

<b>Meeting:</b>	<b>Safer Bromley Partnership Strategic Group</b>
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<b>Subject:</b>	<b>London Borough of Bromley Licensing Policy</b>
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## **1 SUMMARY**

- 1.1 This report is intended to provide background information in support of the presentation that will be delivered at the meeting of the Safer Bromley Partnership. The report contains the most recently approved Licensing Policy for the London Borough of Bromley

## **2 RECOMMENDATION**

- 2.1 The Strategic Group is asked to
- Note the Licensing Policy contained within this report, and
  - Comment on the Policy and the presentation delivered by the Head of Food Safety, Occupational Safety and Licensing.

## **3 BACKGROUND INFORMATION**

- 3.1 The Council is required by the Licensing Act 2003 (Section 5) to prepare and publish its policy with respect to the exercise of its licensing functions for a three year period.
- 3.2 The Council's previous policy was adopted by Council on 29 November 2007 and became effective on 7<sup>th</sup> January 2008. The policy was valid until 6<sup>th</sup> January 2011. A new policy must be adopted and published before that date. At the meeting of Council on 25 October 2010, the revised Licensing Policy was formally adopted.
- 3.3 This report contains the current statement of Licensing Policy and members of the Strategic Group will receive a presentation on the new policy from the Council's Head of Food Safety, Occupational Safety and Licensing.



London Borough of Bromley

Statement of Licensing Policy  
2011 - 2014

Approved by the General Purposes and Licensing Committee on  
20 October 2010  
and Council on 25 October 2010

Effective from 7 January 2011

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## Introduction

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**B**romley 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 decision-making 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 three (3) years up to January 2014 and will be kept under review throughout this period and maybe revised in the light of experience or changing circumstances.

Bromley is responsible for 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 registration certificates referred to a Licensing Sub Committee for a hearing. The aide memoir will be

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refined and developed with use. (An example of the points contained within the aide memoir is contained in Appendix A).

**Flow chart of the  
Licensing Process for  
Premises and Clubs**

**To be inserted here  
(unchanged from  
previous policy)**

## 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 three 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 (October 2010).

### 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 (Environmental Health and Trading Standards)
- Trading Standards Service (Environmental Health and Trading Standards)
- 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.



## The Policy Statement

### 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 Licensing Policy Statement.

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 variation of a further licence will result in cumulative impact, the Licensing Authority will take the following steps in each case:

- 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 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. 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
- 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 modifications to a licence, except where the modifications are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits.

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, 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 licenses 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 variations stands except 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

## **Licensing Hours**

### **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 which states that: 'There is no general presumption in favour of lengthening licensing hours and the Four Licensing Objectives should be paramount at all times.' 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.

## **Licensing Hours**

### **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 or 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
- 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 sale 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.

## Protection of Children from Harm

### 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.

## Crime and Disorder

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](http://www.bromley.gov.uk)).

If relevant representations are received to 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. The Licensing Authority recognises that each case is individual and will be decided on the facts and its specific merits.

## 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 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) 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

## 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 Department of Media Culture and Sports guidance issued under section 182 of the Licensing Act 2003 published October 2010.

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 the recommendation of the Secretary of State in the guidelines issued under Section 182 of the Licensing Act 2003 that refusal of an application for a personal licence where relevant previous convictions exist should be the norm unless there are in the opinion of the Licensing Committee exceptional and compelling circumstances that justify granting 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 decision-making 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 Certificates may be varied under the Licensing Act 2003. Minor variations generally fall into four categories they are:-

- 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).

- Removal of a licensable activity or licence condition,
- Addition of a volunteered condition or conditions.
- 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 department of Culture Media and Sport Guidance issued under section 182 of the Licensing Act 2003 published October 2010.*

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 0700 and 2300
- 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 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 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](http://www.bromley.gov.uk)) and on the DCMS website ([www.dcms.gov.uk](http://www.dcms.gov.uk)).

