



Statement of Licensing Policy

Achieving the right balance

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Comment [BC1]: Details and page numbers to be updated following the public consultation and before submission before full Council for formal adoption.

1. Introduction

1.1 Applicants are encouraged to read this policy before applying for a licence. 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. A Licensing Sub-Committee shall also have regard to this policy when making its decision.

1.2 Pursuant to section 5 of the Licensing Act 2003 (as amended) in 2012, this statement of licensing policy must be reviewed at least every 5 years.

1.3 ~~The only factors that a~~ Licensing Sub-Committee ~~(and officers where delegated powers apply)~~ shall ~~make decisions that~~ with a view to ~~promoting~~ take into account (subject to 1.7) ~~are~~ the four licensing objectives, namely:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

1.43 Any other matters covered in this policy that do not relate to the licensing objectives cannot be taken into account by a Licensing Sub-Committee. For example, one of the Council's key priorities in its Community Plan for 2007-2017 is to make Richmond upon Thames the greenest borough in London. The Licensing Authority would like to see the licensed trade focus on 'green' issues. (see 2.5 below) However, when determining a licence application, a Licensing Sub-Committee cannot take into account 'green' extraneous issues where they do not relate to the licensing objectives. This is merely a suggestion for applicants and existing licence holders, as they are practices the Council would seek to encourage. The Licensing Authority cannot insist that such practices are followed.

1.54 Applications for new premises licences or club premises certificates or for variations to existing ones under the Licensing Act 2003, that attract relevant negative representations which are not withdrawn, will be determined by a Licensing Sub-Committee that will consider each application on its individual merits. In the absence of a relevant negative representation, an application will be granted by officers in the terms sought by the applicant under delegated powers.

1.65 It is expected that a Licensing Sub-Committee will generally apply this policy, though it may depart from it if warranted by the individual circumstances of the application. Any departure from policy in such circumstances, a Licensing Sub-Committee must be able to show that it is justified in the reasons given in the decision notice.

Comment [GG2]: Not clear what this cross-reference refers to now paragraph numbering has changed – but this can probably be deleted anyway so this important sentence isn't interrupted.

Comment [BC3]: Check to see if this has been updated

Comment [GG4]: This is not strictly right since the observations of Toulson LJ in Hope and Glory [2011] EWCA Civ 31 (para 42) : *“Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on.*

I suggest you delete this whole paragraph and leave it to legal advice at hearings.

Comment [GG5]: I've deleted the last line for reasons given in earlier comment re Hope and Glory.

~~Such reasons will need to be based upon the promotion of the licensing objectives.~~

- 1.76 This policy will not over-ride any obligations under the Licensing Act 2003 ('the Act') or any other relevant legislation or ~~relevant~~ case law. The Licensing Authority in preparing this policy has had regard to the ~~current~~ Home Office Statutory Guidance imposed by section 182 of the Licensing Act 2003 ('the Guidance') ~~amended in April 2012.~~ The Licensing Authority consulted with the statutory consultees ~~with in~~ regard to this policy, ~~and it was re-adopted by full Council on the xx September 2017. This version of the Council's Statement of Licensing Policy is due to be revised no later than xx September 2022.~~
- 1.87 Advice on making an application or representation can be sought from the Council's web site www.richmond.gov.uk or by contacting the Licensing Authority by telephone on 020 8831 6455 during normal office hours or via email at: licensing@richmond.gov.uk.

2. Integrating Strategies

- 2.1 ~~The Home Office Secretary of State~~ recommends that licensing policies should provide a clear indication as to how the Licensing Authority will secure the proper integration of its licensing policy with local crime prevention, planning, transport, tourism, race equality schemes, cultural strategies and any other plan introduced for the management of town centres and the night time economy. Guidance states that many of these strategies are not directly related to the promotion of the four licensing objectives, but ~~they may, indirectly,~~ impact upon them. Co-ordination and integration of such policies, strategies and initiatives are therefore important. ~~Appendix 'A'~~ sets out the ~~Borough's~~ key strategies and priorities.

Comment [BC6]: Check Appendix A

3. Other Visions

- 3.1 This policy aims to 'achieve the right balance' through consideration of the needs of businesses whilst respecting the needs of residents to be able to go about their normal lives without undue interference or disturbance from licensable activities.
- 3.2 The Council encourages:
- Entertainment (~~particularly~~ live music, dancing, theatre ~~and,~~ plays);
 - Cultural diversity;
 - Choice;
 - Family friendly environments;
 - Focus on food;
 - Quality standards; ~~and~~
 - Environmentally responsible premises.

3.3 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 or off-sales culture.

3.4 The Council is committed to all measures that may reduce incidents of drunkenness and antisocial behaviour in the Borough, and discourages promotions that may lead to excessive consumption of alcohol.

3.5 ~~Certain areas within the Borough may be areas of social deprivation, where the Licensing Sub-Committee (and officers) will need to take care to ensure that with their decisions promoting the Licensing Objectives. The Council has no specific areas of the borough that are in need of regeneration from licensable activities. There are~~ Such consideration will reflect specific areas of the Borough where certain changes of use under planning legislation will not be allowed due to existing concentrations. ~~This includes A3 restaurants, A4 drinking establishments and A5 hot food takeaways.~~ Applicants who may be seeking a change of use to premises as well as a premises licence should check with the Council's Development Control section to see if there are such restrictions in the area in which they wish to apply. ~~Paragraph 9.44 of the Home Office's Guidance will expect Licensing Sub-Committees (or officers) to check with Development Control on the planning position before determining a licensing application. Assistance in this regard of operational planning constraints, through explanation in an application or operating schedule will assist decision making.~~

Comment [GG7]: I'm a little concerned that this may be read as one licensing rule for well-off areas and a different rule for the poorer ones. What is your specific concern here? If it's, for example, off-licences selling to street-drinkers then this should be specified. Otherwise you should consider deleting this general observation about social deprivation..

Comment [BC8]: Check if this is still 9.44 in revised Guidance?

Comment [GG9]: Consider deleting this whole paragraph, and simply inserting: "Planning and licensing are different regimes, 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."

4. Cumulative Impact

4.1 A cumulative impact policy was incorporated into the Licensing Policy following the decision of Council in June 2005 and continues to form an important part of this current policy. Cumulative impact means the potential impact upon the promotion of the licensing objectives by a significant number of licensed premises concentrated in one area.

4.2 ~~4.2~~—The effect of the cumulative impact policy is to create a rebuttable presumption that applications relating to premises located in the designated cumulative impact zones for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, ~~following relevant representations,~~ unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives.

4.3 The Council remains of the opinion that it needs to maintain the geographical areas of Richmond Town Centre and Twickenham Town Centre as shown in Appendix [x] and Appendix [x] as 'cumulative impact zones' and that all licensing applications in these zones should be subject to the strict test referred to in 4.2 above.

4.2

~~The Council has a duty to carry out a Cumulative Impact Assessment every 3 years to review the areas within the Borough that have relevant authorisations such that it is likely that it would be inconsistent with the Council's duty to grant any further relevant authorisations in respect of premises in those parts of the Borough. The current Cumulative Impact Assessment is shown at Appendix [x]. The Council remains of the opinion that it needs to maintain geographical areas as shown in Appendix [x] and Appendix [x] as 'cumulative impact zones' and that all licensing applications in these zones should be subject to the tough test referred to in 4.2 above.~~

4.3 ~~The cumulative impact policy~~~~The Council remains of the opinion that it needs to maintain the two geographical areas in Richmond and Twickenham town centres as shown in Appendix B and Appendix C as 'cumulative impact zones' and that all licensing applications in these zones should be subject to the tough test referred to in 4.2 above. Both town centres continue to experience crime and disorder, low level anti social behaviour (asb) and commercial noise complaints above those experienced elsewhere in the borough. The evidence has been re-examined and while low level asb is considerably lower than was the case in early 2005, indicating that the policy is working and ought to be continued, there is still an undesirable amount of asb particularly linked to the night time economy. The borough as a whole is a low crime area in comparison with the rest of London. Much good work has been done in partnership between licence holders and the regulatory authorities. There is still room for further improvement to make the night time economy in Richmond and Twickenham in particular more accessible to a wider range of visitors and residents, while also reducing the negative impacts on residents and other businesses. Richmond and Twickenham town centres continue to be the hot spots for many of the police crime and disorder indicators.~~

Comment [BC10]: Check to ensure this is still correct.

