



<b>REPORT OF:</b>	HEAD OF COMMUNITY SAFETY & ENVIRONMENTAL HEALTH
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<b>TO:</b>	LICENSING COMMITTEE
<b>DATE:</b>	16 SEPTEMBER 2010

<b>AGENDA ITEM NO:</b>	4	<b>WARD(S) AFFECTED:</b>	ALL
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<b>SUBJECT:</b>	LICENSING ACT 2003: REVIEW OF LICENSING POLICY
<b>RECOMMENDATION:</b>	
<p>1. The Committee is requested to examine the revised draft Statement of Licensing Policy at Annex 1 having regard to specific matters as listed in the consultation questionnaire at Annex 2, and submits its views as part of the consultation process to the Executive on 11 November 2010.</p>	
<b>SUMMARY</b>	
<p>This consultation process forms part of a three-year statutory review of the Council's Statement of Licensing Policy as currently required by the Licensing Act 2003.</p>	

### STATUTORY POWERS

1. The Licensing Act 2003 (the Act) required local authorities to produce a Statement of Licensing Policy (hereafter referred to as 'the Policy') prior to the implementation of the Act on 7 February 2005. The Licensing Act 2003 (Licensing statement period) Order 2004 subsequently determined that policies were to be made available by 7 January 2005.
2. The Act also requires that during each subsequent three-year period, the Policy is kept under review, and that revisions are made to it at such times as are considered appropriate. Any three-year review or revision must follow the same consultation process with the named statutory consultees identified in the Act.
3. Guidance to Licensing Authorities issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Act is intended to assist licensing authorities in carrying out their functions under the Act. This document contains further information regarding the form, content and adoption process of the Policy. Licensing authorities are required to take account of this guidance.

## CONSULTATION

4. Under Article 4 of the Constitution the Policy is designated as a Level 3 document and therefore the Executive Member for Enforcement is designated to undertake appropriate consultation. A consultation strategy was approved on 9 July which involved posting the draft policy attached as Annex 1, and questionnaire attached as Annex 2, on the Council website. Consultees were contacted by email or letter to advise them of the process. A list of consultees is shown in Annex 1 page 18 (under the draft policy heading Appendix 1).
5. The timetable below shows significant dates from the consultation strategy;

12 July -10 September 2010	10 week consultation period
8 September 2010	Overview & Scrutiny Committee consulted
16 September 2010	Licensing Committee consulted
17 - 22 September 2010	Responses analysed, Policy amended, Executive report drafted for circulation
11 November 2010	Final version presented to the Executive along with copies of responses
9 December 2010	Policy formally adopted by full Council

## ISSUES

6. The Policy was initially adopted by full Council on 9 December 2004 and a revised version on 9 December 2007, following the three-year review. Throughout this and the intervening period there have been no requests to amend the policy.
7. As a result of new and amended legislation the following areas, in grey typeface, have been included in the current draft policy document at Annex 1;
- new mandatory codes as introduced by the Policing and Crime Act 2009 (Annex 1 page 5)
  - extended definition of Interested Parties to include Elected members (Annex 1 page 6)
  - new minor variation process (Annex 1 page 8)
  - tables and chairs outside premises following the Health Act 2006 and the smoking ban taking effect (Annex 1 page 8)
  - adult entertainment (Annex 1 page 13).
8. Members are reminded that whilst the Appendices to the draft policy are included in the consultation they should not be regarded as part of the policy as their purpose is to provide additional related information or clarification. This approach allows amendments to be made to content details, associated legislation etc without the need for additional consultation.

9. The Home Office is currently consulting (28 July to 8 September) on tough new measures to crack down on problem premises and provide more powers to local communities to influence licensing decisions. The majority of the proposals will be introduced via the Police Reform and Social Responsibility Bill which is due to be introduced into Parliament in October 2010. Whilst the timescale for the passage of the Bill is not known it will be too late to incorporate the effects of the new legislation into this revision of the Policy. Members of the Local Government Regulation Group (formally LACORS) have been in contact with Ministers to highlight the costs and burdens on both Councils and business, and also confusion caused to members of the public and other consultees, as a result of having to repeat this exercise within a short period of time to reflect the proposed changes.
10. At the end of 2009 the Department for Culture Media and Sport (DCMS) consulted on various simplification matters, one of which would have removed the current requirement for a three year policy revision. Although it has been possible to implement some of these proposals from October 2010 through a Legislative Reform Order, the policy proposals require a change to primary legislation and the timetable for this process has not yet been announced

#### **EQUALITIES IMPLICATIONS**

11. There are no equalities implications arising from this report.

#### **LEGAL IMPLICATIONS**

12. The three-year review period is set by statute, and runs from the 7 January 2005 as specified by the Licensing Act 2003 (Licensing statement period) Order 2004. As this is the second three- year review the process must be completed and the policy in place by the 7 January 2011

#### **FINANCIAL IMPLICATIONS**

13. During implementation of the Act, the Council was advised that fee levels would be set by the Secretary of State to provide full cost recovery of all licensing functions including the preparation and publication of Policies. It is therefore expected that the cost of the review process will be met from existing resources.

**Background Papers:** None

**Annex 1** Draft Licensing Policy Statement

**Annex 2** Consultation Questionnaire



# Licensing Act 2003

## Licensing Policy Statement

December 2010

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## **1.0 INTRODUCTION**

- 1.1 The Licensing Act 2003 (Act) imposes a statutory duty upon district councils to produce, develop and review a licensing policy.
- 1.2 The aim of the policy is to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural industry. Reigate & Banstead Borough Council (R&BBC) in adopting this licensing policy recognises both the needs of residents for a safe and healthy environment to live and work in and the importance of prosperous and well run retail/entertainment premises to the local economy and vibrancy of the Borough. It also recognises the need to provide opportunities and support for leisure and culture within the Borough. To achieve this aim R&BBC is committed to partnership working with police, fire service, local businesses, licensing trade, residents and others towards the promotion of the objectives as set out in this policy.
- 1.3 This policy provides information and guidance to licence applicants, objectors and interested parties on the general approach that R&BBC will take in terms of licensing. Although each application will be considered individually on its own merits, R&BBC in adopting this licensing policy is indicating that wider considerations other than the fitness of the applicant and suitability of premises will be taken into account when making an appropriate determination.
- 1.4 R&BBC will work with local authorities, particularly in Surrey, to ensure that as far as possible a consistent approach is taken to licensing matters whilst respecting the differing needs of the individual communities throughout the county.
- 1.5 This policy document does not override any requirement of licensing or other law; neither should it be interpreted as adding to their scope.

## **2.0 CONSULTATION**

- 2.1 This policy has been reviewed in consultation with the public, responsible authorities listed in Annex 4, bodies representing existing licence holders, representatives of registered clubs and businesses and residents in the Borough – see Annex 1. Responses have been collated and considered by the Executive and recommendations made to full Council regarding adoption.

## **3.0 SCOPE OF THE POLICY**

- 3.1 R&BBC is the licensing authority for the purposes of the Licensing Act 2003 ('the Act') and is responsible for granting licences, certificates and notices in the Borough of Reigate and Banstead in respect of activities described by the Act as 'Licensable Activities'. These activities include: -
  - 3.1.1 retail sale of alcohol
  - 3.1.2 supply of alcohol to club members
  - 3.1.3 provision of 'regulated entertainment' (listed below) – to the public, to club members or with a view to profit
    - a) a performance of a play
    - b) an exhibition of a film
    - c) an indoor sporting event

- d) boxing or wrestling entertainment
  - e) a performance of live music
  - f) any playing of recorded music
  - g) a performance of dance
  - h) entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance
- 3.1.4 provision of facilities for dancing, making music or entertainment of a similar description
  - 3.1.5 the supply of hot food and/or drink from any premises between 11pm and 5am.
- 3.2 This policy has been prepared and revised in accordance with the provisions of the Act and guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Act. It will take effect on 7<sup>th</sup> January 2011 and will remain in force for a period of not more than 3 years.
- 3.3 In accordance with the requirements of the Act during each 3-year period R&BBC will keep this policy under review. Revisions will also be made to it, at such times, as it is considered appropriate. Any revisions will be subject to consultation with the statutory consultees as listed in Section 5(3) of the Act together with those listed in Annex 1.
- 3.4 In exercising its functions under the Act, R&BBC will pay due regard to the guidance issued to it by the Secretary of State under Section 182 of the Act - available from [www.culture.gov.uk](http://www.culture.gov.uk)
- 3.5 In the case of exceptionally high capacity venues used exclusively or primarily for the 'vertical' consumption of alcohol ie with little or no seating for patrons, R&BBC where necessary and appropriate, may also impose conditions relating to;
- 3.6.1 capacity
  - 3.6.2 appropriate ratio of tables and chairs to customers
  - 3.6.3 the presence of a Security Industry Authority (SIA) registered security team to control entry and deny entry to individuals who appear drunk or disorderly.
- 3.6 This is the policy of R&BBC as the Licensing Authority. Other parts of the Authority may have separate responsibilities under the Licensing Act 2003, for example as responsible authorities, and this policy does not extend to the way in which they conduct their duties under the Licensing Act.

