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INTRODUCTION

General

1. This policy states the general principles that the Licensing Authority (see glossary) will take into account when determining each application. Other parties (including applicants, responsible authorities, interested parties) should have due regard to this policy.
2. The Licensing Authority is responsible for granting premises licences, club premises certificates, personal licences, and for receiving temporary event notices in the Borough in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.
3. Each application will be considered on its individual merits.
4. The Licensing Authority may depart from its own policy if the individual merits of the application warrant such a departure. In such circumstances, the Licensing Authority must be able to justify its decision should there be a legal challenge.
5. This policy will not over-ride any obligations in the *Licensing Act 2003* (the "Act") or any other legislation. The Licensing Authority in preparing this policy has had regard to the Statutory Guidance (the "Guidance") under S182 of the Act and Regulations.
6. Each three year period the Licensing Authority must determine and publish a statement of policy. The Licensing Authority must keep its policy under review and must consult in relation to any revisions to it.
7. The Licensing Authority has consulted with all parties as required under the Act (see Appendix A).
8. All existing licence holders, (for example, justice licences, public entertainments licences, night café licences), will have six months commencing the first appointed day (7 February 2005) to apply to the Licensing Authority to have their current licence converted with existing conditions to the new type of licence. Although applicants must apply to the Licensing Authority, this is an automatic conversion, subject only to any police objection based on the crime and disorder objective. This is known as Grandfather Rights. For the number of existing licences in the Borough please refer to Appendix B.
9. In making decisions the Licensing Authority will have due regard to any supplementary publications, including material such as protocols, strategies and procedures, that are published by the Richmond Council (the "Council") or other relevant bodies and are relevant to Licensing.

Licensing objectives

10. The Licensing Authority has a duty under the Act to carry out its functions with a view to promoting the licensing objectives (which are all of equal importance), namely:

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

11. The licensing objectives are the only factors that the Licensing Authority may take into account when determining an application or review.

Licensable activities

12. Subject to statutory exemptions, the activities which require a licence under the provisions of the Act and which this policy statement covers include:

- sale of alcohol;
- supply of alcohol to club members;
- provision of “regulated entertainment” – to the public, to club members or with a view to profit:
 - a performance of a play;
 - an exhibition of a film;
 - an indoor sporting event;
 - boxing or wrestling entertainment;
 - a performance of live music;
 - any playing of recorded music;
 - a performance of dance;
 - provision of facilities for making music;
 - provision of facilities for dancing;
- the supply of hot food and/or drinks from any premises between 11pm and 5am.

13. For statutory exemptions refer to Part 2 of Schedule 1 of the Act (see Appendix C).

Licensing Committee

14. The Council has established a Licensing Committee of fifteen members. The Licensing Committee will meet at least twice yearly to receive reports relevant to their role from Council officers and/or other appropriate parties/organisations.
15. The Licensing Committee may establish one or more sub-committees consisting of three members of the Licensing Committee.
16. The Licensing Committee may delegate its functions to sub-committees or to officers supporting the Licensing Authority. Delegation may occur in accordance with the schedule as contained in Appendix D. However, the Licensing Authority may depart from the schedule where the individual merits of the case so require the departure and in such cases reasons will be given.

17. Where there are no relevant representations (see glossary), officers must grant the application without a hearing. Officers must determine on its merits whether any representation is relevant, frivolous or vexatious and may seek the guidance of the chairman or vice-chairman of the Licensing Committee in making its determinations.
18. The Licensing Committee or sub-committee may hear relevant representations from responsible authorities (see glossary) and interested parties (see glossary) in the vicinity of the premises. The Licensing Authority will adopt a common sense approach to the meaning of vicinity. Parties are interested if they live in the vicinity of the premises, and whether they do will be a question of fact in each case. The sub-committee may also determine at a hearing whether a representation is relevant, frivolous or vexatious.

Council's Vision for Licensing in the Borough

19. This policy aims to '*Achieve the Right Balance*' by offering a safe, welcoming and clean environment for all to enjoy by improving opportunities for business and leisure/cultural activities whilst respecting the needs of residents to be able to go about their normal lives without undue interference or disturbance from licensable activities.
20. The Council encourages:
 - Entertainment (live music, dance, plays, films, etc.)
 - Cultural diversity
 - Choice
 - Family friendly environments
 - Focus on food
 - Quality standards
21. The Council encourages a diverse range of services beyond the sale of alcohol. It does not wish to create or promote a trend towards a 24 hour vertical drinking culture.
22. The Council discourages drunkenness or promotions that may lead to the excessive consumption of alcohol. The Portman Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks (refer to www.portman-group.org.uk) is commended in ensuring that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older.