4.4 ~~The Cumulative Impact Policy (CIP) arose out of evidence presented to the Council's Regulatory Committee, specifically the April 2009 low level asb survey data in the Make Associates Report (accessed through the Council's web site www.richmond.gov.uk search under Licensing Act 2003 or Make Associates) and its positive impact was evidenced in subsequent reports. The Licensing Authority considers that the previous reports confirm that the CIPs have had an appropriate effect and continue to believe that the CIPs are appropriate for the promotion of the licensing objectives.~~

Comment [BC11]: Possible update to this report being looked at. Alternative supporting evidence may be available and supplied by the Council's Community Safety Partnership. Details to follow.

4.5. ~~This special policy maintains the broad approach adopted in 2008 and also incorporates minor variation applications as brought in by changes to the Licensing Act in 2009. It applies to all applications for new or variation applications, major or minor, for premises licences or club premises certificates in the cumulative impact zones. The effect of the policy is that subject to relevant representations being received, applications will normally be refused. This policy is intended to be strictly applied~~tough~~ and will only be overridden in exceptional cases, but it is not absolute.~~

Comment [BC12]: May need to be updated with current Home Office thinking.

4.6 Exceptions might arise, for example, where the applicant can demonstrate that their proposed operation will have no negative impact on one or more of the

licensing objectives in the town centres and beyond. Applications must directly address the underlying reasons for this policy in order to demonstrate why an exception should be made in any particular case. An exception may be made where the application proposes changes that are likely to, a reduce the overall lesser impact on the licensing objectives, for example:

- To substitute one type of premises with another.
- 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.

- 4.7 ~~Importantly, this policy presumption to refuse an application within the cumulative impact zone—policy does not relieve responsible authorities~~ Responsible Authorities, residents or other persons or interested parties from the ~~need requirement~~ to make 'relevant representations in response to an application if they object to it.' ~~(as defined by section 18(6) or 72(7) of the Licensing Act 2003 or elsewhere).~~ —If there are no relevant representations against an application then this policy will not be applied and the Council Licensing Authority must grant the application in terms that are consistent with the operating schedule submitted.
- 4.8 Where relevant representations are received and not withdrawn, the application will be determined by a Licensing Sub-Committee who will consider the application and submissions from the applicant in order to determine whether it would be justified in departing from this special cumulative impact policy in ~~the~~ light of the individual merits of the case.
- 4.9 ~~The cumulative impact policy is not absolute and it is for the applicant to show what exceptional circumstances should be considered.~~ The Licensing Authority recognises that the impact of a licensed premises can be ~~expected to be different~~ 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. 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 inside and outside the premises, smoking controls, safe capacities, management of exterior spaces, neighbour considerations. The above list is

~~simply neither exhaustive nor prescriptive. It is~~ 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 ~~special cumulative impact~~ policy ~~but it is not intended to be exhaustive or prescriptive.~~

4.10 It may also be appropriate and proportionate to refuse a premises licence for a premises where evidence suggests that an increased licensed capacity would have a negative effect on crime and disorder or public nuisance in areas beyond the licensee's control. Where changes proposed will have a positive effect the application may be granted subject to the above cumulative impact criteria, relevant case law, guidance and legislation.

~~4.11 If the Licensing Sub-Committee decides that an application should be refused it will still need to show that in light of the cumulative impact policy how the grant of the application would undermine the promotion of one or more of the licensing objectives and that the imposition of conditions would be ineffective or disproportionate in preventing cumulative impact.~~

4.12 The policy aim is to ensure that the two central areas of Richmond and Twickenham can be attractive day and evening centres for residents and visitors, viable for a range of business enterprises while continually trying to reduce the negative impacts associated with licensed premises and or their users. The cumulative impact policy and the Cumulative Impact Assessment (as appropriate) will be kept under review by the Council.

4.4 Once the relevant provisions of Part 7 of the Policing and Crime Act 2017 are brought into force, the Council may publish a document (a "cumulative impact assessment") stating that it considers that the number of relevant authorisations (i.e. premises licences or club premises certificates) 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 to promote the licensing objectives to grant any further relevant authorisations in respect of premises in that part or those parts. The assessment must set out the evidence for the authority's opinion. The Council will consider whether it remains of the opinion set out in the cumulative impact assessment at least every 3 years. Any current Cumulative Impact Assessment is shown at Appendix [x].

Comment [GG13]: I've deleted this paragraph – it's unnecessary and serves as a hostage to fortune on appeals launched by operators.

5. The Prevention of Crime and Disorder

In considering an application a Licensing Sub-Committee shall have regard to the following:

Closed Circuit Television (CCTV)

5.1 The primary purpose for having CCTV in and around licensed premises is to prevent, deter and detect crime, apprehend and prosecute offenders, and protect public safety. Applicants are encouraged to assess whether the use of CCTV is appropriate on their premises. Upon receiving a relevant representation from a

responsible authority or interested party it is within a Licensing Sub-Committee's remit to impose a condition requiring CCTV if it is felt to be appropriate and proportionate for the promotion of the licensing objectives. A typical condition might be:

"CCTV shall be maintained in good order and recordings shall be retained for at least 31 days and be made available for inspection by authorised officers of the Licensing Authority and the police upon request. Recorded images shall not be blurred or indistinct."

Comment [GG14]: I expect the Met Police in Richmond will have a more up to date CCTV condition they would prefer to be set out in this Policy – please check and insert here

Door supervisors

- 5.2 Applicants may also wish to assess whether Security Industry Authority (SIA) registered door supervisors are required on their premises. It is recognised, however, that not all premises require door supervision.

Plastic / polycarbonate vessels / glasses

- 5.3 Applicants might wish to consider whether safety glasses or plastic glasses and bottles may be appropriate from time-to-time, to prevent them from being used as weapons or missiles. Whether or not plastic glasses are appropriate could be addressed by way of a risk assessment. Where the consumption of alcohol is likely to be on a public open space, the operator should seriously consider using materials other than glass for drinking vessels.

Pre-application discussions with Police

- 5.4 Applicants are encouraged to discuss their application with the police prior to submitting it to the Licensing Authority. The police have a wealth of experience in terms of the prevention of crime and disorder and may be able to assist with any proposed conditions. The Metropolitan Police have an Event Risk Assessment and Event Debrief Risk Assessment that organisers may find useful to use when liaising with the Police Operations team.

Pubwatch

- 5.5 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.
- 5.6 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.

6. Public Safety

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. In considering an application, a Licensing Sub-Committee shall have regard to the following:

Risk Assessments

- 6.1 Applicants are reminded of their obligations under the Management of Health and Safety at Work Regulations 1999 which require every employer to make a suitable and sufficient assessment of the risk to health and safety of his/her employees whilst at work and other persons / patrons at the licensed premises.

Point of Contact for Advice and Information

- 6.2 The Council's Commercial Environmental Health Service is responsible for exercising health and safety enforcement in relation to nearly all licensed premises in the Borough and are available to provide advice and information by telephoning 020 8891 7994 or emailing: commercialeh@richmond.gov.uk
- 6.3 The London Fire and Emergency Planning Authority (LFEP) (www.london-fire.gov.uk) are the contact point regarding fire safety and prevention, and responsibilities under the Regulatory Reform (Fire Safety) Order 2005.
- 6.4 Information concerning means of escape and crowd control in sports stadia and other similar premises may also be obtained from the Council's Building Control services: buildingcontrol@richmond.gov.uk
- 6.5 The HSE Event Safety Guide (ISBN10:0717624536) and Guide to Safety at Sports Grounds (ISBN0113000952) may assist some applicants and are available from the Stationery Office: www.tsoshop.co.uk

7. The Prevention of Public Nuisance

In considering an application a Licensing Sub-Committee shall have regard to the following issues:

- 7.1 [Public nuisance is not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health](#)

Comment [GG15]: The original definition of PN in the policy was taken from the old s.182 Guidance (and was commented on approvingly by Burton J in Hope and Glory in the High Court). However, that definition has now been removed from the current s.182 Guidance because Home Office lawyers now think it's questionable and open to challenge. Probably best to quote from new March 2015 Guidance which I've inserted here.

~~Public nuisance could include low level nuisance affecting a few people living locally, as well as major disturbance affecting the whole community. It must amount to more than a "private" nuisance affecting only an individual. It may include noise nuisance, light pollution, noxious smells, litter and any other relevant considerations.~~

Comment [GG16]: This definition from the old Guidance was commented on approvingly by Burton J in Hope and Glory in the High Court, but please note that it has been removed from the current s.182 Guidance because Home Office lawyers now think it's questionable. Probably best to quote from new Guidance which I've inserted here.

