

To: All Members of the LICENSING AND
REGULATORY COMMITTEE
(Other Members for Information)

When calling please ask for:

Kimberly Soane, Democratic Services Officer
Legal & Democratic Services

E-mail: kimberly.soane@waverley.gov.uk

Direct line: 01483 523258

Calls may be recorded for training or monitoring

Date: 17 February 2023

Membership of the Licensing and Regulatory Committee

Cllr Robert Knowles (Chair)
Cllr Michael Goodridge (Vice Chair)
Cllr Martin D'Arcy
Cllr Jerome Davidson
Cllr Patricia Ellis
Cllr Jerry Hyman

Cllr Anna James
Cllr Jacquie Keen
Cllr David Munro
Cllr Ruth Reed
Cllr John Ward

Substitutes

Cllr Steve Cosser
Cllr Jenny Else

Cllr Joan Heagin
Cllr Michaela Martin

Members who are unable to attend this meeting must submit apologies by the end of Monday, 20 February 2023 to enable a substitute to be arranged.

Dear Councillors

A meeting of the LICENSING AND REGULATORY COMMITTEE will be held as follows:

DATE: MONDAY, 27 FEBRUARY 2023

TIME: 10.00 AM

PLACE:

The Agenda for the meeting is set out below.

The meeting can be viewed remotely via the Council's YouTube channel or
www.waverley.gov.uk/webcast.

Yours sincerely

Stephen Rix,
Executive Head of Legal & Democratic Services (Interim) & Monitoring Officer

Most of our publications can be provided in alternative formats. For an audio version, large print, text only or a translated copy of this publication, please contact committees@waverley.gov.uk or call 01483 523351

NOTE FOR MEMBERS

Members are reminded that contact officers are shown at the end of each report and members are welcome to raise questions etc in advance of the meeting with the appropriate officer.

AGENDA

1. **APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

To receive apologies for absence and to report any substitutions

2. **MINUTES**

To receive the minutes of the meeting held on 23 May 2022 and published on the Council's website.

3. **DECLARATIONS OF INTEREST**

To receive from members declarations of interest in relation to any items included on the agenda for this meeting, in accordance with the Waverley Code of Local Government Conduct.

4. **QUESTIONS FROM MEMBERS OF THE PUBLIC**

The Chairman to respond to any questions received from members of the public in accordance with Procedure Rule 10.

The deadline for submission of written questions for this meeting is Monday 20 February 2023.

5. **QUESTIONS FROM MEMBERS**

The Chairman to respond to any questions received from Members in accordance with Procedure Rule 11.

The deadline for submission of written questions for this meeting is Monday 20 February 2023.

6. **ACTION AUTHORISED**

To receive any action taken by the Executive Director after consultation with the Chairman and Vice-Chairman since the last meeting.

PART I - RECOMMENDATIONS TO THE COUNCIL

7. DRAFT LICENSING POLICY & REPORT (Pages 5 - 54)

To approve for consultation the draft Statement of Licensing Policy 2023-2028.

8. FEES (Pages 55 - 64)

The purpose of this report is to seek the Committee's agreement to its draft Revenue Estimates and Fees and Charges for 2023/24 as part of the Budget process. This report updates the Committee on the latest position regarding the draft General Fund Budget for 2023/24

PART II - MATTERS OF REPORT

LICENSING ACT 2003 ITEMS

9. LICENSING AND GENERAL PURPOSE AND LICENSING SUB A,B AND C

To approve the minutes of the meetings of the Licensing and General Purposes and Licensing Sub meetings held since the last Licensing & Regulatory Meeting and published on the Councils Website and Intranet.

Licensing and General Purpose

22 August 2022, 15 December 2022, 23 January 2023

Licensing Sub A

11 July 2022, 25 July 2022, 8 August 2022, 17 October 2022

Licensing Sub B

6 June 2022

Licensing Sub C

4 July 2022, 7 November 2022, 23 January 2023

10. EXCLUSION OF PRESS AND PUBLIC

To consider the following recommendation on the motion of the Chairman:-

Recommendation

That pursuant to Procedure Rule 20 and in accordance with Section 100B(5) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the items, there would be disclosure to them of exempt information (as defined by Section 100I

of the Act) of the description specified in the appropriate paragraph(s) of the revised Part 1 of Schedule 12A to the Act (to be identified, as necessary, at the meeting).

11. LEGAL ADVICE

To consider any legal advice relating to any items in the agenda.

**For further information or assistance, please telephone
Kimberly Soane, Democratic Services Officer, on 01483 523258 or by
email at kimberly.soane@waverley.gov.uk**

Waverley Borough Council

LICENSING AND REGULATORY COMMITTEE

27 FEBRUARY 2023

Title:

**LICENSING ACT 2003 - REVIEW OF THE
COUNCIL'S STATEMENT OF LICENSING POLICY**

[Wards Affected: All]

Portfolio Holder: Cllr MacLeod, Portfolio Holder for Enforcement, Operations & Brightwells

Head of Service: Richard Homewood
Executive Head of Regulatory Services

Key decision: No
Access: Public

1.0 Purpose and Summary:

1.1 To approve for consultation the draft Statement of Licensing Policy 2023-2028.

2.0 Introduction

2.1. The Licensing Act 2003 came into effect on 25 November 2005. The Act introduced a new regime for the licensing of alcohol, regulated entertainment and late night refreshment, to be administered by the local licensing authority (within Waverley, this Council.) Section 5 of the Licensing Act 2003 requires a licensing authority to prepare and publish a statement of its licensing policy at least every five years. During the five-year period, the policy must be kept under review and the licensing authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the licensing objectives are being met.

2.2 The Statement of Licensing Policy ('the Policy') is expected to set out, for the benefit of applicants, responsible authorities and members of the community how the Licensing Authority intends to exercise its powers under the Act, including:

- How the Licensing Authority will use its regulatory powers in relation to applications and reviews of licensed activities, to the extent that it is allowed by statute
- The Authority's approach to regulation
- A Scheme of Delegation.

The Policy must also comply with the statutory guidance issued under section 182 of the Act.

2.3 In determining the Policy, the Authority must conduct a statutory consultation as set out in the Act and which includes the following consultees:

- The Chief Officer of Police for the Licensing Authority area
- The Fire and Rescue Authority for the area
- Such persons as the Licensing Authority consider to be representative of the holders of existing premise and personal licences
- Such persons as the Licensing Authority consider to be representative of the holders of existing club premises certificates issued by the Authority
- Such persons as the Licensing Authority consider to be representative of businesses and residents in the Authority's area
- Director of Public Health.

2.4 The Council's current Policy has been in place since 01 August 2018 and will expire on 1 August 2023. In accordance with legislation the Statement of Licensing Policy must undergo a full review and public consultation.

2.5 The Statement of Licensing Policy has initially been reviewed and updated by officers to propose:

- Updated information regarding Waverley's population following the 2021 Census
- Reference to the revised (Dec 2022) statutory guidance
- Updates to the Council's vision/policies/partnerships/and weblinks/email addresses
- Addition of measures in line with updated Home Office strategy and other guidance to prevent spiking sexual harassment, together with the promotion of Pubwatch and the campaign 'Ask for Angela'
- Updating 'sources of information' organisations, websites and contact details
- General formatting/grammatical changes

2.6 A draft proposed Statement of Licensing Policy, incorporating the suggested amendments made by officers from the existing Statement of

Licensing is attached at **Annexe 1 for members to consider**. The tracked changes are shown in coloured type. (Please note the differing colours do not reflect anything specific other than an amendment/change)

Statement of Licensing Policy - public consultation

2.7 If agreed, the consultation will be conducted through a written process to all Responsible Authorities, 4 x local Pub Watch Schemes, Citizens Advice Centers, Chambers of Commerce, Town and Parish Councils and via the Council's website.

2.8 The provisional timetable for the review and implementation of the Statement of Licensing Policy 2023-2028 is as follows:

- Commence review, write to consultees, and place consultation information on the Council's website on 03 March 2023
- Consultation period ends 19 May 2023 (11 weeks) - followed by:
- Licensing and Regulatory Committee considers the outcome of the consultation and determined whether the draft policy is recommended to Full Council for adoption 05 June 2023
- Full Council 18 July 2023
- Publication on Council's website 01 August 2023
- Policy comes into effect 01 August 2023

3.0 Conclusion

3.1 The Statement of Licensing Policy is ultimately set by full Council in line with legislation. The Committee is asked to note the contents of the report, and to consider and approve this draft Statement of Licensing Policy 2023-28 for statutory consultation

4.0 Recommendation

4.1 The Committee is asked to RESOLVE to

5.1.1 Approve the draft revised Statement of Licensing Policy for consultation

5.0 Reason for the recommendation(s)

5.1 In accordance with The Licensing Act 2003, the Council must have a Statement of Licensing Policy that it keeps under review, and that it must completely review and republish the Policy every five years.

6.0. **Relationship to the Corporate Strategy and Service Plan(s)**

6.1 The Statement of Licensing Policy and Principles under the Licensing Act 2003 whilst being a statutory duty of the Council helps to deliver the Council's strategic outcomes in promoting a thriving local economy, supporting business and employment, encouraging small businesses and promoting the health and wellbeing of our communities, helping to ensure that licensing activity is safe and controlled.

