



# Statement of Licensing Policy

## Achieving the right balance

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**GLOSSARY**

<i>The Council</i>	The London Borough of Richmond upon Thames
<i>The Licensing Authority</i>	The capacity in which the Council acts when performing its roles and duties set out in the Licensing Act 2003. This capacity is delegated to officers in certain situations and circumstances detailed in the Policy.
<i>Licensing Sub-Committee</i>	The 3 member committee appointed from a pool of members to consider applications for Premises Licences, Club Premises Certificates, and their variations and reviews or other types of licences or applications.
<i>The Act</i>	The Licensing Act 2003 and all Regulations made thereunder.
<i>Secretary of State's 182 Guidance</i>	The Guidance issued by the Home Office under section Licensing Act 2003
<i>Other Person</i>	Any persons wishing to make representations on an application or to apply for or make representations on a review
<i>Cumulative Impact Assessment</i>	A special policy in which the Licensing Authority considers that the number of relevant authorisations in respect of premises in one or more parts of its area described in the assessment is such that it is likely that it would be inconsistent with the authority's duty under section 4(1) to grant any further relevant authorisations in respect of premises in that part or those parts. The CIAs arise under 5A of the Licensing Act 2003.
<i>Relevant representation</i>	The Licensing Authority may only consider relevant representations (objections) in determining applications. Relevant Representations are defined in the Act as being those that: <ul style="list-style-type: none"> <li>● are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives</li> <li>● are made by any other person or responsible authority within the prescribed time period following an application</li> <li>● are not frivolous or vexatious (in the opinion of the Licensing Authority or the Licensing Sub-Committee).</li> </ul>
<i>Designated Premises Supervisor (DPS)</i>	A person specified on the licence as the supervisor of the premises licensed for the sale of alcohol. The DPS must hold a personal licence.

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<i>Personal Licence</i>	A licence granted by a Licensing Authority to an individual, authorising that individual to sell, or authorise the sales of, alcohol.
<i>Operating schedule</i>	The part of an application form in which the applicant sets out their proposed activities, the times which they wish to operate and the steps they propose to promote the licensing objectives.
<i>Licensable activities</i>	<p>Activities for which authorisation is required under the Act:</p> <ul style="list-style-type: none"> <li>● the sale by retail of alcohol,</li> <li>● the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club,</li> <li>● the provision of regulated entertainment, and</li> <li>● the provision of late night refreshment.</li> </ul>
<i>Regulated entertainment</i>	<p>The provision of regulated entertainment is defined as any of the following activities that takes place in the presence of an audience for the entertainment of that audience and are provided with a view to profit:</p> <ul style="list-style-type: none"> <li>● <b>Boxing or wrestling</b> including mixed martial arts (this does not include Greco-Roman or Freestyle wrestling)</li> <li>● <b>An exhibition of a film</b> (this does not include live feed television i.e. sporting events)</li> <li>● <b>Adult entertainment</b> (for example lap-dancing)</li> <li>● <b>Playing of recorded music</b> <ul style="list-style-type: none"> <li>○ Between 11pm and 8am</li> <li>○ At any time when the audience numbers are over 500 people</li> </ul> </li> <li>● <b>Unamplified live music</b> <ul style="list-style-type: none"> <li>○ Between 11pm and 8am</li> </ul> </li> <li>● <b>Amplified live music</b> (including karaoke):           <ul style="list-style-type: none"> <li>○ Between 11pm and 8am</li> <li>○ At any time when the audience numbers are over 500 people</li> </ul> </li> <li>● <b>Performance of dance</b> <ul style="list-style-type: none"> <li>○ Between 11pm and 8am</li> <li>○ At any time when the audience numbers are over 500 people</li> </ul> </li> <li>● <b>Performance of a play</b> <ul style="list-style-type: none"> <li>○ Between 11pm and 8am</li> <li>○ At any time when the audience numbers are over 500 people</li> </ul> </li> <li>● <b>Indoor Sporting Events</b> <ul style="list-style-type: none"> <li>○ Between 11pm and 8am</li> <li>○ At any time when the audience numbers are over 1000 people</li> </ul> </li> <li>● <b>Entertainment of a similar description to that falling</b></li> </ul>

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**within the performance of live music, playing of recorded music or performance of dance**

*De-regulated Entertainment:* The Legislative Reform (Entertainment Licensing) Order 2014 came into force on 6 April 2015 with the effect that the following forms of entertainment are no longer licensable:

- Performances of plays between 8am and 11pm, provided that the audience does not exceed 500.
- Performances of dance between 8am and 11pm, provided that the audience does not exceed 500.
- ‘Not-for-profit’ film exhibitions held in community premises between 8am and 11pm, provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises, and (b) ensures that each such screening abides by age classification ratings
- Indoor sporting events between 8am and 11pm, provided that those present do not exceed 1,000.
- Any contest, exhibition or display of Greco-Roman wrestling or freestyle wrestling between 8am and 11pm, provided that the audience does not exceed 1,000.
- Performances of unamplified live music between 8am and 11pm, on any premises.
- Performances of amplified live music between 8am and 11pm:
  - On premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500
  - In a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
  - In a church hall, village hall, community hall, or other similar community premises, that is not licensed by a Premises Licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - At the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from (i) the local authority

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- concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Playing of recorded music between 8am and 11pm:
    - On premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
    - In a church hall, village hall, community hall, or other similar community premises, that is not licensed by a Premises Licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
    - At the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
  - Any entertainment taking place on the premises of the local authority between 8am and 11pm, with no limit on audience size, where the entertainment is provided by or on behalf of the local authority
  - Any entertainment taking place on the hospital premises of the health care provider between 8am and 11pm, with no limit on audience size, where the entertainment is provided by or on behalf of the health care provider.
  - Any entertainment taking place on the premises of the school between 8am and 11pm, with no limit on audience size, where the entertainment is provided by or on behalf of the school proprietor.
  - Any entertainment (excluding films and boxing or wrestling entertainment) taking place at a travelling circus between 8am and 11pm, with no limit on audience size, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) the travelling circus has not been located on the same site for more than 28 consecutive days.

*Responsible Authority*

Means the:

- the Chief Officer of Police
- the Fire Authority
- the Public Health authority
- the Enforcing Authority within the meaning given by

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section 18 of the Health and Safety at Work etc. Act 1974,

- the Local Planning Authority within the meaning given by the Town and Country Planning Act 1990
- the Local Authority by which statutory functions are exercisable in relation to minimising or preventing the risk of pollution of the environment or of harm to human health,
- a body which—
  - represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
  - is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters,
- the relevant licensing authority and any other licensing authority in whose area part of the premises is situated
- the Primary Care Trust or Local Health Board for any area in which the premises are situated
- the Trading Standards Authority,
- the Secretary of State for the Home Office,
- any Licensing Authority (other than the relevant licensing authority) in whose area part of the premises is situated,
- in relation to a vessel:
  - a Navigation Authority (within the meaning of section 221(1) of the Water Resources Act 1991) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,
  - the Environment Agency,
  - the British Waterways Board, or
  - the Secretary of State.

**The contact details for Responsible Authorities are provided in Appendix 1**

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**1. Introduction**

- 1.1 Richmond Council is the Licensing Authority under the Licensing Act 2003 (“the Act”) responsible for processing, authorising the grant of and regulating premises licences, club premises certificates, temporary event notices and personal licences in respect of the sale or supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment within the Borough.
- 1.2 For the purposes of this policy, reference to Richmond is in relation to its function as a licensing authority unless otherwise specified.
- 1.3 The Act requires the Licensing Authority to carry out its functions under the Act with a view to promoting the following four licensing objectives:
- **The prevention of crime and disorder;**
  - **Public safety;**
  - **The prevention of public nuisance; and**
  - **The protection of children from harm.**

Each of these licensing objectives is of equal importance.

- 1.4 These are the only matters that can be taken into account by the Authority when determining an application and any conditions attached to a licence must be lawful, appropriate and proportionate to achieve them.
- 1.5 Where no representations are received 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 in the Act.
- 1.6 Where relevant representations are received by the Licensing Authority from a person or body opposing an application, then unless the parties agree that there is no need for a hearing, the application shall be heard before a Licensing Sub-Committee drawn from the Licensing Committee.
- 1.7 A Licensing Sub-Committee shall have regard to this policy when making its decision. However, it may depart from the policy if warranted by the individual circumstances of the application. Any departure from the policy will be justified in the reasons given for the decision.
- 1.8 Under the Act, the Licensing Authority is required to publish a Statement of Licensing Policy with respect to the exercise of its licensing functions and to review it at least every five years. This is the sixth policy published by Richmond and will take effect from the 3rd January 2022 It has been prepared in accordance with Section 5 of the Licensing Act 2003 and having regard to the Government Guidance (April 2018) issued

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under Section 182 of the Licensing Act 2003 by the Home Secretary.

## **2.0 Integrating Strategies**

- 2.1 The licensing policy is an integral element of the Council's strategic vision of ensuring Richmond upon Thames is a greener, safer, and fairer borough, a borough for everyone.
- 2.2 In formulating the licensing policy the Licensing Authority has had regard to the Council's Corporate Plan, adult social care policy and strategy, children and young people's plan and strategies, the joint health and wellbeing strategy, the community safety partnership plan as well as planning, cultural partnership and equality and diversity plans and strategies and seeks to complement the aim of those strategies. Detailed information about the Council's strategies can be found on the Council's website at:  
[https://www.richmond.gov.uk/council/how\\_we\\_work/policies\\_and\\_plans](https://www.richmond.gov.uk/council/how_we_work/policies_and_plans)  
and  
[https://www.richmond.gov.uk/services/community\\_safety/community\\_safety\\_partnership/richmond\\_community\\_safety\\_partnership](https://www.richmond.gov.uk/services/community_safety/community_safety_partnership/richmond_community_safety_partnership)

## **3.0 Other visions**

- 3.1 This policy aims to 'achieve the right balance' through consideration of the needs of businesses, residents, visitors and other stakeholders.. One of the purposes of this Policy is to ensure that local people and visitors to the Borough will have better opportunities to enjoy their leisure time safely without fear of violence, intimidation or disorder. Another intention of the policy is to ensure that local residents are not unreasonably disturbed, whether in the street or at home, by activities within licensed premises or by customers arriving at, or leaving, licensed premises.
- 3.2 An effective Licensing Policy, alongside other initiatives, can work towards promoting positive aspects of the licensed economy, such as increasing the leisure industry provision for the community, encouraging regeneration of town centres and providing communal hubs, as well as controlling the negative impacts which affect residents, such as an increase in noise, nuisance, anti- social behaviour and crime and disorder.
- 3.3 To this end the Council encourages applications from premises wishing to provide:
- Entertainment (such as live music, dancing, theatre and plays);
  - Cultural diversity;
  - Choice;
  - Family friendly environments;
  - Focus on food;
  - Quality standards; and
  - Environmentally responsible premises.