Noise Management Policies

7.2 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. A booklet published by the Commercial Environmental Health Department explaining noise management policies can be found on the Council's website: www.richmond.gov.uk or by contacting the department by telephone on 020 8891 7994.

7.3 The Council's Commercial Environmental Health service has suggested the following formula:

- Identify all potential sources of noise and who may be affected;
- Consider what other 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 to these people or whether more can be done;
- Document in your policy what controls will be in place to minimise nuisance and how they are checked by staff;
- Implement your policy.

Noise from patrons arriving and departing the premises

7.4 Noise can often be created by patrons arriving and leaving licensed premises. Ambient noise levels generally fall later into the night/early morning. Voices of patrons speaking as they leave can be intrusive to nearby residents, especially where patrons have consumed a few drinks and may have been listening to loud music within the premises. A condition to address this may be:

"Notices shall be prominently and permanently displayed at or near exit/s requesting patrons to leave quietly and to avoid creating disturbances".

7.5 Applicants may also consider 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. Arrangements for queuing may also be assessed.

7.6 Premises that offer take-away food should be mindful of noise which may be created by customers who congregate outside or by delivery motor bikes, and should do whatever is possible to minimise such noise.

Regulated entertainment

~~7.7 The Live Music Act 2012, Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, the Legislative Reform (Entertainment Licensing) Order 2014, and the Deregulation Act 2015 has revised what regulated entertainment is exempt under the Licensing Act 2003 and does not require a Premises Licence or Club Premises Certificate. These are:~~

~~A licence is not required to stage a performance of live music or the playing of recorded music or unamplified live music at any place or amplified live music at a workplace if:~~

- ~~• it takes place between 8AM and 11PM;~~
- ~~• it takes place at an alcohol on-licensed premises; and~~
- ~~• the audience is no more than 500 people~~

~~(b) the need for a licence for music entertainment, in defined circumstances as set out in the Guidance, including for:~~

- ~~• places of public worship, village halls, church halls and other similar buildings~~
- ~~• schools~~
- ~~• hospitals~~
- ~~• local authority premises~~
- ~~• incidental music – music that is incidental to other activities that aren't classed as regulated entertainment~~

~~(c) A licence is not required to stage a performance of a play or a performance of dance if:~~

- ~~• it takes place between 8AM and 11PM; and~~
- ~~• the audience is no more than 500 people.~~

~~(d) A licence is not required to stage an indoor sporting event if:~~

- ~~• it takes place between 8AM and 11PM; and~~
- ~~• the number of spectators is not more than 1000 people.~~

~~(e) There are exemptions from the need for a licence for film entertainment, in defined circumstances as set out in the Guidance, including for:~~

- ~~• places of public worship, village halls, church halls and other similar buildings~~
- ~~• education~~
- ~~• incidental film – moving pictures that are incidental to other activities that aren't classed as regulated entertainment~~
- ~~• television broadcasts~~
- ~~• in public~~
- ~~• or in private, if those attending are charged for entry and the intention is to make a profit, including raising money for charity.~~

~~7.8 Please note that Copyright authorisation to show films in public is entirely separate from the licensing legislation under the Licensing Act 2003. You may need to apply to a copyright owner or his agents for the right to show his films or play his music.~~

Comment [GG17]: This section deals with prevention of nuisance caused by regulated entertainment so it would make more sense to move the definition of regulated entertainment and its exceptions to Chapter 14 (which I have tentatively done)

~~7.9 Some regulated entertainment including but not limited to dance, wrestling or boxing or adult entertainment remains licensable as regulated entertainment or under separate legislation. For assistance on this please contact the Licensing Authority on 0208 831 6455 or by email licensing@richmond.gov.uk.~~

7.10 Regulated entertainment has the potential to result in public nuisance being caused to residents. In order to avoid this, applicants may choose to consider:

- 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, during regulated entertainment
- the location of speakers
- installation of sound insulation to the building (professional advice should be sought first)
- the structure of the building 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
- assessing whether there is excessive artificial lighting associated with the premises

7.11 Applicants, as well as a Licensing Sub-Committee, may consider conditions such as:

“Doors and windows must be kept closed, except for entry and exit, when there is live music taking place.”

“Doors and windows must be kept closed, except for entry and exit, when there is regulated entertainment taking place.”

~~7.12 Whilst the British Board of Film Classification (BBFC) classifies age related criteria for watching films, ~~t~~The Council as the Licensing Authority remains legally responsible for what is shown in cinemas under the Licensing Act 2003 and can still overrule the decisions of the BBFC by setting age classifications. For assistance on this please contact the Licensing Authority on 0208 831 6455 or by email licensing@richmond.gov.uk.~~

Refuse, collections, and deliveries

7.9 Littering, the collection of refuse and deliveries to commercial premises may contribute to, or be a cause of, a public nuisance.

7.10 Applicants may wish to address as part of their operating schedule any measures that they intend to take to control litter. For example:

- Litter patrols directly outside their premises, including the picking up of cigarette butts and broken glass;
- Notices at take-away premises asking patrons to dispose of their litter in bins.

7.11 Various written representations have been received from residents near to the licensed premises explaining that they are being awoken by early morning commercial refuse collections. It is recognised that refuse collection times can sometimes be outside the control of the premises licence holder. However, premises licence holders are encouraged to consider whether their refuse collection time could result in a public nuisance and, if so, attempt to renegotiate different times with the contractor.

7.12 Applicants might also wish to consider whether deliveries to the licensed premises could potentially result in a public nuisance.

Smoking and outside areas

7.13 Patrons may not smoke inside licensed premises and consequently may go outside to smoke. Applicants and existing licence holders are encouraged to assess whether the noise from such patrons could potentially disturb nearby residents and whether there is potential for smoke to drift to nearby residential properties. As the licensed trade can only be responsible for matters within their control it is recommended that licence holders focus on the effects of smoking in beer gardens, patios and the pavement directly outside the premises.

Pre-application discussions with Commercial Environmental Health

7.14 Applicants are encouraged to discuss their application with Commercial Environmental Health prior to submitting it to the Licensing Authority. Environmental Health officers have a wealth of experience in terms of the prevention of public nuisance and may be able to assist with the applicant's proposed operating schedule and propose suitable conditions.

8. The Protection of Children from Harm

In considering an application a Licensing Sub-Committee shall have regard to the following issues:

Admission of children

- 8.1 It is an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or temporary event notice (TEN).
- 8.2 This policy does not seek to limit the access of children to any premises unless it is appropriate for the prevention of physical, moral or psychological harm to them. Access may be limited, however, in the following circumstances:
- where entertainment or services of an adult or sexual nature are commonly provided
 - where there have been convictions of members of the current staff at the premises for serving alcohol to minors or the premises have a reputation for underage drinking
 - where there is a known association with drug taking or dealing in connection with the premises
 - where gambling on the premises plays a prominent role (but not, for example, the simple presence of a small number of cash prize gaming machines);
 - where the supply of alcohol for consumption on the premises is the exclusive or primary use to which the premises are put
 - where it is known that unaccompanied children have been allowed access
 - where requirements for proof of age cards or other age identification to combat the purchase of alcohol by minors is not the norm.
- 8.3 There are a range 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 adults;
 - a full exclusion of persons under 18 years of age from the premises when any licensable activities are taking place.
- 8.4 The conditions outlined in 8.3 may only be attached to premises licences and club premises certificates. They may not be attached to a temporary event notice (TEN).

Proof of Age

- 8.5 Licence holders are encouraged to consider carefully ways to ensure that the sale of alcohol is restricted to those over the age of 18, unless one of the exceptions applies. Operators may choose to adopt nationwide schemes such as 'Challenge 25' whereby if the individual looks under 25, they should be asked to prove that they are over the age of 18 when buying alcohol. ~~Some retailers use 25 years of age as the benchmark.~~ Acceptable forms of proof are: a photo-card drivers licence, passport or PASS card. PASS is the national guarantee scheme for proof-of-age, which is fully supported by the Home Office. Special care should be exercised when the licensed trade check IDs. Staff should be alert to counterfeit IDs. Other useful aids can be till prompts on the sale of alcohol.