7.0 **Implications of decision(s)**

7.1 **Resource (Finance, procurement, staffing, IT)**

There are no immediate resource implications in this report; resources required to fulfil the Council's duties in respect of the licensing process are met from the existing budget.

7.2 **Risk management**

The Statement of Licensing Policy is in place to ensure public safety when using these services and to ensure the appropriate balances and mitigations are in place to minimise risk to public safety whilst enabling businesses to trade effectively, efficiently and legally.

The Statement of Licensing Policy is required to comply with the statutory guidance. Failure to do so would invite legal challenge to decisions on applications and reviews subsequently made under the Act.

7.3 **Legal**

Section 5(1) of the Licensing Act 2003 requires the Licensing Authority to prepare and publish a Statement of Licensing Policy every 5 years.

When determining its policy, the Council is exercising a licensing function and as such must have regard to the Guidance issued by the Secretary of State under section 182 of the Act. It must also give appropriate weight to the views of those persons/bodies listed in section 5(3) of the Act which it is required to consult before determining its policy.

Although the Guidance represents best practice, it is not binding on the Council. As long as the Guidance has been properly and carefully considered, licensing authorities may depart from it if they have reason to do so. In this event, they will need to give full reasons for their decisions, which must be consistent with the objectives of the 2003 Act.

The Council is required to have regard to the statement of licensing policy and make decisions in accordance with it. Licensing authorities may depart from their policy if the individual circumstances of the case merit such a decision in the interests of promoting the licensing objectives. In this event it is important that full reasons are given for departing from the published statement of licensing policy.

- Members should note that the 2003 Act imposes a duty on the Council, as the licensing authority, to carry out its functions under the Act with a view to promoting the four licensing objectives, namely
- The prevention of crime and disorder
- The promotion of public safety
- The prevention of public nuisance
- The protection of children from harm

The statement of licensing policy cannot seek to impose 'blanket' conditions. Each application must be considered on its own merits. Conditions can only be imposed on a licence if they are necessary to promote the licensing objectives in relation to the specific premises and are a proportionate response to the specific situation to be addressed.

Licensing is about regulating the carrying on of licensable activities within the terms of the 2003 Act. The statement of licensing policy should make clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business carrying on licensable activities. However the Guidance also states that licensing law is a key aspect of such control and should be part of a holistic approach to the management of the evening / night-time economy. It is therefore desirable that the statement of licensing policy is in line with the Council's wider objectives and consistent with other policies.

Members should note that the statement of licensing policy should not be inconsistent with the provisions of the 2003 Act or obligations placed on the Council under any other legislation, including human rights legislation. Members should also note that the Council has a duty under section 17 of the Crime and Disorder Act 1998 when carrying out its function as a licensing authority, to do all it reasonably can to prevent crime and disorder within the Borough.

8.4 Equality, diversity and inclusion

The Licensing Policy sets out the framework within which decisions are made that impact crime and disorder, public safety, public nuisance and the protection of children from harm. There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when

necessary across the Council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

8.5 Climate emergency declaration

There are no implications arising from the recommendations contained within this report in terms of meeting the Council's climate change obligations.

8.6 Consultation and engagement

The Statement of Licensing Policy will be subject to consultation with the public as set out above 2.8. before being finalised.

8.7 Other options considered

As licensing authority, the Council is required under the Licensing Act 2003 to draft, consult on, approve and publish a Statement of Licensing Policy which must be reviewed a minimum of every 5 years.

8.8 Governance journey

Under the Local Authorities (Functions and Responsibilities)(England) Regulations 2000, as amended, decisions relating to licensing matters cannot be the responsibility of an authority's executive. The 2003 Act provides that whilst the majority of the functions of the licensing authority are to be taken or carried out by its licensing authority, decisions relating to the statement of licensing policy cannot be delegated in such a way. The final decision on whether to adopt the statement of licensing policy must therefore be taken by the Council.

Annexes:

Annexe 1 – A draft revised Statement of Licensing Policy, incorporating the changes/amendments made by officers from the existing Statement of Licensing.

Background Papers

Licensing Act 2003 and revised Licensing Act Guidance Dec 2022

CONTACT OFFICER:

Name Paul Hughes:

Position: Licensing & Environmental Enforcement Manager

Telephone: 0148 3523189

Email: paul.hughes@waverley.gov.uk

Agreed and signed off by:

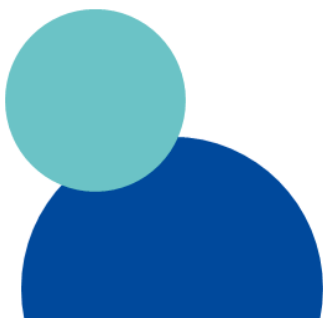
Legal Services: date

Head of Finance: date
Strategic Director: date
Portfolio Holder: date

This page is intentionally left blank

Waverley Borough Council
**Statement of Licensing
Policy**

Latest version number:
Latest publication date:
Paul Hughes Licensing Manager:



Document Information & Governance

Approval & Publication:

[Please advise the Corporate Policy Team of any Strategies, Policies and Procedures which need to be added to the Corporate Documents Review Register.]

Approving Body	Approval route requirement	Publication Type	Publication requirement	Review frequency	Document owner	Next Review Date
<i>e.g. Executive, Council,</i>		<i>Internal/ external</i>	<i>Required by x legislation</i>	<i>e.g. Annual</i>		
<i>E.g. Management Board</i>	<i>There are no legal or constitutional requirements for approval</i>	<i>Internal</i>	<i>There are no legal or constitutional requirements for publication</i>			

Version Control Information:

[Please ensure changes to your document are recorded in the Version Control History section below. As a guide versions 0.1, 0.2, etc. are used until document is published when it becomes V1. The v2, v3, v4 would indicate new versions following a review and v1.1, v2.1, would indicate in year smaller corrections to the document] – remove.

Version	Version Status (Draft, Approved /Published Internally or Externally)	Date	Version Comment	Version Author
V0.1	Draft	05/08/2019	Creation of the document	
V0.2	Approved Draft		Approved by JCC	
V0.3	Approved Draft		Approved by Management Board	
V0.4	Final Approval		Approved by the Executive	
V1	Published		1 st Publication	
V1.1	Draft		In year corrections	
V1.2	Final Approved & Re-Publication		In year correction approval by Management Board	
V2			Full Annual review	

Impact Assessments and Consideration:

Impact Assessment Type	Required / Not Required	Date Completed	Impact Assessments and Considerations Comment	Assessment Owner
Equality Impact Assessment				
Data Protection Impact Assessment				

Impact Assessment Type	Required / Not Required	Date Completed	Impact Assessments and Considerations Comment	Assessment Owner
Climate Change				

Document Statement

*This statement section should include a short, high level summary of what the document aims to do or what it is trying to achieve – typically a statement may include “Waverley is committed to” Or “Waverley aims to....”
It may include reference to legislation.*

Scope and Purpose

This section includes the main text of the document which may be split into a number of sections depending on the complexity.

It may be relevant to include the following sections:

- *Introduction*
- *Legislative/Regulatory Context*
- *Definitions*
- *Roles and responsibilities*
- *Training and support*

If your document is a policy and it includes a procedure this should be appended separately so that the procedure document can be read as a stand alone document.

Document Improvement

The Council welcomes comments and feedback on its policies and procedures. Please contact *name of the document author and their department/team name* if you have any comments.

Related information

Other Related Council Policies / Information

(Title of related policy, procedure, or form hyperlinked when possible)

Other Documents



STATEMENT OF LICENSING POLICY

**Effective Period:
01 August 2023 to 31 July 2028**

Approved by the Council at its meeting on

CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
1.	Introduction	2
2.	The Statement of Licensing Policy	4
3.	Consultation	4
4.	Administration, Exercise and Delegation of Functions	4
5.	Fundamental Principles	5
The Four Licensing Objectives		
6.	Prevention of Crime and Disorder (LO 1)	8
7.	Public Safety (LO 2)	13
8.	Prevention of Public Nuisance (LO 3)	15
9.	Protection of Children from Harm (LO 4)	17
10.	Licensing Hours	21
11.	Transfer of Licences	21
12.	Variation of Licences	21
13.	Provisional Statements	22
14.	Sexual Entertainment Venues	22
15.	Complaints / Review of Licences	22
16.	Permitted Temporary Activities	22
17.	Shops, Stores and Supermarkets	23
18.	Integrating Strategies and Avoiding Duplication	23
19.	Enforcement	26
20.	Appeals	26
21.	Further information	26
Annex 1	Responsible Authorities	27
Annex 2	Useful sources of information	29
Annex 3	Table of Delegations of Licensing Functions	30