TYPES OF LICENCES

Premises licence

23. A premises licence authorises the premises to be used for one or more licensable activities. It has effect until the licence is revoked, suspended or surrendered, but is not otherwise time limited unless the applicant requests a licence for a limited period. In determining an application or review of a premises licence the Licensing Authority must satisfy the licensing objectives.
24. Hearings may occur in the following circumstances, including determining applications:

- for a premises licence
- for a provisional statement (see glossary)
- to vary a premises licence
- to vary the details of an individual specified in a premises licence as the designated premises supervisor
- for transfer of a premises licence
- for a review of a premises licence
- for conversion of an existing licence during the period of transition
- for review of a premises licence following a closure order issued by the police and the exercise of powers by a magistrates court
- following the cancellation of an interim authority notice following a police objection

25. 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.
26. The Council may seek, where appropriate, to obtain premises licences for suitable open spaces and premises that it owns or has control over. This will allow a variety of users, with permission from the Council, to use the open space or premises without having to individually seek a premises licence, and will enable the Council to promote live music, dance, circuses, and cultural events within our Borough. In such circumstances, the user must adhere to any conditions imposed upon them by the Council. Interested parties and responsible authorities may make representation in relation to premises licence applications in respect of open spaces.

Personal licence

27. A personal licence is granted by the Licensing Authority to an individual, and authorises that individual to supply alcohol, or authorise the supply of alcohol, in accordance with a premises licence.
28. A personal licence has effect, unless revoked or surrendered, for an initial period of 10 years beginning from the date on which it is granted, and may be renewed for further periods of ten years at a time.

29. Hearings may occur in the following circumstances, including determining applications:

- for the grant of a personal licence
- for renewal of a personal licence
- for grant of a personal licence by the holder of an existing justices' licence during the period of transition
- for conversion of an existing licence during the period of transition
- following convictions coming to light after grant or renewal of a personal licence

30. The Licensing Authority must grant the licence if it appears that:

- (a) The applicant is aged 18 or over;
- (b) The applicant possesses an accredited licensing qualification or is a person of a prescribed description;
- (c) No personal licence held by them has been forfeited in the period of five years ending with the day the application was made;
- (d) The applicant has not been convicted of any relevant offence or any foreign offence; and
- (e) The Applicant pays the appropriate fee.

31. If the applicant has been convicted of any relevant offence (see glossary) or foreign offence (see glossary) the police may object to the grant of the licence on the grounds that it would undermine the crime and disorder objective.

32. An application for the grant of a personal licence:

- (a) must, if the applicant is ordinarily resident in the area of a Licensing Authority, be made to that authority, and
- (b) may, in any other case, be made to any Licensing Authority (eg someone who lives abroad but wishes to have a personal licence for use in the United Kingdom)

Club premises certificate

33. Club premises certificates provide authorisation for qualifying clubs to use club premises for “qualifying club activities.” Qualifying club activities are the supply of alcohol by or on behalf of a club to a member of a club, the sale by retail of alcohol by or on behalf of a club to a guest of a member for consumption on the club premises and the provision of regulated entertainment by or on behalf of the club for its members and guests.

34. Hearings may occur in the following circumstances, including determining applications:

- for a club premises certificate
- to vary a club premises certificate
- for review of a club premises certificate
- for conversion of an existing club registration certificate during the period of transition.

Permitted temporary activities

35. Where it is proposed to use premises for one or more licensable activities involving less than 500 people, during a period not exceeding 96 hours, a “temporary event notice” must be given to the Licensing Authority and Police.
36. Any individual who is aged 18 or over may give a temporary event notice whether or not they hold a personal licence.
37. Where an individual does not hold a personal licence they can give 5 temporary event notices per year, whereas a personal licence holder may give up to 50 temporary event notices per year.
38. Each calendar year, no more than 12 temporary events can be held at any one premises.
39. No permission is required from the Licensing Authority. However, the applicant must inform both the police and the Licensing Authority of the temporary event.
40. The police may object to a temporary event notice if it considers it necessary for the prevention of crime and disorder. Where the police object, the Licensing Authority must hold a hearing to consider the objection, unless the premises user, the chief officer of police who gave the objection notice and the Licensing Authority agree that a hearing is unnecessary.
41. Although the legislative requirement for giving notice is 10 working days, it is recommended that the temporary event notice be given to the Licensing Authority and the police at least 20 working days before the event is due to begin.

LICENSING OBJECTIVES

Prevention of Crime & Disorder

42. In accordance with S17 of the Crime and Disorder Act 1998, the Licensing Authority must have due regard to the likely effect of the exercise of its functions on crime and disorder; and to the need to do all that it reasonably can to prevent crime and disorder.
43. The Licensing Authority will give considerable weight to any representations made by the police that is supported by evidence addressing this objective, particularly where it is linked to resources and likely control issues.
44. Pubs are encouraged to become members of their local Pub Watch scheme and to become a part of the Pub Watch radio system in order to alert other premises of potential trouble makers and disorder.
45. Door supervisors must be licensed by the Security Industry Authority (SIA) by the 11 April 2005, subject to exemptions under the Private Security Industry Act 2001.