Comment [GG18]: Worth setting Challenge 25 as the benchmark in common with most of the industry nowadays

Adult Entertainment

- 8.6 This authority has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1982 ("~~the 1982 Act~~" as amended) ~~by section 27 of the Policing and Crime Act 2009~~ 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 amendment to the Local Government (Miscellaneous Provisions) Act 1982 Act. 1 and 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 within the Local Government (Miscellaneous Provisions) Act 1982 Act).~~ Failure to comply with the requirement to have a Sexual Entertainment Venue Licence in place ~~pursuant to Local Government (Miscellaneous Provisions) Act 1982~~ **may amount to a criminal offence and may result in enforcement action.**

9. Making an application

- 9.1 Application forms and payment can be made online by accessing the Council's web site: www.richmond.gov.uk (business licences). Applying online saves applicants the need to send copies to ~~responsible authorities~~ **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 either the Council's web site or from the Department of Culture, Media and Sport website: www.culture.gov.uk or by contacting the Licensing **Authority by email at Department:** licensing@richmond.gov.uk **or by telephone – on** 020 8831 6455.
- 9.2 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. Applicants are required to provide further contextual information to support the steps they intend

to take and demonstrate an awareness of the local community in which the premises would be based within their applications or operating schedules. Applicants are reminded that any information contained within the operating schedule may be converted into conditions [attached to the premises licence](#) and this may be done even where there is no hearing. Applicants may find that, where existing closing times are causing problems in their areas, the [police authorities](#) may suggest ~~fixed different closing times or staggered closing times or zoning.~~

Comment [GG19]: Might run into problems with express "fixed closing time" so I have re-phrased it.

- 9.3 Before making an application, applicants are strongly encouraged to contact the police to discuss any issues relating to crime and disorder, and Commercial Environmental Health to discuss potential nuisance and safety issues. Where the application exceeds in some way an existing planning consent the applicant is advised to contact Development Control to discuss the position. Early involvement with the ~~Responsible Authorities~~ [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 adopted, unless ~~there is clear evidence that these are not considered to be appropriate or proportionate~~ [relevant](#). Contact details are given below in **Appendix D**.

~~9.4 Licensing Officers are assigned to different parts of the borough. For example, one licensing officer is responsible for all the premises in the South Richmond ward. Applicants are encouraged to seek advice from the relevant licensing officer if they have any queries in relation to the application process. Details of the officers and their respective wards can be found on the website: www.richmond.gov.uk~~

New or variation applications

- ~~9.59.4~~ 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. ~~Normally a~~ [normally](#) an application for extended hours would [normally](#) be by way of full variation rather than by way of a "minor variation" (for which see below).

Minor Variations

- 9.6 Minor variations will be 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.

9.7 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;
 - 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.

9.8 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.

9.9 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, though 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.

- 9.10 There is no right of appeal on a refusal to permit a minor variation.

Advertising

- 9.11 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 (e.g. Richmond and Twickenham Times, Guardian, Informer). 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.
- 9.12 Applicants are reminded that for variations where a premises covers an area of more than 50 metres square, additional notices must be displayed every 50 metres 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.
- 9.13 It is usual practice for licensing officers to visit the applicant's premises on at least one occasion 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.

Personal licences

- 9.14 As required under the *Licensing Act 2003 (Personal licences) Regulations 2005*, personal licence applications must be accompanied by two photographs of the applicant, one of which is endorsed with a statement verifying the likeness of the photograph to the applicant signed by a solicitor, notary, a person of standing in the community or any individual with a professional qualification. Applications not conforming to the requirements of the Regulations as stated above will be rejected. Similarly criminal conviction checks shall not have been issued earlier than one calendar month before receipt of the application by the Licensing Authority.
- 9.15 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 would

also be good practice for personal licence holders to train staff as to their responsibilities in relation to the service of alcohol.

- 9.16 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, s or relevant immigration penalty, offences it may take action to suspend or revoke the Personal Licence.](#)

Large events

- 9.17 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.
- 9.18 Organisers of large events should also have early discussions with [responsible authorities](#) [Responsible Authorities](#) such as the Police, Commercial Environmental Health and the London Fire and Emergency Planning Authority (LFEPA).
- 9.19 The Metropolitan Police have an 'Event Risk Assessment' and 'Event Debrief Risk Assessment' that organisers may find useful to use in liaison with the Police Operations Team.

Sending to [Responsible Authorities](#) [Responsible Authorities](#)

- 9.20 New applications or applications to vary premises licences or club premises certificates must be made to the licensing authority with copies served on each of the ~~responsible authorities~~ [Responsible Authorities](#) (see **Appendix [x]** for names and addresses), unless applications are made online when the licensing authority forwards the application to the ~~responsible authorities~~ [Responsible Authorities](#).

Designated Premises Supervisors/Management Committees

- 9.21 Where a premises licence application is made by a management committee of a community premises which includes the supply of alcohol, the requirement on the premises licence for a named designated premises supervisor holding a personal licence authorising sales of alcohol can be replaced by the supply of alcohol being made or authorised by the management committee to avoid the need for an individual to be named on the premises licence. The management committee must ask for the removal and replacement of these conditions and the Licensing Sub-Committee must consider that the management of the premises will be sufficient to ensure adequate supervision of the supply of alcohol.
- 9.22 The mandatory condition requiring a designated premises supervisor holding a personal licence authorising sale of alcohol can be re-imposed should the premises licence be subject to a review.

Unpaid Annual Fee and Suspension of a Premises Licence or Club Premises Certificate

- 9.23 A Premises Licence or Club Premises Certificate will automatically be suspended 21 days after the annual fee was not paid at the time it became due. Carrying out Licensable Activities during a suspension may lead to enforcement action,

10. Making a representation

- 10.1 ~~Responsible authorities~~[Responsible Authorities, residents](#) and ~~interested other persons~~[parties](#), together with their representatives, and local councillors may make representations concerning applications for, or variations of, premises licences or club premises certificates. Only the Police and Commercial Environmental Health Team may object to a temporary event notice (TEN). Only the Police may object to a ~~to~~ personal licence application, where the applicant has been convicted of a relevant offence [\(or in the case of an immigration related matter, the Secretary of State for the Home Department\)](#).
- 10.2 Representations concerning an application may be positive or negative, although only negative representations would result in a Licensing Sub-Committee hearing. Representations must relate to one of the four licensing objectives and to be properly considered and acted upon by the Licensing Sub-Committee must be based on evidence or proper inference rather than mere speculation.

Likely to be Affected

- 10.3 The Licensing Authority will consider whether the individual's residence or business is likely to be affected by disorder or disturbance occurring or potentially occurring on those premises or immediately outside the premises. In other words, it is the impact of issues relating to the four licensing objectives that is the key consideration and whether the representation is a relevant representation from a person who is likely to be affected by such impact. Each representation will be judged on its own merit and in light of the facts of the particular case being considered.
- 10.4 Upon receiving a representation, officers of the Licensing Authority may assess whether the interested party is likely to be affected by the applicant's premises and may decide whether a representation is or is not a relevant representation. The Licensing Sub Committee may also make a determination on representations put before them and may decide whether representations are or are not relevant representations.
- 10.5 In borderline cases the benefit of doubt should be given to the interested party and the representation should be included in the agenda for the Licensing Sub-Committee to determine whether the person making the representation is likely to be affected.

Irrelevant, frivolous, vexatious

- 10.6 Any representation which is irrelevant (does not relate to the licensing objectives), frivolous (lack of seriousness) or vexatious (may include a dispute between local businesses) shall not be considered.
- 10.7 Officers may also assess whether a representation is irrelevant, frivolous or vexatious and may choose to consult with the chairman of the licensing committee. An officer is empowered to make a decision, which could result in the representation not going before the Licensing Sub-committee.
- 10.8 In borderline cases, an officer may also choose to include an irrelevant, frivolous or vexatious representation in the agenda and the Licensing Sub-Committee will determine whether to accept it.

Registering to speak or be represented at Sub-Committee hearings

- 10.9 Any person making a representation that wishes to speak or be represented at a Licensing Sub-Committee hearing must inform the Licensing Authority of their intention at least five working days before the hearing. 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).

11. Reviews

- 11.1 Reviews represent a key protection for the community where premises present problems associated with the licensing objectives, allowing ~~interested residents, other persons parties or businesses~~, local councillors or ~~their~~ representatives and ~~responsible authorities~~ **Responsible Authorities** to apply in writing to the Licensing Authority for a review of a premises licence or club premises certificate.
- 11.2 The Licensing Authority may, at any time, reject any ground for review if it is satisfied that the request for review does not relate to the licensing objectives or is frivolous, vexatious or repetitious.
- 11.3 The review process will not be allowed to be used as a 'second bite of the cherry' where the decision of the Licensing Authority is disagreed with. In other words, where a licence has been granted or varied and an aggrieved ~~interested person party - chee_choo~~ chooses not to appeal but elects instead to review the premises licence/certificate shortly after the Licensing Sub-Committee's decision.
- 11.4 Generally the Licensing Authority would expect a period of at least 12 months to elapse before a second review may be considered in relation to the same premises on similar grounds to a previous review (other than for closure orders) or where very serious incidents which impact on the licensing objectives occur within 12 months of the previous review.

