority has specified that the British Board of Film Classification shall be the 'Film Classification body'. In its role of implementing local cultural strategies, the Licensing Authority recognises the need to encourage and

promote live music, dance and theatre for the wider cultural benefit of the community, particularly children. When considering applications or such events and the imposition of conditions on licences or certificates, the Licensing Authority will carefully balance the cultural needs with the necessity of promoting the licensing objectives. Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused.

Mandatory Conditions - General

1. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children -

- (a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to -
 - (i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) Drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption

at a table meal, as defined in section 159 of the Act);

(c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) Provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -

- (i) The outcome of a race, competition or other event or process, or
- (ii) The likelihood of anything occurring or not occurring;

(e) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

4. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

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

5. The responsible person shall ensure that—

- (1) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

- (i) Beer or cider: ½ 1/2 pint;
- (ii) Gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) Still wine in a glass: 125 ml; and
- (iv) Customers are made aware of the availability of these measures.



Enforcement

Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the 2003 Act. We will support businesses to comply with the law but view offences and breaches of licence conditions seriously.

The Licensing Authority will make arrangements to monitor premises and take appropriate enforcement action to ensure this. The Licensing Authority will work closely with the Police to establish protocols to ensure an efficient deployment of Police and Licensing Officers engaged in enforcing licensing law and inspecting licensed premises, in order to ensure that High-risk premises receive the highest priority.

The enforcement action will be:

- Targeted toward those premises presenting the highest risk
- Proportional, to the nature and seriousness of the risk those premises present
- Consistent, so that we take similar approaches in similar situations
- Transparent, so those who are subject to enforcement action know what to expect
- Accountable, so that we take responsibility for our actions.

The Licensing Authority has instructed its officers to adopt a zero tolerance approach to offences and breaches of licence conditions. In practice this means that licensing officers will investigate all complaints alleging breaches of the Act or licence conditions and act on all sources of reliable intelligence (including local residents and businesses) with a view to establishing if offences have been committed.

Such matters may include:

- Unauthorised licensable activities or breach of licence conditions
- Allowing disorderly conduct on licensed premises
- Sale of alcohol to children and the consumption of alcohol by children
- Sale of alcohol to a person who is drunk

Where licensing officers have such evidence they have a range of enforcement options including:

- Offering advice /guidance (verbal or written)
- Informal written warnings
- Formal cautions
- Prosecutions
- Review of Premises Licences where there are problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm
- Closure of premises that are experiencing disorder or causing a nuisance.

The Licensing Authority encourages a graduated approach to enforcement as set out in the Environmental Services enforcement policy however in the cases of offences relating to :-

1. The deliberate and persistent provision of unlicensed activities especially the sale of alcohol
2. The breach of licensing conditions resulting in substantial risk to the promotion of the licensing objectives(crime and disorder, public safety, public nuisance or protection of children from harm)
3. Persistent underage sales
4. The use of licensed premises in connection with organised criminal activity
5. Allowing disorderly conduct on licensed premises
6. Delivering alcohol to children
7. Allowing the sale of alcohol to children
8. Sending a child to obtain alcohol

It is the expectation that Formal Action (including Fixed Penalty Notices, Formal Cautions, Reviews and / or Prosecution) will be the preferred approach.

Where Members of a Licensing sub-committee hear an application to 'Review' a licence they will give appropriate consideration and weight to the Licensing Authority's 'Guidance for Members hearing a Review of a Premises Licence or Club Premises Certificate' and the 1. decision of the High Court in *Bassetlaw District Council v Worksoop Magistrates Court 2008 EWHC 3530 (Admin)*, that deterrence is an appropriate consideration when dealing with Reviews where that has been activity in connection with criminal activity. Copies of the 'Guidance for Members hearing a Review of a Premises Licence or Club Premises Certificate' is available on the Councils website.

Appeals against Licensing Sub Committee decisions

Following the hearing of an application by a Licensing Sub Committee the applicant or any objector has the right to appeal against the decision to Bromley Magistrates Court within 21 days.

Where the appeal is brought by an applicant it will be the Licensing Authority's usual policy to defend the Sub Committee's decision. This is because the applicant is asking the Court to grant more than the Council deemed appropriate for the promotion of the licensing objectives.

Where an appeal is lodged by an objector following a Sub Committee hearing, the Licensing Authority will always be a "respondent" along with the licence holder. In such cases the Licensing Authority may choose not to be legally represented at the hearing of the appeal at the Magistrates Court. The licence holder as co-respondent may appoint legal representation. A licensing officer will attend court to assist the licence holder and court.

The reason for this is that if an objector's appeal were to be upheld by the Court it would not prejudice the Licensing Authority's decision as to what was appropriate for the promotion of the licensing objectives. It also retains the licence holders right to defend the Licensing Authority's original decision.

The Court makes a charge to lodge an appeal (currently £400) but the appellant may be liable to pay the legal costs of the respondent if the appeal is unsuccessful. (Further details can be obtained from Bromley Magistrates Court See appendix F for contact details).

Where an appeal to the Magistrates Court is not brought by an objector following a Licensing Sub Committee decision and problems relating to the promotion of the Licensing Objectives do subsequently arise residents can seek a formal Review of the licence. Anyone wish to consider this is advised to contact the Licensing Team for further advice. (See Appendix C for contact details).

Administration, Exercise & Delegation of Functions

The Licensing Authority will be involved in a wide range of licensing decisions and functions and has established a General Purposes and Licensing Committee to administer them.

Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub Committees to deal with them.

Many of the decisions and functions are purely administrative in nature and the grant of non contentious applications (including for example, those licences and certificates where no representations have been made) has been delegated to Licensing Authority Officers.