46. The Licensing Authority encourages applicants to voluntarily install CCTV both within and outside their premises where they trade beyond 11pm and the primary licensable activity is the supply of alcohol. Installation and maintenance should be to the satisfaction of the Police and Licensing Authority and it is recommended that all recordings be retained for a minimum of 31 days.

Factors for the Licensing Authority to consider

47. Upon receiving a relevant representation in relation to a premises licence (or provisional statement) or club premises certificate, the Licensing Authority in making its determination must promote this licensing objective. Examples of what could be considered include:

- Whether the premises makes or will make an adverse contribution to levels of crime and disorder;
- Whether management has adopted any positive measures to prevent crime and disorder (for example, door supervisors, floor supervisors, installation of CCTV etc);
- Whether the interior and exterior of the premises have been designed in a way to minimise conflict and the opportunity for crime and disorder (for example, lighting, layout, etc);
- Whether measures have been adopted to ensure that the consumption of alcohol (eg no promotions that may lead to the excessive consumption of alcohol; provision of tap water free of charge) does not adversely effect the crime and disorder objective;
- Whether there are any internal policies addressing issues such as drugs and weapons (including search policies and training / awareness);
- Nature of the licensable activities and profile of patrons and their likely impact on the crime and disorder objective;
- Whether any dispersal practices encourage the staggered departure of patrons;
- Whether the size and capacity of the premises impacts on the licensing objectives.

Conditions

48. Annex D of the Guidance provides examples of conditions that may, in individual cases, be necessary to promote the prevention of crime and disorder in relation to premises licences (and provisional statements) and club premises certificates.
49. The following conditions may be considered as measures which may, in individual cases, promote the prevention of crime and disorder:

- Text / radio pages / phones connecting to local police;
- Door supervisors authorised by the SIA;
- Plastic containers and toughened glass;
- CCTV;
- Open containers not to be taken from the premises;
- Restrictions on drinking areas;
- Safe capacity limits;

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| <ul style="list-style-type: none"> ▪ Proof of age schemes (No proof, no sale, no entry); ▪ Crime prevention notices; ▪ Signage; ▪ Metal detectors and search policies; ▪ Book recording all incidents at premises; ▪ No irresponsible promotions that may lead to the excessive consumption of alcohol; ▪ A specified time between last sales and the close of the premises; ▪ Supply of free soft drink, water, coffee or food at the end of the evening. |

Public Safety

50. Public safety is concerned with the physical safety of people using or working in the premises and not with public health, which is dealt with in other legislation.
51. It is the responsibility of the applicant to ensure that their licensed premises is safe for the public and staff for the activity taking place, both inside and immediately outside the premises (eg in connection with queuing, access, control of crowds). It is recommended that the applicant provides a risk assessment alongside the operating schedule to demonstrate that safety has been considered, assessed and addressed.
52. The Licensing Authority's officers will inspect licensed premises on a risk assessment basis and will perform joint visits with other agencies. The purpose of visits will be to ensure compliance with licence conditions. Inspections may be undertaken without formal notice.
53. The Licensing Authority may, at its discretion, place a capacity limit on premises upon receiving a relevant representation. Capacity figures already set by the Fire Authority and/or Licensing Authority should be disclosed in the operating schedule. The Licensing Authority will not set a capacity that duplicates a capacity set in the Fire Safety Certificate.

Factors for the Licensing Authority to consider

54. Upon receiving a relevant representation in relation to a premises licence (or provisional statement) or club premises certificate, the Licensing Authority in making its determination must promote this licensing objective. Examples of what could be considered include:

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| <ul style="list-style-type: none"> • Whether there are sufficient security staff / floor supervisors in relation to the number of customers at any given time; • Whether there may be overcrowding in the premises; • Whether there are set safe capacity limits; • Whether staff have been trained in/ informed of necessary safety measures; • Whether patrons can arrive and depart from the premises safely. |
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Conditions

55. Where the legislation does not provide adequately for the public or staff, the Licensing Authority will give consideration to the conditions to promote safety as contained in Annexes E & F of the Guidance.
56. The following conditions may be considered as measures that in individual cases may be necessary to promote public safety.

- Safe capacity limits;
- Safety checks are carried out before the admission of the public;
- Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performance and staff.

Prevention of Public Nuisance

57. In determining a licence application, the Licensing Authority will focus on the impact of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity.

58. Public nuisance includes the following:

- Noise nuisance (including vibration);
- Light pollution;
- Noxious smells;
- Litter;
- Any other relevant consideration.

59. The prevention of public nuisance includes low-level nuisance affecting a few people living locally as well as major disturbances affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties in the vicinity of licensed premises.

60. Applicants are encouraged to make all attempts to ensure that patrons leave their premises quietly and swiftly. Where nuisance in the vicinity of the licensed premises is attributable to patrons leaving the particular premises, this may result in representations against the premises licence.

61. Where there are queues to enter premises, they should be controlled and monitored to ensure that no nuisance is caused to residents or local businesses. Applicants are advised to address these matters in their operating schedules.