1. INTRODUCTION

- 1.1 Waverley Borough covers an area of 345 square kilometres in southwest Surrey and is the largest district by geographic area in Surrey. The Borough is predominantly rural; three-quarters of the area is agricultural land and woodland, 61 per cent is Green Belt and 80 per cent is covered by environmental protection policies including the Surrey Hills Area of Outstanding Natural Beauty. Waverley is 35 miles from central London and is served by good strategic road and rail links but has a predominantly rural road network and limited public transport.
- 1.2 According to the 2021 Census, Waverley has a population of 128,200, of whom three-quarters live in the Borough's four main settlements; Farnham, Godalming, Haslemere and Cranleigh. In Waverley 17.9% of the population was under 15, 60.4% were 15-64 and 21.8% were over 65.
- 1.3 The Council's decision making and work plans are underpinned by a set of policies, strategies and plans. A list of these policies is available on the Council's website at <https://www.waverley.gov.uk/Services/Council-information/About-Waverley-Borough-Council/Corporate-Strategy-2020-25> .In particular the Council's vision sets the high level priorities for the council and is *is that Waverley will be environmentally, economically and financially sustainable with healthy, inclusive communities and housing available for all who need it.*
- 1.4 The Council recognises that the entertainment and leisure industry, and shopping, contribute to Waverley's urban and rural economies. These have a part to play in attracting tourists and visitors and are major employers.
- 1.5 Rural pubs and restaurants are an important part of village life, and pubs, bistros and restaurants contribute to the vitality of Waverley's towns, together with the arts and entertainment venues throughout the Borough.
- 1.6 In the past in Waverley, some licensed premises have caused nuisance to residents, either from noise or from behaviour of customers. Waverley wants to encourage all licensees to operate premises in a way that minimises future impact on neighbouring residents.
- 1.7 Waverley will also take into account wider issues of crime, disorder and nuisance including noise, littering and fouling of streets, street crime, together with the capacity of public transport and police to cope with concentrations of customers, particularly at night time.
- 1.8 This Statement of Licensing Policy ("this Policy") will both guide the Council in exercising its licensing functions as Licensing Authority for the Borough, and provide clarity for applicants for licensing and for residents.
- 1.9 Applicants should consider when submitting operating schedules associated with their licensing applications to show how their proposals will meet this Policy and the Government's stated Licensing Objectives.
- 1.10 The Council 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 Waverley for the activities described by the Act as "Licensable Activities". These activities include:-

- (a) Retail sale of alcohol, including pubs, nightclubs and shops
- (b) Supply of alcohol to club members
- (c) Provision of “regulated entertainment” (listed below) – to the public, to club members or with a view to profit
 - (1) A performance of a play (more than 500 persons and/or between 2300 and 0800 hours)
 - (2) A showing of a film
 - (3) An indoor sporting event (more than 1000 persons and/or between 2300 and 0800 hours)
 - (4) Boxing or wrestling entertainment (whether indoor or outdoor for more than 1000 persons and/or between 2300 and 0800 hours))
 - (5) A performance of live music (but note the changes brought in by the Live Music Act 2012-see ‘NOTE’ below;
 - (6) Any playing of recorded music (but note the changes brought in by the Live Music Act 2012-see ‘NOTE’ below;
 - (7) A performance of dance (more than 500 persons and/or between 2300 and 0800 hours)
 - (8) Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance, and including karaoke

NOTE

The Live Music Act 2012 and Deregulation Act 2015 amended the Licensing Act 2003 by deregulating aspects of the performance of live and recorded music so that, in certain circumstances, it is not a licensable activity. However, live and recorded music remains licensable;

- Where a performance of live (amplified or unamplified) and/or recorded music– whether amplified or unamplified – takes place before 0800 and after 2300 on any day
- Where a performance of amplified live and/or recorded music does not take place either on relevant licensed premises, or at a workplace that is not licensed other than for the provision of late night refreshment
- Where a performance of amplified live and/or recorded music takes place at relevant licensed premises, at a time when those premises are not open for the purposes of being used for the supply of alcohol for consumption on the premises
- Where a performance of amplified live and/or recorded music takes place at relevant licensed premises, or workplaces, in the presence of an audience of more than 500 people or
- Where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act when imposing a condition on a premises licence or certificate as a result of a licence review

NOTE The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 deregulates aspects of the performance of a play, performance of dance and indoor sporting events.

- It deregulates performance of plays / dance for audiences of up to 500 people, between the hours of 08:00 and 23:00 (with the exception of dancing for which a Sexual Entertainment Venue Licence is required);
- It deregulates indoor sporting events for audiences of up to 1000 people, between the hours of 08:00 and 23:00; and
- It clarifies that Combined Fighting Sports (Mixed Martial Arts etc) are a form of Boxing and Wrestling and will continue to be regulated.

(d) The supply of hot food and/or drink from any premises between 11.00 pm and 5.00 am – the provision of “Late Night Refreshment”.

2. THE STATEMENT OF LICENSING POLICY (Section 5(1) of Act)

- 2.1 The Act requires that the Licensing Authority publishes a “Statement of Licensing Policy” that sets out the policies the Licensing Authority will apply in the exercise of its licensing functions under the Act. The Licensing Authority is obliged by the Act to review this Policy every five years.
- 2.2 This Policy has been prepared in accordance with the provisions of the Act and having regard to the statutory (amended December 2022) guidance issued under Section 182 of the Act (“the Guidance”). This Policy will take effect on 1st August 2023 and will remain in force for a period of not more than 5 years, during which time it will be kept under review.

3. CONSULTATION

- 3.1 This Policy has been prepared in consultation with the “Responsible Authorities” listed in Annex 1 to this Policy, bodies representing existing licence holders, representatives of registered clubs and businesses, residents in the Borough and advertised on Waverley’s website. The views of all these bodies, and evidence presented, have been given due weight in the determination of this Policy.

4. ADMINISTRATION, EXERCISE & DELEGATION OF FUNCTIONS

- 4.1 The powers of the Licensing Authority under the Act may be carried out by the Council’s Licensing and Regulatory Committee, by its Licensing Sub-Committees or by one or more officers acting under delegated authority.
- 4.2 In the interests of speed, efficiency and cost-effectiveness to all parties involved in the licensing process, the Council has established a scheme of delegation to deal with applications received under the Act.

- 4.3 This form of delegation is without prejudice to the Officers referring an application to a Sub-Committee, or a Sub-Committee to the Licensing and Regulatory Committee, if considered appropriate in the circumstances of any particular case, and only in accordance with the Act.
- 4.4 Any applications dealt with by Officers will be reported weekly via email to the Licensing Chairman and Vice Chairman for the purposes of information and comment only.
- 4.5 The Council's approved table of delegation, showing the decision-making process for applications under the Licensing Act 2003, is attached at Annex 3 to this Policy document.

5. FUNDAMENTAL PRINCIPLES

- 5.1 The Act requires that the Licensing Authority carry out its various licensing functions so as to promote the following four licensing objectives:-
- **the prevention of crime and disorder**
 - **public safety**
 - **the prevention of public nuisance**
 - **the protection of children from harm.**
- 5.2 Each objective is of equal importance. It is important to note that there are no other licensing objectives, and therefore these four objectives are paramount considerations at all times. These four licensing objectives are considered in more detail in sections 6 to 9.
- 5.3 Due to the similarity between the application processes for both premises licences and club premises certificates, a reference to a premises licence in this section will also be a reference to a club premises certificate.
- 5.4 All applications for new premises licences and variations need to be supported by an operating schedule. The schedule must specify (amongst other things) the steps which the applicant proposes to promote each of the four licensing objectives.
- 5.5 If no Responsible Authority or 'other person' lodges an objection (known as a 'relevant representation') to the application, the Licensing Authority must grant the application as set out in the operating schedule, subject only to mandatory conditions under the Act. The steps proposed by the applicant will become licence conditions. The Licensing Authority will have no discretion to refuse the application or to alter or add to the conditions arising from the operating schedule.
- 5.6 Where, however, there are relevant representations, then a hearing of the opposed application before a Licensing Sub-Committee will normally follow. At the hearing the Sub-Committee must, having regard to the representations, take such steps as it considers appropriate to promote the four licensing objectives. These may include refusing the application or adding to or modifying the conditions proposed in the operating schedule.

- 5.7 In exercising its discretion, the Licensing Sub-Committee will have regard (amongst other things) to this Policy. Therefore, in drawing up their operating schedule, applicants would be well advised to read this Policy carefully. Where an operating schedule complies with this Policy, it is generally less likely that any 'other person' or responsible authority will object to it, or that an objection will succeed. Therefore, compliance with this Policy is likely to assist the applicant to avoid the delay and expense of a contested licensing hearing, and the risk of a refusal or the addition of unwanted conditions.
- 5.8 This is not to say that an opposed application which complies with this Policy will necessarily be granted or that an opposed application which does not comply with it will necessarily be refused. Where there have been relevant representations, the Licensing Authority will always consider the merits of the case, and interfere with the operating schedule only when, and to the extent, appropriate to promote the four licensing objectives. Nor will blanket or standard conditions be applied without regard to the merits of the individual case. So, for example, the Licensing Authority will not interfere with an operating schedule which does not comply with this Policy where the steps proposed are sufficient to meet the four licensing objectives in the individual circumstances of the case.
- 5.9 However, this Policy represents the Licensing Authority's view of the best means of securing the four licensing objectives in most normal cases. It has been drawn up in consultation with other expert bodies and Responsible Authorities, together with community stakeholders. While the contents of the operating schedule are a matter for the applicant, where there is objection to a schedule which departs from this Policy, the Licensing Sub-Committee hearing an opposed application will normally expect to be given a good reason for the departure if it is asked to make an exception to this Policy.
- 5.10 In this Policy, there are a number of references to the Licensing Authority's expectation of applicants. As explained above, this Policy is only engaged where the Licensing Authority has a discretion following the receipt of a relevant representation. In such cases, the Licensing Authority will not apply this Policy rigidly, but will always have regard to the merits of the case with a view to promoting the four licensing objectives.
- 5.11 Further, the Licensing Authority may use this Policy when exercising other licensing functions. For example, when considering an application for review of a licence, the Licensing Authority is likely to view with concern premises which are being operated in clear breach of the terms of this Policy.
- 5.12 Nothing in this Policy will:-
- undermine the rights of any person to apply under the Act for a variety of permissions and have each such application considered on its individual merits, and/or
 - 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.
- 5.13 The Licensing Authority's purpose in licensing activities in premises is to work with the business community to maintain the level of business activity in towns and villages in a manner that has due regard for public enjoyment, health and safety in the area.