The table overleaf sets out the agreed delegation of decisions and functions to the General Purposes and Licensing Committee, Sub Committees and officers.

This form of delegation is without prejudice to officers referring an application to a Sub Committee, or to Full Committee, if considered appropriate in the circumstances of any particular case.

The Licensing Authority's General Purposes and Licensing Committee have approved its own rules relating to the conduct of hearings by the Licensing Subcommittees under Licensing Act 2003 sec 9(3). A copy is available on request.

The Role of Ward Councillors

Ward councillors play an important role in the local community. They can make representations in writing and speak at the hearing on behalf of an interested party such as a local resident or local business if specifically requested to do so. They can also make representations

as an interested party in their own right if they live, or are involved in a business, in the vicinity of the premises in question.

Ward councillors can also, as elected members of the licensing authority, make representation in their own right if they have concerns about the premises regardless of whether they live or run a business in the vicinity of those premises.

For example, ward councillors may apply for a review of a licence if problems at a specific premise which justify intervention are brought to their attention.

Ward Councillors are informed of all new applications and any application to vary a licence in their ward. Individual Councillors may publicise an application locally in addition to the statutory publication carried out by the applicant and the Council's agreed policy on non statutory consultation.

Local residents and businesses may wish to contact their local ward Councillors in respect of a licence application. Details on how to contact Ward Councillors may be obtained from the Council's Website or by telephoning 020 8464 3333.

If a local resident or business makes a representation about an application it is often helpful to send a copy to the local Councillors. This helps them to gain an understanding of local feelings.

Ward Councillors may attend hearings of licensing Sub Committees considering applications and speak on behalf of local residents and businesses, but only if

- They have made a personal representation
- They have made a representation on behalf of local residents or businesses as 'community advocates'
- They have been nominated by (an objector) who cannot attend the hearing or prefers to be represented at the hearing.

Delegation of Functions

Matter to be dealt with	Licensing Sub Committee	Officers
Application for personal licence	If a Police objection has been made	If no objections
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation has been made	If no relevant representation made
Application for provisional statement	If a relevant representation has been made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation has been made	If no relevant representation made
Application to vary premises supervisor	If a Police objection has been made	All other cases
Request to be removed as a designated premises supervisor		All cases
Application for transfer of premises licence	If a Police objection has been made	All other cases
Application for interim authorities	If a Police objection has been made	All other cases
Application to review premises licence / club premises certificate	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious		All cases
Decision to object when local authority is a consultee	All cases	
Determination of a Police representation to a temporary event notice	All cases	
Taking executive action as a Responsible Authority on behalf of the Licensing Authority.	Delegated to the Director of Environmental Services	



- Premises Type:
- Retail Alcohol,
 - Club Alcohol,
 - Regulated Entertainment, Late Night Refreshment
- Type of Entertainment or Operation
- Seated (inside)
 - Seated (outside)
 - Themed
 - Vertical Drinking
 - Off Sales
 - Dedicated Children's Area
 - Garden / Patio
 - Waiter / Waitress Service
 - Age profile 18-24 - 25-35 - 35+
 - Amplified Music • Live Music
 - Juke Box / Piped Music
 - Alcohol Promotions
 - Adult Style Entertainment
 - Gambling Machines / Electronic Games
 - Pool Tables
 - Big Screen
 - Karaoke
 - Other
 - Proposed Occupancy
 - Operating Hours/Days
 - Existing and Proposed Controls
 - CCTV
 - Noise Limiter Fitted (Set and Sealed)
 - Distance to Nearest Residential Premises
 - Double Glazed
 - Air Conditioned
 - Ventilation
 - Lobbied Access / Egress
 - Door Supervisors
 - Proposed conditions for consideration.

Definitions

In this Policy certain words or terms are used which have a specific meaning in the Licensing Act 2003. The following definitions are provided to help you understand them.

For full details see section 190 to 194 and Schedule 1 and 2 of the Licensing Act 2003 which is available free at www.opsi.gov.uk

Licensable Activities

- The sale by retail of alcohol
- The supply of alcohol by clubs
- The provision of regulated entertainment
- The provision of late night refreshment.

Regulated Entertainment Includes

- Plays
- Films
- Indoor sport
- Boxing or wrestling
- Live music
- Recorded music
- Dance performance.

Exemptions From Regulated Entertainment

- Licences are not required for:
- Films used to advertise goods, services or products, or provide information
 - Films used as part of an exhibit at a museum or art gallery
 - Incidental music to other activities
 - Use of television or radio
 - Entertainment which is part of a religious service or at a place of worship
 - Garden fetes
 - Morris dancing
 - Moving vehicles.

Play (Paragraph 13 Schedule 1)

A performance of any dramatic piece whether involving improvisation or not which is given wholly or in part by persons actually present and performing and in which the whole or a major proportion of what is done by the persons present, whether by way of speech singing or action, involves playing a role.

Film Exhibition (Paragraph 15 Schedule 1)

Any exhibition of moving pictures.

Indoor Sporting Event (Paragraph 16 Schedule 1)

A sporting event which takes place wholly inside a building at which the spectators present at the event are accommodated wholly inside the building.

Boxing or Wrestling

Any contest exhibition or display of boxing or wrestling.

Music

Includes vocal or instrumental, music or any combination of the two.

Late Night Refreshment

The supply between 11pm and 5am of hot food or hot drink to members of the public on or from the premises for consumption on or off the premises.

Authorised Person

Licensing Officer from the Local Authority, Inspector appointed by the Fire Authority (Section 18 Fire Precautions Act 1971), Health and Safety Inspector (appointed under section 19 Health and Safety at work etc Act 1974 - may be from the HSE or Local Authority). An Officer of the Local Authority who is authorised to take action under statutory powers to minimise or prevent risk of pollution or harm to human health.