Factors for the Licensing Authority to consider

62. Upon receiving a relevant representation in relation to a premises licence (or provisional statement) or club premises certificate, the Licensing Authority in making its determination must promote this licensing objective. Examples of what could be considered include:

- Whether any steps have been taken to limit noise escape from the premises (for example, keeping doors and windows shut where possible, sound level limiters on amplification equipment, sound proofing);
- What measures have been adopted to minimise and control noise from customers entering and leaving the premises (for example, signs inside/outside the premises asking patrons to leave quietly);
- Whether the licensable activities are likely to cause congestion of the pavement or the roadway;
- Whether people standing outside the premises are likely to cause a nuisance to residents;
- Whether any measures have been taken to prevent queuing outside premises;
- Whether there is adequate transport for patrons leaving the premises;
- Whether measures have been taken to minimise and control noise from staff, contractors and suppliers and their activities;
- Whether measures have been taken to minimise and control noise from vehicles providing services to the premises (for example, refuse collection, drink and food deliveries);
- Whether there are any bright lights outside the premises that may give rise to light pollution for some neighbours;
- Whether measures (such as litter bins outside premises or sponsored litter bins away from the premises) have been adopted to ensure that discarded litter is kept to a minimum, particularly with regard to the sale of takeaways from late night premises;
- Whether measures have been adopted to prevent noxious smells.

Conditions

63. Annex G of the Guidance provides examples of conditions that may, in individual cases, be necessary to promote the prevention of public nuisance.
64. The following conditions may be considered as measures that may, in individual cases, promote the prevention of crime and disorder:

- Hours of operation;
- Doors and windows at the premises to be closed where practicable;
- Installation of noise limiting devices on amplification equipment;
- Prominent, clear and legible notices are to be displayed on all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- No bright lights outside the premises;
- Bins outside premises;
- Book for recording nuisance complaints;
- Telephone with direct cab line;
- Display of transport timetables at the exit of premises;
- A specified time between last sales and the closure of the premises;
- Supply of free soft drink, water, coffee or food at the end of the evening.

65. Conditions must focus on measures within the direct control of the licence holder or club.

Transport

66. Applicants are encouraged to inform the Licensing Authority about the provision of transport for customers leaving the premises. If transport is readily available, this may decrease the risk of customers causing nuisance or disturbance to residents or local business. Furthermore, applicants are encouraged to provide patrons with information about the provision of transport (eg on a notice board near the exit) and to provide free phone links to mini cab companies etc.

Outside eating or drinking areas

67. Where the applicants premises contains an outside eating or drinking area, the Licensing Authority should consider the following:

- Whether the outside eating or drinking area is within close proximity of residential housing;
- Whether the outside eating or drinking area could have an adverse effect on those living in the area;
- The hours that the applicant intends to sell food or drink for consumption in the outside area;
- Measures for the collection of glasses, crockery, cutlery and litter.

68. Where a premises includes an outside eating or drinking area, the applicant must state what steps they have taken to minimise noise escape. The Licensing Authority will expect applicants to specify voluntary conditions that address this issue, such as early closure of the outside drinking area in relation to the terminal hours for the inside of the premises.
69. The applicant will be expected to address the nuisance objective where its patrons are known to use the highway (ie drinking on pavements) or public open spaces.

Protection of Children from Harm

70. The protection of children from harm includes moral, psychological and physical harm.
71. The Licensing Authority will give considerable weight to representations made by child protection bodies and the police that are supported by evidence. The Council's Children and Families Department of Social Services is the responsible authority in respect of children.
72. Nothing in this statement of policy shall require that premises give access to children.
73. When deciding whether to limit access to children or not the Licensing Authority will judge each application on its merits. Examples, which may give rise to particular concern in respect of children, would include premises:

- Where “adult entertainment” is provided;
- Where there have been convictions of current management for serving alcohol to minors or with a reputation for allowing underage drinking;
- Where the requirement for proof of cards or other age identification to combat the purchase of alcohol by minors is not the norm;
- With a known association with drug taking or dealing;
- Where there is a strong element of gambling on the premises (but not small numbers of cash prize machines);
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

Factors for the Licensing Authority to consider

74. Upon receiving a relevant representation in relation to a premises licence (or provisional statement) or club premises certificate, the Licensing Authority in making its determination must promote this licensing objective. Examples of what could be considered include:

- What measure are taken, or proposed to be taken, to check the age of those who appear to be under the age of 18;
- The likelihood of children under the age of 18 being attracted to the premises;
- Whether there is an emphasis on gambling or “adult entertainment” (and the placement of gaming machines so that they are properly supervised);
- Whether the supply of alcohol is the primary purpose;
- Measures taken to ensure that the consumption of alcohol is restricted by age;
- Whether there are problems with underage drinking on the premises;
- Measures to restrict children from viewing films that are inappropriate for their age.