#### **4. ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS**

- 4.1 In the interests of speed, efficiency and cost-effectiveness to all parties involved in the licensing process, R&BBC has established a Scheme of Delegation to deal with applications received under the Act. The table in Annex 2 sets out the delegation of decisions and functions to Licensing Committee, Sub-Committees and Officers.
- 4.2 This Scheme of Delegation is without prejudice to Officers referring an application to a Sub-Committee, or a Sub-Committee to Full Committee, if considered appropriate in the circumstances of any particular case.



- 4.3 A table of applications dealt with by Officers will be reported annually to the Committee for the purposes of information and comment only.

## **5. FUNDAMENTAL PRINCIPLES**

- 5.1 This policy will promote the four licensing objectives contained in the Act;
- 5.1.1 the prevention of crime and disorder
  - 5.1.2 public safety
  - 5.1.3 the prevention of public nuisance
  - 5.1.4 the protection of children from harm.
- 5.2 Nothing in the policy will:
- 5.2.1 undermine the rights of any person to make an application under the Act and have such application considered on its individual merits, and/or
  - 5.2.2 override the right of any person to make representations on any application or seek a review of a licence or certificate where provision has been made for them to do so under the Act.
- 5.3 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act. The licensing function cannot be used for the general control of anti-social behaviour once consumers are beyond the direct control of the licensed premises. R&BBC expects every holder of a licence, certificate or permission to make every effort to minimise the impact of their activities and anti-social behaviour by their patrons within the immediate vicinity of their premises. Furthermore they should ensure that, as required by the Act, alcohol is not served to persons who are intoxicated.
- 5.4 R&BBC's aim is to create a safe and family friendly environment in all areas of the Borough, including town centres. Applicants should give consideration to this when preparing their operating plans. However, this will not be the only factor taken into consideration. Examples of family friendly environments would include, amongst others, where there is a children's play area, when children's menus are provided, easy access for prams and/or wheelchairs, provision of family entertainment, range of appropriate seating, responsible drinks promotions etc.
- 5.5 R&BBC acknowledges and supports the Policing and Crime Act 2009 that has been introduced against a national background of increasing alcohol related anti-social behaviour and subsequent hospital admissions. This Act has introduced a set of additional mandatory licence conditions, affecting the way that all premises and clubs that sell alcohol on the premises are allowed to operate. The introduction of this legislation signals a shift back from deregulation towards offering greater support for communities being adversely affected. The following three conditions apply to all "on" premises licences and club premises certificates
- 5.5.1 Certain "irresponsible" drinks promotions are banned
  - 5.5.2 Tap water must be made available free of charge to customers on request
  - 5.5.3 Alcohol may not be directly dispensed into another person's mouth (unless that person is disabled).
- 5.6 From 1st October 2010, the following conditions will also apply:
- 5.6.1 an age verification policy to be in place to prevent underage sales; and

5.6.2 Customers to have the opportunity to choose small measures of beers, ciders, spirits and wine

- 5.7 There is no obligation for R&BBC to re-issue licences that include the additional mandatory conditions. Where opportunities arise the licences will be reissued free of charge with the appropriate conditions attached.
- 5.8 R&BBC is mindful of the legislative changes that have expanded the definition of the term 'Interested Parties' to include elected members of this authority. Elected councillors of the licensing authority may now make representations or seek a review in their own right.
- 5.9 R&BBC is committed to eliminating unlawful discrimination and ensuring equal opportunities, encouraging community cohesion in line with the Council's Corporate Equalities Policy. This policy will be subject to an equality impact assessment and will continue to be monitored for any adverse impact on the promotion of equality as part of the regular review process.
- 5.10 R&BBC acknowledges the advice received from Department for Culture, Media and Sport (DCMS) that the views of vocal minorities should not be allowed to predominate over the general interests of the community.
- 5.11 R&BBC would encourage relevant businesses to adopt voluntary industry Codes of Practice which cover irresponsible drinks promotions, such as that produced by the British Beer and Pub Association.

#### **PRE CONSULTATION**

- 5.12 R&BBC would advise that in order to minimise problems and the necessity for hearings, it would be sensible for applicants and clubs to consult with responsible authorities and residents when schedules are being prepared. This would allow for proper liaison before representations prove necessary.

#### **AUTHORISING SALE OF ALCOHOL**

- 5.13 R&BBC requires every sale of alcohol to be authorised by the holder of a personal licence. Where the personal licence holder is absent from the premise they will still be ultimately responsible for the actions of those they authorise to make such sales. R&BBC would recommend that written authorisation is provided, as it clearly demonstrates due diligence in the event of any review or prosecution.

#### **SETTING CONDITIONS**

- 5.13 R&BBC is keen to promote the artistic and cultural life of the Borough, and licensing will be approached with a view to encouraging cultural activities and innovative forms of public entertainment for the wider cultural benefit of communities generally. Only conditions strictly necessary for the promotion of the licensing objectives will be attached to a licence for activities of this nature as R&BBC is aware of the need to avoid imposing substantial indirect costs. Where there is any indication that licensing requirements is deterring such events, the policy will be reviewed with a view to investigating how the situation may be remedied.
- 5.14 R&BBC will consider attaching conditions to premises licensed under the Act where they are necessary to prevent crime and disorder, promote public safety, prevent

public nuisance and protect children from harm, (the four licensing objectives under the Licensing Act 2003). These may include conditions drawn from the Model Pools of Conditions listed in the guidance copies of which are available on the website detailed at 3.4 above. Any such conditions imposed will be tailored to the style and characteristics of the premises, the location of the premises, and the type of activities expected to take place there.

- 5.15 R&BBC will have regard to the following paragraphs in the guidance issued under Section 182 of the Act;

*10.7 The conditions that are necessary for the promotion of the licensing objectives should emerge initially from a prospective licensee's or certificate holder's risk assessment which applicants and clubs should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule which must also set out the proposed hours of opening.*

*10.11 The licensing authority may not impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It may then only impose conditions that are necessary to promote one or more of the four licensing objectives. Such conditions must also be expressed in unequivocal and unambiguous terms to avoid legal dispute.*

- 5.16 Terms and conditions attached to various premises licensed under the Act will be focused on matters that are within the control of individuals named on the licence. I.e the applicant will not be expected to take an action that he has no legal right to do e.g monitoring noise in another person's property.
- 5.17 When considering these conditions, R&BBC will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 5.18 R&BBC may set conditions that are based on achieving an outcome or require a specific action by the licensee or both. There are merits to both approaches and the nature of the conditions will be dependent on the circumstances of each case. An example of an outcome based condition is where noise is required to be barely audible at the boundary of a nearby residential premises so that it will be inaudible within it, thereby fulfilling the requirement for prevention of public nuisance. This approach allows the licensee to determine how the standard is achieved and he can find the best solution for this. In other cases a specific condition, such as the requirement to turn lights off after a specific time, may provide better control and transparency.

## **REJECTING APPLICATIONS**

- 5.19 The following circumstances may lead to the rejection of an application. When this occurs it is likely that the application fee will be retained by R&BBC and a further fee required when a new application is made;
- 5.19.1 errors or omissions in the application forms, public notices or accompanying documents, consent forms, plans etc
  - 5.19.2 non-compliance with statutory requirements ie public display of notices, publishing notices in local newspapers, time limits etc
  - 5.19.3 identical copies of applications not served on responsible authorities on the same day as the application is given to R&BBC
  - 5.19.4 missing or part-payment of fees.