Responsible Authority

- Police Authority
- Fire Authority
- Health and Safety enforcing authority
- Local Authority responsible for enforcing statutory functions in relation to minimising or preventing the risk of pollution or harm to human health
- Director of Public Health
- A body which represents those who are responsible for or interested in the protection of children
- Chief Inspector of Weights and Measures.

Appendix C: Responsible Authorities Contact List

Licensing Act 2003

Who do I have to send a copy of an application to?

When you make an application for a licence you have to send copies of your application to various people and organisations.

This list gives you the names and addresses of those people.

At The Council

The Licensing Team

Public Protection
St. Blaise, Civic Centre, Stockwell Close,
Bromley BR1 3UH
licensing@bromley.gov.uk

020 8313 4218
020 8461 7956 / 7546

Public Health Complaints Team

Public Protection
St. Blaise, Civic Centre, Stockwell Close,
Bromley BR1 3UH
ehs.customer@bromley.gov.uk

020 8313 4830

Health and Safety Team

(unless the premises are visited by HSE, see below)
Public Protection

St. Blaise, Civic Centre, Stockwell Close,
Bromley BR1 3UH
health.safety@bromley.gov.uk

020 8313 4830

Chief Inspector of Weights and Measures

Public Protection
St. Blaise, Civic Centre, Stockwell Close,
Bromley BR1 3UH
trading.standards@bromley.gov.uk

020 8313 4830

Planning Department

Head of Development Control
North Block, Civic Centre,
Stockwell Close, Bromley BR1 3UH
planning@bromley.gov.uk

020 8461 7763

Bromley Area Child Protection Committee

Room S315 Stockwell Building,
Civic Centre, Stockwell Close,
Bromley BR1 3UH
Anita Edwards

020 8461 7816

Others

Metropolitan Police

Metropolitan Police Service
Bromley Borough Police Station,
High Street, Bromley BR1 1ER
licensing.py@met.police.uk

020 8284 9988

London Fire Brigade

Borough Commander Fire Prevention Branch
4 South Street, Bromley BR1 1RH
bromleygroup@london-fire.gov.uk

020 7587 4601

HSE

Only if the premises are visited by the HSE
and not the Council

HSE

Rose Court

2 Southwark Bridge, London SE1 9HS
licensing.applications@hse.gsi.gov.uk

Appendix D:

Accredited personal licence qualification providers

The Secretary of State has accredited the following personal licence qualifications under the Licensing Act 2003:

BIIAB Level 2 National Certificate for Personal Licence Holders. QCA Accreditation Number: 100/4866/2.

Website: www.bii.org

Telephone: 01276 684 449

Email: qualifications@bii.org

Address: BIIAB, Wessex House, 80 Park Street,
Camberley, Surrey, GU15 3PT

EDI Level 2 National Certificate for Personal Licence Holders. QCA Accreditation Number: 100/4865/0.

Website: www.edipic.com

Telephone: 02476516500

Email: enquiries@edipic.com

Address: Qualifications and processing centre,
International House, SISKIHN Parkway East,
Middlemarch Business Park, Coventry, CV3 4PE

QQAL Level 2 National Certificate for Personal Licence Holders. QCA Accreditation Number: 100/5040/1.

Website: www.nationaltrainingco.com

Telephone: 0845 170 0001

Email: enquiries@pubshop.co.uk

Address: The Pubshop Ltd, Orchard Leigh, 96 Rodwell
Avenue, Weymouth, DT4 8SQ

HABC Level 2 Award for Personal Licence Holders

QCA Accreditation Number: 500/7383/7

Website: www.highfieldabc.com

Telephone: 0191 239 8000

Email: info@highfieldabc.com

Address: Highfield Awarding Body for Compliance Ltd,
Highfield House, Sidings Court Lakeside, Doncaster,
DN4 5NL.

NCFE Level 2 National Certificate for Personal Licence Holders. QCA Accreditation Number: 500/4228/2

Website: www.ncfe.org.uk

Telephone: 0191 239 8000

Email: info@ncfe.org.uk

Address: Citygate, St James' Boulevard,
Newcastle upon Tyne NE1 4JE

Accepted forms of Criminal Conviction Certificates

Basic criminal record checks

Basic criminal record checks can be obtained from Disclosure Scotland. For further details call their helpline number: 0870 609 6006, or visit their website at www.disclosurescotland.co.uk

or

A criminal conviction certificate issued under section 112 of the Police Act 1997,

A criminal record certificate issued under section 113A of the Police Act 1997, or

The results of a subject access search under the Data Protection Act 1998(b) of The Police National Computer by the National Identification Service,

In any case such certificate or search results shall be issued no earlier than one calendar month before the giving of the application to the relevant licensing authority.

Appendix E:

Declaration of Bromley and Beckenham Town Centres as being subject to a Special Policy of Cumulative Impact

On the 29 November 2004 the Licensing Authority considered a recommendation from the General Purposes and Licensing Committee (Report refE504313) that Bromley Town Centre as defined in the attached map ref BTC 83 should be subject to a Special Policy of Cumulative Impact.

On the 21 February 2007 the Licensing Authority considered a recommendation from the General Purposes and Licensing committee (Report refACS07005) that Beckenham Town Centre as defined in the attached map ref Acs 07005 should be subject to a Special Policy of Cumulative Impact.