Conditions

75. Annex H of the Guidance provides examples of conditions that may, in individual cases, be necessary to promote the protection of children from harm.
76. Conditions, where they are necessary, should reflect the licensable activities taking place on the premises and may include (paragraph 7.52 of the Guidance)

- where alcohol is sold, requirements for the production of proof of age cards or other age identification before sales are made to individuals under 18 years;
- limitations on the hours when children may be present;
- limitations on the presence of children under certain ages when particular specified activities are taking place;
- limitations on the parts of the premises to which children may have access;
- age limitations (below 18);
- limitations or exclusions when certain activities are taking place;
- requirements for accompanying adult;
- full exclusion of people under 18 from the premises when any licensable activities are taking place.

77. The Guidance clearly states that the “Secretary of State does not wish to see the development of family-friendly environments frustrated by overly restrictive conditions in respect of children where there is no good reason to impose them” (para 7.49 of the Guidance).

Exhibition of film

78. Where the applicant exhibits a film, the Licensing Authority will expect applicants to include in their operating schedule arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification (BBFC) (see Appendix E) or the Licensing Authority itself.

ROLE OF LICENSING

79. The role of licensing is about regulating the carrying on of licensable activities.
80. The Licensing Authority will primarily focus on the direct impact of the licensable activities taking place at licensed premises on members of public living, working or engaged in normal activity in the area concerned.
81. 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 the individual, club or business holding the licence, certificate or authorisation concerned. 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 town and city centres. It is acknowledged that the misuse of alcohol is a significant driver of crime and disorder, particularly violent crime and disorder late at night.

REVIEWS

82. An interested party or a responsible authority may apply to the Licensing Authority for a review of a premises licence or a club premises certificate. With club premises certificates, a member of a club may also seek a review.
83. The review must be based on the licensing objectives and must not be frivolous, vexatious or repetitious.
84. The Guidance states that the Secretary of State recommends that more than one review originating from an interested party should not be permitted within a period of 12 months on similar grounds save in compelling circumstances or where it arises following a closure order.

85. When undertaking a review the Licensing Authority may:
- Modify, add or remove the conditions of the licence/certificate
 - Exclude a licensable activity/qualifying club activity from the scope of the licence
 - Remove the designated premises supervisor (premises licence only) (see glossary)
 - Suspend the licence/certificate for a period not exceeding three months
 - Revoke the licence/withdraw the certificate

CUMULATIVE IMPACT & SPECIAL POLICY FOR PUBLIC HOUSES AND BARS

86. Cumulative impact refers to the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
87. In December 2005, the Council resolved to undertake further consultation on cumulative impact. The Council has taken the following steps in considering whether to adopt a special policy:
- Identification of concern about crime and disorder or public nuisance;
 - Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
 - Consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole statement of licensing policy;
 - Subject to that consultation, inclusion of a special policy about future premises or club premises certificate applications from that area within the terms of the Guidance in the statement of licensing policy;
 - Publication of the special policy as part of the statement of licensing policy required by the 2003 Act.
88. Following further consultation, the Council has recognised that there are substantial problems of low level disorder and nuisance arising outside or some distance from licensed premises in and around parts of Richmond and Twickenham, particularly but not wholly limited to Friday and Saturday evenings between approximately 10.30pm to 11.30pm and from 1.00am to 2.30am, which is related to the licensed economy. With a significant number of licensed premises already in the cumulative impact zones of Richmond and Twickenham, any further pubs or bars or material changes would add to the problems of low level disorder and nuisance currently being encountered. In light of this, it was deemed appropriate and necessary to include an approach to cumulative impact in the licensing policy.

89. The decision to include a special policy was based on the consultation comments and evidence collated, specifically:
- a. Report by Erskine Corporation LLP (“Erskine Report”) plus additional information
 - b. Police report and statistics dated 30 November 2004 and revised report dated May 2005
 - c. Noise complaints against pubs, night cafes and restaurants
 - d. Notices issued under section 80 of the Environmental Protection Act in respect of noise nuisance
 - e. Consultation comments
 - f. Crime Disorder and Substance Misuse Audit 2004
 - g. Letters of objection in relation to public entertainment licences
 - h. Statistics on the number of public entertainment licences in the Borough
 - i. Data received using the telephone hotline and web based reporting
 - j. Data received from CCTV in Richmond
 - k. Aide Memoire of John Coates
 - l. Richmond designated dispersal area – results analysis
 - m. Material submitted by Mr Willan dated 29 April 2005
90. For example, the evidence showed that there was a substantial amount of low level nuisance and alcohol related disorder in Richmond and Twickenham town centres, which is often not reported to the police. This was clearly expressed by way of consultation letters received by the Council.

The Erskine Report showed that almost three-quarters of respondents from both Richmond and Twickenham town centres have regularly experienced crime, disorder nuisance and/or anti-social behaviour they believe is linked to the licensed economy. Furthermore 54% of respondents of Richmond and Twickenham are deterred from using the facilities in the town centres at night because they regularly encounter problems. The Research Report found that 80% of respondents believe that there should be a special policy.