- 5.14 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs or at temporary events within the terms of the Act, and the conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity. Whether or not incidents can be regarded as being “in the vicinity” of licensed premises is a question of fact and will depend on the particular circumstances of the case.
- 5.15 In addressing this matter, the Licensing Authority 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 vicinity concerned.
- 5.16 The Licensing Authority acknowledges that licensing law is not the primary mechanism for the general control of nuisance or anti-social behaviour by individuals once they are away from the premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy.
- 5.17 The Act requires applicants to consider carefully this Policy when drafting their applications. Applicants will show that they have considered the practical effects of managing their business to accord with this Policy.
- 5.18 Waverley expects holders of a Premises Licence, Club Premises Certificate and Temporary Event Notice to make every effort to minimise the impact of their activities and any nuisance or anti-social behaviour by their patrons within the vicinity of their premises.
- 5.19 The Human Rights Act 1998, incorporating the European Convention on Human Rights, makes it unlawful for a local authority to act in a way, which is incompatible with a Convention right. The Licensing Authority will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following relevant provisions of the European Convention on Human Rights:-
- Article 6 – In the determination of civil rights and obligations every person is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
 - Article 8 – Every person has the right to respect for his home and private and family life.
 - Article 1 of the First Protocol – Every person is entitled to the peaceful enjoyment of his or her possessions.

THE FOUR LICENSING OBJECTIVES

6. PREVENTION OF CRIME AND DISORDER

For how this Policy is to apply, please see section 5 (“Fundamental Principles”).

- 6.1 The essential purpose of the premises licence or club premises certificate in the context of this licensing objective is to regulate the behaviour of people while on, or in the immediate vicinity of the premises as they seek to enter or leave.

Best Practice in crime prevention

- 6.2 The Licensing Authority strongly encourages the implementation of best practice in licensed premises in the Borough in order to promote the crime prevention objective. Types of premises vary throughout the Borough, as do the types of licensable activities carried on at those premises, and therefore the steps appropriate to promote this objective will vary by premises.

Operating Schedules

- 6.3 When preparing their operating schedules, applicants are encouraged to carry out a risk assessment of their premises by reference to the following items of best practice:-
- 6.3.1 Training given to staff in crime prevention measures appropriate to the premises;
 - 6.3.2 The physical security features installed in the premises. This may include matters such as the position of cash registers; the place where alcohol is stored in “off-licences”; the standard of CCTV that is installed; the use of plastic, toughened or similar safety drinking glasses in pubs and clubs; and the secure storage of waste which could potentially be used as weapons;
 - 6.3.3 The avoidance of irresponsible pricing or other promotions that contravene the four licensing objectives. The Act imposes a mandatory condition on all premises licences and club premises certificates requiring the responsible person to take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises (the only exception being where a licence or certificate only authorises the sale or supply of alcohol for consumption off the premises);
 - 6.3.4 Measures to prevent the supply and consumption of illegal drugs, including any search procedures and entry policies. The Act imposes a mandatory condition on all premises licences and club premises certificates requiring the responsible person to ensure that free tap water is provided on request to customers where it is reasonably available (the only exception being where a licence or certificate only authorises the sale or supply of alcohol for consumption off the premises);
 - 6.3.5 to have a zero tolerance of and Measures to raise staff awareness of use of drugs on the premises and staff training which deals with issues of drug use;
 - 6.3.6 Arrangements to provide secure facilities to store seized drugs in a secure place. Where drugs have been seized, records should be kept and all entries in the log witnessed. This log should be made available to any Police Constable or authorised officer of the Licensing Authority. The Police should be advised immediately of any confiscated item;
 - 6.3.7 Variations in staffing levels or music style or volume before the premises closes;
 - 6.3.8 Where premises are subject to age restrictions, procedures to conduct age verification checks, e.g. adoption and use of secure proof of age scheme, for example, driving licence or passport;

6.3.9 Measures to prevent spiking and sexual harassment through training of staff, and effective CCTV. Applicants and licence holders are encouraged to engage in national and local schemes that promote customer safety, such as joining Pubwatch, promoting 'ask for Angela' in venues. Applicants and licence holders are encouraged to make sure that staff are trained to identify and report issues including awareness and safety of lone customers leaving the venue; and unwanted contact (touching) between customers. Applicants should ensure that the correct staff are in place, make sure that staff are aware of the closest taxi rank and bus stops that offer an evening / late night service and have contact details available for taxi and private hire schemes, booking a vehicle for customers if needed; have a safe place to take customers if required; and have signage in place at entrances and within the venue with regard to customer welfare and safety.

The Act imposes a mandatory condition on all premises licences and club premises certificates requiring the premises licence holder or club premises certificate holder to ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark;

6.3.9 The likelihood of any violence, public order or policing problem if the licence or certificate is granted;

6.3.10 Whether the applicant is a member of one of the four Pubwatch schemes in the Borough.

6.4 Applicants are expected to include the above items of best practice in their operating schedules, where relevant to the premises. Where they elect not to do so, they are strongly advised to include information explaining the omission. This might be because a risk assessment has shown that the step is unnecessary or because the item is already the subject of another consent, e.g. a planning permission or statutory obligation. If such information is not included, it is more likely that a relevant representation will be made, leading to the cost and delay of a hearing before a licensing sub-committee.

6.5 The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of the four licensing objectives at their particular premises.

Opposed Applications

6.6 If a relevant representation is made, the Licensing Authority will have discretion to take such steps as are appropriate to promote the four licensing objectives. In exercising its discretion, it may where relevant take into account whether the applicant proposes to follow the best practice set out above.

6.7 The Council, and therefore the Licensing Authority, also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and to do all it reasonably can to prevent, crime and disorder in the Borough.

6.8 As set out in section 18 of this Policy, the Licensing Authority recognises the need to avoid duplication with other regulatory regimes as far as possible, including avoiding replicating offences set out in the Act and other legislation. The Licensing Authority will, when considering an application following receipt of relevant representation, consider attaching conditions to licences and certificates intended to prevent and deter crime and disorder, and these should reflect the general principles regarding licence conditions set out in Chapter 1 of the guidance.

6.9 Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected/permitted/licensed to take place there.

- 6.10 The Licensing Authority will work in partnership with the local Pubwatch Schemes in supporting licence holders to actively promote best practice and combat crime disorder and anti-social behaviour to form strategies to reduce current levels by meeting as necessary with members of the Scheme. The strategies seek to address matters such as under-age sales, problems associated with drunken individuals, prevention of use of drugs, violent and anti-social behaviour. Further information on Pubwatch can be found on the National Pubwatch site www.nationalpubwatch.org.uk

Early Morning Restriction Orders (EMRO)

- 6.11 The power conferred to licensing authorities (full Council) to make vary or revoke and Early Morning Alcohol Restriction Order (EMRO) is set out in the Act This power enables licensing authorities to prohibit the sale of alcohol for a specified period between the hours of midnight and 6 am in the whole or part of its area, if they consider this appropriate for the promotion of the licensing objectives.

EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder at specific areas at specific times; serious public nuisance and other instances of alcohol related anti-social behaviour which is not directly attributed to specific premises.

The Licensing Authority after consultation with Surrey Police, and Environmental Health has decided it is not appropriate for any area of the Borough to be covered by an EMRO at present. Waverley would consider an EMRO at any time if circumstances changed and evidence supported this course of action.

If an EMRO is not in place the Licensing Authority will review the need for an EMRO's at least every five years as part of the review of this policy to see if circumstances have changed and any are needed. If an EMRO is in place it will be reviewed every 3 years in line with legislation.

Late Night Levy

- 6.12 The late night levy ('the levy') enables licensing authorities to raise a contribution from late-opening alcohol suppliers towards policing the night-time economy. It is a local power that licensing authorities can choose whether or not to exercise. It must cover the whole of the licensing authority's area. However, the licensing authority will also choose the period during which the levy applies every night, between midnight and 6am, and decide what exemptions and reductions should apply from a list set out in regulations.

The Licensing Authority after consultation with Surrey Police has decided, it is not appropriate for the Borough to be covered by a Late Night Levy at present.

The Licensing Authority will review the need for a Late Night Levy at least every five years as part of the review of this policy to see if circumstances have changed and one is needed, however Waverley would consider a Late Night Levy at any time if circumstances changed and evidence supported this course of action.

Cumulative Impact (or saturation) zone/area

- 6.13 The Licensing Authority has decided that, at present, it is not appropriate for any area of the Borough to be covered by a special policy on cumulative impact. There is

therefore no special policy creating a rebuttable presumption that applications within a particular area of the Borough for new premises licences or club premises certificates or material variations thereto will normally be refused, if relevant representations are received about the cumulative impact on the four licensing objectives. The views of Surrey Police were taken into account when the Licensing Authority made this judgement.