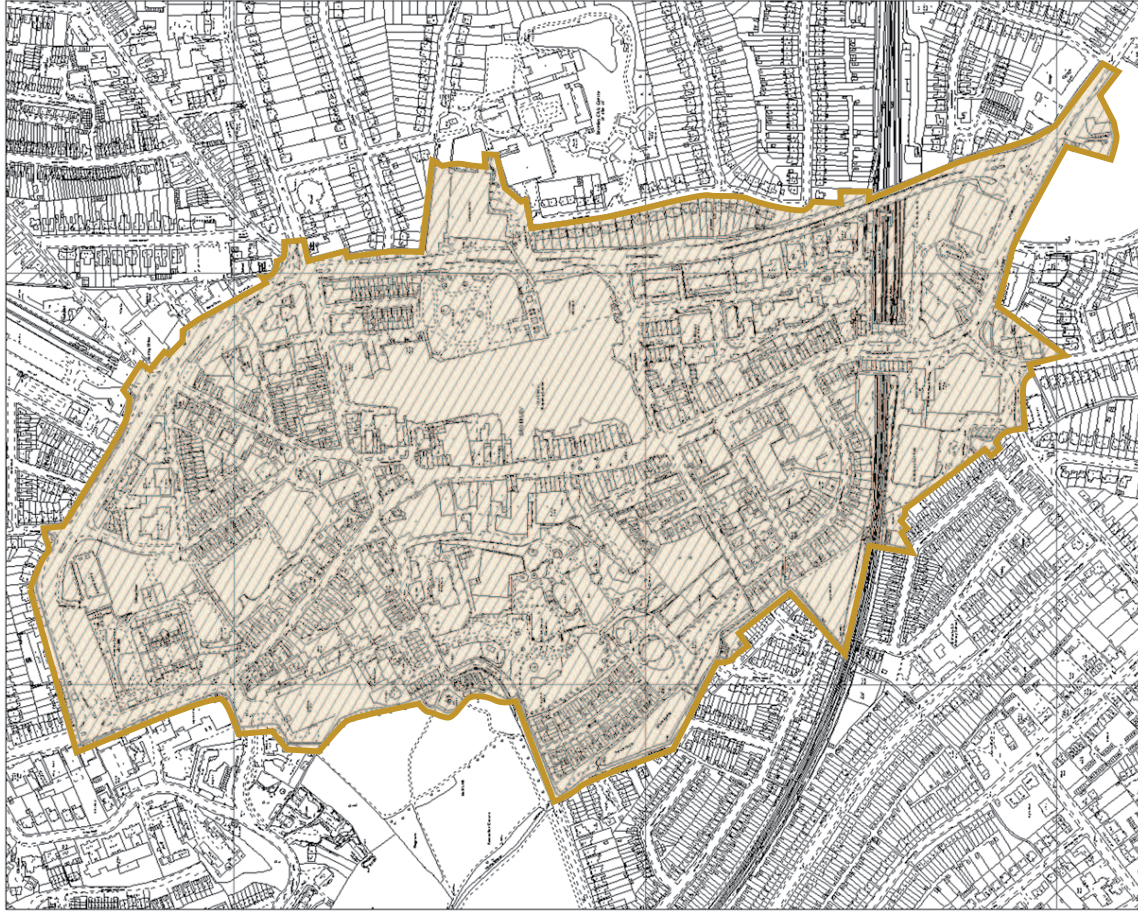
The Licensing Authority is satisfied that within both of these areas the promotion of the four Licensing Objectives is being undermined by the presence of a significant number of licensed premises.

What is the effect of a Special Policy of Cumulative Impact

In an area subject to 'cumulative impact' the Licensing Authority will refuse to grant new Premises Licences, Club Premises Certificates or material variations to existing licenses where it receives relevant representations about cumulative impact on the licensing objectives which it concludes after hearing those representations should lead to a refusal.

The Licensing Authority cannot refuse an application unless it receives valid objections from local residents, businesses or organisations. If no objections are made, an application will be granted.

Appendix E: Map of Bromley Town Centre



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ENVIRONMENT AND LEISURE SERVICES

GORDON HAYWARD
DIRECTOR OF
ENVIRONMENT AND LEISURE SERVICES,
LONDON BOROUGH OF BROMLEY,
BROMLEY, KENT BR1 3JH.
TEL: 020 8464 5333



LICENSING ACT 2003 - BROMLEY TOWN CENTRE
AREA SUBJECT TO A SPECIAL POLICY
OF CUMULATIVE IMPACT.

Scale 1:4000

03/11/04

BTC 83

Appendix E: Map of Bromley Town Centre



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ENVIRONMENT AND LEISURE SERVICES



GORDON HAYWARD
AND LEISURE SERVICES
BROMLEY TOWN CENTRE
BROMLEY WEST BR1 1BA
Tel: 020 8461 3333

**BECKENHAM TOWN CENTRE
AREA SUBJECT TO
"CUMULATIVE IMPACT POLICY"**

Scale 1:5,000 N 21/02/07

Appendix F: Contact Details

ROLE	DIRECT	LINE
Licensing Team		
Paul Lehane	Head of Food, Safety & Licensing	020 8313 4216
David Candeland	Licensing Officer	020 8313 4210
Laurie Grasty	Licensing Officer	020 8313 4734
Steve Phillips	Licensing Officer	020 8313 4659
Paul Double	Licensing Team	020 8313 4218
Esther Devarajulu	Licensing Team	020 8461 7546
Tracey Jones	Licensing Team	020 8461 4701
Sandy Gillah	Licensing Team	020 8461 7956
Email address - licensing@bromley.gov.uk		
Planning		
General Enquiries	Email - planning@bromley.gov.uk	020 8313 4956
Bromley Police Licensing Team		
PC Jonathan Booth	Police (Licensing)	020 8284 9988
PC Mary L Duncan	Police (Licensing)	020 8284 9988
Email address - licensing.py@met.police.uk		
London Fire Brigade		
General Enquiries	Email - info@london-fire.gov.uk	020 8555 1200
Inland Revenue		
South London Area	020 8681 0053	
Bromley Magistrates Court		
The Court House	Contact Numbers	
London Road	020 8437 3585	
Bromley	020 8437 3500	
Kent	020 2729106	
BRI 1BY		

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Agenda Item 6

Report No.
ES 12076

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: General Purposes and Licensing Committee

Date: 11 July 2012

Decision Type: Non-Urgent Non-Executive Non-Key

Title: Changes to the Licensing Act 2003. The Licensing Authority as a Responsible Authority.