The additional information submitted by Erskine Corporation stated that it was “evident that the two town centres do have a considerable problem with low level disorder linked to the licensed economy, in particular to the number of pubs and bars and the types of those pubs and bars.” Furthermore it was stated that the “increase of premises (of the alcohol –led pub and bar type) in number or size would almost certainly add to the low level disorder problems both town centres face.” It was concluded that a special policy could be justified.

The Police statistics showed that there were on average 15 calls a month about disturbances in licensed premises, with 65% of those calls being made between 20.00 hours and 00.59 hours. Furthermore, there are on average 62 calls a month for drunkenness. The statistics demonstrate 50% of such calls occurred between 21.00 and 01.59 hours and 38% of calls occurred on Friday and Saturday.

Special policy on cumulative impact

91(a). The special policy is contained below:

Where a relevant representation is received in relation to an application for a new public house or bar or material change of such premises in the cumulative impact zones, there is a presumption that the Licensing Authority will refuse to grant the premises licence unless the applicant can demonstrate that it will not add to the cumulative impact.

“Cumulative impact zone” – Means the cumulative impact zones contained in Appendix H.

“Material change” – Material change is limited to:

- (a) Any material increase of capacity of the premises;
- (b) Any change in the nature of the operation of premises where it changes to include operations as a public house or bar.

“Public house or bar” – Any premises where one of the primary activities is the consumption of alcohol, excluding restaurants.

- 91(b). The presumption does not relieve responsible authorities or interested parties of the need to make relevant representations. If no relevant representations are received in relation to an application for a new public house or bar or material change of the premises in the cumulative impact zone, it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted.
- 91(c). Applicants will need to demonstrate why the operation of the new public house or bar or material change of such premises will not add to the cumulative impact being experienced.
- 91(d). This special policy is not absolute. The circumstances of each application will be considered. Where a new public house or bar or material change of the premises is unlikely to add to the cumulative impact on the licensing objectives, then the premises licence will be granted. Following receipt of representations in respect of a new application for a public house or bar or material change of the premises in the cumulative impact zone, the licensing authority must consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. If after such consideration the licensing authority decides that an application should be refused, it will be for the licensing authority to show that the grant of the application would undermine the promotion of the licensing objectives and that conditions would be ineffective in preventing the problems involved.
- 91(e). The special policy will be reviewed regularly.
- 91(f). In implementing the special policy, the Council considered that other mechanisms for controlling cumulative effect were not sufficient to curtail the problems encountered in the cumulative impact zones. The Council considered:
- Planning controls;
 - Positive measure to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;

- The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- The confiscation of alcohol from adults and children in designated areas;
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance; and
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

LICENSING HOURS

92. The Council recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbances on the streets when a large number of people tend to leave licensed premises at the same time. The Guidance states that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, bus stops, taxi ranks and other sources of transport, that can lead to disorder and disturbance.
93. The Licensing Authority, in line with the Guidance, will not implement any form of zoning, namely fixing the trading hours in designated areas.
94. The Licensing Authority will consider trading hours based on the licensing objectives.
95. The Licensing Authority will consider each application on its individual merits. Where it is demonstrated that customers in a particular area generally remain in premises until closing time, too many premises closing at the same time may result in the peaks in concentration of people leaving premises which the Guidance advises should be avoided. In such cases, where relevant representations are made, the Licensing Authority will consider the imposition of a terminal hour different from those generally prevailing in the area.
96. Where the premises are located in a primarily residential area and a representation is made by an interested party in relation to noise/sleep disturbance, the applicant must demonstrate that the operating hours (or proposed operating hours) will not adversely impact on the nuisance objective.
97. Applicants applying for premises licences or club premises certificates should anticipate special occasions (eg bank holidays, sporting events) and incorporate appropriate opening hours for these occasions in their operating schedules.

98. Shops, stores and supermarkets will normally be free to sell alcohol for consumption off the premises at any times when the retail outlet is open for shopping. However, where a relevant representation is made by an interested party or responsible authority in relation to nuisance or anti-social behaviour, or the circumstances warrant it, the Licensing Authority may at its discretion consider a restriction on the hours that alcohol may be sold.
99. Given that there is no statutory drinking up time under the Act, applicants must specify in their operating schedules the time that they will stop selling or supplying alcohol and close the premises to the public.

DUPLICATION

100. The Licensing Authority must avoid duplication with other regulatory regimes so far as possible.
101. The Licensing Authority would prefer that planning permission or a certificate of lawful use exists before an application for a licence is made. However, there is no legal basis for requiring that planning consent be sought first or that in its absence the Licensing Authority can refuse to determine a licence application.
102. The licensing function will remain distinct from planning. It will be for the planning process to determine land-use decisions and the market place to determine need for particular types of premises/activities. Licensing decisions will be determined with regard to the promotion of the licensing objectives.
103. Occasional reports will be submitted to the Planning Committee to inform them of the numbers of licensed premises in particular areas and any relevant information regarding reports of disturbance, nuisance or crime and disorder in those areas that could reasonably be attributed to such premises.