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- 3.4 The Council encourages a diverse range of services beyond the sale of alcohol. It does not wish to create or promote a 24 hour vertical drinking or off-sales culture.
- 3.5 The Council recognises that residents and visitors to the borough have the right to the quiet enjoyment of its many parks and open spaces. Consequently, as of 16 October 2017, all parks and open spaces are controlled by Public Space Protection Orders (PSPOs) which, amongst other matters, prevents members of the public from drinking alcohol in those areas, unless in properly licensed venues, if they have been required to stop by an authorised person as a result of nuisance.
- 3.6 The Council recognises the links between excessive alcohol consumption and poor health. While the protection of health is not a discrete licensing objective, it can be linked to each of the licensing objectives.
- 3.7 Evidence suggests that people addicted to alcohol and their families are significantly at risk of developing health and social problems that include mental illnesses, misuse of drugs, criminal activity, breakdown of familial and other social relationships and negative financial implications. In addition, alcohol is associated with a wide range of criminal offences including drink driving, being drunk and disorderly, criminal damage, assault and domestic violence. In young people, alcohol is associated with anti-social behaviour and teenage conception.
- 3.8 Under Section 13(4)(bb) of the Licensing Act 2003, the Council as Public Health Authority is a Responsible Authority under the Act and is able to make representations in its own right or through supporting other representations. The role of the Director of Public Health (DPH) is to help promote health and wellbeing of the local populations, which is an expansive remit and influences a wide range of circumstances, including local licensing arrangements. Data and evidence presented by Public Health team during the licensing process enables the Council to identify locations vulnerable to alcohol-related harm in the borough and to track trends over time. This data is particularly useful in supporting the promotion of the licensing objectives, in particular the prevention of crime and disorder and the protection of children from harm but may also assist in reducing public nuisance and increasing public safety. The Council's Licensing Authority liaises with the Public Health team regarding new or variation applications in order to collectively monitor increase in alcohol access to at-risk groups, ensure that robust measures are in place to minimise risk for those groups, and to support those seeking help. More information on the role Public Health and the Licensing Act 2003, see <https://www.local.gov.uk/publications/public-health-and-licensing-act-2003>
- 3.9 The Council is committed to all measures that will reduce incidents of drunkenness and antisocial behaviour in the Borough including the rigorous enforcement of the mandatory licensing condition relating to irresponsible promotions that may lead to excessive consumption of alcohol.

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**4. Profile of the Borough**

- 4.1 Richmond upon Thames is an outer London borough situated to the south west of central London and is the only London Borough on both sides of the River Thames. It is neighbouring the boroughs of Hammersmith and Fulham, Hounslow, Kingston and Wandsworth and the county of Surrey. Comprising 18 wards, the borough of Richmond covers an area of approximately 22.17 square miles and has a total projected population at 2020 of just over 199,157 residents, projected to increase to 200,436 by 2030. The borough is served by the District Line of the London Underground and has 15 mainline stations allowing good connection to central London. It also has a number of bus routes connecting it to other adjoining boroughs.
- 4.2 The Borough is approximately half parkland and includes Richmond Park, Kew Gardens, Bushy Park and Old Deer Park. The predominant other land use is residential. The borough is made up of different neighbourhoods. Each with their own distinctive communities, facilities and local character. The borough's villages are attractive with many listed buildings and Conservation Areas.
- 4.3 There are five main commercial centres in the borough, Richmond, Twickenham, Teddington, East Sheen and Whitton. The busiest of these areas is Richmond.
- 4.4 At present, the Council is responsible for the licensing of some 790 premises including pubs, bars, restaurants, registered clubs, nightclubs and late night takeaways. Other premises including cultural venues and shops are also licensed. Some licensed premises are in residential areas. A greater number are located in the main commercial centres which are often on a single main road with commercial uses backing onto residential streets. Customers of licensed premises often park their vehicles in residential streets near to the licensed premises or use the adjacent parks and open spaces for consuming alcohol
- 4.5 The Council's Joint Strategic Needs Assessment is in the process of being updated but will report a significant level of alcohol related harm in the borough.
- 4.6 In Richmond, the proportion of adults (18+) drinking more than 14 units a week between 2015-2018 is higher than London and England averages – 34.5% in Richmond as compared with 20.1% in London and 22.8% England. Additionally, Richmond has the lowest percentage of people who abstain from drinking alcohol (6.4%) amongst all of the London boroughs. This rate is also significantly lower than London (23.6%) and England (16.2%) abstinence rates<sup>1</sup>.

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<sup>1</sup> [Local Alcohol Profiles for England - Data - PHE](#) – The LAPE tool provides information for local government, health organisations, commissioners and other agencies to monitor the impact of alcohol on local

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During 2018-2019, Public Health England<sup>2</sup> estimated around 1,376 adults to have an alcohol dependency problem in Richmond.

- 4.7 Public Health England does a comparison of local data from sources such as Local Alcohol Profiles for England<sup>3</sup> based on nearest neighbour groups. Benchmarking is done using the nearest neighbour approach, which groups each local authority with 15 other areas that are similar across a range of demographic, socio-economic and geographic variables. The nearest neighbour group for Richmond comprises of 15 boroughs and includes Kingston upon Thames, Bromley, Barnet, Merton, Sutton, Harrow, Hillingdon, Bexley, Havering, Wandsworth, Redbridge, Hounslow, Croydon, Enfield, Ealing.
- 4.8 The younger population (under 18 years of age) are particularly vulnerable to harms from alcohol in Richmond. Since 2015/16, Richmond borough has had the highest level of hospital admissions for alcohol-specific<sup>4</sup> conditions out of all the London boroughs. The latest 2019/20 rate for Richmond is 33 per 100,000 young persons, which is highest harm level when compared to nearest neighbour group boroughs and higher than London (15.4 per 100,000) and England (30.7 per 100,000) averages.
- 4.9 Hospital admissions rate for alcohol-specific conditions of all age groups in Richmond is 561 per 100,000 also amongst boroughs with higher harm levels in the nearest neighbour group. This rate has been steadily increasing since 2008 and is on trend to increase further.
- 4.10 Admission episodes for alcoholic liver disease conditions for males and females are also amongst boroughs with higher harm levels in the nearest neighbour group. These are 174 admissions per 100,000 males and 61.2 admissions per 100,000 females. Furthermore, admission episodes for alcohol-related unintentional injuries, self-poisoning by exposure to alcohol, alcohol-related cardiovascular disease, and mental and behavioural disorders due to use of alcohol are all on trend to increase and become worse in Richmond.

## 5. Types of Licences

- 5.1 The types of licences and authorisations available under the Licensing Act 2003 include:
- premises licences;
  - club premises certificates;
  - temporary events notices (standard and late);

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communities, and to monitor the services and initiatives that have been put in place to prevent and reduce the harmful impact of alcohol.

<sup>2</sup> [Alcohol dependence prevalence in England - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

<sup>3</sup> [Local Alcohol Profiles for England - Data - PHE](#)

<sup>4</sup> Admissions to hospital where the primary diagnosis or any of the secondary diagnoses are an alcohol-specific (wholly attributable) condition.

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- provisional statements; and
- personal licences in respect of the sale and/or supply of alcohol.

### 6. The Policy

6.1 This Statement of Licensing Policy serves 4 main purposes:

- To guide elected Members sitting on the Licensing Committee and Sub-Committees on the boundaries and powers of the Licensing Authority and to provide them with guidance when making decisions. Members should be able to test any application against the criteria set out in this Policy.
- To inform and assist potential applicants for a licence of the expectations of the Licensing Authority and factors that will be considered when making licensing decisions;
- To inform and assist responsible authorities and other persons (including residents and residents' bodies) of the parameters under which the licensing authority will make licence decisions, and therefore how their needs and concerns can be addressed; and
- To inform a Court of Law of the policy considerations taken into account by the Licensing Authority when making a decision if it is challenged.

6.2 However, every application will be considered on its individual merits, taking into account all relevant matters.

6.3 The main activities which require a licence under the provisions of The Act and which are covered by this policy statement include:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- The provision of entertainment to the public or to members of a club and their guests (regulated entertainment); and
- The supply of any hot food or drink between 23.00 hours and 05.00 hours.

6.4 There are a number of exemptions to the above and details of these are set out in full in Schedule 1 of the Licensing Act 2003.

#### 6.5 Main Principles

The following are the main principles underpinning this Policy:

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- Nothing in this Policy restricts any person from making an application under this Act;
- Each application will be judged on its individual merits, having regard to this Policy, the Secretary of State's Revised Guidance issued under section 182 of the Licensing Act 2003 and the law of England and Wales;
- Nothing in this Policy restricts the right of any person to make relevant representations in response to an application or to seek a review of a premises licence or club premises certificate because of a matter arising at the premises in connection with any of the four licensing objectives;
- As well as responsible authorities, any person, body or business is entitled to make representations to the licensing authority in relation to applications for the grant, variation, or review of a premises licence or a club premises certificate, regardless of their geographical proximity to the premises. Appropriate weight will be given to all relevant representations by persons unless they are deemed frivolous, vexatious or repetitious by an officer of the Licensing Authority or the Licensing Sub-Committee;
- Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of those responsible for the individual premises or places. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in the London Borough of Richmond upon Thames.
- Conditions will only be imposed on a licence or other authorisation if they are appropriate for the promotion of the licensing objectives and are proportionate. Since licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events, any conditions attached will be focused on matters that are within the control of individual licence holders (i.e. the premises and its vicinity).
- Conditions will be tailored to the size, type, location, characteristics and activities taking place at the premises concerned and will be determined on a case-by-case basis. Standardised conditions will be avoided, although selection may be made from pools of conditions. All conditions must be expressed in unequivocal, enforceable and unambiguous terms. The Authority is currently developing a pool of model conditions which will be uploaded onto the

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Council's website on completion.

- The Licensing Authority expects applicants and licence holders to have due regard to the promotion of the licensing objectives and to take active measures to contribute to this aim. The operating schedule should be used to set out a detailed explanation of how applications will promote each of the four licensing objectives. The Licensing Authority would particularly encourage active involvement in best practice initiatives such as challenge 25 proof of age scheme, local pubwatch initiatives. We would also expect all people applying for a licence to install and maintain a good quality close circuit television (CCTV) system in the interests of public safety and security.
- The Licensing Authority acknowledges the importance of partnership working in the licensing process. Individual responsible authorities work together in partnership as well as in partnership with other persons, bodies or businesses in the community in order to maintain a holistic approach to licensing which upholds the licensing objectives while also promoting the Council's strategic objectives.

6.6 The Licensing Authority will monitor the effect of its licensing policy upon the Council's overall objectives and will amend the policy if it is seen to be having a negative impact upon related priorities. In any event the policy will be reviewed no later than five years after the current policy has been adopted by the Council. The Cumulative Impact Assessment will be reviewed every 3 years.

## **7. Consultation**

7.1 Before publishing the policy, the Council will consult with stakeholders and interested parties. The consultation will be carried out over a period of 12 weeks commencing on the 28June.2021.