Contact Officer: Paul Lehane Head of Food, Safety & Licensing
Tel: 020 8313 4216 E-mail: paul.lehane@bromley.gov.uk

Chief Officer: Nigel Davies Director of Environmental Services

Ward: All Wards

1. Reason for report

To advise Members of recent changes to the Licensing Act 2003 and seek agreement for the Director of Environmental Services to be authorised on behalf of the Licensing Authority to take executive action as a 'Responsible Authority' and for the service 'Closure Notices' for the unauthorised sale of alcohol.

2. **RECOMMENDATION(S)**

Members are asked to

1. Note the changes made to the Act and the action taken to implement these changes.
2. Delegate authority to the Director of Environmental Services to act on behalf of the Licensing Authority as a 'Responsible Authority'.
3. Delegate authority the Director of Environmental Services to serve 'Closure Notices' for the 'Unauthorised Sale of Alcohol'.

Corporate Policy

1. Policy Status: Existing Policy: The Council adopted a licensing policy for the period 2011-2014. the policy supports the Council as the Licensing Authority to promote the four licensing objectives
 2. BBB Priority: Excellent Council Quality Environment Safer Bromley Vibrant, Thriving Town Centres:
-

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Public Protection
 4. Total current budget for this head: £6.0m
 5. Source of funding: Existing Total Revenue Budget 2012/13 (controllable & non-controllable budgets)
-

Staff

1. Number of staff (current and additional): 74 FTEs
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory Requirement: The Council enforces the Licensing Act 2003. which has been amended by the Police Reform and Social Responsibility Act 2011. This report highlights some of the major changes for the Council
 2. Call-in: Not Applicable:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Members of General Purposes & Licensing Committee, all businesses licensed under the 2003 Act, future applicants and all residents and businesses.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

The Police Reform and Social Responsibility Act 2011 made a number of changes to the Licensing Act 2003 with effect from 25 April 2012 .

- 3.1 The Licensing Authority is now also a 'Responsible Authority' which means that it can now make representations on applications in its own right and can also make applications to 'Review' a licence.
- 3.2 The Council must now suspend a licence if the annual fee is not paid.
- 3.3 The penalties for persistently selling alcohol to Children have been increased. Persistently selling alcohol to children is defined as when a licence holder is found to be selling alcohol to children two or more times within a three month period. The key change is to double the maximum fine from £10,000 to £20,000. In addition the period of voluntary closure that can be issued by the police or trading standards officers as an alternative to prosecution is increased from 2 days to a maximum closure period of two weeks. There will also be a presumption that a licence will be 'Revoked' on Review.
- 3.4 Temporary Event Notices
- The key change is to allow Environmental Health Officers (EHO's) as well as the Police to object within 3 working days to a Temporary Event Notice on the basis of all 4 licensing objectives.
 - To give licensing authorities discretion to apply existing licence conditions to a Temporary Event Notice.
 - To allow a limited number of late Temporary Event Notices to be made (i.e. those submitted less than 10 working days, but more than 5 working days, before the beginning of the event) unless there are objections by the Police or EHO's.
 - To increase the total annual period covered by a temporary event notice in a single premises from 15 days to 21 days per year.
 - The period covered by each Temporary Event Notice has been increased to 168 hours from 96 hours.
- 3.5 It will be easier for Councils to set up an area covered by a Cumulative Impact Policy (Saturation areas) allowing licensing authorities to have more control over outlet density. Bromley already has two of these, one in Bromley Town Centre and the other in Beckenham Town Centre.
- 3.6 Councils will be able to justify licensing decisions as being 'appropriate' rather than 'necessary' to promote the 4 Licensing Objectives
- 3.7 Copies of licence applications will have to be sent to 'The Director of Public Health' who becomes a 'Responsible Authority' under the Act and can make representations on individual applications.
- 3.8. Anyone can now make a representation on a licence application. Previously only people living or working in the 'vicinity' of the premises could comment on an application.
- 3.9 The statutory period for formally reviewing the Councils Statement of Licensing Policy is increased to five years from three years. This means that our current policy will now need to be reviewed in 2016.

3.10 Commentary on the Changes

Every licence holder has been written to setting out the main changes directly affecting them and a brief description of the other more administrative changes.

3.11 The Licensing Authority as a 'Responsible Authority'

3.12 To enable the Licensing Authority to exercise its functions as a 'Responsible Authority' Members are asked to delegate the function to the Director of Environmental Services. He in turn can authorise the Councils Licensing Officers to undertake executive action where necessary.

3.13 There is a potential conflict of interest in the Licensing Authority acting both in its statutory capacity and as a 'Responsible Authority'. The Revised Guidance issued by the Secretary of State under section 182 of the Act addresses this and says

LICENSING AUTHORITIES ACTING AS RESPONSIBLE AUTHORITIES

9.13 Licensing authorities are included in the list of responsible authorities. A similar framework exists in the Gambling Act 2005. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. It is, therefore, for the licensing authority to determine when it considers it appropriate to act in its capacity as a responsible authority; the licensing authority should make this decision in accordance with its duties under section 4 of the 2003 Act.