## **VARIATION OF PREMISES**

- 5.20 An applicant who wishes to make changes to an existing Premises Licence or Club Premises Certificate must do so by making an application to vary the existing authorisation.
- 5.21 A full variation should be used to:
- 5.21.1 extend the hours during which licensable activities can take place
  - 5.21.2 add licensable activities that may impact on one or more of the licensing objectives
  - 5.21.3 remove or amend conditions that may impact on one or more of the licensing objectives
- 5.22 A variation should not be used where changes are being made to the building such as using previously unlicensed parts of a building, this could result in an increase to the capacity of the licensed premises, In such instances R&BBC will expect a new application to be submitted. Similarly R&BBC would also expect a new application to be submitted where the nature of the licensed premises is being substantially changed e.g. a restaurant being converted to a nightclub.
- 5.23 Minor variations can only be used in cases where the variation sought shall not impact adversely on the licensing objectives. There is no right to a hearing to take place to consider minor variations. The decision as to whether or not a minor variation is appropriate will be made by officers, and their decision shall be final. A minor variation should only be sought in the following circumstances:
- 5.23.1 reduction in the hours during which licensable activities may take place
  - 5.23.2 reduction in opening hours
  - 5.23.3 minor changes to the layout of premises that do not impact on the licensing objectives, such as moving the location display cabinets for alcohol within a supermarket or shop.
  - 5.23.4 the removal of licensable activity
  - 5.23.5 variation to the times alcohol is sold, where those times are between 0700 hours and 2300 hours
  - 5.23.6 adding conditions that will assist in promoting the licensing objectives
  - 5.23.7 amending conditions that are badly worded
  - 5.23.8 removing or amending conditions that are unenforceable
  - 5.23.9 removing conditions that are obsolete

## **TABLES AND CHAIRS OUTSIDE PREMISES**

- 5.24 Under s115 of the Highways Act 1980 permission is required from Surrey County Council to place amenities such as tables and chairs on the public highway but permission is not required to place tables and chairs on private frontages. R&BBC will scrutinise Operating Schedules indicating that tables and chairs are to be included within the licensed area to ensure that relevant applications are made to cover those areas; that the hours of use are stated on the application and that measures have been put in place to minimise the potential impact of any noise nuisance.

## **6. THE LICENSING OBJECTIVES – (1) PREVENTION OF CRIME AND DISORDER**

- 6.1 R&BBC will expect applications to show what actions are to be taken to assist in the reduction and prevention of crime and disorder.
- 6.2 In addition to conditions from the 'Model Pool of Conditions' relating to Crime and Disorder, R&BBC may attach additional conditions that as far as possible reflect local crime prevention strategies as appropriate.
- 6.3 R&BBC recognises that there are a number of mechanisms for addressing unlawful or anti-social behaviour, which occurs away from licensed premises. These include;
  - 6.3.1 planning controls which provide a broader approach to assessing impact on local amenities than is provided for under the Act
  - 6.3.2 positive measures to provide a safer and clean town centre environment in partnership with local businesses, transport operators, the Crime and Disorder Partnership and other departments of the Council (see also Annex 5, Summary of effective interventions to reduce alcohol related disorder and crime produced by Surrey Community Safety Unit - which has a specific Strategic Aim, to reduce short and long term drug and alcohol related crime and disorder in the Borough)
  - 6.3.3 the provision of CCTV in town centres, ample taxi ranks, provision of public toilets late at night, street cleaning and litter patrols
  - 6.3.4 powers to designate parts of the Borough as places where alcohol may not be consumed publicly
  - 6.3.5 police enforcement of the law with regard to disorder and anti-social behaviour, including the issue of fixed penalty notices and consideration of Anti-Social Behaviour Orders by both the Police and R&BBC.
  - 6.3.6 the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk or under age
  - 6.3.7 confiscation of alcohol from adults and others in designated areas
  - 6.3.8 police powers to close down instantly for up to 24 hours, any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder, or excessive noise emanating from the premises
  - 6.3.9 the power of police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.
- 6.4 In considering licence applications, R&BBC will have regard to the following:
  - 6.4.1 the ability of the person in charge of the premises to monitor the premises at all times it is open
  - 6.4.2 the training given to staff in crime and disorder prevention measures appropriate to those premises
  - 6.4.3 physical security features installed in the premises. This may include matters such as the position of cash registers, where alcohol is stored in 'off-licences', the standard of CCTV that is installed, the use of toughened drinking glasses in pubs and clubs, or the secure storage of waste which could potentially be used as weapons
  - 6.4.4 management attitudes, such as the willingness to stagger trading hours with nearby competing businesses to avoid all of their patrons subsequently competing for the limited public transport late at night and the use of responsible pricing promotions

- 6.4.5 participation in a local Pubwatch or Shopwatch scheme
- 6.4.6 any other such measures as may be appropriate, such as ‘music wind—down policies’, restrictions on ‘happy hours’, ‘No entry No re-entry’ policies related to specific times, the provision of food and non alcoholic drinks
- 6.4.7 the measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies
- 6.4.8 where premises are subject to age-restrictions, the procedures in place to conduct age verification checks
- 6.4.9 the likelihood of any violence, public order or policing problem if the licence is granted.

## **CUMULATIVE IMPACT**

- 6.5 R&BBC will not take ‘need’ (i.e. the commercial demand for premises offering a particular type of licensable activity) into account when considering a licensing application, as this is a matter for the market. R&BBC may be able to consider the need for a licensed activity (and for any activity it would displace) through planning control. However, the impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder outside or some distance from the premises. This is described as the ‘cumulative impact’, and is a proper matter for consideration by the Council as Licensing Authority.

## **7. THE LICENSING OBJECTIVES – (2) PUBLIC SAFETY**

- 7.1 R&BBC will expect applicants to include in their Operating Schedule, steps they propose to take to promote public safety.
- 7.2 The Regulatory Reform (Fire Safety) Order 2005 replaces previous fire safety legislation and removes any fire certificates that included maximum capacity conditions. The Order requires the responsible person to carry out a suitable and sufficient fire risk assessment. As part of this fire risk assessment, the occupancy numbers should be calculated giving a maximum number of persons that can safely occupy the premises at any one time.
- 7.3 Where no safe capacity has been imposed by other legislation, R&BBC will consider attaching a ‘safe capacity’ to licences and certificates when it appears necessary to ensure public safety or to prevent crime and disorder.

(See Annex 3 for further guidance on other relevant regulatory regimes)

## **8. THE LICENSING OBJECTIVES – (3) PREVENTION OF NUISANCE**

- 8.1 R&BBC will expect applications to show what actions are to be taken to assist in the prevention of public nuisance;
  - 8.1.1 the steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music; noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies; sound limitation devices together with proper management procedures to ensure these are effective
  - 8.1.2 the steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises

- 8.1.3 the steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction
  - 8.1.4 the steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly
  - 8.1.5 the arrangements made or proposed for parking by patrons in car parks under the control of the licensee, and the effect of that parking by patrons on local residents
  - 8.1.6 whether any consideration has been given to the impact of patrons leaving the premises if no public transport facilities are available
  - 8.1.7 the installation of any special measures where licensed premises are or are proposed to be located near sensitive premises such as residential houses, nursing homes, hospitals, hospices or places of worship
  - 8.1.8 the use of gardens and other open-air areas
  - 8.1.9 delivery and collection areas and times
  - 8.1.10 the siting of external lighting, including security lighting that is installed inappropriately
  - 8.1.11 the siting and insulation of plant and extraction machinery
  - 8.1.12 whether the premises would lead to increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards) in the vicinity of the premises
  - 8.1.13 the history of previous nuisance complaints made against the premises, or applicant, particularly where statutory notices have been served on the present licensees.
- 8.2 Paragraphs 8.1.1 to 8.1.11 will be especially relevant for premises operating between 11pm and 7am.

## **9. THE LICENSING OBJECTIVE – (4) PROTECTION OF CHILDREN FROM HARM**

- 9.1 R&BBC encourages the display of any publicity provided by Surrey Safeguarding Children's Board and its partners aimed at raising the awareness of protecting children from harm.

### **ACCESS TO LICENSED PREMISES**

- 9.2 R&BBC will consider the individual merits of each application before deciding whether it is necessary to limit the access of children to any given premises for the prevention of physical, moral or psychological harm. The following are examples of premises that will raise concern:
- 9.2.1 where the existing business has been convicted of selling/serving alcohol to minors or with evidence of underage drinking
  - 9.2.2 where there is a known association with drug taking or dealing
  - 9.2.3 where there is a strong element of gambling on the premises
  - 9.2.4 where films with age-restricted classifications are to be shown
  - 9.2.5 where the supply of alcohol is the exclusive or primary purpose of the services provided by the premise
  - 9.2.6 where entertainment or services of an adult or sexual nature are commonly provided eg topless bar staff, striptease, lap, table or pole dancing,

performances including feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

9.3 The following options are available to R&BBC when it considers that the access of children to licensed premises should be limited in order to prevent harm:

- 9.3.1 limitations on the hours when children may be present
- 9.3.2 limitations on ages below 18
- 9.3.3 limitations or exclusion when certain activities are taking place
- 9.3.4 restrictions or exclusions in respect of parts of premises
- 9.3.5 requirements for an accompanying adult
- 9.3.6 full exclusion of people under 18 from the premises when any licensable activities taking place.

The imposition of complete bans will, however, be rare.

9.4 R&BBC considers the organisation as listed in Annex 4 under Child Protection Authority, to be competent in advising the Council on matters relating to the protection of children from harm. Applicants for premises and club premises certificates should send copies of their applications to this body.