7.2 Section 5(3) of The 2003 Act requires that the following must be consulted:  
The Borough's Chief Officer of Police;  
The Fire and Rescue Authority;  
The local authority's Director of Public Health;  
Persons/bodies representative of local premises licence holders;  
Persons/bodies representative of local club premises certificates holders;  
Persons/bodies representative of local personal licences holders; and  
Persons/bodies representative of businesses and residents in the area.

7.3 The following organisations or individuals were also consulted:  
British Transport Police;  
Local Children's Safeguarding Board;  
Other Council Departments;

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All Ward Councillors; and  
local business organisations.

- 7.4 In addition, the Policy was available on the London Borough of Richmond's web site ([https://www.richmond.gov.uk/licensing\\_policy](https://www.richmond.gov.uk/licensing_policy))
- 7.5 In determining this Policy appropriate weight was given to the views of the persons and bodies consulted.

## **8. Duplication and Planning**

- 8.1 This Policy seeks to avoid duplication with other regulatory regimes so far as is possible. This policy statement is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators in respect of employees or members of the public (e.g. Health & Safety at Work etc. Act 1974, Environmental Protection Act 1990, disability discrimination and equality legislation, building regulations, anti-social behavior and crime legislation and fire safety legislation).
- 8.2 Conditions will only be attached to licences if they are appropriate for the promotion of the licensing objectives and are proportionate. If a requirement is already imposed by other legislation, it will not generally be considered to be appropriate in the context of licensing law. However, the fact that a matter is covered by other legislation does not always mean that a condition will not be appropriate for the purposes of licensing. It may be that current legislation or regulations might not cover the particular circumstances that arise out of the type of activity at specific premises. In those situations, it may be appropriate for conditions to be attached that reflect those particular circumstances. However, the licensing authority will not seek to duplicate a condition which is already provided for under other legislation.
- 8.3 Applications for premises licences for permanent commercial premises should normally be from businesses with the appropriate planning consent for the property concerned. However, applications for licences may be made to the Licensing Authority before relevant planning permission has been sought or granted by the planning authority.
- 8.4 The planning and licensing regimes involve consideration of different matters. For example, licensing takes into account the four licensing objectives:
- The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm

whereas planning considers a range of issues such as,

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- Public nuisance
- Loss of privacy
- Highway safety
- Design
- Nature conservation
- Adequacy of parking
- Amenity
- Layout & Density
- Sustainability

8.5 However the planning department are a responsible authority under the Licensing Act 2003 and the Council will take account of relevant representations in regard to planning issues including those relating to the appropriate operating hours of a licensed premises

8.6 Where a planning condition restricts usage of a premises to certain hours, and if these hours differ from those permitted on a premises licence then the premises user must comply with the more restricted of the two sets of hours.

## **9. Promotion of Equality**

9.1 The Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. This Policy complies with that legal obligation.

## **10. Cumulative Impact and Cumulative Impact Assessment**

10.1 The Secretary of State's Guidance advises that the cumulative impact of a significant number or saturation of licensed premises concentrated in one area can be such as to give rise to serious problems of crime, disorder and/or public nuisance and is a proper matter for a Licensing Authority to take into account when developing its policy statement. An Authority may produce a cumulative impact assessment (CIA) for a particular area if there is a clear evidential basis to do so and following consultation. Section 5A of the Licensing Act 2003 (as amended by the Policing and Crime Act 2017) permits the Authority to consider that the number of authorisations in the area described in the assessment is such that it is likely that the granting of any further relevant authorisations in respect of premises in that area would negatively impact on one or more of the licensing objectives, provided it is accompanied by evidence.

10.2 At its meeting on the 30<sup>th</sup> November 2021 the Licensing Authority determined to adopt a special policy on cumulative impact for a total of two locations in the borough:

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Richmond Town Centre relating to all licence types  
Twickenham Town Centre relating to all licence types.

- 10.3. The Cumulative Impact Assessment is provided at Appendix 3 to this Policy.
- 10.4. Applicants should be aware that in publishing a CIA a licensing authority is setting down a strong statement of intent about its approach to considering applications for the grant or variation of premises licences or club premises certificates in the area described. Having published a CIA an Authority must have regard to the assessment when determining an application. The CIA does not, however, change the fundamental way that licensing decisions are made. It is therefore open to the licensing authority to grant an application where it considers it is appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact.
- 10.5 Applications in areas covered by a CIA should therefore directly address the underlying reasons for the policy when setting out the steps they will take to promote the licensing objectives in order to demonstrate why an exception should be made in their particular case.
- 10.6 An exception may be made where the application proposes changes that are likely to reduce the overall impact on the licensing objectives, for example:
- To substitute one type of premises with another that is not alcohol led and supports the people visiting the area during the day; and/or support the wider cultural offering in the area.
  - To substitute one licensable activity with another.
  - To effect a real reduction in capacity.
  - To replace vertical drinking with seated consumption and/or waiter service.
  - To make alterations to the premises that maintains the status quo or enhances the premises without negatively impacting on the licensing objectives.
  - Where a reduction in hours of operation is proposed.
- This list is not intended to be an exhaustive or prescriptive list of when exceptions may be found as each case will be determined on its individual merits.
- 10.7 Importantly, this cumulative impact policy does not relieve Responsible Authorities, residents or other persons from the requirement to make relevant representations in response to an application if they object to it. If there are no relevant representations then this policy will not be applied and the Council must grant the application in terms that are consistent with the operating schedule submitted.

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- 10.8 The Licensing Authority recognises that the impact of a licensed premises can be different for premises with different styles and characteristics. For example, whilst a large nightclub, bar or high-capacity public house might very well add to problems of cumulative impact, a small restaurant or a theatre may not. It may also be appropriate and proportionate to refuse a premises licence where evidence suggests that an increased licence capacity would have a negative effect on crime and disorder public nuisance in areas beyond the licensee's direct control. There are other factors that might contribute to an application being considered as an exception, such as the licensable activities sought, the hours of operation, management standards applied or to be applied to the operation inside and outside of the premises, including door supervision, acoustic controls, CCTV coverage, smoking controls, safe capacities, management of exterior spaces, neighbour considerations. The above list is simply indicative of the sort of matters that an applicant might include in their operating schedule to demonstrate how they seek to work within the Council's cumulative impact policy but it is not intended to be exhaustive or prescriptive.
- 10.9 Where relevant representations are received and a licensing authority decides to grant an application it will need to provide the applicant, the chief officer of police and all parties who made relevant representations with reasons for granting the application and this should include any reasons for departing from their own policy.
- 10.10 This special policy cannot be used at a review hearing as a ground for revoking an existing licence or certificate when relevant representations are received about problems with those premises.
- 10.11 The Authority will consider whether there is a need for any additional special policies on cumulative impact where representations from responsible authorities and/or other parties are received. In doing so, the Authority will consider whether the evidence demonstrates that the cumulative effect of a number of premises in a given area is adversely affecting the licensing objectives, e.g. with regard to the prevention of crime and disorder and public nuisance objectives.
- 10.12 In any event, the Cumulative Impact Assessment will be reviewed every three years to assess whether it is needed any longer or whether it needs expanding or contracting.
- 10.13 The Authority recognises that the absence of a Special Policy on Cumulative Impact does not prevent any Responsible Authority or other person from making representations on the basis that an application would, if granted, give rise to or exacerbate negative cumulative impact.
- 10.14 The matter of 'need' (whether there is a need for another premises in a given area) is not a matter for consideration of the Authority and will therefore not form part of the decision making process.

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**11. Policies supporting each of the licensing objectives.**

- 11.1 It is expected that prior to making any application under the Act, applicants will have undertaken a full risk assessment of the impact of their activities on the promotion of the licensing objectives. Thereafter, applicants are expected to submit a detailed operating schedule as part of the application, setting out the steps they intend to take to promote the licensing objectives with conditions to mitigate their activities. National guidance places an expectation upon applicants to give thorough consideration to the local area when making applications.
- 11.2 Applicants should be particularly mindful of any special policy on cumulative impact when drawing up their operating schedule. In particular public health data is used in the analysis of cumulative impact within an area and will, therefore, be used in an assessment of a particular license application where it relates to a premises within an existing cumulative impact area. For example, in situations where a high level of alcohol-related ambulance activity occurs in conjunction with alcohol-related violent crime. As a responsible authority inputting into the cumulative impact assessment, the Council's public health team can:
- Collect local qualitative and quantitative evidence through consultations with residents and service partners
  - Consider/conduct studies to identify local issues
  - Provide evidence that provide information on review or identification of cumulative impact areas
- 11.3 The following Sections are intended to help applicants by setting out criteria and considerations that they should have in mind when drawing up their operating schedule.
- 11.4 The policy covers a wide range of premises including theatres, cinemas, public houses/bars, restaurants, shops/off-licences and fast food outlets/take-aways. Consequently, not all the considerations within the policy apply, or apply to the same degree, to all premises. However, applicants should have regard to the criteria when drawing up their operating schedules as these are the matters which responsible authorities and other persons are likely to consider when deciding to make representations on an application or whether to call for a Review. It also draws the attention of applicants to matters that are likely to be the subject of proposed conditions designed to promote the licensing objectives that may be attached to a licence by the Licensing Sub-Committee to address the concerns raised in relevant representations.
- 11.5 The statutory licensing functions are primarily concerned with the regulation of premises and temporary events, in promoting the licensing objectives. Where appropriate conditions will focus on:
- Matters within the control of the individual licensee or those granted relevant permissions; and

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- The direct impact the activity will have on members of the public living, working or engaged in normal activity in the area concerned and on those visiting the premises.
- 11.6 Applicants are reminded that the Licensing Act 2003 provides that where an operating schedule (or club operating schedule) has been submitted with an application and no relevant representations have been received, the premises licence or club premises certificate must be granted subject only to such conditions as are consistent with the operating schedule accompanying the application and any mandatory conditions required by the Licensing Act 2003.
- 11.7 Therefore, it is important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.
- 11.8 It is also important for the applicant to ensure that the steps suggested by the operating schedule are realistic and within the control of the applicant and management of the premises. If a premises licence or club premises certificate is granted with conditions attached that require the implementation of such steps, a failure to comply with the condition would amount to a criminal offence.
- 11.9 Whether licence conditions are drawn from the applicant's operating schedule or imposed by the Licensing Sub Committee they:
- Must promote the licensing objectives.
  - Must be precise and enforceable.
  - Must be unambiguous and clear in what they intend to achieve.
  - Should not duplicate other statutory requirements.
  - Must be tailored to the individual type, location and characteristics of the premises and/or events concerned.
  - Where applicable, appropriate to the representations received.
  - Cannot seek to manage behaviour of customers once they are beyond the management/control of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises as they enter or leave.
  - Should be written in a prescriptive format.
- 11.10 Conditions drawn from the applicant's operating schedule will be interpreted in accordance with the intention of the applicant and will not simply replicate the wording in the operating schedule.
- 11.11 Before refusing an application in full, the Licensing Sub Committee shall consider whether the imposition of conditions could address the concerns expressed by Responsible Authorities or other persons.