- 11.5 The Licensing Sub-Committee must, having regard to an application and any relevant representations, take such steps as it considers appropriate for the promotion of the licensing objectives. It is able to:
- (a) modify the conditions of the licence (The conditions of the licence are modified if any of them is altered or omitted or any new condition is added);
 - (b) exclude a licensable activity from the scope of the licence;
 - (c) remove the designated premises supervisor;
 - (d) suspend the licence for a period not exceeding three months;
 - (e) revoke the licence.
- 11.6 Upon receipt of a request for review licensing officers are empowered to determine whether the request from an interested party or responsible authority is relevant to the licensing objectives or, in the case of a party other than a responsible authority, is frivolous, vexatious or repetitious (see considerations above).
- 11.7 The Licensing Sub-Committee or Licensing Authority must follow Guidance and relevant case law in respect of ~~those~~ reviews issued by ~~responsible authorities~~ Responsible Authorities that follow, or run in parallel to, successful criminal prosecutions. ~~Applicants may find that, where existing closing times are causing problems in their areas, the police may request fixed closing times or staggered closing times or zoning.~~

Police Summary Reviews

- 11.8 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 must will consider whether any the Interim Steps should continue or be modified pending any appeal determination.
- 11.9 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 rRepresentations to review the Interim Steps must shall not be considered by the Licensing Sub-Committee unless they do not involve represent a material change in circumstances.

Comment [BC20]: Policing and Crime Bill – check it is included still?

Comment [GG21]: The new statutory procedures on interim steps reflect good practice - so well worth including in policy regardless of when the new provisions come into force (expected to be April 2017)

Comment [BC22]: Policing and Crime Bill – check it is included still?

~~11.10 There is separate Home Office guidance on Summary Reviews:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/476514/Section_53A-C_Licensing_Act_2003_Summary_Review_Guidance.pdf~~

Comment [GG23]: Summary Review guidance is about to be superseded by new s.182 guidance which is expected to incorporate new summary review guidance - so best to delete.

12. Temporary Event Notices (TENS)

- 12.1 If the Licensing Authority receives a standard or late TEN and there are no representations against it by the Police or Commercial Environmental Health Team, then the Licensing Authority is obliged to issue the TEN subject to the statutory limits being complied with. Only the Police and Commercial Environmental Health Team can object to a TEN ~~but~~ and they can do so under any of the four licensing objectives.
- 12.2 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. A counter notice to a standard TEN should be made up to 3 working days following receipt by the Police or Commercial Environmental Health Team.
- 12.3 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. A counter notice to a late TEN by the Police or Commercial Environmental Health Team cannot be made later than 24 hours before the day of the event.
- 12.4 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, say 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.
- 12.5 The Licensing Authority may attach conditions, where there is an unwithdrawn objection (that has not been withdrawn), on the carrying on of licensable activities at such events under the authority of a TEN, where it is appropriate for the promotion of the licensing objectives, where the conditions apply to the premises under its Premises Licence or Club Premises Certificate and are not inconsistent with the TEN. The notice giver is responsible for ensuring that the event complies with all relevant legislation, such as to avoid noise nuisance and comply with health and safety requirements.

13. Conditions

- 13.1 Applicants are encouraged to complete the operating schedule fully as appropriate to their business by addressing the four licensing objectives. Any information contained within the operating schedule may be turned into a condition by the licensing authority. Where no representations have been submitted an applicant is entitled to the grant of a licence without the imposition

Comment [BC24]: Consider Model Pool of Conditions

of conditions beyond those consistent with the content of the operating schedule in so far as they are appropriate to promote the licensing objectives and any mandatory conditions under the Act.

13.2 Where there is a relevant representation and the application is heard before the Licensing Sub-Committee, further conditions may be imposed upon the licence or certificate to address any concerns raised by either the interested parties or ~~responsible authorities~~ **Responsible Authorities**. However, conditions will only be placed on the licence by the Licensing Sub-Committee if they are:

- Appropriate
- Proportionate
- Reasonable
- Tailored to the specific premises
- Capable of compliance
- Enforceable
- Relevant to the representations received (e.g. if representations are received on public nuisance grounds only, then the Sub-Committee should not generally impose conditions relating to the other licensing objectives).

13.3 Before refusing in full an application for a premises licence or club premises certificate or a variation application, the Sub-Committee should consider whether the imposition of conditions could address the concerns expressed by ~~interested parties or responsible authorities~~ **Responsible Authorities or other persons**.

13.4 Conditions must focus on measures within the direct control of the licence holder or club. —Conditions relating to public nuisance caused by the anti-social behaviour of customers once they are beyond the control of the licence holder, club or premises management cannot be justified.

13.5 Further mandatory conditions may be imposed on existing premises licences or club premises certificates subject to legislation. (See web site www.richmond.gov.uk for current mandatory conditions or the DCMS web site)

13.6 Conditions must not duplicate other statutory responsibilities already placed on the operator of the premises under other legislation outside the Licensing Act 2003

14. Regulated Entertainment

7.7 Regulated entertainment under the Licensing Act 2003 can include:

- [a performance of a play;](#)
- [an exhibition of a film;](#)
- [an indoor sporting event;](#)
- [a boxing or wrestling entertainment;](#)
- [a performance of live music;](#)
- [any playing of recorded music;](#)
- [a performance of dance; and](#)

Comment [GG25]: This has been moved and modified from Chapter 7. Since you have gone into a number of the de-regulatory exemptions it makes sense to set out the basics too – which I have inserted here (based on Chapter 15 of s182 guidance)

Comment [GG26]: Paragraphs all need re-numbering

- entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

To be licensable, one or more of these activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:

- take place in the presence of a public audience, or
- where that activity takes place in private, be the subject of a charge made with a view to profit.

XX There are a number of exemptions that mean that a licence (or other authorisation) under the Licensing Act 2003 is not required. This policy cannot give examples of every eventuality or possible entertainment activity that is not licensable. However, the following activities are examples of entertainment which are not licensable:

Comment [GG27]: Insert paragraph #

- activities which involve participation as acts of worship in a religious context;
- activities in places of public religious worship;
- education – teaching students to perform music or to dance;
- the demonstration of a product – for example, a guitar – in a music shop;
- the rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;
- Morris dancing (or similar);
- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity;
- Incidental film – an exhibition of moving pictures if it is incidental to some other activity;
- A spontaneous performance of music, singing or dancing;
- Garden fetes – or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis);
- Stand-up comedy; and
- Provision of entertainment facilities (e.g. dance floors).

Comment [GG28]: Insert paragraph #

Comment [GG29]: I don't think the non-lawyer reading this policy will be assisted by a long list of statutes so I have attempted to de-clutter it. You can always footnote the statutes if you think it necessary (but the list will soon be out of date).

XX As a result of de-regulatory changes that have amended the Licensing Act 2003 no licence is required for certain activities as outlined in summary form below (but reference needs to be made to the statutory provisions themselves as well as to Chapter 15 of the Revised Guidance to the Licensing Act 2003).

Comment [GG30]: Please check this doesn't change in the new guidance when issued

(a) A licence is not required to stage a performance of live music, or the playing of recorded music if:

Comment [GG31]: I've tried to simplify and modify this list of exceptions in line with government guidance here (which you may have already been referring to): <https://www.gov.uk/guidance/entertainment-licensing-changes-under-the-live-music-act>

- it takes place between 8AM and 11PM; and
- it takes place at an alcohol on-licensed premises; and

- the audience is no more than 500 people

You also don't need a licence:

- to put on unamplified live music at any place between the same hours; or
- to put on amplified live music at a workplace between the same hours and provided the audience is no more than 500 people

There are exemptions from the need for a licence for music entertainment including for:

- places of public worship, village halls, church halls and other similar buildings
- schools
- hospitals
- local authority premises
- incidental music - music that is incidental to other activities that aren't classed as regulated entertainment.

(b) A licence is not required to stage a performance of a play or a performance of dance if:

- it takes place between 8AM and 11PM; and
- the audience is no more than 500 people.

(c) A licence is not required to stage an indoor sporting event if:

- it takes place between 8AM and 11PM; and
- the number of spectators is not more than 1000 people.