9.5 The Act requires personal licence holders not to serve alcohol to children under 18, except in the limited circumstances allowed for by law. R&BBC recommends referencing the following documents to verify a person's proof of age;

- 9.5.1 passport
- 9.5.2 a photocard driving licence issued in a European Union country
- 9.5.3 a Proof of Age card as issued by the Portman Group (details from [www.portman-group.org.uk](http://www.portman-group.org.uk))
- 9.5.4 a Citizen Card, supported by the Home Office (details from [www.citizencard.net](http://www.citizencard.net))
- 9.5.5 Validate UK card (details from [www.validateuk.co.uk](http://www.validateuk.co.uk))
- 9.5.6 Connexions card (details from [www.connexionscard.com](http://www.connexionscard.com))
- 9.5.7 an official identity card issued by HM Forces or by a European Union country bearing the photograph and date of birth of the bearer
- 9.5.8 any other nationally or locally recognised schemes as may from time to time be agreed eg Challenge 21.

The Council recommends that any system should be accredited and approved by the British Retail Consortium's Proof of Age Standards Scheme.

9.6 R&BBC commends the Code of Practice on Naming Packaging and Promotion of Alcoholic Drinks issued by the Portman Group as an important tool in protecting children from harm.

### **ACCESS TO CINEMAS**

9.7 R&BBC expects the Operating Schedule of premises giving film exhibitions to include arrangements for restricting children from viewing age-restricted films



classified according to the recommendations of the British Board of Film Classification.

## **CHILDREN AND REGULATED ENTERTAINMENT**

- 9.8 Where a large number of children are expected to attend regulated entertainment (e.g. theatre production or film shows), R&BBC will require the applicants to show they have considered issues of child safety that relate specifically to their premises and to have prepared adequate policies to deal with these.

## **ILLEGAL SALES OF AGE RESTRICTED GOODS**

- 9.9 R&BBC, Surrey County Council and the Police take a serious view of the sale to minors of age-restricted goods. Surrey Trading Standards will continue to seek to ensure that there is no illegal sale of age-restricted goods. The work of the Trading Standards Department in setting up covert operations to detect sales to minors is acknowledged and welcomed by R&BBC. This work will continue and R&BBC will work closely with the Trading Standards Service and will share information on premises that may be breaking the law.

- 9.10 The Council will expect measures to be taken to ensure the following:

- 9.10.1 procedures to be in place to train and remind staff that all age restricted products may only be sold in accordance with the relevant legislation so that proof of age may be sought where needed. Staff training to include checking identification (ID) for proof of age through a secure system (see also paragraph 9.5)
- 9.10.2 a responsible person [as identified by Section 153 (4)] of the Act who is present and responsible for transactions made through staff who may be under 18 years of age
- 9.10.3 staff training records and associated documentation to be kept available for inspection
- 9.10.4 consideration to be given for procedures to be in place to record refusals of sales, with such records kept available for inspection
- 9.10.5 vending machines dispensing age-restricted goods to be positioned to allow for proper supervision at all times
- 9.10.6 where an Electronic Point of Sale (EPOS) system is in use, particularly where alcohol is not the main item sold, warnings should be set up to act as a reminder to staff to check the age of the purchaser for age restricted products.

## **ADULT ENTERTAINMENT**

- 9.11 Nudity, striptease and other adult entertainment of a sexual nature no longer falls within the remit of the Licensing Act 2003. These premises are now regulated under the Local Government (Miscellaneous Provisions) Act 1982, which classify them as Sexual Entertainment Venues (subject to the Council's adoption of the amendment to Schedule 3 by the Policing and Crime Act 2009) Such adult entertainment is known as "relevant entertainment" In summary, this will cover lap dancing / pole dancing and similar venues
- 9.12 It is acknowledged that the Act allows for premises to offer adult entertainment up to 11 times in a calendar year without the need for a licence under the LGMP Act 82. In

such circumstances the Licensing authority will pay attention to the conduct of the premises and the activities being offered and will enforce the law diligently. R&BBC will seek to ensure that applicants applying for 'the performance of a dance' on their licence are able to make clear that it will not involve any adult entertainment as a condition on their licence..

- 9.13 This Authority recognises that the Indecent Displays (Control) Act 1981 prohibits the public display of indecent matter and shall not therefore seek to impose conditions concerning such displays inside or outside the premises. We shall, however, consider imposing conditions, following a hearing, that address the exclusion of minors.

## **GENERAL**

- 9.14 No conditions will be imposed requiring children be admitted to any premises and this will be left to the discretion of the individual licensee or club (except if there are conditions imposed).
- 9.15 Nothing in this policy seeks to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.

## **10. LICENSING HOURS**

### **SALE OF ALCOHOL**

- 10.1 R&BBC recognises that in some cases longer licensing hours for the sale of alcohol can help to ensure that large concentrations of people do not leave premises at the same time. This may reduce the friction at late night fast food outlets, taxi ranks, minicab offices and other sources of transport that can lead to disorder and disturbance. Providing consumers with choice and flexibility is an important consideration, but R&BBC will balance this carefully against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.
- 10.2 Fixed trading hours within a designated area (also known as 'zoning') will not normally be set as this could lead to significant movements of people across boundaries at particular times seeking premises opening later, resulting in concentrations of disturbance and noise. This would also treat residents in busy town centres less favourably than residents in areas with a higher concentration of residential housing. However if there is sufficient evidence that the opening hours are deleteriously affecting the licensing objectives, then R&BBC may consider that such a condition may be appropriate.

### **SHOPS, STORES AND SUPERMARKETS**

- 10.3 R&BBC will normally license shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping unless it considers there are very good reasons for restricting those hours. For example, a limitation may be appropriate following Police representations in the case of isolated shops known to be the focus of disorder and disturbance.

## **11. INTEGRATING STRATEGIES AND AVOIDING DUPLICATION**

- 11.1 R&BBC will avoid duplication with existing legislation and other regulatory regimes that already place obligations on employers and operators. Where regulations etc do not cover the unique circumstances that arise in connection with a licensable activity R&BBC may, for example, attach conditions to premises licences and club premises certificates considered necessary for the promotion of the licensing objectives that are not already provided for in any other legislation. Additional guidance regarding other regulatory regimes is detailed in Annex 3.

### **PLANNING**

- 11.2 There will be a proper separation of the planning and licensing regimes to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. Licensing Committees are not bound by decisions made by a planning committee and vice versa. However applications for licences may be made before any relevant planning permission has been sought or granted.
- 11.3 Planning applications are determined in accordance with different parameters, albeit that some overlap with the licensing regime. Planning can refer to the amenity of a locality and may need to consider the vibrancy of local businesses, local employment or housing needs, suitability of sites for use due to contaminated land etc. Many of these issues are unique to planning and as such licence applications should not be a re-run of the planning application and should not cut across decisions taken by the Local Planning Authority or permissions granted on appeal. Conversely, the Council will not seek to use its planning powers to duplicate or predetermine issues more relevant to licensing.
- 11.4 Where appropriate, reports will be sent from the Licensing Committee to the Planning Committee on the situation regarding licensed premises in the Borough, including the general impact of alcohol related crime and disorder.

### **OTHER REGULATORY REGIMES/ STRATEGIES**

- 11.5 Within R&BBC, the Policy Development Team is responsible for ensuring that all strategies are consistent with the Corporate Policy Framework. The framework places all strategies and policies into a strategic hierarchy, with level 1 documents being high level strategic documents and lower level strategies providing consistent policy area specific detail about the delivery of higher-level documents. The Community Plan, Corporate Plan and Local Development Framework are all level 1 documents setting out the Council's strategic foundation.
- 11.6 The Borough's Community Plan sets out the long-term vision and priority themes for the present and future community. These priorities compliment the Council's Corporate Plan, which has four principal themes. The Corporate Plan explains how R&BBC intends to improve the quality of life in the Borough in partnership with other agencies. The emerging Local Development Framework (LDF) is an integral tool for both the Corporate and Community Plan and will be a key delivery mechanism for the priorities and themes identified in them and other high level strategies through its emphasis on spatial planning.