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 seeking to recover outstanding amounts informally and formally as a Civil Debt.

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.

However where the annual fee has not been paid after the standard reminder the Council will take the following action

Step	Action	Minimum Timescale after renewal date
1	A further reminder letter will be sent	1 month
2	Telephone calls to the licence holder / agent where contact numbers exist	2 months
3	Visit by an Officer	3 months
4	Where the premises are being used for a licensable purpose the debit to be recovered through formal debit recovery process	4 months
5	Where the premises are <b>not</b> being used for a licensable purpose further attempts to contact the licence holder will be undertaken by writing / email and phone and undertaking land registry searches/ Appropriate enquiries will be made to establish the current status of the Licence holder (e.g. Insolvent or dead)	4 to 6 months

Where no contact is made with the licence holder at 6 months the Council will deem the licence to be lapsed. The Council will accept evidence at a later date that the licence had not lapsed and require payment of outstanding fees

## 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 a minimum of 10 working days before the proposed event and only the Police can object on crime and disorder grounds. 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 96 hours
- No premises can host more than 12 events in a year
- The maximum number of days covered by Temporary Event Notices cannot exceed 15 days in a year
- A personal licence holder can apply for up to 50 temporary events
- Any other person can apply for 5 temporary events.

## 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.

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

Representations must contain the name, full address including post code, phone number and email of the person making them. Failure to supply full details could result in delayed notification of any changes to the nature of the application and the Licensing Authorities decision.

Note:

Petitions will only be accepted if on each sheet it clearly shows the application name and address, the licensable activities and their hours.

Additionally each petitioner must give their name, full address including post code, phone number and email. They must also state which of the licensing objectives they are making their representation on and their reasons.

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

## **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 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. The Licensing Authority will ensure that periodic reports are sent from the Licensing Committee to the Development Control Committee advising them of the situation regarding licensed premises in Bromley, including the general impact of alcohol related crime and disorder to assist them in their decision-making. When considering representations to the granting of a new Premises Licence or Club Premises Certificate or a 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.

## **Cultural Strategies**

The Licensing Authority wishes to encourage the provision of a culturally diverse range of regulated entertainment within the Borough, particularly live music and dance, and will monitor the impact of licensing on this. Where there is

evidence that licensing's deterring this, the Licensing Committee will review this policy with a view to improving the situation.

## **Racial Equality**

The Licensing Authority recognises its responsibilities under the Race Relations Act 1976 (as amended) to have regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between different racial groups and will seek to satisfy this in effecting this Policy Statement.

## **People with Disabilities**

The Licensing Authority seeks to encourage people with disabilities to partake in the provision and use of licensed premises and activities. Premises Licence holders and Clubs are reminded of the duties imposed by the Disability Discrimination Act 1995, which requires that any person providing a service to the public must make reasonable adjustments to enable disabled people to access the service. It is the policy of Government that facilities for people and performers with disabilities should be provided at places of entertainment and they encourage premises Licence Holders and Club Premises Certificate holders to provide facilities enabling their admission. In support of these aims the Licensing Authority will not attach conditions to a licence or certificate that conflict with or duplicates these requirements. 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 regulation approval.



## 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

### 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 (October 2010) 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.

## **Licence Conditions**

### **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 for 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 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–

following alcoholic drinks is sold or supplied for consumption on the

- (i) Beer or cider: ½ pint;
  - (ii) Gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) Still wine in a glass: 125 ml; and
- (b) 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 Health & Trading Standards generic 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 the Licensing sub-committee are required to hear an application to 'Review' a licence they will be guided by the decision of the High Court in *Bassetlaw District Council v Worksop 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.

## 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 and 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 I

Insert table

Note no changes are being made to this table

## Appendix A: Decision Aide memoir Points

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

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- Air Conditioned
- Ventilation
- Lobbied Access / Egress
- Door Supervisors
- Proposed conditions for consideration.