(d) There are exemptions from the need for a licence to screen a film or exhibit moving pictures, including for:

- places of public worship, village halls, church halls and other similar buildings
- education
- incidental film – moving pictures that are incidental to other activities that aren't classed as regulated entertainment
- television broadcasts

In other circumstances, a licence may be required to show a film:

- in public
- or in private, if those attending are charged for entry and the intention is to make a profit, including raising money for charity.

[7.8 Please note that copyright authorisation to show films in public is entirely separate from the licensing legislation under the Licensing Act 2003. You may need to apply to a copyright owner or his agents for the right to show his films or play his music.](#)

[7.9 Some regulated entertainment including but not limited to dance, wrestling or boxing \(including mixed martial arts\) or adult entertainment remains licensable as regulated entertainment or under separate legislation. For assistance on this please contact the Licensing Authority on 0208 831 6455 or by email \[licensing@richmond.gov.uk\]\(mailto:licensing@richmond.gov.uk\).](#)

Incidental music

14.1 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.

14.2 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 the main attraction?
- Does the volume of the music disrupt or predominate over other activities or could it be described as 'background' music?

Spontaneous music, singing and dancing

14.3 The spontaneous performance of music, singing or dancing does not amount to the provision of regulated entertainment and is not a licensable activity.

Films

14.4 Where a premises licence or club premises certificate authorises the exhibition of a film it is a mandatory condition that admission is restricted in accordance with the recommendation of the British Board of Film Classification (BBFC) or by the Licensing Authority.

14.5 Normally films will be classified by the BBFC. However, if required to do so, the Licensing Authority would apply the categories laid down by the BBFC in making its own determination as to classification.

14.6 ~~Please see Chapter 7 above in respect of concerns surrounding Public Nuisance and these issues.~~

Comment [GG32]: Is this now out of place? What the "these issues" to which we refer? Just problems from films or from regt entertainment generally?

15. Use of Personal Data

15.1 The name and address of ~~interested persons who make representations parties~~ will normally be disclosed to the applicant, Licensing Sub-Committee and officers of the Council involved in the licensing process. This is appropriate in order to allow an assessment of the representation and allow discussion or resolution of issues before a Licensing Sub-Committee hearing.

15.2 At present the names and addresses of interested parties will be redacted, (blacked-out) in agendas ~~published online (or where there is a pending criminal investigation or prosecution). The names and addresses of interested parties will, therefore, not~~ be disclosed to other ~~persons concerned in the licensing proceedings, interested parties, responsible authorities, the Licensing Authority and the Licensing Sub-Committee or the public at large, party to the hearing unless consent has been obtained pursuant to the Section 31 of the Data Protection Act 1998. However in certain circumstances the~~ ~~(save where the Licensing Authority may be prepared to withhold some or all of a person's personal details, for example, consider that the perswhere a person has a on has a genuine and well-founded fear of intimidation and withhold some or all of the person's personal details from the applicant providing minimal details. Withholding such details will only be considered where the circumstances and public interest justify such action and a fair-hearing of an application can still take place pursuant to paragraphs 9.25 – 9.29 of the Home Office Guidance).~~

15.3 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~~ Responsible Authorities, with a copy being placed on the Council's web site.

15.4 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."

16. Shop Hours

16.1 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 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.

- 16.2 The Licensing Sub-Committee, however, [may will](#) consider the cumulative impact policy where any shop, store or supermarket falls within the cumulative impact zone.

17. Duplication and Planning

- 17.1 Applications under the Licensing Act 2003 will be considered separately from other regimes such as planning and building control. This is in order to avoid duplication and inefficiency. 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.

- 17.2 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,

- Public nuisance
- Loss of privacy
- Highway safety
- Design
- Nature conservation
- Adequacy of parking
- ~~Visual~~ Amenity
- Layout & Density
- [Sustainability](#)

- 17.3 [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.](#)

18. Enforcement

- 18.1 Before taking enforcement action, the Licensing Authority will consider the Licensing Enforcement Policy, which has taken into account the Code for Crown

Prosecutors, ~~a copy copies~~ of which may be found at:
www.richmond.gov.uk/licensing_enforcement_policy.pdf
http://www.cps.gov.uk/publications/docs/code_2013_accessible_english.pdf

- 18.2 The Licensing Authority recognises and endorses the “Hampton principles” of [good regulation](#) in —carrying out its duties under the Licensing Act 2003. Premises inspections will be risk based, intelligence led or in response to complaints.
www.hm-treasury.gov.uk/hampton

19. Appeals

- 19.1 Where an applicant, the ~~_police or responsible authorities~~ [Responsible Authorities](#) or ~~in other persons who have made representations some cases interested parties~~ 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 ([Lavender Hill](#) Magistrates’ Court). The [Court Magistrates](#) ~~will firstly be considering whether if the decision is wrong as at the time of the appeal hearing was wrong. The burden is on the appellant to persuade the Court that the decision of the Council is wrong if the Magistrates consider that the decision was not wrong, the appeal will usua. If that burden cannot be satisfied then the appeal will lly be refused. Only if the Magistrates consider that the decision reached was wrong, will they reconsider the whole application afresh in place of the Licensing Sub-Committee.~~

- 19.2 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. before Lavender Hill Magistrates will involve the court deciding on an award of costs. Section 181\(2\) of the Licensing Act 2003 dictates that the award of costs is in the ultimate discretion of the Magistrates. 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. Unless there is misfeasance or unreasonableness on the part of the Council, the Court would not usually award costs against the Council, because it is simply discharging its statutory duty. Misfeasance or unreasonableness on the part of the appellant may result in the Council’s costs being paid by the appellant.](#)

20. Miscellaneous

Agendas

- 20.1 Copies of agendas for Licensing Sub-Committee hearings are available on the Council’s website: www.richmond.gov.uk

Comment [GG33]: This is a dead link – suggest you remove it or find an active link, if these principles are still valid, possibly here (?):
<http://webarchive.nationalarchives.gov.uk/+http://www.bis.gov.uk/policies/better-regulation/improving-regulatory-delivery/assessing-our-regulatory-system>

APPENDIX A

Comment [BC34]: TO BE UPDATED

The key strategies in the ~~borough~~Borough are:

- The Community Plan (~~2007-2017~~2016 - 2020)
- Corporate Plan (~~2009-2012~~ 2016 - 2019)
- ~~Richmond upon Thames Community Safety Partnership Plan 2008-2011 January 2010 update (2014 – 2017)~~
- Local Development Framework Core Strategy adopted April 2009
- ~~Local Development Framework Pre-Submission Development Management (submission version from October 2010)~~
- ~~Borough~~Borough Alcohol Strategy 2009-2014

The key priorities of each plan / strategy are summarised below:

Community Plan ~~2007 – 2017~~2016 - 2020

Overview

Our vision is for a borough where local people are engaged and involved in their communities. Where there is a vibrant and sustainable community and voluntary sector to support residents and help them play a full role in community life.

The overall vision is for a Richmond upon Thames where:

- people will lead happy lives and are able to enjoy life, with opportunities to learn, develop and fulfil their potential;
- people can live as independently as possible in the local community and feel empowered to take responsibility for their health and wellbeing, and plan for their future;
- people feel safe, are respected and valued, and able to contribute to their communities and where diversity is celebrated;
- the local character of the environment is protected and new development is high quality and compatible with local character, meets people's needs and provides opportunities for all; and
- our towns and local centres are attractive, viable for businesses and contribute positively to the quality of life for residents and visitors.

There are three themes which describe how we will work in partnership with the local community and inform everything we do to put people first into practice:

Involving and engaging local people and businesses.

1. Delivering cost effective services to meet local needs.

- Tackling inequality and creating opportunities for children and young people
 - For a healthy borough
 - For a safer borough
 - To support businesses, the voluntary and community sectors and the arts
 - For a greener borough

2. Being accountable to local people.

For each theme we have identified a set of priorities which are designed to help us to achieve our vision for the communities of our borough.

The overall vision is for a Richmond upon Thames that is

- Inclusive;
- Puts protection of the environment at the core of its services and community life;
- Delivers quality public services that truly reflect the needs of all its local people;
- Addresses its challenges by harnessing the capacity of all its partners in the public, private, voluntary and community sector.