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11.12 Applicants for new premises licences/club operating schedules and those seeking variations to existing premises licences are advised to consult with the following organisations before preparing their schedules or at the earliest possible stage in order to avoid disputes:

- Police and local authority community safety officers in relation to crime and disorder;
- Local community groups;
- Local environmental Health officers – nuisance including noise;
- Fire brigade – fire precautions and public safety; and
- Any other organisation or groups interested in the promotion of the licensing objectives in the area concerned.

## 12. The Prevention of Crime and Disorder

12.1 The Authority recognizes that licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a significant source of crime and disorder. Therefore, whether the premises make, or are likely to make, a significant contribution to the levels of crime and disorder and whether the operating schedule adequately addresses the likelihood of crime and disorder occurring as a result of the grant of the application is a key consideration.

12.2 Under section 17 of the Crime and Disorder Act 1998, the London Borough of Richmond upon Thames, as a Local Authority, has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on crime and disorder in the Borough and the need to do all that it reasonably can to prevent crime and disorder. The prevention of crime and disorder is one of the four licensing objectives that this Authority has a duty to promote.

12.3 In determining licence applications where relevant representations have been made, it will be the policy of the Authority to consider the adequacy of measures proposed to deal with the potential for crime and disorder having regard to all the circumstances of the case. In particular, the authority may consider the following:

- i. the levels of crime and disorder in and around the venue;
- ii. the level of compliance with conditions on the existing licence;
- iii. whether Closed Circuit Television (CCTV) is installed, the positioning, the length of time that images will be retained (e.g. a minimum of 31 days), the clarity of images and whether CCTV images will be provided to the police and Council officers in a timely fashion on reasonable request. The primary purpose for having CCTV in and around licensed premises is to prevent, deter and detect crime, apprehend and prosecute offenders, and

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protect public safety. Applicants are therefore encouraged to assess whether the use of CCTV is appropriate on their premises;

- iv. the measures to be put in place to prevent underage drinking e.g. 'Challenge 25' requiring the production of photo identity cards, documented training procedures to ensure staff are fully trained in age verification (including regular refresher training), use of till prompts in shops, warning notices regarding ID, the use of refused sale records;
- v. whether Security Industry Authority (SIA) registered door supervisors are to be provided and, if so, how many and the hours of employment;
- vi. the measures proposed to prevent the consumption or supply of illegal drugs, including search procedures, design of premises, monitoring of toilets, surrender and seizure procedures;
- vii. the measures proposed to discourage binge drinking and drunkenness and to promote sensible drinking including the sale or use of low % ABV alcohol or alcohol below a certain % ABV, banning the sale of single cans or bottles (under 1 litre in size) of alcohol such as beer and cider.;
- viii. for premises selling alcohol for consumption on the premises whether the premises are laid out primarily for seating; whether food is available throughout the whole of the trading hours; whether non alcoholic drinks are readily available;
- ix. the measures proposed to prevent violence on the premises, including the threat of violence to staff and the use of polycarbonate drinking vessels to avoid injury to staff and customers. Where the consumption of alcohol is likely to be in a licensed premises on a public open space, the operator should seriously consider using materials other than glass for drinking vessels;
- x. measures to be put in place to react to any situations of disorder should they occur;
- xi. in the case of premises selling alcohol on the premises, any measures to be put in place to prevent glass or bottles from being taken into the street;
- xii. any steps that are to be taken to reduce thefts from patrons using the premises;

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- xiii. any steps that are to be taken to reduce the risk of spiking of drinks; .
  - xiv. Whether customers can easily access safe transport, including actively promoting designated driver schemes where a driver is offered discounted or free non-alcoholic drinks or taking steps to minimise the scope for minicabs to tout for business outside the premises or for patrons to be approached by unlicensed taxis/minicabs;
  - xv. In the case of premises selling alcohol for consumption off the premises whether alcohol will be stored behind the counter or away from entrance/exit points or, in larger stores, away from checkouts; and
  - xvi. for new applications, the extent to which the layout has been designed to minimise crime and disorder.
- 12.4 This Authority will expect an applicant's operating schedule to satisfactorily address these issues from the design of the premises through to the daily operation of the business.
- 12.5 This Authority, where appropriate, will consider attaching additional conditions to licences to deter and prevent crime and disorder both inside and within the locality of the premises.
- 12.6. This Authority also recognises that there are a number of other mechanisms available to address the impact of crime and disorder and anti-social behaviour in the borough. These include:
- ongoing measures to create a safe and clean environment in partnership with local businesses, transport operators and other Council Departments;
  - designation of the Borough as a place where alcohol may not be consumed publicly where people are causing, or likely to cause, a nuisance;
  - regular liaison with local Metropolitan Police on law enforcement issues regarding disorder and anti-social 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 likely or imminent disorder, or excessive noise nuisance from the premises;

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- the power of the police, other responsible authorities, Ward Councillors or a local resident, as well as operators of local businesses, to seek a Review of the licence or certificate

12.7 Pubwatch is a voluntary organisation set up to support existing licence holders. It is organised by the licence holders themselves to share intelligence and best practice ideas. It invites speakers to help inform licence holders on current issues such as police campaigns and changes in licensing and other regulatory law. The police and relevant licensing officers usually attend part of such meetings.

12.8 The Licensing Authority is wholly supportive of Pubwatch and would urge all relevant applicants and existing licence holders to become members. The Licensing Authority is able to assist with details of the existing Pubwatch groups in the Borough and would welcome and support the creation of other groupings within the licensing sector such as for off-licences or late-night refreshment premises.

### 13. **Public Safety**

13.1. Public safety is concerned with the physical safety of people using or working in the premises and not with public health more generally, which is dealt with under other legislation.

13.2 The Licensing Act 2003 covers a wide range of premises that require the authorisation of a premises licence or a club premises certificate, including, cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants and fast food outlets/takeaways and one off large scale outdoor events.

13.3 These types of premises present the potential for a variety of safety concerns, some of which are common to all premises and others that may be unique to specific operations. It is essential that premises are constructed or adapted and operated so as to address potential and identified risks and safeguard occupants against them.

13.4 In determining licence applications where relevant representations have been made, it will be the policy of the Authority to consider the adequacy of measures proposed to protect public safety having regard to all the circumstances of the case. In particular, the authority may consider the following:

- i. Whether the premises already have a licence specifying the maximum capacity for the premises and, if not, whether the applicant has assessed the maximum safe capacity having regard to means of escape in case of emergency, toilet provision and overcrowding in compliance with the Regulatory Reform (Fire Safety) Order 2005;

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- ii. Whether specific measures have been identified to ensure the safety of indoor sporting events and boxing/wrestling/mixed martial arts events e.g. seating arrangements, provision of stewards, appropriate medical facilities, provision of staff adequately trained in rescue and life safety procedures (water based events);
- iii. What measures are to be implemented to ensure that special effects, temporary electrical installations, temporary decorations and temporary fittings are safe;
- iv. Where different events are to take place on site, whether it is proposed that event specific management documents outlining the proposed management structure, responsibilities and contact details for each individual event, together with details of the organization, control, monitoring and review mechanisms be produced and submitted to the appropriate responsible authorities in advance of the event;
- v. Proposals relating specifically to theatres, cinemas and concert halls regarding number of attendants required, standing and seating in gangways, consumption of drinks, safety of scenery and ceilings, provision of safety curtains, fixing of seating and minimum lighting levels;
- vi. Whether provisions are in place to ensure that premises users safely leave the premises, including providing information on local taxi companies and ensuring adequate lighting levels outside the premises; and
- vii. The steps the applicant has taken or proposes to take to comply with the following publications as they relate to the particular licensable activity: -
  - Technical Standards for Places of Entertainment;
  - The Purple Guide to Health Safety and Welfare at Music and Other Events – published by the Events Industry Forum, accessible (for a fee) via the website <https://www.thepurpleguide.co.uk/>
  - Managing Crowds Safely, second edition (HSE 2014) ISBN 978 0 7176 1834 7;
  - The Guide to the Safety at Sports Grounds 6<sup>th</sup> Edition ISBN 978 1 9164583 0 7
  - Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances;

13.5 This Authority will expect the applicant's operating schedule to fully address these issues. Applicants are advised to seek advice from relevant authorities, before preparing and submitting their application, plans and supporting documents.

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13.6 This Authority where appropriate, will consider attaching additional conditions to licences to address public safety matters.

#### **14. The Prevention of Public Nuisance**

14.1 Licensed premises, especially those operating late at night and in the early hours of the morning, may cause a range of public nuisances impacting on people living, working or sleeping in the locality of the premises. The concerns primarily relate to noise nuisance, light pollution and noxious smells from e.g barbecues, smoking and cooking fumes.

14.2 The Authority recognises that it is necessary to actively protect residents, members of the public and businesses in the locality of licensed premises from disturbances linked to licensed premises or their customers that amount to a public nuisance. Such a nuisance can impact on the quality of life of residents and the ability of other businesses to operate effectively. The applicant must demonstrate within their operating schedule how they intend to promote the licensing objective relating to the prevention of public nuisance.

14.3 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community and include, in appropriate circumstances, the reduction of the living and working amenity and environment of other persons visiting, living and working in the area of the licensed premises.