6.14 The Licensing Authority will review the need for a special policy on cumulative impact at least every five years as part of the review of this policy to see if circumstances have changed and one is needed. If a cumulative impact zone/area is in place it will be reviewed every 3 years in line with legislation.

6.15 The Licensing Authority would not use such a special policy solely:-

- ♦ as grounds for revoking a licence when representations are received about problems with an existing licensed premises, or,
- ♦ to refuse applications to vary an existing licence, except where the modifications are directly relevant to this Policy. For example, where the application is for a significant increase in the capacity limits of a premises, and are appropriate for the promotion of the four licensing objectives.

- 6.16 The Licensing Authority will not take “need” (i.e. the commercial demand for premises offering a particular type of licensable activity) into account when considering an application that has attracted relevant representations, as this is a matter for planning control and the market. 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 and some distance from the premises. This is described as the “cumulative impact”, and is a proper matter for consideration by the Licensing Authority in the future.
- 6.17 The absence of a special policy does not prevent any responsible authority or any ‘other person’ making representations on a new application for the grant, or variation, of a premises licence or club premises certificate on the grounds that the premises will give rise to a negative cumulative impact on one or more of the four licensing objectives.
- 6.16 However, there will be no quota imposed by the Licensing Authority to restrict the number of premises or licences in the area as a whole.
- 6.19 The Licensing Authority will consider representations based upon the impact on the four licensing objectives if a particular application were to be granted. However, the onus would be on the individual or organisation making the objection to provide evidence to support their assertion that the addition of the premises in question would produce the cumulative impact on the objectives claimed, taking into account that the impact will be different for premises with different styles and characteristics.
- 6.20 The Licensing Authority will only consider restrictions relating to any cumulative effect regarding a particular application where relevant representations have been made on the grounds that the premises will give rise to a negative cumulative impact on one or more of the four licensing objectives, and then only where such restrictions are considered appropriate for the promotion of the four licensing objectives.
- 6.21 The Licensing Authority recognises that there are a number of other mechanisms, both within and outside the licensing regime, for addressing unlawful or anti-social behaviour which occurs away from licensed premises. These include:-
- planning controls;
 - positive measures to provide a safe and clean town or village centre environment in partnership with local businesses, transport operators and other departments of the Licensing Authority;
 - the provision of CCTV surveillance in town centres,..... (see Licensing Act guidance version December 2022 paragraphs 2.3, 2.8, 10.10, 12.16 and 14.47)
 - powers to designate parts of the Borough as places where alcohol may not be consumed publicly;
 - police enforcement of the law with regard to disorder and anti-social behaviour, including the issue of fixed penalty notices;
 - prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
 - confiscation of alcohol from adults and others in designated areas;

- police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises or temporary event on the grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises;
- the powers of police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question
- Early Morning Alcohol Restriction Orders (EMROs)
- Late Night Levy

6.22 The Licensing Authority will address a number of these issues in line with the strategic objectives for crime and disorder reduction within the Borough.

7. PUBLIC SAFETY

For how this Policy is to apply, please see section 5 (“Fundamental Principles”).

- 7.1 The public safety objective is concerned with the physical safety of the people, including any performers appearing at the premises, attending licensable activities at the relevant premises.
- 7.2 The Licensing Authority is committed to ensuring public safety across the Borough by working in close partnership, in particular with Surrey Police, Surrey Fire and Rescue, and licensees, and with any other relevant bodies.

Best Practice in public safety

- 7.3 The Licensing Authority strongly encourages the implementation of best practice in licensed premises in the Borough in order to promote the public safety objective. All licensed premises should be safe, well managed and maintained. Types of premises vary throughout the Borough, as do the types of licensable activities carried on at those premises, and therefore the steps appropriate to promote this objective will vary by premises.

Night Time safety

Resident and visitor safety, especially the safety of those using the night-time economy, is an important factor that the Council, applicants and licence holders have to take into consideration, especially as national reports of violence against women and girls (the Home Office published the national strategy on tackling this matter on 21 July 2021), the spiking of drinks and spiking by injection are on the increase.

Operating Schedules

- 7.4 When preparing their operating schedules, applicants are reminded that it is a requirement of legislation that any licensed premises carry out a Fire Risk Assessment and to record the significant findings in writing (Regulatory Reform (Fire Safety) Order 2005 Article 9 paragraph 6).

When preparing their operating schedules, risk assessments of the premises should make reference to the following items of best practice:-

- 7.4.1 Occupancy Limits – The authority will not generally impose conditions as to occupancy levels where these are adequately addressed by other controls but may do so in any other case where relevant representations are made. Capacities should be addressed in the fire risk assessment.
Fire Safety – The fire risk assessment completed in relation to the use of the premises, should assist applicants in satisfying the Fire and Rescue Authority that the Public Safety objective will be met.
- 7.4.2 Levels of door supervision adequate to control access to and egress from premises in order to ensure the public safety;

- 7.4.3 Training for current and future staff in matters relating to public safety, where not already required by other legislation;
- 7.4.4 Prevention of injury – Where there is evidence of a current or past problem in relation to particular premises or a particular locality, or in all circumstances it is considered likely that such a problem might occur, and/or premises are to be used primarily for the sale or supply and consumption of alcohol on premises (particularly if those premises have little seating for patrons relative to their size/capacity), applicants should give consideration to a policy of using plastic, polycarbonate or toughened glass, and a policy not to pass glass bottles over the bar, either throughout the period of operation or at certain times or on certain occasions.
- 7.4.5 Measures to reduce the impact of noise both in terms of staff safety and protection of hearing of the public and staff at the premises, where such measures are not already required by other legislation;
- 7.4.6 Measures to ensure that litter does not cause a nuisance, health hazard to the public or a fire hazard to the vicinity, as generated by the activity at or near to the premises.
- 7.5 Applicants are expected to include the above items of best practice in their operating schedules, where relevant to the premises. Where they elect not to do so, they are strongly advised to include information explaining the omission. This might be because a risk assessment has shown that the step is unnecessary or because the item is already the subject of another consent, e.g. a planning permission or statutory obligation. If such information is not included, it is more likely that a relevant representation will be made, leading to the cost and delay of a hearing before a licensing sub-committee.
- 7.6 The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of the four licensing objectives at their particular premises.

Opposed Applications

- 7.7 If a relevant representation is made, the Licensing Authority will have discretion to take such steps as are appropriate to promote the four licensing objectives. In exercising its discretion, it may where relevant take into account whether the applicant proposes to follow the best practice set out above.
- 7.8 As set out in section 18 of this Policy, the Licensing Authority recognises the need to avoid duplication with other regulatory regimes as far as possible, including avoiding replicating offences set out in the Act and other legislation. The Licensing Authority will, when considering an application following receipt of relevant representation, consider attaching conditions to licences and certificates intended to prevent public nuisance, and these should reflect the general principles regarding licence conditions set out in Chapter 1 of the guidance.
- 7.9 Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected/permitted/licensed to take place there.

7.10 When exercising its functions regarding premises licences and club premises certificates, the Licensing Authority will take into account (where relevant) applicants' requests for terminal hours in the light of the four licensing objectives and this Policy, and in view of:-

- environmental quality;
- residential amenity;
- character or function of a particular area; and
- nature of the proposed activities to be provided at the premises.

7.11 The terminal hours will normally be approved where it is shown that the proposal would not adversely affect the issues listed in 7.10 above. The Licensing Authority may set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area having regard to the four licensing objectives and representations from responsible authorities or any 'other person'.

8. PREVENTION OF PUBLIC NUISANCE

For how this Policy is to apply, please see section 5 ("Fundamental Principles").

8.1 In considering the promotion of this licensing objective, the Licensing Authority will focus on impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate or unreasonable.

8.2 The Licensing Authority will mainly be concerned with noise nuisance, light pollution, noxious smells and litter.

8.3 Under the Act, "public nuisance" is not narrowly defined and could therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, the reduction of the living and working amenity and environment of any other person.

Best practice in the prevention of public nuisance

8.4 The Licensing Authority strongly encourages the implementation of best practice in licensed premises in the Borough in order to promote the prevention of public nuisance objective. Types of premises vary throughout the Borough, as do the types of licensable activities carried on at those premises, and therefore the steps appropriate to promote this objective will vary by premises.

Operating Schedules

8.5 When preparing their operating schedules, applicants are encouraged to carry out a risk assessment of their premises by reference to the following items of best practice:-

8.5.1

Hours of operations – the tolerance to disturbance is likely to be reduced at certain times and days. The later into the night the operation continues the greater the likelihood of public nuisance being caused. Particular consideration should be given to minimise disturbance during the night-time hours of between 11:00pm and 7:00am.