- 11.7 Within R&BBC, the multi-disciplinary Policy Development Team is responsible for ensuring the integration of all strategies which include the Community, Local Crime Prevention, Planning and Transport Strategy.
- 11.8 Arrangements will be made for the Licensing Committees to receive further information on relevant matters to ensure that they may inform their considerations eg;
- 11.8.1 the cultural strategy for the Borough and
  - 11.8.2 the employment situation in the Borough and the need for new investment and employment.
- 11.9 R&BBC will seek to discharge its licensing responsibilities with due regard to other Government policies, strategies, responsibilities and guidance documents that impact upon the licensing objectives eg
- 11.9.1 Community Safety Strategy, Drug and Alcohol Strategies, Cultural and Tourism Strategies, objectives of the Private Security Industry Authority, Crime and Disorder Reduction Partnership – Local Action Strategies
  - 11.9.2 responsibilities under the Anti Social Behaviour Act 2003
  - 11.9.3 Home Office Safer Clubbing Guide ([www.drugs.gov.uk](http://www.drugs.gov.uk))
  - 11.9.4 LACORS/TSI Code of Practice on Test purchasing ([www.lacors.gov.uk](http://www.lacors.gov.uk))
  - 11.9.5 National Alcohol Harm reduction Strategy.
- 11.10 R&BBC will have particular regard to how applications and operating plans militate against any form of disability discrimination when considering the operation and management of all proposed licence applications, renewals and variations of conditions. Applicants will need to be aware of their obligations under the Disability Discrimination Act 1995 (see also Annex 3).

## **12. ENFORCEMENT**

- 12.1 The Act provides a light touch for business and community activities which benefit and enhances people's lives by providing opportunities for the enjoyment of leisure time. R&BBC will focus on premises failing in terms of the licensing objectives and have been identified as a priority for inspection and/or action by nature of their location, operating hours, type of venue, customer make-up, and professionalism of the management.
- 12.2 Following the grant of a premises licence a responsible authority or interested party may apply for a review of the licence. There are a range of powers available to R&BBC in determining the review, that include modifying existing conditions, suspending the licence and revoking the licence. In order to maximise the benefit of co-operation, R&BBC would advise interested parties and responsible authorities to consider giving licence holders early warnings of their concerns and of the need for improvement, a failure to respond to such warnings is expected to lead to a decision to request a review.
- 12.3 Protocols with Surrey Police Service regarding the enforcement of licensing law will be established. These will provide for the efficient deployment of officers engaged in enforcing licensing law and inspecting licensed premises, in order to ensure that resources are targeted at problem and high-risk premises.

- 12.4 R&BBC has adopted a licensing enforcement policy, based around the principles of consistency, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat and which also takes into account the Code for Crown Prosecutors for bringing prosecutions. The Enforcement Policy details the various forms of enforcement action available to the Council and confirms that prosecution will be considered in cases of gross neglect, intentional defiance of a statutory requirement such as to prejudice public health, where the offence was foreseeable and inadequate precautions taken etc. The Enforcement Policy is available on request or can be found at [www.reigate-banstead.gov.uk](http://www.reigate-banstead.gov.uk)

### **13. PARTNERSHIP**

- 13.1 R&BBC will support multi agency teams responding to individual local problems, that bring together a full range of powers to deal with irresponsible licensed premises, criminal and disorderly behaviour, and provide the local infrastructure to support and manage the night-time economy.
- 13.2 R&BBC will continue to support and participate in the Surrey Countywide Licensing Forum - a local forum whose aims are to;
- 13.2.1 aid consistency between the statutory agencies responsible for licensed premises
  - 13.2.2 develop potential for a joint approach to implementation and administration
  - 13.2.3 act as a strategic forum for Licensing in Surrey
  - 13.2.4 develop policy and technical guidance
  - 13.2.5 develop liaison with agencies and organisations
  - 13.2.6 promote best practice
  - 13.2.7 explore the potential for sharing resources.

Further information and application forms regarding applications and licensable activities are available from the Department for Culture, Media and Sport website at [www.culture.gov.uk](http://www.culture.gov.uk) (link from the Licensing pages on the Council's website).

A number of information sheets are available on the Licensing pages at;

[http://www.reigate-banstead.gov.uk/public/Environment/EH/Licensing/new\\_licensing\\_act/advice.asp](http://www.reigate-banstead.gov.uk/public/Environment/EH/Licensing/new_licensing_act/advice.asp)

## LIST OF CONSULTEES

Surrey County Council – Trading Standards	R&BBC
Surrey Police	Head of Policy and Development Control
Surrey County Council – Safeguarding Children Unit	Food and Health& Safety Manager
Surrey Fire and Rescue Service	Environmental Protection Manager
British Transport Police	Policy Development Manager
Justices Clerk to S.E.Surrey Magistrates Court	Elected Members
Horley Town Council	
Salfords & Sidlow Parish Council	
Town Centre Management Groups	
Residents Association Chairpersons	
Horley Chambers of Commerce	
Crime and Disorder Reduction Partnership	
Surrey Alcohol and Drug Advisory Service (SADAS)	
Surrey Drugs Action Team	
Association of Convenience Stores	
Association of Licensed Multiple Retailers	
Bar, Entertainment and Dance Association	
British Beer and Pub Association	
British Retail Consortium	
British Institute of Innkeeping	
Federation of Licensed Victuallers Associations	
Federation of Small Businesses (Surrey & Sussex)	
Federation of Small Businesses (Surrey Hills)	
Society of Independent Brewers	
Wine & Spirit Ass	
Greene King	
J D Wetherspoons PLC	
Scottish & Newcastle PLC	
Fullers Smith and Turner PLC	
Mitchell & Butler PLC	
Whitbread Group PLC	
Shepherd Neame Ltd	
Young and Co	
NHS South East Coast	
East Surrey Primary Care Trust	
Surrey & Sussex Healthcare NHS Trust	
East Surrey Promotion and Health	
3x CAB	
Licensing solicitors	
Redhill and Reigate Taxi Association	
Arriva	
Metrobus	
Circus Arts Forum	
Equity	

## TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COMMITTEE	SUB-COMMITTEE	OFFICERS
Application for personal licence		If a representation made	If no representation made
Application for personal licence, with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no representation made
Application to vary designated premises supervisor		If a Police representation	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a Police representation	All other cases
Application for Interim Authorities		If a Police representation	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, repetitious, in the vicinity etc			All cases
Decision to object when local authority is a consultee and not the relevant Authority considering the application		All cases	
Determination of a Police representation to a temporary event notices		All cases	
Issue Counter Notices where the limitations relating to temporary event notices are exceeded.			All cases
Consider and determine applications for minor variations			All cases

## FURTHER GUIDANCE ON OTHER REGULATORY REGIMES

### PLANNING

Planning permission is usually required for the establishment of new premises and the change of use of premises. Planning permissions that are relevant to licensed premises include:

- a retail shop, licensed for the sale of liquor for example (A1);
- food and drink sold and consumed on the premises or where hot food is sold for consumption off the premises, including restaurants and bars (A3); and
- assembly and leisure uses, including cinemas, concert and indoor/outdoor sports and recreation (D2);
- a hotel that has a restaurant or bar included in its authorised use.

Under the current Use Classes Order, planning permission is generally required if the use of an existing premises changes use class. For example, planning permission would be required for a change from a shop (A1) to a restaurant or bar (A3). When applying for planning permission the Council, as local planning authority, will consider the potential impact from the proposed use within the context of the Development Plan and relevant Government guidance. The impact of a proposal may be considered in other ways, including the loss of the previous use (especially shops within town centres and local shopping centres) and the likely effect on neighbours. Planning permission is not required if the use of existing premises changes to a use within the same use class. For example, planning permission would not normally be required for a change from a restaurant (A3) to a bar (A3), or shop (A1) to an off –licence (A1).

Where restrictions have been placed on the use of premises (through the imposition of planning conditions) prior to an application being made for a licence, certificate or provisional statement, consideration will be given to the extent to which the application meets the overall licensing objectives and the policies contained within this statement. Where necessary, conditions will be attached to a certificate, licence or provisional statement in order to achieve the objectives of this policy. The granting of a licence, certificate or provisional statement will not override any requirement of the planning system or vice versa. The licensing system will provide the detailed control of operational matters, which are unlikely to be addressed through planning processes. However there will be overlapping issues of interest i.e. disturbance, which will remain material considerations for planning purposes.

### BUILDING CONTROL

Building Regulations govern a variety of issues, which will directly contribute to the licensing objectives, including means of escape, structural integrity, accessibility and public safety. “Approved Inspectors” offer a private sector alternative to local authority Building Control services. Building Regulations Approval and Completion Certificates will be required prior to the use of premises for licensable activities.

### PAVEMENT CAFE LICENCES

Surrey County Council will continue to issue highway consents under section 115E of the Highways Act 1980 for pavement cafes. (tel 0847 009009 website [www.surreycc.gov.uk](http://www.surreycc.gov.uk)). You may also need planning permission from Reigate and Banstead. If alcohol is to be served you will also need to obtain a Premises Licence.

### HEALTH & SAFETY AT WORK ETC ACT 1974

The Health & Safety at Work etc Act 1974 (and other relevant statutory provisions) impose duties on employers, employees and persons in control of premises to prevent where possible or minimise the risk of injury or ill health to people affected by work activities or the condition of the premises. Local authorities are the enforcing authority for the majority of premises where licensable activities mentioned in the policy are carried out; in other cases the Health & Safety Executive is responsible.