LEGISLATION

104. The Licensing Authority is committed to avoiding duplication with other regulatory regimes as far as possible, and recognises that there are numerous other statutory requirements applying to licensed premises such as health and safety, fire safety, planning, food hygiene, building control etc. In order to avoid duplication, the Licensing Authority will not impose conditions where legislation already adequately addresses such issues.
105. However, the Licensing Authority must have regard to the Legislation / Conventions contained in Appendix F.

ADULT ENTERTAINMENT

106. Applicants must specify in their operating schedules if they propose to have regulated entertainment involving nudity or striptease or any other activity involving full or partial nudity, or sex related entertainment such as the showing of films or other recordings which are restricted for those over the age of 18.
107. Upon receiving a relevant representation, the Licensing Authority must be satisfied that the licensing objectives are met, particularly in relation to the protection of children from harm.

TOURISM, EMPLOYMENT, PARTNERSHIPS & STRATEGIES

108. The Licensing Committee will receive regular reports on:
- Local tourist economy for the area;
 - Employment situation in the area and the need for new investment;
 - Other relevant material as it may arise.
109. The Licensing Authority recognises that the licensing function is only one means of securing the delivery of the licensing objectives. Working towards the promotion of the licensing objectives will involve a working partnership with planning, environmental health and safety, police, fire authority, Crime and Disorder Reduction Partnership, town centre managers, representatives of local business and residents, local transport authorities and operators, trading standards and those involved in child protection. A licensing forum will be set up to bring these groups together periodically.
110. The applicant and the Licensing Authority must have due regard to Council and Government Strategies. The key points are summarised at Appendix G.

CONDITIONS

111. Conditions (see glossary) may be imposed on premises licences and club premises certificates where they are necessary for the promotion of one or more of the licensing objectives and are not required under other legislation.
112. They should not be disproportionate or overly burdensome.
113. Conditions must focus on measures within the direct control of the licence holder or club.
114. Applicants are encouraged to volunteer their own conditions.

115. Where an applicant converts his/her licence under grandfather rights from the old to the new regime, without variation, the effect of the old conditions (excluding illegal conditions or conditions contrary to the Act) will be reproduced. Undertakings will not be converted.
116. In accordance with s19 of the Act, where a premises licence authorises the supply of alcohol the licence must include the following mandatory conditions.

CONDITION 1

No supply of alcohol may be made under the premises licence:

- at a time when there is no designated premises supervisor in respect of the premises licence, or
- at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

CONDITION 2

- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

117. Where the premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted (section 20 of the Act).
118. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority (Section 21 of the Act).
119. In relation to a premises licence which authorises the performance of plays, no condition may be attached to the licence as to the nature of the plays which may be performed, or the manner of performing plays, under the licence (section 22 of the Act).

CONTACT DETAILS & APPLICATIONS

120. To obtain further details about the application process please visit our website at www.richmond.gov.uk or write to the Licensing Authority (2nd Floor, Civic Centre, 44 York Street, Twickenham, TW1 3BZ).
121. In relation to premises licences (and provisional statements) or club premises certificates (excluding transfers), the applicant is under an obligation to inform the responsible authorities as listed below by sending them a copy of the completed application:

Licensing Authority

2nd Floor, Civic Centre, 44 York Street, Twickenham, TW1 3BZ

Chief Officer of Police

Chief Officer of Police, Twickenham Police Station, 41 London Road, Twickenham, TW1 3SY

Fire Authority

Hammersmith, Fulham & Richmond Fire Safety Team, London Fire Brigade, 190-192 Shepherds Bush Road, Hammersmith, W6 7NL

Local Planning Authority

Development Control Manager, Planning (Development Control), 2nd Floor, Civic Centre, 44 York Street, Twickenham, TW1 3BZ

Body which represents matters relating to the protection of children

Child Protection Manager, Social Services, 42 York Street, Twickenham, TW1 3BW

Local authority by which statutory functions are in relation to minimising or preventing the risk of pollution to the environment or of harm to human health and Health and Safety at Work etc. Act 1974 (excluding council premises, funfairs and manufacturing)

Head of Environmental Health Commercial, 2nd Floor, Civic Centre, 44 York Street, Twickenham, TW1 3BZ

For Council premises, funfairs and manufacturers only - Enforcing authority within meaning of Health and Safety at Work etc. Act 1974

Health and Safety Executive, London Division, Rose Court, 2 Southwark Bridge, London, SE1 9HS

Trading Standards

Head of Trading Standards, 2nd Floor, Civic Centre, 44 York Street, Twickenham TW1 3BZ