Measures 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 (though these may add to the problem, especially if left on overnight), acoustic lobbies and sound limitation devices;

- 8.5.2 Measures to prevent disturbance by patrons/customers arriving at or leaving the premises, particularly between the hours of 10.00 pm and 7.00 am;
 - 8.5.3 Measures to prevent queuing or, if queuing is inevitable, to divert queues away from neighbouring premises, or otherwise to manage the queue to prevent disturbance or obstruction;
 - 8.5.4 Measures to ensure that customers/patrons and staff leave the premises quietly;
 - 8.5.5 Arrangements for parking by patrons/customers, and minimisation of the effect that parking will have on local residents and businesses;
 - 8.5.6 Measures to reduce the impact that the use of gardens or other open-air areas will have on local residents and businesses;
 - 8.5.7 The siting of external lighting, including security lighting that is installed appropriately;
 - 8.5.8 Accessibility to local public transport services, including taxis and private hire vehicles;
 - 8.5.9 Measures to minimise the impact of refuse storage or disposal (including noise associated with bottle delivery and disposal), or additional litter (including fly posters and unauthorised placards) in the vicinity of the premises.
- 8.6 Applicants are expected to include the above items of best practice in their operating schedules, where relevant to the premises. Where they elect not to do so, they are strongly advised to include information explaining the omission. This might be because a risk assessment has shown that the step is unnecessary or because the item is already the subject of another consent, e.g. a planning permission or statutory obligation. If such information is not included, it is more likely that a relevant representation will be made, leading to the cost and delay of a hearing before a licensing sub-committee.
- 8.7 The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of the four licensing objectives at their particular premises.

Opposed Applications

- 8.8 If a relevant representation is made, the Licensing Authority will have discretion to take such steps as are appropriate to promote the four licensing objectives. In

exercising its discretion, it may where relevant take into account whether the applicant proposes to follow the best practice set out above.

- 8.9 As set out in section 18 of this Policy, the Licensing Authority recognises the need to avoid duplication with other regulatory regimes as far as possible, including avoiding replicating offences set out in the Act and other legislation. The Licensing Authority will, when considering an application following receipt of relevant representation, consider attaching conditions to licences and certificates intended to prevent public nuisance, and these should reflect the general principles regarding licence conditions set out in Chapter 1 of the guidance.
- 8.10 Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected/permitted/licensed to take place there.
- 8.11 If the applicant has previously held a licence within the Borough, the history of any enforcement or any relevant action arising from the previously licensed premises (e.g. a noise abatement notice) may be requested by the Licensing Authority, where relevant, should relevant representations be received in respect of the application.
- 8.12 Similarly, the enforcement history of the premises the subject of the application may also be requested from the appropriate responsible authority where considered relevant, and then only where relevant representations are received in respect of the application.

9. PROTECTION OF CHILDREN FROM HARM

For how this Policy is to apply, please see section 5 (“Fundamental Principles”).

- 9.1 The Act provides specific protection for children from the sale or provision of alcohol and regulated entertainment. Protection of children from harm includes the protection of children from moral, psychological and physical harm, and this would include the protection of children from too early an exposure to strong language and sexual expletives, for example, in the context of film exhibitions or where adult entertainment is provided. Surrey County Council Children Services in particular are the relevant authority competent to advise on the protection of children from harm.
- 9.2 However, in the context of many licensed premises such as pubs, restaurants, café bars and hotels, the Licensing Authority recognises that the development of family-friendly environments should not be frustrated by overly restrictive measures in relation to children.
- 9.3 The Licensing Authority recognises that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed without restricting conditions unless the Act itself imposes such a restriction or there are good reasons to restrict entry or to exclude children completely. The Licensing Authority will focus on enforcing the law concerning the consumption of alcohol by minors.

Access to Licensed Premises

- 9.4 The Act prohibits unaccompanied children from entering certain premises and between certain hours. It is an offence under the Act to:-
- (a) permit children under the age of 16 who are not accompanied by an adult (aged 18 or over) to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on those premises under the authority of a premises licence, club premises certificate or temporary event notice, and

- (b) permit the presence of children under the age of 16 who are not accompanied by an adult between midnight and 5.00 am at other premises supplying alcohol for consumption on the premises under the authority of a premises licence, club premises certificate or temporary event notice

Other than set out above, and subject to the licensee's discretion, the Act does not prevent unaccompanied children from having free access to any licensed premises where the consumption of alcohol is not the exclusive or primary activity

9.5 The Licensing Authority will consider the individual merits of each application, and then only when an application attracts relevant representations, before deciding whether it is appropriate to limit the access of children to any given premises. The following are examples of premises that will raise particular concern:-

- where there have been convictions for serving alcohol to minors or with a reputation for under-age drinking;
- where there is a known association with drug taking or drug dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is provided;
- where films with age-restricted classifications are to be shown.

9.6 Where relevant representations are received in respect of an application, the Licensing Authority may consider the following additional measures (which may be adopted in combination) for limiting the access of children to licensed premises in order to prevent harm:-

- Limitations on the hours when children may be present;
- Limitations on ages below 18;
- Limitations or exclusion when certain activities are taking place;
- Restrictions or exclusions in respect of parts of premises;
- Requirements for an accompanying adult;
- Full exclusion of people who are under 18 years of age from the premises when any licensable activities are taking place.

9.7 No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee or club or person who has served a temporary event notice on the Licensing Authority.

9.8 Applicants for premises licences and club premises certificates must send copies of their applications to the Surrey County Council Children Services (see list at Annex 1) on any application that indicates that there may be concern over access for children.

Illegal sales of restricted goods

- 9.9 The Licensing Authority and the Police take a serious view of the sale to minors of age-restricted goods. Trading Standards in Surrey 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 systems to avoid sales to minors taking place is acknowledged and welcomed by the Licensing Authority. This work will continue and the Licensing Authority will welcome reports from the Trading Standards Department on any licensing matter. The Licensing Authority has particular regard to addressing problems caused by the link between alcohol sales to minors and crime and disorder issues.

Best practice in the protection of children from harm

- 9.10 The Licensing Authority strongly encourages the implementation of best practice in licensed premises in the Borough in order to promote the protection of children from harm objective. Types of premises vary throughout the Borough, as do the types of licensable activities carried on at those premises, and therefore the steps appropriate to promote this objective will vary by premises.

Operating Schedules

- 9.11 When preparing their operating schedules, applicants are encouraged to carry out a risk assessment of their premises by reference to the following items of best practice:-
- 9.11.1 Staff training on the law with regard to restricted sales;
 - 9.11.2 Training records and documentation to be kept available for inspection;
 - 9.11.3 Staff training to include checking identification (ID) for proof of age through a secure system. As of 1 October 2010, the Act imposed a mandatory condition on all premises licences and club premises certificates requiring the premises licence holder or club premises certificate holder to ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark;
 - 9.11.4 A responsible person (as identified by Section 153 (4) of the Act) who is present and responsible for transactions made through staff that may be under 18 years of age;
 - 9.11.5 Procedures in place to train and remind staff that all age-restricted products may only be sold in accordance with the Act (and other legislation) so that proof of age may be sought where needed;
 - 9.11.6 Procedures in place to record refusals of sales, with such records kept available for inspection;
 - 9.11.7 Vending machines dispensing age-restricted goods to be positioned to allow for proper supervision at all times;

9.11.8 Arrangements for restricting children from viewing age-restricted films, classified according to the recommendations of the British Board of Film Classification (BBFC) or the Licensing Authority.

9.11.9 Where the majority of the intended audience at regulated entertainment is expected to be children or the entertainment offered is of a nature likely to be of interest to children (e.g. theatre productions or film shows), the following are considered best practice arrangements in order to control their access and egress and to assure their safety:-

- Each event/facility to assess requirements has undertaken specific risk assessments to identify ratios/regulations required for applicant may be asked to provide proof of risk assessment.
- A “Lost Child” policy which identifies arrangements for the safe care of lost children until they are reunited with the parent/guardian.
- A staff-to-children ratio which will ensure adequate supervision.

9.12 Applicants are expected to include the above items of best practice in their operating schedules, where relevant to the premises. Where they elect not to do so, they are strongly advised to include information explaining the omission. This might be because a risk assessment has shown that the step is unnecessary or because the item is already the subject of another consent, e.g. a planning permission or statutory obligation. If such information is not included, it is more likely that a relevant representation will be made, leading to the cost and delay of a hearing before a licensing sub-committee.

9.13 The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of the four licensing objectives at their particular premises.

Opposed Applications

9.14 If a relevant representation is made, the Licensing Authority will have discretion to take such steps as are appropriate to promote the four licensing objectives. In exercising its discretion, it may where relevant take into account whether the applicant proposes to follow the best practice set out above.

9.15 As set out in section 18 of this Policy, the Licensing Authority recognises the need to avoid duplication with other regulatory regimes as far as possible, including avoiding replicating offences set out in the Act and other legislation. The Licensing Authority will, when considering an application following receipt of relevant representation, consider attaching conditions to licences and certificates intended to protect children from harm, and these should reflect the general principles regarding licence conditions set out in Chapter 1 of the guidance.

9.16 Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected/permitted/licensed to take place there.