9.14 Licensing authorities are not expected to act as responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.

9.15 It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.

9.16 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention; they may do so where they consider it appropriate without having to wait for representations from other responsible authorities. For example, the licensing authority may (in a case where it has applied a cumulative impact policy) consider that granting a new licence application will add to the cumulative impact of licensed premises in its area and therefore decide to make representations to that effect, without waiting for any other person to do so.

9.17 In cases where a licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub

committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.

9.18 In these cases, licensing authorities should allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different individual to the officer who is acting for the responsible authority. The officer acting for the responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority. For example, discussion should not take place between the officer acting as responsible authority and the officer handling the licence application regarding the merits of the case. Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, must be made in writing. It is for the licensing authority to determine how the separate roles are divided to ensure an appropriate separation of responsibilities. This approach may not be appropriate for all licensing authorities and many authorities may already have processes in place to effectively achieve the same outcome.

9.19 For smaller licensing authorities, where such a separation of responsibilities is more difficult, the licensing authority may wish to involve officials from outside the licensing department to ensure a separation of responsibilities. However, these officials should still be officials employed by the authority.

- 3.14 As there are four officers currently authorised under the Act , we will separate the normal administrative functions from those where they are acting directly on behalf of the Licensing Authority as a Responsible Authority
- 3.15 **Suspension of Licences for unpaid Fees**
The Licensing team have identified premises where the fees are outstanding and are issuing notices of suspension as appropriate.
- 3.16 **Temporary Events**
The Public Health Nuisance Team have been trained on the new procedures and new TENS forms have been loaded on the Website.
- 3.17 **Public Health as a 'Responsible Authority'**.
The Director of Public Health has been actively involved and a partnership approach is being developed for the local implementation of the Governments Alcohol Strategy which was published in March 2012.
- 3.18 **Closure Notices for the unauthorised sale of Alcohol**
The Criminal Justice and Police Act 2001 gave authority to the Police and Local Authority to serve a 'Closure Notice' where premises have been used within the last 24 hrs for the unauthorised sale of alcohol for consumption on, or in the vicinity of, the premises.
- 3.19 The Closure notice specifies the steps which may be taken to ensure that the alleged use of the premises ceases or (as the case may be) does not recur. If these steps are not taken then an application may be made to the Magistrates Court for a formal Closure Order.
- 3.20 This procedure has been exercised by the Police on behalf of and in partnership with the Licensing Authority since the commencement of the Licensing Act in 2005.

3.21 It would be more effective if these procedures could be initiated by the Councils Licensing Officers independently of the Police when required and given the new role of the Licensing Authority as a 'Responsible Authority' it is timely to seek Members agreement to this at the same time as they are considering the delegation of authority to the Director of Environmental Services.

4. POLICY IMPLICATIONS

The changes will necessitate a further review of the Councils Licensing Policy to ensure it is in keeping with the current law and guidance. This will be covered in a separate report for the Committee

5. LEGAL IMPLICATIONS

The Council is required to prepare, approve and publish its Statement of Licensing Policy every 5 years and to keep it under review in the intervening period.

Non-Applicable Sections:	FINANCIAL IMPLICATIONS & PERSONNEL IMPLICATIONS
Background Documents: (Access via Contact Officer)	Licensing Act 2003 Police Reform and Social Responsibility Act 2011 Secretary of States Guidance issued under section 182 Licensing Act 2003 The Criminal Justice and Police Act 2001

Report No.
RES12124

London Borough of Bromley

Agenda
Item No.

PART 1 - PUBLIC

Decision Maker: General Purposes and Licensing Committee

Date: 11 July 2012

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **APPOINTMENTS TO OUTSIDE BODIES**

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 020 8461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Resources

Ward: N/A

1. Reason for report

1.1 In May each year, the Committee considers a report on the appointment of Council representatives to serve on Outside Bodies and Partnership Bodies. Most appointments are renewed annually, but a small number run for longer periods and do not necessarily tie in with the Council year. The Committee is asked to consider appointments for the following outside bodies (1) the William Mosyer Charity, St Mary Cray, (2) Oxleas NHS Foundation Trust and (3) the Diocese of Rochester Board of Education.

2. **RECOMMENDATIONS**

2.1 That the Committee appoints the following –

- (a) one representative to the William Mosyer Charity, St Mary Cray for the remainder of the four year term of office ending in May 2014;
- (b) one Councillor to the Oxleas NHS Foundation Trust Council of Governors for the three year period ending in May 2015; and
- (c) one Councillor to serve as the Council's representative on the Diocese of Rochester Board of Education for the three year period expiring on 31st December 2014.

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Excellent Council.
-

Financial

1. Cost of proposal: No cost
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £374,320
 5. Source of funding: 2012/13 revenue budget
-

Staff

1. Number of staff (current and additional): The Democratic Services Team consists of eight posts (7.22fte).
 2. If from existing staff resources, number of staff hours: Liaison with outside bodies about Council appointments forms a small proportion of one post within the Democratic Services Team.
-

Legal

1. Legal Requirement: No statutory requirement or Government guidance.
 2. Call-in: Call-in is not applicable.
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 Most outside body appointments are made on an annual basis by the Committee at its first meeting of the Council year in May, but a number of appointments are for longer periods which do not necessarily match the Council year. Three appointments now need to be considered as follows.