* Application in relation to vessels must notify further responsible authorities

122. In relation to personal licences, temporary event notices, applications for transfer of premises licences and club premises certificates, conversion under grandfather rights, or variations of designated premises supervisors, the applicant is under an obligation to inform the responsible authorities as listed below by sending them a copy of the completed application/notice:

Licensing Authority

2nd Floor, Civic Centre, 44 York Street, Twickenham, TW1 3BZ

Chief Officer of Police

Chief Officer of Police, Twickenham Police Station, 41 London Road, Twickenham, TW1 3SY

HOW TO OBTAIN COPIES OF ACT & GUIDANCE

123. To obtain an electronic copy of the Act or Guidance please visit the following websites:

- www.hmsso.gov.uk
- www.culture.gov.uk/alcohol_and_entertainment/default.htm

124. To purchase a printed version of the Act or Guidance contact The Stationery Office at:

The Stationery Office
PO Box 29
St Crispins
Duke Street
Norwich NR3 1GN

Tel: 0870 600 5522
Fax: 0870 600 5533
e-mail: book.orders@tso.co.uk
online ordering: www.tso.co.uk/bookshop

GLOSSARY

Conditions

Paragraph 7.2 of the Guidance defines conditions to include limitations or restrictions attached to a licence or certificate and essentially are the steps or actions the holder of the premises licence or the club premises certificate will be required to take or refrain from taking at all times when licensable activities are taking place at the premises in question.

Designated premises supervisor

Section 15(1) of the Act says references to “designated premises supervisor”, in relation to a premises licence, are to the individuals for the time being specified in that licence as the premises supervisor. The main purpose of a designated premises supervisor is to ensure that there is always one specified individual, among the personal licence holders within a premises, who can be readily identified for the premises. This person will normally have been given day to day responsibility for running the premises by the premises licence holder. It is essential that the designated premises supervisor holds a personal licence.

Foreign offence

Section 113(3) of the Act defines “foreign offence” to mean an offence (other than a relevant offence) under the law of any place outside England and Wales.

Interested party

Sections 13(3) and 69(3) defines “interested party” to mean a person living in the vicinity of the premises, a body representing persons who live in that vicinity, a person involved in a business in that vicinity, and a body representing persons involved in such businesses.

Late night refreshment

A person provides late night refreshments if at any time between the hours of 11pm and 5am, he supplies hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises. Furthermore, a person is deemed to provide late night refreshments if at any time between those hours when a member of the public, or a section of the public, are admitted to any premises, he supplies, or holds himself out as willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.

Licensing Authority

Section 3 of the Act defines “Licensing Authority” to mean the council of a London borough.

Premises

Premises means any place and includes a vehicle, vessel or moveable structure.

Provisional statement

A provisional statement is a statement given to an applicant by the Licensing Authority when premises are or are about to be constructed for the purpose of being used for one or more licensable activities, or are being or about to be extended or otherwise altered for that purpose. The reason why provisional statements are given is that the necessary investment may not be committed unless investors have some assurance that a premises licence covering the desired licensable activities would be granted for the premises when the building work is completed. Under s31(2) where no relevant representations are made, the Licensing Authority may issue the applicant with a provisional statement to that effect. Under s31(3) the Licensing Authority must hold a hearing when relevant representations are made and must then issue the applicant with a statement which gives the details of that determination and states the reasons.

Following the issue of a provisional statement, the applicant must then apply to the Licensing Authority for a premises licence upon the completion of the work. Under s32 of Act, where the new premises is substantially the same as premises described for the provisional statement, and the work has been satisfactorily completed, representations in respect of the application for the premises licence are excluded. However, representations may be made against the premises licence where there has been a material change in circumstances relating to the premises or to the area in the vicinity of those premises since the provisional statement was made, and where the relevant person making the representation had a reasonable excuse for failing to make a representation about the provisional licence (s32(2) of the Act).

Responsible authority

Responsible authorities are mainly public bodies that under the terms of the Act must be fully notified of applications and are entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate or for the issue of a provisional statement.

In summary, s13(4) and 69(4) of the Act defines “responsible authorities” to mean:

- chief officer of police;
- fire authority;
- enforcing authority within meaning Health and safety at Work etc. Act 1974;
- local planning authority;
- local authority by which statutory functions are in relation to minimising or preventing the risk of pollution of the environment or of harm to human health;
- a body which represents matters relating to the protection of children;
- Licensing Authority;
- *vessel only* - navigation authority, Environment Agency, British Waterways Board, Secretary of State.
- the local weights and measures authority (within the meaning of S69 of the Weights and Measures Act 1985 (a))

Relevant offence

Section 113(1) of the Act defines “relevant offence” to mean an offence listed in Schedule 4.

Relevant representation

This is defined in s18(6) of the Act. A “relevant representation” includes a representation which is about the likely effect of the grant of the premises licence on the promotion of the licensing objectives. It is for the Licensing Authority to determine on its merits whether any representation by an interested party is frivolous or vexatious.