10. LICENSING HOURS

- 10.1 The Act does not promote or prohibit longer licensing hours. However, the Licensing Authority recognises that the Guidance emphasises that the aim through the promotion of the four licensing objectives should be to reduce the potential for concentrations of, and a slower dispersal of, people from licensed premises through flexible opening times. This may be important to ensure that large concentrations of people do not leave premises at the same time and it may reduce the friction at late night hot food outlets, taxi ranks (hackney carriage stands), taxi or private hire operators' offices and other sources of transport that can lead to disorder and disturbance.
- 10.2 The Licensing Authority will not set fixed opening hours within certain areas, as this may lead at particular times to the movement of significant numbers of people seeking premises opening later, resulting in concentrations of disturbance and noise.
- 10.3 The Licensing Authority may consider imposing stricter conditions in respect of noise control where premises are situated in areas that have dense residential accommodation and/or are close to sensitive areas, for example hospitals, schools, places of worship, nursing homes. However, regard will be given to the individual merits of any application, and the Licensing Authority would only have discretion to consider attaching such conditions where a relevant representation is received in respect of an application, and then only where considered appropriate for the promotion of the four licensing objectives.

11. TRANSFER OF LICENCES

When considering an application for the transfer of a premises licence, the authority will only have regard to the exceptional circumstances of the case as set out in any objection raised by the police on the grounds that the transfer will undermine the crime prevention objective. The effect on the crime prevention objective will be considered against the background of the policies contained in this document.

12. VARIATION OF LICENCES

- 12.1 When considering an application for the variation of a licence, the authority will consider the impact of the variation in terms of the policies in this document and the four licensing objectives. It will not use such an application as a means to review the licence terms and conditions already granted.
- 12.2 Minor Variations - A premises licence/club premises certificate holder may apply under the minor variation procedure for small variations that will not impact adversely on the four licensing objectives. There is no right to a hearing if the minor variation application is rejected. In its place a full variation application may be made.
- 12.3 Disapplication of Designated Premises Supervisor – Where community premises hold a premises licence allowing the sale/supply of alcohol, the licence holder can apply to have the mandatory condition requiring a Designated Premises Supervisor to be appointed, be removed. This passes the responsibility for the sale/supply of alcohol to the premises Management Committee.

13. PROVISIONAL STATEMENTS

An application for a provisional statement will be considered in the same way as would an application for a premises licence or club premises certificate, on the assumption that the works are completed as per the schedule of works submitted by the applicant.

14. SEXUAL ENTERTAINMENT VENUES

14.1 Where premises are to be used on twelve or more occasions within a 12-month period for relevant sexual entertainment, the premises must also be licensed as a Sexual Entertainment Venue. Relevant sexual entertainment includes lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows. This activity is the subject of a separate Council policy.

14.2 This licence only applies in areas where Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009) has been adopted.

15. COMPLAINTS / REVIEW OF LICENCES

15.1 The Licensing Authority will investigate complaints relevant to the four licensing objectives in relation to licensed premises. In the first instance, complainants will be encouraged to raise the complaint directly with the licensee or business concerned. Where a Responsible Authority or any 'other person' has made:

- (a) valid representations about licensed premises; or
- (b) a valid application for a licence to be reviewed

then the Licensing Authority may initially arrange a mediation meeting to address, clarify and try to resolve the issues of concern.

15.2 This process will not override the right of any Responsible Authority or any 'other person' to ask that the Licensing Authority consider an application for a review of the premises licence or club premises certificate, or for any licence holder to decline to participate in a mediation meeting.

16. PERMITTED TEMPORARY ACTIVITIES

16.1 Where a person wishes to use premises for one or more licensable activities for a period not exceeding 168 hours, that person can serve a;

- Standard Temporary Event Notice (TEN) on the Licensing Authority in notifying it of the event. The TEN must be served on the Licensing Authority and a copy served on the Police and Environmental Health, as Responsible Authorities no later than ten clear working days before the event is to begin. To avoid confusion, the ten working days does not include weekends, public holidays, the day of receipt of the TEN and the day of the event itself.
- Late Temporary Event Notice (LATE TEN) on the Licensing Authority in notifying it of the event. The TEN must be served on the Licensing Authority and a copy served on the Police and Environmental Health, as Responsible Authorities no later than 5 working days before the first day of the event and no earlier than 9 working days before the first day of the event

- 16.2 The maximum number of persons allowed on the premises at the same time during the temporary event is 499.
- 16.3 If alcohol is to be supplied, all supplies must be carried out by or under the authority of the person serving the TEN, and that person need not hold a personal licence.
- 16.4 Only the Police and Environmental Health may object to the staging of a temporary event. If they believe that any of the of the four licensing objectives will be undermined by the event they will issue an 'Objection Notice'
- 16.5 Where an Objection Notice is received in relation to a standard TEN, a licensing Panel will be held to determine the notice within seven working days of the Objection Notice being issued. The Licensing Authority will notify all relevant parties of the time and venue for the hearing. A hearing will not always be necessary if an agreed modification can be made beforehand. Where an Objection Notice is received in relation to a Late TEN, the event will automatically be refused authorisation. There is no right of appeal in this instance.
- 16.6 There are limitations on the number of TENs that individuals can give and which can be given in relation to particular premises.
- 16.7 A Licensing Authority may impose conditions on a TEN if it considers that this promotes the licensing objectives. A Licensing Authority can only impose such conditions if an objection has been made by Environmental Health or the Surrey Police (and the licensing authority considers that permitting the event to proceed would promote the licensing objectives), and at least a part of the premises in relation to which the TEN is given is already subject to a premises licence or club premises certificate. Any such conditions must be consistent with the activity authorised by the TEN and existing conditions attaching to the subsisting licence or certificate.
- 16.8 Where the limitations on a temporary event cannot be fulfilled, for example due to the large numbers attending, a premises licence will be required. The Licensing Authority would expect early notice of such a major event to allow Responsible Authorities to discuss and agree operating schedules.

17. SHOPS, STORES AND SUPERMARKETS

- 17.1 The Licensing Authority will consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping.
- 17.2 The Licensing Authority may consider whether there are very good reasons for restricting those hours. For example, a limitation of opening hours may be appropriate following relevant representations from the Police in the case of shops known to be the focus of disorder and disturbance because people gather there and engage in nuisance and/or anti-social behaviour.

18. INTEGRATING STRATEGIES AND AVOIDING DUPLICATION

- 18.1 The Licensing Authority recognises the need to avoid duplication with other regulatory regimes as far as possible. This Policy is not intended to duplicate existing legislation and regulatory regimes that place duties upon employers and operators. In the event that conduct of activity related to the business has been found to be in contravention of other regulatory regimes the Licensing Authority will have regard to such conduct in considering licensing applications.

- 18.2 Some regulations do not cover the particular circumstances that arise in connection with entertainment. The Licensing Authority may, for example, attach conditions to premises licences and club premises certificates where these are considered appropriate for the promotion of the four licensing objectives and are not already provided for in any other legislation.
- 18.3 The Council is a statutory member of the Safer Waverley Partnership (SWP). There are a number of mechanisms in place to ensure proper integration of crime prevention and carrying out enforcement action against anti-social behaviour. These are set out in the Safer Waverley Partnership Plan 2022-25.
[Waverley Borough Council - Safer Waverley Partnership](#)
The Council has also set up a Joint Enforcement Initiative (JEI) to protect the borough's environment by combating environmental crime, and to work more cohesively and effectively to enforce against anti-social behaviour. Waverley is committed to support Safeguarding Children and Vulnerable People. Waverley's Safeguarding Policy can be found at;
[Waverley Borough Council - Safeguarding](#)

Planning

- 18.4 The Licensing Authority recognises that there should be a proper separation of the planning and licensing regimes to avoid duplication and inefficiency. Licensing applications should not be a re-run of planning applications and should not cut across decisions taken by the Council's Area and Joint Planning Committees (or their successor committees) or following appeals against decisions taken by those Committees. Similarly, applicants for premises licences are responsible for making sure that they have the appropriate planning permission to reflect the proposals in their operating schedule and to enable them to comply with the commitments to service provision detailed in their operating schedule. Applicants should not propose in their operating schedule management measures affecting health and safety that conflict with planning or listed building control.
- 18.5 The Council's planning policies are set out in the Waverley Borough Local Plan Part 1: Strategic Policies and Sites, which was adopted by the Council in February 2018, the retained policies from the Waverley Borough Local Plan 2002 made Neighbourhood Plans and supplementary planning guidance. In addition, the Council is preparing its Local Plan Part 2: Site Allocations and Development Management Policies which, in time, will replace the retained policies from the 2002 Plan.
- 18.6 Both Local Plan Part 1 and the retained policies in The Waverley Borough Local Plan 2002 and the emerging Local Plan acknowledges that restaurants, public houses and other such uses are important elements in the mix of uses found in town centres and to the evening economy. Policy TCS1 in Local Plan Part 1 says that within town centres a variety of town centre uses will be encouraged, including food and drink, leisure and cultural uses that add to the liveliness, attractiveness and vitality and viability of the centre. Policy TD1 of Local Plan Part 1 is an overarching policy on townscape and design. One of its requirements is that new development is designed so that creates safe and attractive environments that meet the needs of users and incorporates the principles of sustainable development. Policy ST1 of Local Plan Part

1 says that new development should make appropriate provision for car parking, having regard to the type of development and its location, in accordance with local standards. Food and drink uses are considered under retained Policy S6 of the 2002 Local Plan. This policy deals with a range of issues associated with such uses, including impact on amenity resulting from matters such as noise, fumes and odours and excessive activity particularly at unsocial hours. It also deals with issues around parking and access associated with such uses. (Chapter 8 development plan policy). Planning cannot take into account/regulate the possible behaviour or public order issues resulting from new development or changes of use, as these are not land-use issues. It does, however, recognise that such uses can cause disturbance to neighbours and can have an adverse effect on the character of an area. It seeks to eliminate or limit such adverse impacts in various ways, by imposing reasonable planning conditions restricting hours of operation, and ensuring that parking activities are controlled, particularly at unsocial hours.