## Appendix B 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](http://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.

## Appendix B

### Interested Party

- A person living in the vicinity of the premises seeking a licence
- A body representing people living in that vicinity
- A person involved in a business in that vicinity
- A body representing persons involved in businesses in the vicinity.
- A ward councillor as elected members of the Licensing Authority.

### 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
- 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

Environmental Health and Trading Standards

St. Blaise, Civic Centre, Stockwell Close, Bromley BR1 3UHlicensing@bromley.gov.uk **020 8313 4218020 8461 7956 / 7546**

##### Public Health Complaints Team

Environmental Health and Trading Standards St. Blaise, Civic Centre, Stockwell Close, Bromley BR1

3UHehts.customer@bromley.gov.uk **020 8313 4830**

##### Health and Safety Team (unless the premises are visited by HSE, see below)

Environmental Health and Trading Standards St. Blaise, Civic Centre, Stockwell Close, Bromley BR1

3UHhealth.safety@bromley.gov.uk **020 8313 4830**

##### Chief Inspector of Weights and Measures

Environmental Health and Trading Standards St. Blaise, Civic Centre, Stockwell Close, Bromley BR1

3UHtrading.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](mailto:planning@bromley.gov.uk)

**020 8461 7763**

##### Bromley Area Child Protection Committee

Room S315 Stockwell Building, Civic Centre, Stockwell Close, Bromley BR1 3UHANita Edwards **020 8461 7816**

##### Others

##### Metropolitan Police

Metropolitan Police Service Bromley Borough Police Station, High Street, Bromley BR1

1ERlicensing.py@met.police.uk **020 8284 9988**

##### London Fire Brigade

Borough Commander Fire Prevention Branch 4 South Street, Bromley BR1 1RHbromleygroup@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](mailto: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 Act2003:

#### **BIIAB Level 2 National Certificate for Personal Licence Holders.**

**QCA Accreditation Number: 100/4866/2.**

**Website: [www.bii.org](http://www.bii.org)**

**Telephone: 01276 684 449**

**Email: [qualifications@bii.org](mailto: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.ediplc.com](http://www.ediplc.com)**

**Telephone: 02476516500**

**Email: [enquires@ediplc.com](mailto:enquires@ediplc.com)**

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

#### **GQAL Level 2 National Certificate for Personal Licence Holders.**

**QCA Accreditation Number: 100/5040/1. Website:**

**[www.nationaltrainingco.com](http://www.nationaltrainingco.com)**

**Telephone: 0845 170 0001**

**Email: [enquiries@pubshop.co.uk](mailto: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](http://www.highfieldabc.com)**

**Telephone: 0191 239 8000**

**Email: [info@highfieldabc.com](mailto: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](http://www.ncfe.org.uk)**

**Telephone: 0191 239 8000**

**Email: [info@ncfe.org.uk](mailto: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 <http://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 refES04313) 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**

**Appendix E: Map of Beckenham Town  
Centre**

## F: Contact Details<sup>39</sup>NAME

### ROLE DIRECT LINE

#### Licensing Team

Paul Lehane....Manager 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

Pete Warne.....Licensing Officer. ....020 8313 4677

Paul Double.....Licensing Team.....020 8313 4218

Esther Devarajulu.....Licensing Team.....020 8461 7546

E.mail address - [licensing@bromley.gov.uk](mailto:licensing@bromley.gov.uk)

#### Planning

General Enquiries.....020 461 7763

#### Bromley Police Licensing Team

PC Andy Waddington.....Police (Licensing).....020 8284 998

PC Phil Spiteri.....Police (Licensing).....020 8284 9988

#### London Fire Brigade

General Enquiries.....020 7587 4601

#### Inland Revenue

South London Area.....0845 302 1455

#### Bromley Magistrates Court

The Court House1 London RoadBromleyBR1 1BY 020 8325 4000