14.4 In determining licence applications where relevant representations have been made, it will be the policy of the Authority to consider the adequacy of measures proposed to promote avoidance of public nuisance having regard to all the circumstances of the case. In particular, the authority may consider the following:

- i. The steps the applicant has taken or proposes to take to prevent:
  - noise and vibration escaping from the premises, including from music, noise from ventilation equipment and human voices. This could include whether it is appropriate to install a noise limiting device for amplified music, (and engage professional acoustic advisors to set suitable music or noise levels at likely noise sensitive premises); whether it is appropriate to keep windows and/or doors closed, except for entry and exit, when music is being played; whether speakers are located in positions not to cause nuisance; whether the sound insulation has been provided to the building (professional advice should be sought first); whether acoustic lobbies have been provided; whether the structure of the building is suitable

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- for the type of entertainment envisaged and whether noise break out and noise induced vibration is possible; limiting the times when regulated entertainment may be provided and the nature of it; assessing noise from plant and machinery, including air conditioning units, refrigeration units and kitchen extracts;
- disturbance by customers, staff and suppliers arriving at, including whilst queuing to enter, or leaving the premises. This could include the provision of notices prominently and permanently displayed at or near exit/s requesting patrons to leave quietly and to avoid creating disturbances; having a staff member at the door around closing time to remind customers to leave quietly or to arrange taxis to ensure an efficient departure from the premises;
  - queuing, either by pedestrian or vehicular traffic;
  - noise from the disposal/collection of empty bottles. This could include the provision of bottle/cardboard crushers within premises or other suitable method to prevent noise from emptying of bottles from the premise's refuse container into the refuse collector's container late at night; delivery and collection times avoiding night and early mornings;
  - disturbance from loading and unloading of equipment e.g. sound systems, scenery, lighting.
  - noise from commercial refuse collection and from early morning deliveries;
- ii. the availability of public transport in the locality (including taxis and private hire vehicles) for patrons;
- iii. The steps the applicant has taken or proposes to take to prevent disturbance by patrons using gardens, patios, external balconies or associated open spaces, whether for licensable activities or for ancillary purpose such as smoking or consuming alcohol;
- iv. The steps the applicant will take to reduce the potential for littering to occur from food packaging;
- v. The measures proposed to prevent littering or glass dispersal in the immediate vicinity or to clear up any litter that does occur, for example the provision of litter patrols directly outside their premises, including the picking up of cigarette butts and broken glass; the provision of receptacles for cigarette butts; notices at take-away premises asking patrons to dispose of their litter in bins;
- vi The siting of external lighting, including security lighting;
- vii The proposed operating hours of the premises, including those of the external areas;

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- viii Whether the operation is subject to a statutory notice served under Section 80 of the Environmental Protection Act 1990;
- ix The steps the applicant will take to prevent patrons congregating immediately around off licences/supermarkets to consume their purchases;
- x. The steps the applicant will take to prevent noise from delivery bikes:
- xi. Whether suitable and sufficient toilet provision has been made for customers' use;
- xii. the steps the applicant intends to take to prevent the generation of odour, e.g. from the preparation of food, smell of cigarette smoke;
- xiii. The steps the applicant intends to take to prevent the generation of noise or crime and disorder arising from any Outside Large Scale Event and compliance with any Strategy or Noise Management policy that the Council shall publish and/or the Noise Council's Code of Practice on Environmental Noise Control at Concerts.
- 14.5 To reduce the potential impact on the public nuisance objective, applicants may wish to assess whether there is a need for a Noise Management Policy for their premises. If there are relevant representations then the Licensing Sub-Committee may also choose to impose a condition requiring a Noise Management Policy. In drawing up a Noise Management Policy applicants should:
- Identify all potential sources of noise and who may be affected;
  - Consider what controls can be implemented to minimise noise in respect of each source (ultimately by ceasing its use or application);
  - Consider whether controls are adequate to prevent nuisance or whether more can be done;
  - Document what controls will be in place to minimise nuisance and how they are checked by staff.
  - Implement the policy.
- 14.6 This Authority will expect the applicant's Operating Schedule to fully address the prevention of public nuisance. Applicants are advised to seek advice from relevant authorities, before preparing and submitting their application, plans and supporting documents.
- 14.7 This Authority, where appropriate, will consider attaching additional conditions to licences to address public nuisance matters.

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**15 The Protection of Children from Harm**

- 15.1 Access to licensed premises may present a risk of physical, moral or psychological harm to children, therefore the Licensing Authority expects applicants to consider measures to protect children from harm where relevant to the type of premises and activities involved.
- 15.2. The Licensing Authority recognises the Safeguarding Children Board as being competent to act as the responsible authority in relation to the protection of children from harm objective and can make relevant representations. As a responsible authority, the applicant is required to copy details of their applications to the Safeguarding Children Board when an application is made.
- 15.3 It is an offence under the Act to sell alcohol to children (under 18). There is a further specific offence of persistently selling alcohol to children if sales are made on 2 or more occasions within 3 months. Unaccompanied children under 16 should not be on 'premises being used exclusively or primarily for supply of alcohol for consumption on those premises' e.g. pubs, bars and nightclubs. In addition, unaccompanied children under the age of 16 should not be allowed on licensed premises between midnight and 5am. Outside these hours, this offence does not prevent the admission of unaccompanied children under 16 to various types of premises where the consumption of alcohol is not the exclusive or primary activity at those venues. It should also be noted that between 5am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and those pubs where the main activity is the consumption of both food and drink.
- 15.4 The wide range of premises that require a licence means that children and young persons may visit many of these, sometimes on their own, for food and/or entertainment.
- 15.5 Where licences cover the sale of alcohol, the Licensing Authority expects strict controls to be in place to prevent underage sales. Measures that should be considered by applicants to manage this include refusal logs, training of staff on use of identification and age verification schemes.
- 15.6 Subject to the provisions of the Licensing Act 2003 and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The Licensing Authority will not attach conditions requiring the admission of children.
- 15.7. The Licensing Authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.
- 15.8 In determining licence applications where relevant representations have been made, it will be the policy of the Authority to consider the adequacy of measures proposed to ensure the prevention of harm to children having

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regard to all the circumstances of the case. In particular, the authority will consider the following:

- i. whether there have been convictions of the current management for serving alcohol to minors or where there is a reputation for underage drinking;
- ii. whether there is a strong element of gambling on the premises (but not, for e.g. the simple presence of a small number of fruit machines, slot machines or any other cash prize gaming machines);
- iii. whether it is intended to provide entertainment of an adult or sexual nature, the hours when such entertainment is to take place and the proximity to schools, youth clubs, places of religious worship or other premises where significant numbers of children are likely to attend;
- iv. whether the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided;
- v. whether or not children are to be admitted to the premises and, if so, whether restrictions are to be applied regarding age or times that children will be allowed access or the parts of the premises they may access;
- vi. whether there is a requirement for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult);
- vi. measures to be put in place to prevent access to children where restrictions are to be applied due to the adult nature of entertainment;
- vi. whether regard is paid to industry codes of good practice on the labelling and display of alcoholic drinks such as the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.

### 15.9 Children and films.

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

15.11 Normally, films shown in the London Borough of Richmond upon Thames have been classified by the British Board of Film Classification (BBFC)

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classifies for age suitability. However, the Council as the Licensing Authority remains legally responsible for what is shown in cinemas under the Licensing Act 2003 and can overrule the decisions of the BBFC by setting age classifications.

- 15.12 If an applicant wishes to show a film which has not been classified by the BBFC then it will be for the applicant to present special circumstances justifying a departure from this policy. The Authority may agree to the showing of the film having first established its suitability for children and the applicant must adhere to any age restrictions imposed. In all such cases at least 2 months' notice must be given in order for the Authority to address the application and advise the age restriction that will apply in that instance. The applicant must pay a fee to the Authority for the classification of a film by them.
- 15.13 Applicants for licences in relation to premises showing film exhibitions will be expected to address arrangements for preventing children from viewing age-restricted films, trailers and advertisements in their operating schedules.
- 15.14 A mandatory condition set out in the Act requires that where a licence authorises the exhibition of films the admission of children to any exhibition of film must be restricted in accordance with the BBFC (or licensing authority) classification.
- 15.15 Children and Public Entertainment.
- 15.16 Many children go to see and/or take part in an entertainment arranged especially for them, for example children's film shows and dance or drama school productions.
- 15.17 In determining licence applications where relevant representations have been made, it will be the policy of the Authority to consider the adequacy of measures proposed to safeguard children whilst they are on the premises and, in particular the authority may consider the following:
- i. In the case of regulated entertainment specially presented to children, the arrangements that will be put in place to ensure the safety of children during access and egress and during the duration of the entertainment, and in particular:
    - (i) the number and positioning of adult staff,
    - (ii) whether restrictions are to be put in place preventing children from sitting in the front row of any balcony unless accompanied by an adult and/or preventing children from standing

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in any part of the auditorium during the  
performance

- ii. Whether age restrictions are to be put in place preventing children being admitted to any entertainment unless accompanied by and in the charge of a responsible adult;
- iii. Where children are taking part in the entertainment, the arrangements that will be put in place to assure their safety.

15.18 This Authority will expect the applicant's Operating Schedule to fully address these issues. Applicants are advised to seek advice from relevant authorities, before preparing and submitting their application, plans and supporting documents.

15.19 Conditions

15.20 There are a number of alternative measures which may be considered in order to limit the access by children to premises where appropriate for the prevention of harm to children These include:

- limitations on the hours when children may be present;
- limitations excluding the presence of children under certain ages when particular specified activities are taking place;
- limitations on the part or parts of premises to which children might be given access;
- age limitations;
- a requirement that children be accompanied by an adult;
- a full exclusion of persons under 18 years of age from the premises when any licensable activities are taking place;
- a requirement for a proof of age scheme to operate such as 'Challenge 25' whereby any person who looks under 25 is asked to provide proof of age such as a photographic drivers licence, passport or other nationally accredited proof of age ID card such as a PASS ID card.

15.21 Adult Entertainment

15.22 This authority has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act" as amended) for the licensing of sex establishments including sexual entertainment venues. One of the consequences is that 'regulated entertainment' under the Licensing Act 2003 no longer includes the provision of sexual entertainment, as defined under the 1982 Act. If such activities, which include lap-dancing or similar, are to be offered then a separate Sexual Entertainment Venue Licence must be applied for. (This is subject to limited use exceptions as set out in the 1982Act). Failure to comply with the requirement to have a Sexual Entertainment Venue Licence in place may amount to a criminal offence and result in enforcement action.

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**16 Licensing Hours**

- 16.1 In the Secretary of State's Guidance, the Government acknowledges that different licensing approaches 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 such decisions based on their local knowledge and in consultation with other 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.
- 16.2 Guideline terminal hours or fixed trading hours within designated areas (Zoning) will not be adopted in this Authority. One reason for this is that it could lead to significant movements of people to areas within the Borough at particular times either seeking premises or going to premises that have longer opening hours and provide either alcohol and/or other regulated entertainment. This movement of people may give rise to a concentration of disturbance and noise.
- 16.3 All applications will be considered on their merits. Where representations have been received, in considering whether to restrict licensing hours in order to promote the licensing objectives, the Licensing Authority will consider the following matters (amongst others):
- whether the licensed activity is likely to result in an increase in crime, disorder or anti-social behaviour in the area;
  - whether the licensed activity is likely to lead to a public nuisance disturbing residents or other businesses in the vicinity, particularly late at night, and what measures will be put in place to prevent it;
  - whether there will be an increase in any cumulative adverse effect from the activity on local residents or other businesses in the vicinity; and
  - the level of public transport accessibility to and from the premises for the hours requested, or whether other effective methods of dispersal will be put in place that will prevent the licensing objectives being undermined.

**17 Shops, Stores and Supermarkets**

- 17.1 As a general rule, the Licensing Sub-Committee will take the approach that shops, stores and supermarkets will be free to sell alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there are good reasons, based upon the licensing

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objectives, for restricting those hours. For example, a limitation may be appropriate following police representation where youths gather outside a shop and cause disorder and disturbance.

- 17.2 The Licensing Sub-Committee, however, will consider the cumulative impact policy where any shop, store or supermarket falls within the cumulative impact zone.
- 17.3 The Licensing Sub Committee will also take note of paragraph 3.4 of this policy when considering and determining any premises licence application.