Licensing objectives overlap with health and safety requirements in so far as foreseeable risks to public safety would be covered by the duties imposed by relevant legislation. However these general duties, for example risk assessment under the Management of Health and Safety at Work Regulations 1999, may not adequately cover specific issues which arise from licensable activities i.e. aspects of entertainment. In these cases it may be more prudent to use conditions to ensure that an appropriate degree of control exists at all times during the operation of licensable activities.

## **DISABILITY DISCRIMINATION ACT 1995**

The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services and the management, buying or renting of land or property. For service providers, such as licensees:

- since December 1996 it has been unlawful to treat disabled people less favourably than other people for a reason related to their disability;
- since October 1999 they have had to make reasonable adjustments for disabled people, such as providing extra help or making changes to the way they provide their services; and
- from 2004 they will have to make reasonable adjustments to the physical features of their premises to overcome physical barriers to access.

## **HUMAN RIGHTS ACT 1998**

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The Council will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8 that everyone has the right to respect for his home and private life; and
- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.

## **ENVIRONMENTAL PROTECTION ACT 1990**

The Environmental Protection Act 1990 gives the Local Authority the ability to prevent and abate Statutory Nuisances by the service of Notice or in extreme cases applying for an injunction. The notice may require the abatement of the nuisance or prohibit or restrict its recurrence; require such works as necessary to abate the nuisance; specify the time in which the notice must be complied with.

(Statutory Nuisances are defined in Section 79 and include Noise from Premises, a vehicle, machinery or equipment in a street that are prejudicial to health or a nuisance).

For a matter to constitute a statutory nuisance within the meaning of the Environmental Protection Act it must have some bearing on the public health unlike nuisance within the meaning of the Licensing Act 2003.

## **THE REGULATORY (FIRE SAFETY) ORDER 2005**

A set of guides has been developed to tell you what you have to do to comply with fire safety law, help you to carry out a fire risk assessment and identify the general fire precautions you need to have in place. These are available from

<http://www.communities.gov.uk/fire/firesafety/firesafetylaw/aboutguides/>

## ANNEX 4

### CONTACT DETAILS

Further details about the licensing process, including application packs can be obtained from;

- R&BBC web site [www.reigate-banstead.gov.uk](http://www.reigate-banstead.gov.uk)
- Questions can be emailed to [licensing@reigate-banstead.gov.uk](mailto:licensing@reigate-banstead.gov.uk)
- Contact the Licensing Team directly on 01737 276428, or Council Helpline on 01737 276000, between 08.45 to 17.00hrs (Monday to Thursday), 08.45 to 16.45hrs Friday
- By post to; Licensing Manager  
Community Safety & Environmental Health  
Town Hall  
Reigate  
RH2 0SH  
Fax: 01737 276404

#### Responsible authorities can be contacted as follows;

- Surrey Police  
The Licensing Officer  
Reigate Police Station  
79 Reigate Road  
Reigate  
RH2 0RY  
Tel: 01483 630206
- Surrey Fire and Rescue Service  
Fire Safety  
Leatherhead Fire Station  
Cobham Road  
Leatherhead  
Surrey  
KT22 9AW  
Tel: 01737 224041  
Fax: 01737227603
- HSW Enforcement Agency  
Food and Health and Safety Manager  
Community Safety & Environmental Health  
Reigate & Banstead BC  
Town Hall  
Castlefield Road  
Reigate  
RH2 0SH  
Tel: 01737 276420  
Fax: 01737 276404
- Planning  
Head of Building and Development Services  
Reigate & Banstead BC  
Town Hall  
Castlefield Road  
Reigate  
RH2 0SH  
Tel: 01737 276000

- Environmental Protection  
Environmental Protection Manager  
Community Safety & Environmental Health  
Reigate & Banstead BC  
Town Hall  
Castlefield Road  
Reigate  
RH2 0SH  
Tel: 01737 276406  
Fax: 01737 276404
  
- Child Protection Authority  
Safeguarding Children Unit  
Children's Directorate, Services for Families  
Fairmont House  
Bull Hill  
Kingston Road  
Leatherhead  
Surrey  
KT22 7AH  
Tel: 01372 833310
  
- Surrey Trading Standards  
SCC Trading Standards Service  
Mid-Surrey Area Office  
Bay Tree Avenue  
Kingston Road  
Leatherhead  
Surrey  
KT22 7SY  
Tel: 01372 371700  
Email: [trading.standards@surreycc.gov.uk](mailto:trading.standards@surreycc.gov.uk)

## SUMMARY OF EFFECTIVE INTERVENTIONS

Surrey Community Safety Unit, Cedar Road, Cobham, Surrey KT11 2AE  
Tel 01932 795200 Fax 01932 795207

### SUMMARY OF EFFECTIVE INTERVENTIONS TO REDUCE: ALCOHOL RELATED DISORDER AND VIOLENT CRIME

This is one of a series of summary documents produced by Surrey Community Safety Unit containing a selection of successful initiatives introduced throughout the UK that have had some success in tackling the problem. More detailed information is available in the links referred to in the document.

This summary draws extensively on the Home Office Toolkit which can be found at [www.crimereduction.gov.uk/violence17](http://www.crimereduction.gov.uk/violence17) and the Together website [www.together.gov.uk](http://www.together.gov.uk)

**January 2006**

The initiatives outlined in this section are in three categories: LOCATION, VICTIM AND OFFENDER. They are then split into three types according to the approach they adopt: ENFORCEMENT, INTERVENTION AND PREVENTION.

#### LOCATION

The Home Office Together web site contains a How To Guide for Tackling Alcohol Fuelled Disorder in Town and City Centres. In summary, the guide recommends that local agencies should:

- Build an evidence base from police, council departments, citizens and other agencies to identify premises linked to disorder and inform license reviews when necessary
- Target enforcement efforts at staff and licensees in problem premises for serving alcohol to under-18s or to people who are drunk. Aim to change corporate behaviour in all local premises by hitting problem premises visibly, systematically and hard
- Where there is evidence, review licences and place appropriate conditions to reduce the impact of disorder
- Monitor closely whether conditions are adhered to and in the event of a breach consider exercising new police closure powers, or review licences again to further constrict or revoke the license
- Deploy enhanced emergency 24-hour closure powers in the face of imminent violence or public nuisance

Places where violent crime is a high risk come in two forms:  
**OPEN PUBLIC SPACES** and **INSIDE LICENSED PREMISES**.

The following measures are aimed at **OPEN SPACES**.

#### Enforcement

The various ways of controlling public open spaces include:

- § Targeted high visibility patrolling during peak times, using police officers, Special Constabulary, Police Community Support Officers (PCSOs) or town / community wardens
- § Deployment of a mobile CCTV / video team - this can be used to confront licensees about poor practice such as drunken people leaving premises still drinking etc
- § Deployment of a mobile police station to high demand areas
- § Search Powers, Section 60 of the Criminal Justice and Public Order Act 1994 - giving officers the authority to search people and vehicles coming into a certain area
- § Confiscation of alcohol from youths under the Confiscation of Alcohol (Young Persons) Act 1997 and Section 155 Licensing Act 2003 which includes confiscating open and closed containers
- § Creating Designated public place orders under s.13 Criminal Justice and Police Act 2001 (see Appendix 1 for a summary of new powers in this act) to limit alcohol consumption
- § Creating dispersal of groups zones under s.30 Anti-Social Behaviour Act 2003

- § Issuing warnings for anti-social behavior such as bad language and urinating in the street. The offender's details are then recorded on a database and if they are warned again within 6 months a prosecution will follow
- § Use of fixed penalty notices under the Criminal Justice and Police Act 2001 for non-drunk offences on the streets. One problem with this is that it won't then show as a conviction/caution - which could cause problems as to when a decision is made for a prosecution.