There are seven priority themes within the vision:

- Priority 1: Tackling disadvantage and inequalities
- Priority 2: Being the greenest borough in London
- Priority 3: Being the safest London borough for all our communities
- Priority 4: Growing up in Richmond upon Thames
- Priority 5: Creating a healthy and caring Richmond upon Thames
- Priority 6: Creating a vibrant and prosperous Richmond upon Thames
- Priority 7: Improving access and participation

Corporate Plan 2009 - 2012

Aims

Richmond Council is committed to delivering high quality and value for money services for residents against an increasingly challenging financial backdrop. One of the ways of achieving this will be through our creation of a single staffing structure across Richmond and Wandsworth Councils. This will be implemented from September 2016 to March 2017 and deliver estimated savings of up to £10 million per year for local tax payers in each borough.

Richmond and Wandsworth Councils will however continue to be separate sovereign bodies with their own elected Councillors, Cabinets and Leaders, maintaining their

distinct identities and retaining the ability to develop policies and priorities that matter to their local residents.

The Council puts a premium on its relationship with local people and we are committed to being an accountable, open Council with empowered communities, listening to our residents and ensuring they have an opportunity to have their say.

The Council has three overarching aims:

- To transform local public services through partnership and collaboration through its community leadership role
- To build community capacity to enable residents and communities to take greater control over their lives and to shape and where appropriate deliver local services
- To act primarily as a strategic commissioning body with a reduced role in service delivery.

Vision

Our vision is for Richmond upon Thames to be the best borough in London; a borough identified by its green character, historic buildings, high quality appearance, vibrant high streets and outstanding schools and services; one where businesses and the voluntary sector can thrive; where citizens can help change neighbourhoods in which they live; and feel safe being part of one of London's safest boroughs. A borough where the most vulnerable of our residents are supported and where everyone can live as independently as possible with good health and a sense of wellbeing for the better.

Priorities

Our priorities for the next year are categorised under the themes of 'People', 'Place', 'Resources' and 'How we work', in order to align our business planning processes with our commissioning intentions. Within these themes, we have identified the following service priorities:

People

- Protecting the most vulnerable
- A healthy borough
- The best schools in London

Place

- A green borough
- Supporting local business and arts
- A safe borough

Resources

- A lower tax borough
- An accountable and open council

How we work

- Involving our community
- Community leadership
- Fairness for all

~~The Council provides a wide range of services for the benefit of residents, businesses and visitors in the borough Borough. The purpose of the Corporate Plan is to set out the aspirations for the future and the priorities that we will be working to achieve. These priorities reflect the areas that we believe require most attention to achieve our vision and meet the needs of the community. The Corporate Plan is a~~

~~key component of the Council's performance management framework and the Council's Corporate Plan sets out how it plays its part in delivery of that ambition. Our vision is to be **the best place in London in which to live, work and learn**. For this reason **sustainability, tackling disadvantage and promoting equality and diversity** are at the centre of everything we do as a council.~~

~~We will work on the following five service priorities over the next three years:~~

- ~~• We will focus on **supporting the community through the recession** [note this priority was written while in recession strictly speaking we are already out of the "**recession**"], by providing advice and support to the local business community and to people and families directly affected.~~
- ~~• We will **keep the environment at the heart of decision making** by pushing forward our programme to tackle climate change and by making improvements to the physical environment of the borough Borough, particularly in places of greatest need.~~
- ~~• We will **maintain a safe environment for all of our residents**, tackling crime and anti-social behaviour and ensuring that vulnerable children and adults are safeguarded.~~
- ~~• We will **improve schools in the borough** Borough, to enable all pupils to make good progress throughout their time in education.~~
- ~~• We will **promote the independence and well being of older people** and ensure they are able to participate in and contribute to life in the borough Borough.~~
- ~~• The council is a business, working on behalf of the local community and, like all businesses, must respond to the changing environment to ensure it continues to deliver on its priorities. The key drivers and management priorities underlying the way we will deliver our priority services are:~~
- ~~• To **provide value for money** by using our resources well and understanding how our customers want to receive services.~~
- ~~• To **focus on the local community**, listening and engaging with local people and providing leadership where appropriate.~~
- ~~• To **manage our performance** better so that we get things done and know when we have achieved success, galvanising our partners to achieve more together.~~

~~Local Development Framework Core Strategy adopted April 2009~~

- ~~• The Core Strategy contains the strategic policies to guide the future development of the borough Borough and all of the other local development framework documents must be consistent with it. In turn the Core Strategy has to be consistent with the national and regional policy as well as take account of the plans of other local bodies, the Community Plan and other relevant borough Borough strategies.~~

~~Local Development Framework Pre-Submission Development Management (submission version from October 2010)~~

- ~~This provides a detailed set of policies, designed to contribute to achieving the spatial strategy and core planning policies set out in the core strategy.~~

~~Richmond upon Thames Community Safety Partnership Plan 2008-2011 January 2010 update~~

The Strategic Assessment is set out in three sections:

- ~~**Performance, activities and recent trends** — this reviews how crime, disorder, anti-social behaviour (asb) and substance misuse has changed since the last assessment, and whether the partnership is on track to meet its targets. It also describes the activities that have aimed to address the issues previously identified and any major developments.~~
- ~~**Community Safety Partnership Priorities** — based on the assessment of crime, disorder, asb and substance misuse, the partnership priorities for action are described~~
- ~~**Richmond upon Thames crime, disorder, asb and substance misuse problems** — this section provides an assessment of the borough's main problems, illustrating it in terms of who commits offences, the communities that are most vulnerable, premises and products that are targeted and where and when problems occur.~~

~~Borough Alcohol Strategy~~

The aims and objectives of this Strategy are to:

1. ~~Reduce the negative impact of alcohol on health~~
2. ~~Reduce anti-social behaviour caused by alcohol~~
3. ~~Reduce alcohol use amongst children and young people~~
4. ~~Promote responsible alcohol sales~~
5. ~~Improve data collection and local knowledge of the impact of alcohol~~
6. ~~Reduce the negative impact of alcohol use on town centres whilst minimising negative impact on the local economy~~
7. ~~Promote responsible drinking within the community~~

~~Applicants and existing licence holders are encouraged to consider the plans and strategies mentioned above. A Licensing Sub-committee in determining a contested application shall only take into account the plans / strategies in so far as they relate to the four licensing objectives and when similar issues are raised by interested parties or responsible authorities. For example, if public safety was not raised by interested parties or responsible authorities in their letter of representation, a Licensing Sub-committee would have no remit to consider public safety.~~

~~Applicants and existing licence holders are encouraged to:~~

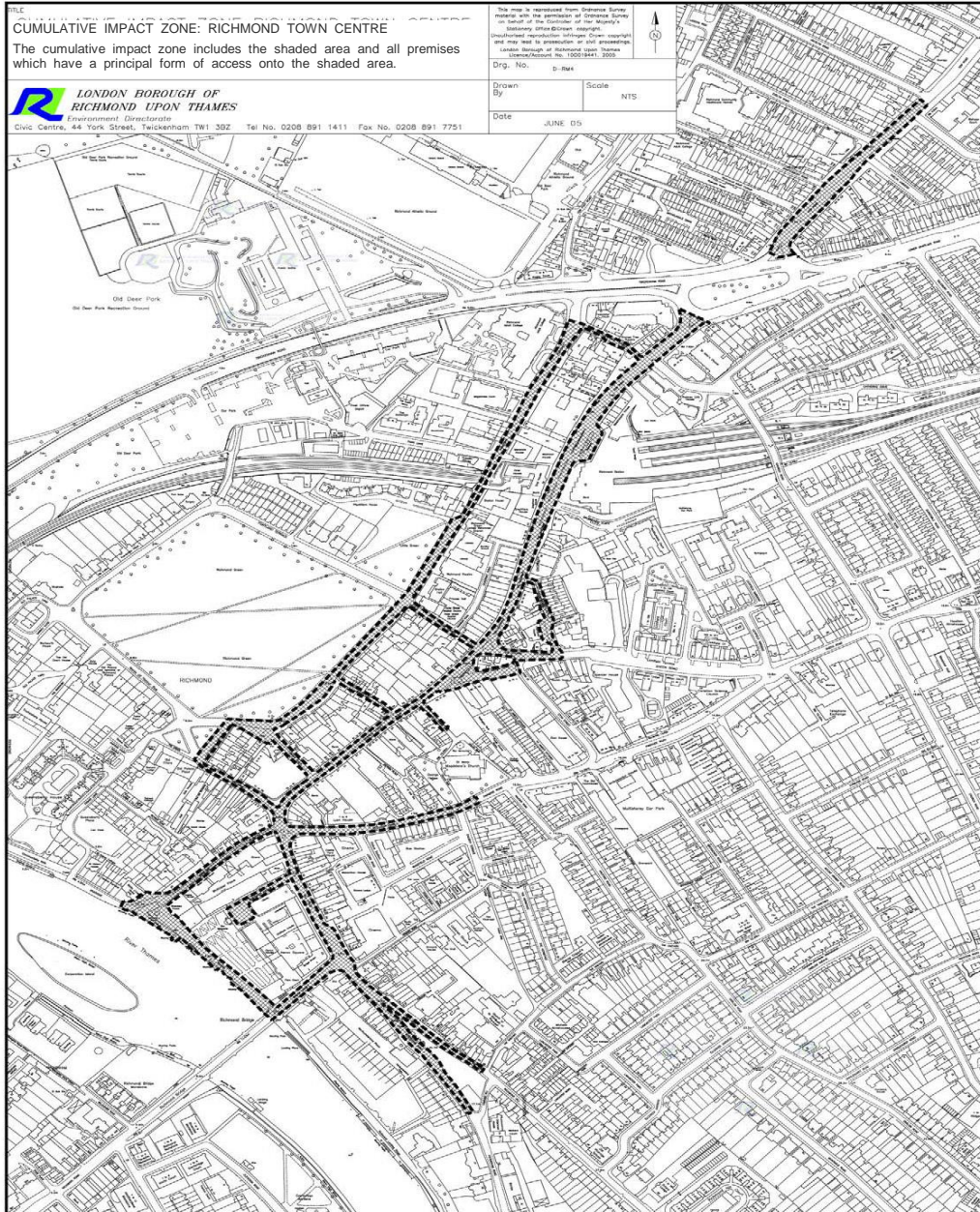
- ~~examine the energy performance of their buildings and equipment (such as patio heaters)~~