## **18. Enforcement**

- 18.1 It is essential that the requirements of the Licensing Act 2003 are enforced to ensure that the licensing objectives are met within the Borough. To this end, the Council will work closely with the Metropolitan Police and other agencies to ensure the efficient deployment of resources.
- 18.2 Enforcement visits will be targeted as follows:
- To known problem areas/premises
  - To high risk premises/events;
  - To premises where it is believed that trading is taking place without the necessary licence/club premises certificate or licensing conditions are not being met;
  - To premises where complaints have been received; and
  - To premises which have failed to pay the annual continuation fee and have consequently received a notice requiring them to suspend all licensable activities.
- 18.3 This will ensure that resources are deployed to high risk and problem premises that require the greatest attention. In turn a lighter touch will be adopted in respect of low-risk premises. However, ad hoc compliance visits may be carried across the borough to ensure that statutory requirements are not being breached. In particular, test purchases will be carried out to ensure that alcohol is not being sold to children. All such test purchasing will be carried out in accordance with The Code of Practice on Age Restricted Products, published by the Department of Business Innovation and Skills. The Code can be accessed here:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/299373/13-537-code-of-practice-age-restricted-products.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299373/13-537-code-of-practice-age-restricted-products.pdf)
- 18.4 The Council's Commercial Environmental Services, Licensing and Trading Standards Services have adopted enforcement policies. The aim of the policy is to ensure that the services apply enforcement guidelines in a consistent manner and is open and clear about the standards which it applies. The Policy is founded on the Government's Regulators Compliance Code and can be accessed at

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[https://www.richmond.gov.uk/services/business/services\\_for\\_business/consumer\\_protection/consumer\\_protection\\_enforcement\\_policies](https://www.richmond.gov.uk/services/business/services_for_business/consumer_protection/consumer_protection_enforcement_policies)

- 18.5 Enforcement decisions will be taken in line with the principles contained in the Enforcement Policy and having regard to the Code of Crown Prosecutors.

## **19 Making an application**

- 19.1 Application forms and payment can be made online by accessing the Council's web site: [www.richmond.gov.uk/business/licences](http://www.richmond.gov.uk/business/licences). Applying online saves applicants the need to send copies to Responsible Authorities, as this will be done automatically by the licensing authority, a saving in paper and postage to applicants. Alternatively application forms can be downloaded from the Council's web site.
- 19.2 The application forms for premises licences and club premises certificates (and for variations) enable the applicant to state in their operating schedule the additional steps they will take to promote the licensing objectives. In completing the operating schedule applicants should demonstrate an awareness of the local community in which the premises will be based. Applicants are reminded that any information contained within the operating schedule may be converted into conditions attached to the premises licence. Before making an application, applicants are strongly encouraged to contact relevant Responsible Authorities. Early involvement with the Responsible Authorities may enable the applicant to adapt their application in a way which avoids the need for formal representations and a hearing. Police recommendations within their representations will usually be accepted by the Licensing Sub Committee, unless not considered to be appropriate or proportionate. Contact details of the Responsible Authorities are given in Appendix 1.
- 19.3 **New or variation applications**
- 19.4 Where a premises licence holder wishes to amend their licence, they may make an application to vary their licence rather than make an application for a new premises licence or club premises certificate. A variation application cannot be made to extend the period for which the licence has effect where there is a time limited premises licence or to vary substantially the premises to which it relates. (Section 36(6) Licensing Act 2003) 'Substantially' is not defined in the Act or Guidance, but this Licensing Authority takes it to mean 'large or considerable' and this will ultimately depend on the individual circumstances of the case. It is neither exhaustive nor prescriptive, but a premises changing its whole operation or increasing the size of the building in which it operates to a significant degree could be seen as making a substantial change. An application for extended hours would

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normally be by way of full variation rather than by way of a “minor variation”(for which see below).

### 19.5 Minor Variations

- 19.6 Minor variations are dealt with under a simplified process. Minor variations will generally fall into these categories: minor changes to the structure or layout of a premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; the removal of licensable activities from a premises licence; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.
- 19.7 The Licensing Authority may consult with the Responsible Authorities, take into account relevant representations and grant only where the proposed application could not have an adverse effect on the promotion of any of the licensing objectives. The Licensing Authority must otherwise reject a minor variation application. The Licensing Authority will also reject a minor variation application where it proposes:
- To vary substantially the premises to which it relates;
  - Changes to the premises layout that could potentially have an adverse impact on the promotion of the licensing objectives, for example by:
    - ◆ increasing the capacity for drinking on the premises;
    - ◆ affecting access between the public part of the premises and the rest of the premises or the street or public way, e.g. blocking emergency exits or routes to emergency exits; and
    - ◆ impeding the effective operation of a noise reduction measure such as an acoustic lobby.
  - To add the sale by retail or supply of alcohol to a licence;
  - To extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 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;
  - To extend the period for which a Premises Licence has effect;
  - To specify an individual as the premises supervisor.
- 19.8 A decision on a minor variation application must be made within 15 working days of receipt of the application (beginning on the first working day after the Licensing Authority received the application). Where a minor variation application is refused the applicant may wish to consider making a full variation application.

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- 19.9 In determining a minor variation application, it would assist the Licensing Authority if applicants would give full details of the proposed variation and the reasons the applicant considers the variation could not have an adverse effect on the promotion of the licensing objectives (and in this regard applicants are also referred to the guidance notes on the minor variation application form). For minor variation applications there is no requirement to advertise the application in a newspaper, although the premises notice must be displayed on the premises on a white A4 sheet and displayed for ten working days following the day the application was given to the licensing authority.
- 19.10 There is no right of appeal on a refusal to permit a minor variation.
- 19.11 Advertising
- 19.12 Applicants must comply with the Licensing Act 2003 (Premises licence and club premises certificate) Regulations 2005 when advertising their applications for a premises licence or club premises certificate or a variation, by displaying a pale blue notice for 28 days on the exterior of the premises and placing an advertisement in a local newspaper. For a minor variation no newspaper advertisement is required although a notice on white paper must be displayed for 10 consecutive days. Notices must be prominently displayed so that they can be conveniently read from the exterior of the premises.
- 19.13 Applicants are reminded that for variations where a premises covers an area of more than 50metres square, additional notices must be displayed every 50metres along the external perimeter of the premises abutting the highway. For minor variations if any part of the external perimeter of the premises is 100 or more metres in length abutting a public highway or other places accessible to the public, the white notice shall be displayed every 50 metres along the premises.
- 19.14 Applicants will be asked to provide evidence of correct advertising. Licensing officers may visit the applicant's premises during the advertising period to ensure that the notices are being displayed in accordance with the regulations. Where advertising irregularities are found, the 28 day notice period may need to be restarted or extended to comply with the advertising requirements.
- 19.15 Large Events
- 19.16 Organisers of festivals or concerts who require a premises licence are strongly advised to contact the Licensing Authority at least six months prior to the event, although there is no statutory requirement to do so.
- 19.17 Organisers of large events should also have early discussions with Responsible Authorities such as the Police, Commercial Environmental Health and the London Fire Authority.

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**19.18 Incidental Music**

19.19 The definition of Regulated Entertainment is laid out in the Glossary and in The Act. Amongst other matters, a licence is not required for the playing of incidental music. Applicants are encouraged to consider carefully whether or not they require a licence for live music or recorded music, or whether it is incidental and therefore does not require to be licensed. When in doubt, applicants are encouraged to discuss it with officers of the Licensing Authority.

19.20 In considering whether or not music is incidental one factor may be whether or not, against a background of the other activities already taking place, the addition of music will create the potential to undermine any of the four licensing objectives. Other factors might include some or all of the following:

- Is the music the main, or one of the main, reasons for people attending the premises?
- Is the music advertised as a main attraction?
- Does the volume of the music disrupt or predominate over other activities or could it be described as 'background' music?

**20. Personal Licences**

20.1 In order to obtain a personal licence under Part 6 of the Licensing Act 2003 the applicant:

- Must be aged 18 years or over;
- Must be entitled to work in the UK;
- Must possess a licensing qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent) or is a person of a description prescribed by the Secretary of State by regulations;
- must not have forfeited a personal licence within five years of his or her application;
- has not been convicted of a relevant offence or foreign offence (requiring the production of a Disclosure and Barring Service check);
- has paid the appropriate fee to the Council.

20.2 The Metropolitan Police and/or Home Office may make representations where the applicant has been convicted of a relevant offence or foreign offence. In such cases, in making their decision, the Licensing Authority will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offences(s) were committed and any mitigating circumstances.

20.3 Applicants with unspent criminal convictions for relevant offences set out in the Licensing Act 2003 are strongly advised to first discuss their intended

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- application with the Police and/or Home Office before making an application.
- 20.4 A personal licence is valid for an indefinite period. A designated premises supervisor must hold a personal licence.
- 20.5 Personal licence holders are encouraged, when authorising members of staff to sell alcohol, to keep a record of the authorisation. It is recommended that any authorisation should state who has been authorised and for what period. It is also good practice for personal licence holders to train staff as to their responsibilities in relation to the service of alcohol.
- 20.6 Personal licence holders are reminded of their obligation to notify the Licensing Authority as soon as reasonably practicable of any change of name or address or conviction for a relevant or foreign offence or immigration penalty as defined in the Licensing Act 2003 (as amended). Where the Licensing Authority becomes aware of a conviction or relevant immigration penalty, it may take action to suspend or revoke the Personal Licence.
- 21. Temporary Event Notices**
- 21.1 The system of permitted temporary activities is intended as a light touch process and, as such, the carrying on of licensable activities does not have to be authorised by the licensing authority by way of an application. Instead, a person wishing to hold such an event must give notice to the licensing authority of the event (a temporary event notice (TEN)). A number of limitations apply to temporary event notices and these are laid out in more detail on our website ([www.richmond.gov.uk](http://www.richmond.gov.uk)).
- 21.2 If the Licensing Authority receives a standard or late Temporary Event Notice (“TEN”) and there are no representations made against it by the Police or Environmental Health services, then the Licensing Authority is obliged to issue the TEN subject to the statutory limits being complied with. Only the Police and Environmental Health team can object to a TEN and can do so in relation to any or all of the licensing objectives.
- 21.3 A **standard** TEN must be given to the licensing authority no later than 10 working days before the day on which the event period begins, and must be accompanied by the prescribed fee. An objection to a standard TEN must be made up to 3 working days following receipt by the Police or Environmental Health services. If an objection is made to a standard TEN then the objection will be considered at a hearing and the licensing sub-committee will consider whether to issue a counter-notice that does not permit the event occurring.
- 21.4 A **late** TEN must be given to the licensing authority no later than 5 working days, but no earlier than 9 working days, before the day on which the event period begins, and must be accompanied by the prescribed fee. If the Police

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or Environmental Health services object to a late TEN then the event will not be able to go ahead and a counter notice will be issued without a hearing taking place. This notice must be issued at least 24 hours before the event is due to take place.