### **Interventions**

Initiatives that seek to intervene and reduce disorder in public places are:

- § CCTV in fixed strategic locations - so police resources can be better directed at peak times
- § Mobile CCTV systems to respond to any displacement of disorder due to fixed CCTV systems
- § A combination of high profile patrols, CCTV and improved lighting along specific routes
- § Deployment of bus or taxi marshals at designated taxi ranks and bus stations
- § Creating temporary pedestrian zones in areas with multiple late night venues to prevent disputes over passing taxis
- § Deploy mobile Accident and Emergency centres for major pre-planned events to reduce the deployment of police staff to violent incidents at A&E
- § If there is more than one taxi rank, they should be equal distance from the pubs and clubs but in opposite directions to ensure the dispersal of large groups
- § In conjunction with the Local Transport Executive, ensure public transport provision is in place at peak times. Consider a cash free bus, where tickets are bought in clubs and pubs. Police the transport system by police officers, town wardens or other guardians

### **Prevention**

- § Deploy specialist teams of Police Community Support Officers, Trading Standards Officers and Youth Personal Advisors to divert people away from alcohol related disorderly behavior and educate retailers on the law and steps (such as staff training and proof of age schemes) they should be taking to avoid selling alcohol to young people
- § Deploy refuse collectors at peak times to remove potential weapons e.g. bottles.
- § Secure all glass and bottle banks
- § Encourage voluntary staggered closing times of pubs and clubs to minimise the number of people competing for transport and food etc This cannot be made a condition of licence, however, as under the 2003 Licensing Act. Each premise has to be dealt with on individual merits without regard to other premises in the vicinity
- § when a premises applies to vary their hours, require them to put in a "no admittance or re-admittance after x hrs" so to avoid people leaving one pub and moving on mass to another
- § Employ guardians at taxi ranks and bus stations. If this is not possible small measures such as railings to form queues will encourage some order

The following measures are aimed **INSIDE LICENSED PREMISES**

### **Enforcement**

- § Routine visits to hot spots - including the use of video recording inside premises
- § Joint visits by the Fire Service, Environmental Health Officers and local authority licensing officers regarding compliance with relevant legislation
- § Consider the use of local authority Health and Safety Inspectors to reinforce crime reduction advice given to licensees
- § Provide a 'Quality Charter Mark' such as the "Best Bar None" system which is being introduced in Guildford borough to set the standards for licensed premises. This standard should be set by the industry and local authorities and can be used by pubs and clubs to attract custom. Regular checks of this standard should also be carried out
- § Use sniffer dogs on queues for clubs and pubs. This will act as a deterrent to potential drug dealing and use, which can lead to violent crimes
- § Use powers likely to be in the Violent Crime Reduction Act 2006 (when enacted) such as alcohol disorder zones (where licensees may be charged for the costs of policing), license reviews and closure notices for persistently selling alcohol to children
- § Make use of the new and consolidated powers in the Licensing Act 2003 (see Appendix 2)

### **Interventions**

- § Serviceable CCTV installed in premises as part of license conditions.
- § Night Net Radio / paging systems for all pubs within close proximity. The systems should also be directly linked to the police. This enables a rapid response from police to problems before they have time to escalate. Extending Pubwatch communications radio link to all licensed premises and late night refreshment houses

- § There should be a licensing team to ensure that licensees and door staff are adequately trained and aware of their responsibilities
- § Ensure door staff conform to the Security Industry Authority guidelines and the Private Security Industry Act 2001
- § Introducing a Citizens Card, other voluntary proof of age scheme or other means of establishing age and identity. The Licensing Act 2003 requires a defendant to take all reasonable steps to establish the age of the purchaser
- § Introducing of a Standard Code of Conduct for licensed premises to include; a generic incident report form, incident mapping systems, and an offence violations system
- § Introducing Amnesty Boxes and Metal Detectors into all clubs and pubs
- § Creation of a dedicated telephone number for the public to phone the police and confidentially report under age sales of alcohol.
- § Test purchasing operations by Trading Standards and Police to find out if sales are made to under-age young people

### **Prevention**

- § Gather evidence about problem premises to vary, revoke or add conditions to licences
- § Education of the licensed trade on the law and steps (such as staff training) they should be taking to avoid selling alcohol to young people
- § Implement safety glasses or plastic glasses and bottles, to eliminate the use of them as weapons
- § Door staff to wear high visibility jackets and photo ID badges. This will make them easily recognisable thus acting as a deterrent and making people feel safer in this environment
- § Discourage 'happy hours' and drinks promotions
- § Toilet attendants or CCTV in communal toilet areas. Toilet attendants provide authority figures as well as other hygiene and washroom related services

### **THE VICTIM**

#### **Enforcement**

- § Offer referral schemes for victims of crime whose own drunkenness may have contributed to them being a victim
- § Take photos of injuries for use as evidence later

#### **Interventions**

- § Involve NHS and Primary Care Trusts (PCTs) in intelligence gathering. They may be able to help gather more accurate figures on violent crime because a lot of violence goes unreported. Agree a Protocol with NHS / PCT for them to ask victims a standard pre-set questions
- § Consider a free-phone direct line for victims at A&E to speak to police
- § The creation of a licensees' forum can provide a stronger voice for pub owners, so they can voice issues of concern to local authorities, police and the alcohol industry
- § Setting up pubwatch or clubwatch schemes

#### **Prevention**

- § A media campaign to make potential victims aware of the risks associated with drunkenness. Marketing can also offer advice on safe routes home, taxi schemes and buses
- § A referral to Victim Support for all victims, increasing the confidence in support services and increasing the likelihood of the victim supporting a prosecution

### **THE OFFENDER**

#### **Enforcement**

- § Use of exclusion orders under the Licensed Premises Act 1980. This can be used to prevent a person convicted of a violent offence on licensed premises entering that or other specified premises again (this is likely to be up-dated in the Violent Crime Reduction Act 2006 as exclusions from licensed premises)
- § Make use of other powers in the Violent Crime Reduction Act (when enacted) such as the power to require a person to leave a locality and drinking banning orders
- § Use Anti-Social Behaviour Orders (ASBOs) and acceptable behaviour contracts to tackle aggressive and drunken forms of ASB
- § ASBOs on conviction under Section 1C of the Crime and Disorder Act (CDA) can be imposed after an offender has been convicted and sentenced to an offence. Bail conditions should be set to monitor the defendants behaviour whilst awaiting court appearances
- § Forces should have a policy of positive action for low level public disorder to reinforce what is acceptable behaviour within the night-time economy
- § The accurate recording of alcohol related violence together with making links between premises is vital for evidential purposes and for police tasking and co-ordination
- § Police should have a policy of victimless prosecutions where admissible evidence is available i.e. CCTV, showing disorder related to an assault where the victim will not press charges

- § Make use of the new fixed penalty notice offences under the Criminal Justice and Police Act 2001
- § Full use of all offences under the Licensing Act 2003 such as a drunk/disorderly person attempting to enter or refusing to leave a licensed premises (see Appendix 2)

#### **Interventions**

- § Establish a licensing database to monitor licensees, licensed premises and registered door staff. This will be invaluable to monitoring the movement of rogue door staff
- § Establish an alcohol treatment service for people who commit serious offences or persistently offend under the influence of alcohol

#### **Prevention**

- § News of convictions should be publicised internally and locally, in newspapers, local radio and via internal communication mechanisms. This will act as a deterrent to others
- § Promotion of the 'No ID no entry' theme
- § Development of alcohol arrest referral scheme
- § Education about safe use of alcohol and personal safety

## APPENDIX 1

### **Provisions for combating alcohol-related disorder in the Criminal Justice and Police Act 2001**

#### **Alcohol consumption in designated public places (12-16)**

The Act gives local authorities (districts and unitary authorities) the power to designate public areas in which it will become an offence to drink alcohol after being required by a police officer not to do so. The police will have the power to require the surrender of alcohol and containers in these circumstances, and those who fail to comply with either requirement will be liable to arrest. Only those public areas where disorder or public nuisance is associated with public drinking can be designated. Where areas are designated the provisions will replace public drinking byelaws that many local authorities have adopted for this purpose. This will create more uniform and comprehensive powers.

Before making an order a local authority has to consult: the chief police officer, the parish or community council, licensees and relevant landowners. The local authority has to publicise the proposed scheme. An order will not be granted until at least 28 days after the initial publicity. If an order is granted the local authority again has to publicise the scheme. Signs must be erected to clearly identify the area to the public.

#### **Closure of unlicensed premises (19-28)**

It is an offence to use unlicensed premises for the sale of alcohol, and alcohol on such premises may be confiscated. However, the profits of unlicensed drinking establishments are such that the owners of these premises can often absorb the costs of police raids on them, the seizure of alcohol and the prosecution of staff working in such premises. In practice therefore the premises often re-open quickly having been re-stocked and re-staffed. **The Act provides the police and local authorities with powers to obtain court orders to close down such premises.** This would prevent owners from quickly re-stocking and re-opening the premises.

## APPENDIX 2

### **New police powers under the Licensing Act 2003**

- expand police powers to close down disorderly and noisy licensed premises including all entertainment premises, night cafés and night take-aways;
- empower the police, residents and others to seek a review of licences, backed by an extended range of measures which impact on businesses and their profits including limiting opening hours;
- increase fines - as well as the potential suspension for up to six months or forfeiture of personal licences, following conviction for offences of allowing disorderly conduct or sales of alcohol to people who are drunk;
- increase penalties for breach of licence conditions - a person faces a maximum fine of £20,000 or imprisonment for up to six months or both; and
- increase penalties for selling alcohol to children (up to £5000) and make it possible for courts to suspend or forfeit personal licences at first offence and not only on second conviction as now.