William Mosyer Charity, St Mary Cray

The William Mosyer Charity, St Mary Cray, has the objective of the relief of persons in the ancient Parish of St Mary Cray who are in conditions of need, hardship or distress. The Council appoints three people, who each serve a four year term corresponding to the life of a Council (the current term being May 2010 to May 2014.) In May 2012, the Council appointed Councillor Peter Fortune, Honorary Alderman John Holbrook and Mr Malcolm Brown, but Mr Holbrook and Mr Brown have since resigned. At the Committee's last meeting Mr Graham Collins was appointed to one of these vacancies, but one vacancy still remains to be filled.

Oxleas NHS Foundation Trust Council of Governors

The Council appoints one representative the Oxleas NHS Foundation Trust Council of Governors for three year terms of office. Councillor Michael Turner, the current Mayor of Bromley, has represented the Council for some time, but he has now decided not to continue. A vacancy therefore exists for the remainder of the three year term expiring in May 2015.

Diocese of Rochester Board of Education

The Council appoints one Councillor to the Diocese of Rochester Board of Education, which meets about six times per annum in Rochester. Terms of office are for three years and the current term expires at the end of December 2014. The Board supports Church of England Schools in Kent, Medway, Bexley and Bromley.

At the Committee's meeting on 14th March 2012 Councillor Ian Payne was provisionally appointed, but subject to further clarification of the role. Subject to any further views from Cllr Payne, or any other nominations, the Committee is invited to confirm the nomination.

Non-Applicable Sections:	Policy, Financial, Legal and Personnel Implications
Background Documents: (Access via Contact Officer)	Previous reports to General Purposes and Licensing Committee on outside body appointments, including the annual appointments reports presented in May each year.

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Agenda Item 8

Report No.
RES12127

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: General Purposes and Licensing Committee

Date: 11th July 2012

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **FINANCIAL REGULATIONS**

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 020 8461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Resources

Ward: N/A

1. Reason for report

- 1.1 The Council's current Financial regulations were approved in 2009 – the Audit Sub-Committee has now reviewed them, removing duplication and making sure that terminology and designations are correct, and approved an updated version for consideration by full Council.
-

2. **RECOMMENDATION(S)**

- 2.1 **The Committee is recommended by Audit Sub-Committee to refer the updated Financial Regulations for approval by full Council.**

Corporate Policy

1. Policy Status: Existing Policy: The proposed new Financial Regulations are an update of the current document.
 2. BBB Priority: Excellent Council
-

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £374,320
 5. Source of funding: 2012/13 revenue budget
-

Staff

1. Number of staff (current and additional): The Democratic Services Team has 8 posts (7.22 fte)
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: Statutory Requirement: Section 151, Local Government Act 1972
 2. Call-in: Not Applicable: This report does not include an executive decision.
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

3.1 At its meeting on 6th June 2012, the Audit Sub-Committee considered and approved an updated version of the Council's Financial Regulations for submission to this Committee and then full Council.

3.2 The report considered by Audit Sub-Committee was its standard Internal Audit Progress Report – the key sections are reproduced below:

3.16 Financial Regulations

3.17 The Financial Regulations for this authority was last updated in April 2009. It needed to be updated given the feedback received from officers that it was too long (160 pages) and not user friendly and confusing in relation to limits for authorising payments and orders.

3.18 The Contract Procedure Rules sit outside of financial regulations and are accessed separately. As a result of the investigations various best practice notes, aides and guidance have been produced by Procurement to assist officers. These include a quick guide to the procedures, and guidance on the use of consultants, waivers and variations and exemptions.

3.19 The Financial Regulations have now been updated and a draft has been made available to members of this committee.

3.20 The main changes proposed are:

- Deletion of Financial Procedures – Part one. This document detailed 50 pages of responsibilities for Chief Officers across financial management, financial planning, risk management, system and procedures and external arrangements. Apart from this being a long, text book lifted and unwieldy part of Financial Regulations, a lot of this was already covered by the financial regulations strategic responsibilities section. As part of our review process of procedures part one, we incorporated some elements of relevance within the top level strategic part of the Financial Regulations.
- We have also introduced a new document covering authorisation of limits for orders and payments (section 5 of the financial procedures). This has been approved by the Finance Director, Deputy Finance Director and Heads of Finance. The limits proposed are in line with I-proc limits and contract procedure rules. The document also contains listed exemptions that could be covered by a department's scheme of delegation.
- The Financial Regulations have been amended to include changes in the organisation.
- This leaves just two parts to the Financial Regulations that have been revised as indicated above – Financial Regulations (strategic) aimed at members and chief officers and Financial Procedures which is the document that most officers would need to make reference to. This contains procedures to be followed across a number of key areas of control such as budgetary control, salaries and payroll, ordering for goods and services, payment of accounts etc as well as appendices sitting at the bottom of the Financial Regulations covering fraud and corruption, gifts and hospitality and retention of documents.

3.21 We are also in the process of loading the Financial Regulations on the web as part of a video training package that officers can access that will take about 30 minutes to go through. This will contain two modules to include the Contract Procedure Rules. It is envisaged that officers will be required to have completed the two modules to authorise future payments.

3.22 The draft revamped financial regulations will be shorter (about 110 pages) and easier to navigate by using the document map facility in the 'view bar'. Members are asked to comment and approve the Financial Regulations.

3.3 The full text of the proposed new Financial Regulations, although substantially reduced, is still a large document of over 100 pages, so printed copies have only been produced for members of this Committee. The full document will be available from Democratic Services and on the Council website.