- 21.5 The working days run from the day after the notice is received by the Licensing Authority, as the day the notice is received is deemed to be day zero. Public holidays and weekends are not counted, as they are not working days. For example, if a TEN was served on Tuesday, 13 November, the working days would begin to run from Wednesday, 14 November to Tuesday, 27 November and the event could be no earlier than Wednesday, 28 November.
- 21.6 When considering an objection to a TEN the Licensing Authority may attach conditions to a standard TEN, where it is appropriate for the promotion of the licensing objectives, but only if the conditions to be applied are already on a Premises Licence or Club Premises Certificate relating to the premises where the event will take place.
- 21.7 In any event, the person submitting the TEN is responsible for ensuring that the event complies with all relevant legislation, including the avoidance of a statutory nuisance, and that the event complies with all health and safety requirements.
- 21.8 Although the statutory procedure requires only ten working days' notice of a temporary event (or 5 in the case of a late TEN) the Council would urge applicants to apply at least 2 calendar months before the event is due to take place. This will allow time for the Police and Council to investigate whether there are any issues relating to any of the licensing objectives in plenty of time for the organiser to advertise the event with confidence.

## **22. Registered Clubs**

- 22.1 Part 4 of the 2003 Act deals with registered clubs.
- 22.2 The Licensing Authority can grant a Club Premises Certificate for the sale of alcohol and regulated entertainment to qualifying clubs.
- 22.3 There are various conditions that have to be complied with for a club to qualify e.g.: Forty–eight hour wait before becoming a member and the Club having at least 25 members.
- 22.4 There are also requirements concerning the supply of financial information to members and the keeping of financial records. The club also has to be managed by an elected Management Committee.
- 22.5 The provisions with regards to making an application for the Club Certificate are similar to those for a premises licence.

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22.6 Further information can be found on the Richmond web site [www.richmond.gov.uk](http://www.richmond.gov.uk) and in the guidance issued by the Government.

## 23 Representations

23.1 Responsible Authorities and any other person have the right to make representations where applications for new licences or variations are being sought and to receive appropriate consideration of their representations. Representations can be made in opposition to, or in support, of an application, although only negative representations will trigger a Licensing Sub-Committee hearing. Irrelevant, frivolous or vexatious representations will be disregarded. A representation may be considered to be irrelevant if:

- It does not relate to one of the four licensing objectives;
- It does not directly relate to a particular premises;
- It relates to commercial considerations alone
- It relates to matters already considered by the Council's Planning Committee (or during subsequent Appeal) or, should more properly have been considered by that Committee.

23.2 A representation may be considered frivolous or vexatious if:

- It arises from a dispute between rival business; or
- It relates to matters already considered, and dismissed, by a Court

23.3 All licence applications received under the Act are published on Richmond's website ([www.richmond.gov.uk](http://www.richmond.gov.uk))

### 23.4 Use of personal data

23.5 Where relevant representations are received to an application, a copy of the representation, including the name and address of the person making representation, must be forwarded to the applicant. Where the representation has been made by e-mail, this will include the email details unless the representation is provided as an attachment.

23.6 Copies of representations will be posted on the Council's website (with personal details redacted) together with the relevant report if the matter is to be considered by the Licensing Sub Committee. In addition, the names and addresses of interested parties will be disclosed to other persons concerned in the licensing proceedings pursuant to section 31 of the Data Protection Act 1998. Any person appearing before a Licensing Sub-Committee shall have their name recorded in the minutes. A copy of the minutes is distributed to the applicant and any interested parties and Responsible Authorities, with a copy being placed on the Council's web site.

23.7 However, it is recognized that in exceptional cases those making representations may have a genuine and well-founded fear of intimidation if they raise objection to an application. In such cases, the Licensing Authority

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may decide to remove some personal details from the representation but leaving minimal details such as street name or general location within a street before forwarding to the applicant. Such action will only be taken rarely and only where the Licensing Authority are satisfied that the concerns are well founded following such a request.

- 23.8 Although there is no statutory requirement to do so applicants may wish to insert additional wording on their pale blue advertisement on the exterior of the premises to explain how personal data will be used. For example, the following wording could be adopted:

*“Any personal data contained in a letter of representation will be disclosed to the applicant, Sub-Committee and officers of the Council involved in the licensing process and the name of any person appearing before the Sub-Committee will be published in the minutes which will be available on the Council’s website”*

### 23.9 Licensing hearing

- 23.10 Parties may request to speak or be represented at a Licensing Sub-Committee hearing. Such requests will be taken in accordance with The Licensing Act 2003 (Hearings) Regulations 2005 (as amended) and guidance published with each Licensing Sub-Committee agenda. Failure to do so may result in such a person not being heard, although the Chairman may exercise their discretion and allow the person to speak. (See licensing procedures on the website: [www.richmond.gov.uk](http://www.richmond.gov.uk)).

## **24. Reviews and dealing with complaints about premises**

- 24.1 Reviews represent a key protection for the community where premises present problems associated with the licensing objectives, allowing residents, other persons or businesses, local councillors or their representatives and Responsible Authorities to apply in writing to the Licensing Authority for a review of a premises licence or club premises certificate.
- 24.2 However, before commencing the review process, responsible authorities and other persons may wish to make a complaint about a premises if it is failing to comply with the licensing objectives. The Licensing Authority will seek to encourage alternative methods of resolving complaints before an application is made for a review. However, this does not override the right of any person to seek a review of a Premises Licence or Certificate.
- 24.3 In the first instance, persons are encouraged to raise the complaint directly with the licensee or business concerned. Responsible authorities are also encouraged to give licence holders early warnings of their concerns and of the need for improvement.
- 24.4 Once a Review application has been received it, and any other representations received, must be placed before the Licensing Sub-

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Committee for determination. The application may be amplified upon at a hearing to consider the Review or may stand in its own right. However, generally, new matters not included in the original Review/Representation will not be admissible at the hearing. Therefore, it is important that the original Review application and any other representations made are clear, comprehensive, and to the point.

- 24.5 Furthermore, these representations must relate to particular premises for which a premises licence is already held and must be relevant to the promotion of one or more of the licensing objectives. The review process is not an opportunity to revisit earlier representations made to the Licensing Authority when the original application for a premises licence was determined.
- 24.6 A request for a review will be disregarded if it is considered irrelevant, vexatious, frivolous or repetitious.
- 24.7 A representation is repetitious when it is identical or substantially similar to a representation made on a previous review or when the application for the licence was itself determined, and a reasonable interval has not elapsed since that time. A reasonable time will be considered to be 12 months save in compelling circumstances such as whether operation of the premises has begun or changed significantly since the previous representation was made or where very serious incidents which impact on the licensing objectives have occurred.
- 24.8 The Licensing Authority will take a particularly serious view where the grounds for review are substantiated and relate to the use of the licensed premises:
- for the sale and distribution of drugs and the laundering of the proceeds of drugs crimes;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music;
  - for the illegal purchase and consumption of alcohol by minors;
  - for prostitution or the sale of unlawful pornography;
  - for unlawful gambling;
  - as a base for organised criminal activity, particularly by gangs;
  - for the organisation of racist, homophobic or sexual abuse or attacks;
  - for the sale or storage of smuggled tobacco and alcohol;
  - for the sale of stolen goods;
  - for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
  - where Police are frequently called to attend to incidents of crime and disorder;

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- where there has been prolonged and/or repeated instances of public nuisance;
- where there are serious risks to public safety and the management is unable or unwilling to address these matters; and
- serious risks to children.

This is not an exhaustive list and only provided by way of example.

24.9 Where the Licensing Authority considers that action under its statutory powers is appropriate it may take any of the following steps:

- to take no action and/or issue a warning
- issue a letter confirming an offence has been committed and agree a formal caution
- in a Review to modify the conditions of the premises licence;
- in a Review to exclude a licensable activity from the scope of the licence;
- in a Review to remove the designated premises supervisor;
- in a Review to suspend the licence for not more than 3 months;
- to prosecute; and
- in a Review to revoke the licence.

24.10 Review proceedings may take place in addition to criminal proceedings for any offence that arises out of the complaint that led to the review application. Review proceedings do not need to be delayed pending the outcome of those criminal proceedings.

24.11 Police summary reviews

24.12 Where a licensed premises is considered to be associated with serious crime or serious disorder or both, the Chief Officer of Police can apply to the relevant Licensing Authority for a summary, or expedited, review of the premises licence. Within 48 hours of receipt of that application the Licensing Authority must consider whether it is appropriate to take interim steps pending the determination of a review of the premises licence. Within 28 days after the day of its receipt, a full review hearing must be held. At the full Review hearing, the Licensing Sub-Committee will consider whether any Interim Steps should continue or be modified pending any appeal determination.

24.13 Interim steps can include (a) the modification of the conditions of the premises licence, (b) the exclusion of the sale of alcohol by retail from the scope of the licence, (c) the removal of the designated premises supervisor from the licence, and/or (d) the suspension of the licence. If the holder of the premises licence makes, and does not withdraw, representations against any interim steps taken by the Licensing Authority, the authority must, within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations. Further representations to review the

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Interim Steps shall not be considered by the Licensing Sub-Committee unless they represent a material change in circumstances.

### **25. Appeals**

25.1 Where an applicant, the Responsible Authorities or other persons who have made representations are dissatisfied with a Licensing Sub-Committee decision then they can generally appeal the decision under Section 181 and Schedule 5 of the Licensing Act 2003 to their local Magistrates' Court. The Court will consider whether the decision is wrong as at the time of the appeal hearing. The burden is on the appellant to persuade the Court that the decision of the Council is wrong. If that burden cannot be satisfied then the appeal will be refused.

25.2 However, unlike applications before the Licensing Sub-Committee, an appeal Court will have the power to make an award of costs from one party to another at the conclusion of the appeal. Case law establishes that because the Council is simply discharging its statutory duty when making licensing decisions, generally it will not be ordered to pay the costs of a successful appellant unless the Council can be shown to have behaved unreasonably. On the other hand, if the Council is successful on appeal then the appellant will normally be ordered to pay the Council's costs of defending the appeal.

### **26. Administration, Exercise and Delegation of Functions**

26.1 The Council is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

26.2 In order to provide a speedy, efficient and cost-effective service to all involved in the licensing process, the Committee has delegated certain decisions and functions to Sub-Committees.

26.3 Further, with many of the decisions and functions being purely administrative, the grant of non-contentious applications has been delegated to Council officers.

26.4 In view of the tight timescales involved in the processing of Minor Variation applications, this function has been delegated to Council officers. In all cases, officers will assess the Minor Variation application and where it is felt that the variation could have an adverse effect on any of the four licensing objectives they will consult with the relevant Responsible Authority(ies). If the licensing officer, or any of the Responsible Authorities have concerns about the application or it seeks to extend the licence or substantially vary the premises, appoint a new DPS or add any time or late night alcohol sales, it will be refused and a recommendation made to the applicant to submit a full variation application under section 34 of The Act.

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26.5 Appendix 2 sets out the delegation of decisions and functions to the Licensing Committee, Sub-Committee and officers.