### **A number of offences and powers are created or consolidated in the Part 7 of the Act:**

Section 136 - Unauthorised licensable activities  
Section 137 - Exposing alcohol for unauthorised sale  
Section 138 - Keeping alcohol on premises for unauthorised sale  
Section 139 - Defence of due diligence  
Section 140 - Allowing disorderly conduct on licensed premises etc.  
Section 141 - Sale of alcohol to a person who is drunk  
Section 142 - Obtaining alcohol for a person who is drunk  
Section 143 - Failure to leave licensed premises when drunk and instructed to do so by a constable  
Section 144 - Keeping of smuggled goods  
Section 145 - Unaccompanied children prohibited from certain premises.  
Section 146 - Sale of alcohol to children  
Section 147 - Allowing sale of alcohol to children  
Section 148 - Sale of liqueur confectionery to children under 16  
Section 149 - Purchase of alcohol by or on behalf of children  
Section 150 - Consumption of alcohol by children  
Section 151 - Delivering alcohol to children  
Section 152 - Sending a child to obtain alcohol  
Section 153 - Prohibition of unsupervised sales by children  
Section 154 - Enforcement role for weights and measures authorities  
Section 155 - Confiscation of sealed containers for alcohol  
Section 156 - Prohibition of sale of alcohol on moving vehicles  
Section 157 - Power to prohibit sale of alcohol on trains  
Section 158 - False statements made for the purposes of this Act

### **Part 8: Closure of premises**

Section 160 - Order to close premises in an area experiencing disorder



<b>SUMMARY OF EFFECTIVE INTERVENTIONS TO REDUCE: ALCOHOL RELATED DISORDER AND VIOLENT CRIME</b>			
<b>OPEN SPACES</b>	<b>LICENSED PREMISES</b>	<b>VICTIM</b>	<b>OFFENDER</b>
<b>ENFORCEMENT</b>			
High visibility patrolling	Routine visits to hot spots	Referral schemes for victims of crime whose own drunkenness may have contributed to them being a victim	Exclusion orders
Mobile CCTV	Joint visits regarding compliance with relevant legislation		Use of other powers in the Violent Crime Reduction Act
Search Powers	Health and Safety Inspectors		Use <u>Anti-Social Behaviour Orders (ASBOs)</u> and <u>acceptable behaviour contracts</u>
Confiscating open and closed containers	Provide a ' <u>Quality Charter Mark</u> '	Take photos of injuries for use as evidence later	Use of ASBOs on conviction
<u>Designated public place orders</u>	Use sniffer dogs on queues		A policy of positive action for low level public disorder
<u>Creating dispersal of groups zones</u>	Use of powers likely to be in the <u>Violent Crime Reduction Act 2006</u>		Accurate recording of alcohol related violence
Issuing warnings for anti-social behaviour in the street.	Use of new and consolidated powers in the <u>Licensing Act 2003</u>		A policy of victimless prosecutions
Use of fixed penalty notices			Use of the new fixed penalty notice offences
			Use of all offences under the Licensing Act 2003
<b>INTERVENTIONS</b>			
CCTV in fixed strategic locations	CCTV installed in premises	Involve NHS and <u>Primary Care Trusts (PCTs)</u> in intelligence gathering	Establish a licensing database to monitor licensees
Pubwatch communications radio link			
CCTV and improved lighting along specific routes	Establish a joint licensing team to ensure that licensees and door staff are adequately trained	Free-phone direct line for victims at A&E to speak to police	Establish an alcohol treatment service
Bus or taxi marshals	Door staff conform to the <u>Security Industry Authority guidelines</u>	The creation of a licensees' forum	
Temporary pedestrian zones	Voluntary proof of age scheme	Setting up pubwatch or clubwatch schemes	
Mobile Accident and Emergency centres	Standard Code of Conduct for licensed premises		
Taxi ranks equal distance from the pubs and clubs but in opposite directions	Amnesty Boxes and Metal Detectors		
Public transport provision in place at peak times	Telephone number for the public to confidentially report under age sales of alcohol		

	Test purchasing operations		
<b>PREVENTION</b>			
Divert people away from alcohol related disorderly behaviour and educate retailers	Gather evidence about problem premises	A media campaign to make potential victims aware of the risks associated with drunkenness	Convictions should be publicised
Refuse collectors to remove potential weapons	Education of the licensed trade		Promotion of the 'No ID no entry' theme
Secure glass and bottle banks	Implement safety glasses or plastic glasses and bottles	Referral to Victim Support for all victims	Alcohol arrest referral scheme
Encourage voluntary staggered closing times of pubs and clubs	Door staff to wear high visibility jackets and photo ID badges		Education about safe use of alcohol and personal safety
"No admittance or re-admittance after xxxx hrs"	Discourage 'happy hours' and drinks promotions		
CCTV in taxis	Toilet attendants or CCTV in communal toilet areas		
Railings to form queues			

27 January 2006

## GLOSSARY

DCMS	Department of Culture, Media and Sport
R&BBC	Reigate and Banstead Borough Council
SIA	Security Industry Authority
'Designated Premises Supervisor'	the person (who must be a Personal Licence holder), in the case of premises selling alcohol, who will have been given day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder himself (who must also be a Personal Licence holder)
'Interested Party'	means any of the following: <ul style="list-style-type: none"> <li>• a person living in the vicinity of the premises</li> <li>• a body representing persons who live in that vicinity</li> <li>• a person involved in a business in that vicinity</li> <li>• a body representing persons involved in such businesses</li> <li>• a member of the relevant licensing authority</li> </ul>
'Late Night Refreshment'	the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11pm and 5am
'Licensable Activities'	means: <ul style="list-style-type: none"> <li>• the sale by retail of alcohol</li> <li>• the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club</li> <li>• the provision of Regulated Entertainment</li> <li>• the provision of Late Night Refreshment</li> </ul>
'Operating Schedule'	a document containing a statement of the following matters (and any others that may be prescribed): <ul style="list-style-type: none"> <li>• the relevant Licensing Activities</li> <li>• the times at which the Licensable Activities are to take place and any other times the premises are open to the public</li> <li>• information regarding the person who will be specified in the Premises Licence as the Premises Supervisor</li> <li>• where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises</li> <li>• the steps being taken to promote the Licensing Objectives</li> </ul>
'Regulated Entertainment'	where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators: <ul style="list-style-type: none"> <li>• a performance of a play</li> <li>• an exhibition of a film</li> <li>• an indoor sporting event</li> <li>• a boxing or wrestling entertainment</li> <li>• a performance of live music</li> <li>• any playing of recorded music</li> <li>• a performance of dance</li> <li>• entertainment of a similar description to that falling in the previous three categories listed above</li> </ul>

'Responsible Authority'

means any of the following:

- the Chief Officer of Police
- the Fire Authority
- the enforcing authority for Health and Safety
- the local Planning authority
- the local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health
- the body representing matters relating to the protection of children from harm

'Temporary Event Notice'

the notification of a Permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations:

- duration – limited to events lasting up to 96 hours
- scale – not more than 499 people present at any one time
- use of same premises – same premises cannot be used on more than 12 occasions in a calendar year, but subject to an aggregate limit of not more than 15 days irrespective of number of occasions
- number of notices by an individual – Personal Licence holder limited to 50 notices in one year, anyone else limited to 5 in a similar period

- in all other circumstances a Full Premises Licence or a Club Premises Certificate will be required for the period of the event involved

## Comments on the draft Licensing Policy

*Please note that you may reply on a separate piece of paper if you prefer*

Q1. **Your name**

Q2. **Address**

Q3. **Name of organisation  
(if replying on behalf of  
organisation or association)**

Q4. **Do you feel the policy is clearly written  
and easy to understand?** Yes .....  No .....

**If not please comment on areas for improvement**

Q5. **Bearing in mind the characteristics of the  
Borough and that Surrey has one of the  
lowest crime rates in the Country; do you  
consider the draft policy is a balanced one?  
In particular –does it strike the right balance  
between addressing the needs of the  
residents and neighbours with those of  
licensees?** Yes....  No....   
Yes....  No....

**If no what do you think should be added or deleted?**

**Q6. Do you agree with the aims and objectives of the policy as described in Para 1.2,** Yes....  No....

**If not, what would you like to see included or deleted, and why?**

**Q7. Do you have any suggestions or advice as to how the Council may further promote the licensing objectives as listed in paragraphs 6 to 9?** Yes.....  No....

**If yes, please give you reasons why**

Q8

**General**

**If you have any other comments or suggestions regarding the Draft Policy we would be pleased to receive them**