- ~~reduce waste where possible recycle glass/plastic bottles, cans and any other recyclable material~~
- ~~consider public safety (see section headed 'public safety')~~
- ~~tackle antisocial behaviour (see section headed 'the prevention of crime and disorder' and section headed 'the prevention of public nuisance')~~
- ~~encourage the responsible service of alcohol (see section headed 'the prevention of crime and disorder')~~
- ~~offer top quality facilities (see section headed 'other visions')~~
- ~~look at the prevention of noise disturbance (see section headed 'the prevention of public nuisance')~~

~~The Licensing Authority is committed to meeting the key values of the Council. It will provide a good service to applicants, existing licence holders, interested parties, responsible authorities~~Responsible Authorities, etc

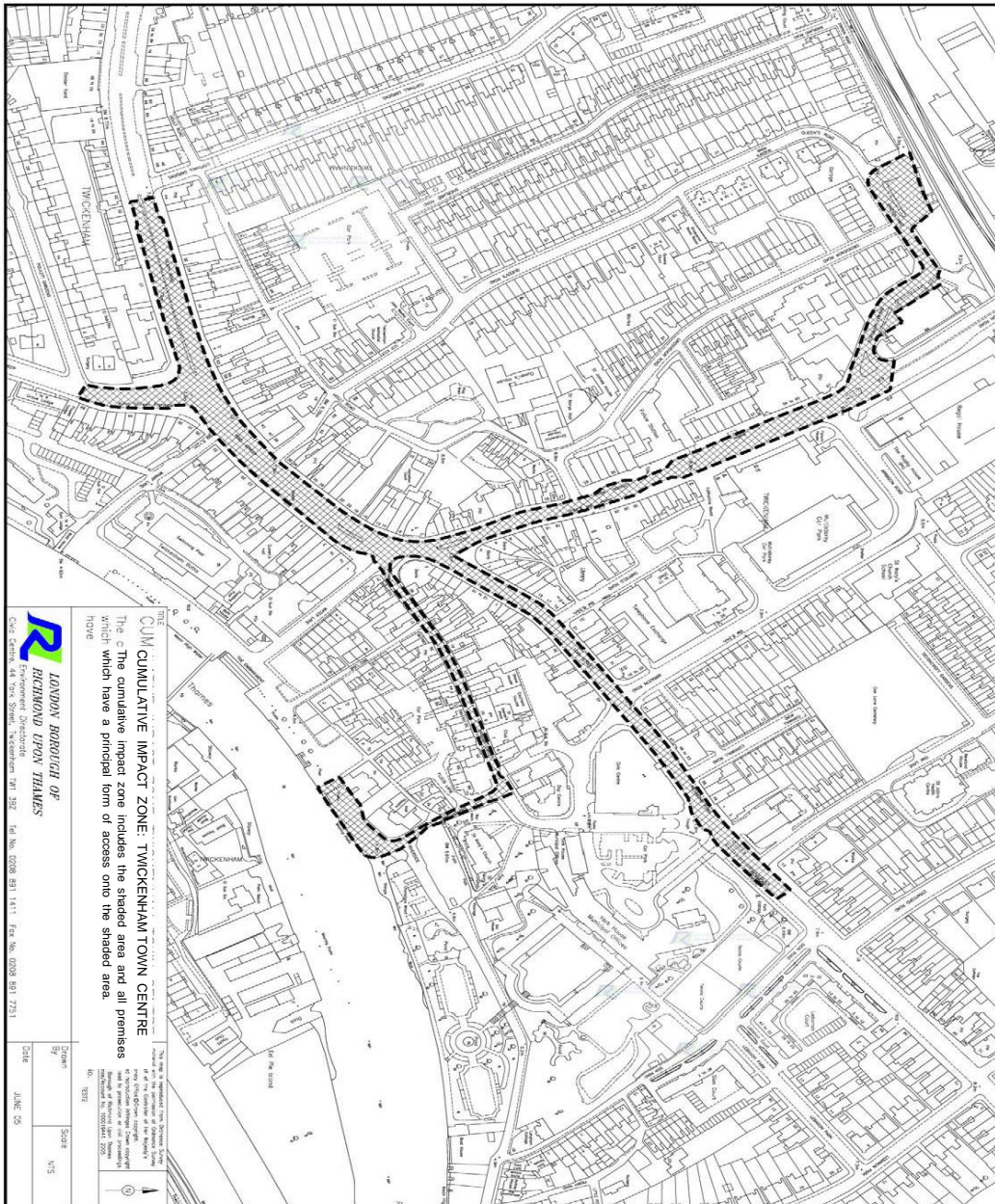
Appendix B – CUMULATIVE IMPACT ZONE: RICHMOND TOWN CENTRE

Comment [BC35]: MOVE TO CIA



Appendix C – CUMULATIVE IMPACT ZONE: TWICKENHAM TOWN CENTRE

Comment [BC36]: MOVE TO CIA



Appendix D ~~[x]~~

Comment [BC37]: CHECK Current

**List of Responsible Bodies for New or Variation Premises
Licence Applications and Club Premises Certificates**

Licensing Authority

London ~~Borough~~Borough of Richmond upon Thames Licensing Authority, Environment Directorate, 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

London Fire and Emergency Planning Authority, 90 Old Town, Croydon, Surrey, CRO 1AR

Local Planning Authority

London ~~Borough~~Borough of Richmond upon Thames Planning, 2nd Floor, Civic Centre, 44 York Street, Twickenham, TW1 3BZ

Body which represents matters relating to the protection of children

Child Protection Manager, Education and Children's Cultural Services, 1st Floor, 42 York Street, Twickenham, TW1 3BW

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

Head of Commercial Environmental Health, Consumer Protection, ~~Civic Centre, 44 York Street, Twickenham TW1 3BZ~~

For Council premises, funfairs and manufacturers only - Enforcing authority within the 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

London ~~Borough~~Borough of Richmond upon Thames Trading Standards, 2nd Floor, Civic Centre, 44 York Street, Twickenham, TW1 3BZ

Body which represents matters relating to the Primary Care Trust

Public Health Consultant

Richmond ~~Borough~~Borough Team

Thames House
180, High Street
Teddington
TW11 8HU

Application in relation to vessels must notify further [responsible authorities](#)[Responsible Authorities](#)

The Navigation Authority

Tidal Thames

The Harbour Master

The Port of London Authority, 7 Harp Lane, London EC3R 6LB

Non Tidal Thames

The Environment Agency Recreation and Navigation, Thames Region, Kings Meadow House, Kings Meadow Road, Reading, RG1 8DQ

The Environment Agency

Thames Regional Office

Kings Meadow House

Kings Meadow Road

Reading

Berkshire

RG1 8DQ

British Waterways London

1 Sheldon Square

Paddington Central

London

W2 6TT

The Secretary of State

The Surveyor General

The Maritime & Coastguard Agency,

Orpington Marine Office,

Central Court,

1 Knoll Rise

Orpington

Kent

BR6 0JA