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Appendix 1 – Responsible Authorities Contact details

Authority	Contact Details
Metropolitan Police	Richmond Police Licensing Team Twickenham Police Station 41 London Road Twickenham Middlesex TW1 3SY <a href="mailto:southwestswmailbox.licensinggeneral@met.police.uk">southwestswmailbox-licensinggeneral@met.police.uk</a>
London Fire Authority	Fire Safety Regulation: South West Area 4, London Fire Brigade, 169 Union Street, London, SE1 0LL <a href="mailto:fsr-adminsupport@london-fire.gov.uk">fsr-adminsupport@london-fire.gov.uk</a>
The Local Planning Authority	Development Control London Borough of Richmond upon Thames Civic Centre York Street Twickenham TW1 3BZ <a href="mailto:DCTechnicalSupportHub@richmondandwandsworth.gov.uk">DCTechnicalSupportHub@richmondandwandsworth.gov.uk</a>
Responsible Authority for Noise and Environmental Pollution	Environmental Health (Pollution) Manager, Merton Civic Centre, London Road, Morden, SM4 5DX <a href="mailto:noiseandnuisance@merton.gov.uk">noiseandnuisance@merton.gov.uk</a>
Health and Safety (Local Authority Enforced Premises)	Environmental Health (Commercial) Manager, Merton Civic Centre, London Road, Morden, SM4 5DX <a href="mailto:foodandsafety@merton.gov.uk">foodandsafety@merton.gov.uk</a>
Health and Safety (HSE enforced businesses)	HM Inspector of Health and Safety FOD London Division Health and Safety Executive Rose Court 2 Southwark Bridge London SE1 4LW
Trading Standards	Chief Inspector of Weights and Measures, Trading Standards Service, Merton Civic Centre,

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	<b>London Road, Morden, SM4 5DX</b> <a href="mailto:Trading.standards@merton.gov.uk">Trading.standards@merton.gov.uk</a>
<b>Protection of Children from Harm</b>	<b>Kingston &amp; Richmond Safeguarding Children Partnership</b> <b>c/o London Borough of Richmond upon Thames</b> <b>44 York Street</b> <b>Twickenham</b> <b>TW1 3BZ</b> <a href="mailto:iscb-support@kingrichlscb.org.uk">iscb-support@kingrichlscb.org.uk</a>
<b>Public Health</b>	<b>Director of Public Health,</b> <b>LB Richmond and LB Wandsworth</b> <b>Civic Centre,</b> <b>44 York Street</b> <b>Twickenham TW1 3BZ</b>
<b>The Licensing Authority</b>	<b>Environmental Health (Licensing) Manager,</b> <b>Merton Civic Centre,</b> <b>London Road,</b> <b>Morden, SM4 5DX</b> <a href="mailto:licensing@merton.gov.uk">licensing@merton.gov.uk</a>
<b>Secretary of State for the Home Office</b>	<b>Home Office Immigration Enforcement</b> <b>Alcohol Licensing Team</b> <b>Lunar House</b> <b>40 Wellesley Road</b> <b>Croydon CR9 2BY</b> <a href="mailto:Alcohol@homeoffice.gsi.gov.uk">Alcohol@homeoffice.gsi.gov.uk</a>

## Application in relation to vessels must notify further Responsible Authorities

<b>Port of London Authority (for Tidal Thames)</b>	<b>London River House</b> <b>Royal Pier Road</b> <b>Gravesend</b> <b>Kent</b> <b>DA12 2BG</b>
<b>The Environment Agency – Recreation and Navigation and Thames Region South</b>	<b>The Environment Agency,</b> <b>Thames Region,</b> <b>Kings Meadow House,</b> <b>Kings Meadow Road,</b> <b>Reading, RG1 8DQ</b> <a href="mailto:enquiries@environment-agency.gov.uk">enquiries@environment-agency.gov.uk</a>

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<b>British Waterways</b>	<b>British Waterways London 1 Sheldon Square Paddington Central London W2 6TT</b>
<b>The Secretary of State, The Surveyor General, Maritime and Coastguard Agency</b>	<b>The Surveyor General, Maritime and Coastguard Agency Central Court 1 Knoll Rise Orpington Kent BR6 0JA</b>

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**Appendix 2 - Delegation of licensing decisions and functions**

<b>Matter to be Dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		If a police objection	If no objection made
Application for premises licence/club premises certificate		If relevant representations made	If no relevant representations made
Application for provisional statement		If relevant representations made	If no relevant representations made
Application to vary premises licence/club premises certificate		If relevant representations made	If no relevant representations made
Application to vary a designated premises supervisor		If a police objection	All other cases
Request to be removed as a designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authority		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision on whether to consult other responsible authorities on minor variation application			All cases
Determination of a minor variation			All cases
To raise representations on behalf of the Licensing Authority as a Responsible Authority			All cases

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**Appendix 3 – Cumulative Impact Assessment**

1. Cumulative Impact is defined as the potential impact on the promotion of the licensing objectives of a number of licenced premises concentrated in one area. In some areas where the number, type or density of licensed premises is high, or exceptional, serious problems of nuisance, crime or disorder may occur within or some distance away from the area.
2. A Cumulative Impact Assessment may be published by a Licensing Authority to help it to limit the number or type of applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives.
3. The Licensing Act sets out what a licensing authority must do in order to publish a cumulative impact assessment (CIA). This includes publishing the evidential basis for its opinion and consulting on this evidence. A cumulative Impact Assessment must be published, and consulted upon, every three years. The evidence underpinning the publication of the CIA must be suitable as a basis for a decision to refuse an application or impose conditions.
4. The evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the particular problems identified in the specific area to be covered by the CIA. The Secretary of State's Guidance provides a list of Information which licensing authorities may be able to draw on when considering whether to publish a CIA including
  - local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
  - statistics on local anti-social behaviour offences;
  - health-related statistics such as alcohol-related emergency attendances and hospital admissions;
  - environmental health complaints, particularly in relation to litter and noise;
  - complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
  - residents' questionnaires;
  - evidence from local councillors;
  - evidence obtained through local consultation;
  - Underage drinking statistics.

**The steps taken to develop the Special Policy on Cumulative Impact**

5. Whilst the Statement of Licensing Policy has incorporated a Special Policy on Cumulative Impact since 2006, a full review across the whole borough was carried out in 2021 to take into account the changes brought about by the Policing and Crime Act 2017.
6. A report was compiled that plotted the density of licensed premises in the borough against police, ambulance and noise data obtained between April

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2019 and March 2020. This was mapped and analysed and was presented to the Licensing Committee on the 22 June 2021. The Committee was of the view that there was strong evidence to indicate that the two existing Cumulative Impact areas should remain in place. A full consultation was then carried out with residents and business in the borough, or their representatives, as well as with the responsible authorities. A copy of the evidence considered by this Committee is available in the report of the Licensing Committee of the 22 June 2021, available on request or on the Council's website [www.richmond.gov.uk](http://www.richmond.gov.uk)

7. A further meeting of the Licensing Committee was held on the 12 October 2021 when the results of the consultation were fully considered and the areas where a special policy on Cumulative Impact will apply were agreed. A copy of the evidence considered by this Committee and minutes of the discussion are available on request or on the Council's website [www.richmond.gov.uk](http://www.richmond.gov.uk)

### **Cumulative Impact Assessments (CIA)**

9. A Special Policy on Cumulative Impact will apply to the following areas

10. **Richmond Town Centre**

The area included in the Richmond Town Centre CIA is shown in Figure 1 of Appendix 4

The special policy relates to all applications for new licences or variations that increase the hours or capacity or add licensable activities.

Richmond Town Centre lies primarily within South Richmond Ward but also extends into North Richmond Ward. It is a vibrant area with a diverse offering of entertainment venues. It has the highest concentrations of licensed premises in the borough.

The Cumulative Impact Assessment identified that South Richmond Ward has the highest recorded level of complaints to the police about violence with injury, assaults and anti-social behaviour and one of the highest number of ambulance call outs for assault and for alcohol in the borough. Although relatively low in numbers, the area also attracts a number of complaints to the Council's licensing team. Whilst levels of crime and anti-social behaviour across Richmond is low compared to other London boroughs, the high density of licensed premises in Richmond Town Centre is impacting adversely on crime and anti-social behaviour in the area.

The Authority recognises that it must balance the needs of business with those of local residents. However, currently the number and type of premises are impacting negatively on the licensing objectives. In adopting the special policy, the authority is setting down a strong statement of approach to considering applications for the grant or variation of premises licences in the Richmond Town Centre CIA. The authority considers that the number of licensed premises in Richmond Town Centre Cumulative Impact Area is such that is likely that granting further licences would be inconsistent with the authority's duty to promote the licensing objectives. However,

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the Authority recognises that the impact of premises can be different for premises with different styles and characteristics. For example whilst large nightclubs or late night bars and public houses might add to the problems of cumulative impact, a small restaurant or theatre may not. For this reason, applications with comprehensive operating schedules that meet the following criteria may be able to demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives:

Premises that are not alcohol led and

- i. support the people visiting the area during the day; and/or
- ii. support the wider cultural offering in the area

### 11. Twickenham Town Centre

The area included in the Twickenham Town Centre CIA is shown in Figure 2 of Appendix 4

The special policy relates to all applications for new licences or variations that increase the hours or capacity or add licensable activities.

Twickenham Town Centre lies within Twickenham Riverside Ward. Plans to redevelop Twickenham Riverside are well advanced with provision for new open spaces, restaurants, housing and offices opening up to the River Thames. This redevelopment is designed to be family friendly and it is anticipated that it will be an attraction for visitors, thus changing the dynamic of the area.

This Ward currently has the second highest level of complaints to the police about violence with injury (non-domestic) and assaults. Twickenham Town Centre has the second highest density of licenced premises in the borough. The high density of licensed premises in Twickenham Town Centre is impacting adversely on crime and anti-social behaviour in the area.

In adopting this cumulative impact assessment, the authority is setting down a strong statement of approach to considering applications or the grant or variation of premises licences in the Twickenham Town Centre Cumulative Impact Area. The authority considers that the number of licensed premises in the Twickenham Town Centre Cumulative Impact Area is such that is likely that granting further licences would be inconsistent with the authority's duty to promote the licensing objectives.

However, as with Richmond Town Centre CIA, the Authority recognises that the impact of premises can be different for premises with different styles and characteristics. For this reason, applications with comprehensive operating schedules that meet the following criteria may be able to demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives:

Premises that are not alcohol led and

- i. support the people visiting the area during the day;
- ii. support the ethos of a family friendly area; and/or
- iii. support the wider cultural offering in the area

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Appendix 4

**CUMULATIVE IMPACT AREAS: RICHMOND TOWN CENTRE AND TWICKENHAM TOWN CENTRE** -The cumulative impact areas include the shaded area and all premises which have a principal form of access onto the shaded area.

**Fig 1 – Richmond Town Centre Cumulative Impact Area**