Non-Applicable Sections:	Financial/Policy/Legal/Personnel
Background Documents: (Access via Contact Officer)	Report and Minutes – Audit Sub-Committee (6/6/12)

AUDIT SUB-COMMITTEE

Minutes of the meeting held at 7.00 pm on 6 June 2012

Present:

Councillor Neil Reddin FCCA (Chairman)
Councillor Simon Fawthrop (Vice-Chairman)
Councillors Reg Adams, Nicholas Bennett J.P.,
Ruth Bennett, Will Harmer and Stephen Wells

Also Present:

Councillor Peter Fookes

1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

All Members were present.

2 DECLARATIONS OF INTEREST

Councillor Reg Adams declared a personal interest as a governor of Churchfields Primary School

Councillor Ruth Bennett declared a personal interest as a governor of Princes Plain Primary School.

Councillor Neil Reddin declared personal interests as he had a child at Warren Road Primary School, his wife was a governor at Hayes Primary School and he was a governor at St Olave's School.

Councillor Stephen Wells declared a personal interest as a governor of Bromley Road Infants and Worsley Bridge Junior Schools.

During consideration of the Annual Audit Report Councillor Simon Fawthrop declared a personal interest as he was the parent of a child at a Bromley school.

3 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions had been received.

4 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 8TH MARCH 2012 EXCLUDING THOSE CONTAINING EXEMPT INFORMATION

RESOLVED that the minutes of the meeting held on 8th March 2012 (excluding exempt information) be confirmed.

5 MATTERS OUTSTANDING FROM PREVIOUS MEETINGS
Report RES12102

With respect to the issue of the copyright position of the Council logo, it was conformed that although there was no copyright on the logo the Council held the intellectual property rights and could take action if these were infringed.

RESOLVED that the report be noted.

6 FULL BUDGET MONITORING SYSTEM - DEMONSTRATION

The Committee received a demonstration of the new Full Budget Monitoring System. The system would enable the Council's 65 budget holders to view their current and previous three years budgets online and drill down to individual items of expenditure. They would be required to sign off their budgets each month, referring them up to Assistant Directors, having first run a cumulative spend report. Any issues could then be picked up by Assistant Directors, who would see budgets across their various teams, and Heads of Finance. All budget holders had been trained in the use of the system, and monthly sign-offs would begin in July.

The system would identify when contract limits were reached and reduce risks, although it only presented information and could not prevent payments. Members asked whether spending commitments were included – this was functionality that could possibly be added. Other systems were in place that controlled procurement expenditure – i-proc and the new Due North contracts system, and all officers involved in the authority's finances were receiving mandatory training on financial regulations and the contracts procedure rules. In addition work was being done on a further course on financial regulations for managers and finance staff that would conclude with a test.

7 ANNUAL AUDIT REPORT
Report CEO1202

The Sub-Committee received the Annual Audit Report which now, for the first time, also included schools. The report also included the Annual Governance Statement, which would be signed by the Leader and the Chief Executive for publication as part of the statutory accounts. The report covered the performance of the Internal Audit function, the audits undertaken and an opinion on the overall adequacy and effectiveness of the organisation's internal control environment.

RESOLVED that the contents of the report be noted and the Annual Governance Statement be approved.

During consideration of this report Councillor Simon Fawthrop declared a personal interest as he was the parent of a child at a Bromley school.

8 INTERNAL AUDIT PROGRESS REPORT
Report CEO1201

The Sub-Committee considered a summary of recent internal audit activity across the Council. The following matters were considered in particular –

Priority One Recommendations: Parking PCNs: Members noted the difference between waivers and write-offs of PCN debt – in both cases the PCN was correctly issued, but with a waiver the Council was using its discretion to waive the charge whereas with a write-off it was accepting that it was unable to collect the debt. The balance had shifted towards more waivers and fewer write-offs; the Head of Internal Audit confirmed that checks had been made on this and there were genuine reasons for the waivers. The list of reasons for waivers would be circulated.

Audit Restructure: The new structure of the Internal Audit Team was noted. Greenwich had advertised for auditors and there was a possibility that they would need less of Bromley's services, or recruit from Bromley's staff.

Auditor of the Year: The Sub-Committee considered the two nominations. Although the work carried out by both was highly commended, the Sub-Committee considered that on balance Auditor A's work in the face of limited documentation had been more ground-breaking.

Financial Regulations: The Financial Regulations had last been approved in 2009. They had now been updated and reviewed to remove duplications. A version including track changes would be circulated to Members.

Partnership Working: In response to a question about the responsible officer role, it was explained that in many academies this had now been taken on by governors or by external companies.

Value for money (VFM): It was noted that the Customer Service Centre had scored below average in customer surveys – details would be emailed to the Improvement and Efficiency Team. A Member commented that invest to save projects and sold services usually seemed to be exactly on budget - it was confirmed that an audit would be carried out on invest to save.

Pupil Referral Unit: It was confirmed that a follow-up audit would be carried out shortly.

RESOLVED that

- (1) The content of the report and the continuing achievements of the counter-fraud partnership with Greenwich be noted.
- (2) The auditor of the year award be made to Auditor A.
- (3) The changes to Financial Regulations be approved for submission to General Purposes and Licensing Committee and Council.

9 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**The following summaries
refer to matters
involving exempt information**

10 EXEMPT MINUTES OF THE MEETING HELD ON 8TH MARCH 2012

The exempt minutes of the meeting held on 8th March 2012 were confirmed.

11 ANNUAL INTERNAL AUDIT FRAUD AND INVESTIGATION REPORT
Report CEO1203

The Sub-Committee received the annual report on fraud and corruption activity for 2011/12.

12 INTERNAL AUDIT FRAUD AND INVESTIGATION PROGRESS REPORT
Report CEO1204

The Sub-Committee considered a report updating them on recent Internal Audit counter fraud activity.

The Meeting ended at 9.21 pm

Chairman

Agenda Item 11

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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