- 18.7 Where relevant representations are received, any decision on a licence application will not consider whether any decision to grant or refuse planning permission or building control consent was lawful and correct. It will take into account what the impact of granting a licence will be on the licensing objectives.

Crime Prevention

- 18.8 Conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention and crime and disorder strategies and applicants will be expected to address these in their operating schedules.

Cultural Strategies

- 18.9 The Licensing Authority will monitor the impact of licensing on regulated entertainment particularly live music, dance and theatre. The Licensing Authority aims to support the development of Cultural Services.
[Microsoft Word - 260 intro strategy.doc \(waverley.gov.uk\)](#)

18.10 Specific reference is made within Waverley's Cultural Strategy to support for the development of arts centres, including provision of live music, dance and theatre. The Strategy also seeks to continue to promote the use of parks in the Borough as a venue for seasonal live theatre events.

18.11 As part of implementing the Cultural Strategy, the Licensing Authority recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community, particularly for young people. It is also keen to promote new and to continue existing cinema provision in the Borough.

Sports

18.12 The Council encourages local sporting organisations, through its Cultural Strategy, to generate revenue by making best use of their pavilions and any other facilities they may have.

Transport

18.13 Where appropriate, the Licensing Authority will arrange for protocols with the Surrey Police to provide for reports to the Local Authority Committee responsible for transport matters on the need for the swift and safe dispersal of people from the town centres to avoid concentrations, which can produce disorder and disturbance.

Tourism & Employment

18.14 Arrangements will be made for the Licensing & Regulatory Committee to receive reports on the following relevant matters to ensure these are reflected in their considerations:-

- the needs of the local tourist economy and cultural strategy for the Borough, and,
- the employment situation in the Borough and the need for investment and employment where appropriate.

18.15 The Licensing Authority will seek to discharge its licensing responsibilities with due regard to other Government strategies that impact upon the four licensing objectives e.g.

- Safer Clubbing
- National alcohol harm reduction strategy
- Home Office Action Plan for tackling alcohol-related crime, nuisance and disorder
- LACORS/TSI Code of Best Practice on test purchasing

HSE Events Guide (particularly, but not exclusively, for temporary events and Temporary Events Notices)

19. ENFORCEMENT

- 19.1 The Licensing Authority has established a protocol with the Responsible Authorities on the enforcement of the Act. This provides for the efficient deployment of Authority Officers engaged in enforcing the Act and inspecting licensed premises, in order to ensure that resources are targeted at problem and high-risk premises. The Council's Licensing Enforcement Protocol is available at Waverley Borough Council's website.
- 19.2 The Licensing Authority is also subject to a corporate Enforcement Policy and Concordat, based on the principles of consistency, transparency and proportionality as set out in the Department of Trade and Industry's Enforcement Concordat and the Regulator's Code 2014. This ensures that any enforcement action taken is proportionate and reflects the risk posed to the promotion of the four licensing objectives, and that it is carried out in a fair and consistent manner, including prosecution where appropriate.
- 19.3 Waverley will continue to support and participate in the Surrey county-wide licensing forum – a local forum which aims to:-
- help develop consistency between the statutory agencies responsible for licensed premises;
 - develop potential for a joint approach to implementation and administration;
 - act as a strategic forum for licensing in Surrey;
 - develop liaison with agencies and other relevant organisations;
 - promote best practice;
 - enhance the potential for sharing resources.

20. APPEALS

Applicants and those making representations in respect of applications and reviews to the Licensing Authority have a right of appeal to the Magistrates' Court against the Authority's decisions. Further information on how to appeal can be obtained by contacting the Guildford Magistrates' Court, The Law Courts, Mary Road, Guildford, Surrey GU1 4PS. Tel: 01483 405300.

21. FEES

The Licensing Act 2003 requires a Licensing Authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.

22. FURTHER INFORMATION

If you need more details about the licensing process or making an application please contact the Licensing Section, Waverley Borough Council, The Burys, Godalming, Surrey, GU7 1HR. Tel: 01483 523033 or licensing.policy@waverley.gov.uk

RESPONSIBLE AUTHORITIES

- (a) **Police Authority**
Chief Officer of Police, c/o Waverley Licensing Officer, Surrey Police, P O Box 101,
GU1 9PE
Tel: 01483 639512
 - (b) **Fire Authority**
Surrey Fire and Rescue Service, Headquarters, Croydon Road, Reigate, Surrey,
RH2 0EJ.
Tel: 01483 517277
 - (c) **Trading Standards**
Surrey County Council Trading Standards, Consort House, 5-7 Queensway, Redhill,
Surrey, RH1 1YB
Tel: 01372 371700
 - (d) **Health and Safety at Work**
Head of Environment, Waverley Borough Council, The Burys, Godalming, Surrey,
GU7 1HR.
Tel: 01483 523333
 - (e) **Local Planning Authority**
Head of Planning, Waverley Borough Council, The Burys, Godalming, Surrey,
GU7 1HR.
Tel: 014873 523333
 - (f) **Local Authority – Prevention of Pollution (to environment or harm to human health)**
Head of Environment, Waverley Borough Council, The Burys, Godalming, Surrey,
GU7 1HR.
Tel: 01483 523333
 - (g) **Surrey County Council Children Services**
County Child Employment and Strategy Manager, Quadrant Court, 35 Guildford
Road, Woking, Surrey, GU22 7QQ
Tel: 01483 517838 cspa@surreycc.gov.uk
 - (h) **Licensing Authority (Other than the relevant licensing authority) in whose area part of the premises is situated**
 - (i) **Public Health**
Room G55, County Hall, Penrhyn Road, Kingston Upon Thames, KT1 2DN
Tel: 01737 733746
 - (j) **Home Office (Immigration Enforcement)**
Alcohol Licensing Team, Lunar House, 40 Wellesley Road, Croydon, Surrey, CR9
2BY (alcohol@homeoffice.gsi.gov.uk)
- To be advised on individual cases
- (j) **In relation to a vessel - Navigation Authority**
Navigation Manager, National Trust, River Wey Navigations, Dapdune Wharf, Wharf
Road, Guildford, Surrey, GU1 4RR.
Tel: 01483 561389

OTHER USEFUL SOURCES OF INFORMATION

- A. The Licensing Act 2003 can be viewed on the web site at www.legislation.gov.uk/ukpga/2003/17/contents
- B. The latest revised Guidance for the Licensing Act 2003 (December 2022) can be viewed on the web site at <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>
- C. The Home Office has issued its Modern Crime Prevention Strategy (March 2016) which potentially impacts on licensing, including the encouragement of partnership working schemes, improved local intelligence systems for use as evidence in licensing hearings, and support to local authorities in efforts to diversify late night economy away from alcohol-led premises, and which is available on the Home Office website at; <https://www.gov.uk/government/publications/modern-crime-prevention-strategy>
- D. The Government's Alcohol Harm Reduction Strategy can be viewed at <https://www.gov.uk/government/publications/alcohol-strategy>
- E. The Licensing Authority's latest licensing information can be found on its own web site at [Waverley Borough Council - Alcohol, entertainment and charity](#)
- F. www.ias.org.uk (the website of the Institute of Alcohol Studies)
- G. Registration and training of doorstaff is the responsibility of the Security Industry Authority. Information can be obtained from <https://www.sia.homeoffice.gov.uk/Pages/home.aspx>
- H. The British Institute of Innkeeping (BII) is a trainer and an awarding body for the appropriate qualifications. It can be contacted on www.bii.org / or 01276 684 449, email enquiries@bii.org
- I. Surrey Safeguarding Children Board - information can be obtained from <http://www.surreyscb.org.uk/> or 01372 833330 or email; sscb@surreycc.gov.uk
- J. Surrey Alcohol and Drug Advisory Service. Information can be found at <http://www.catalystsupport.org.uk/> or 01483 590150 or email; info@catalystsupport.org.uk
- K. Tackling violence against women and girls strategy published by the Home Office can be found at <https://www.gov.uk/government/news/tackling-violence-against-women-and-girls-strategy-launched>

L Drinkaware an independent charity funded by the alcohol industry works to reduce alcohol misuse and harm in the UK information can be found at <https://www.drinkaware.co.uk/>

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

Approved by the Council 20th July 2004

MATTER TO BE DEALT WITH	FULL COMMITTEE	SUB-COMMITTEE (3 MEMBERS)	AUTHORISED OFFICERS
Application for personal licence		If an objection made	If no objection 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 for Minor Variation to vary premises licence/club registration certificate			All Cases
Application to vary premises licence/club registration certificate		If a representation made	If no representation made
Application to vary designated personal licence holder		If a police objection	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for Interim Authorities		If a police objection	All other cases
Application to review premises licence/club premises Registration		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when local authority is a consultee and not the lead authority		All cases	

Determination of a police and/or Environmental health representation to Standard temporary event notices		All cases	
Determination of a police and/or Environmental health representation to 'Late' temporary event notices			Officers to reject application in all cases

WAVERLEY BOROUGH COUNCIL

LICENSING & REGULATORY COMMITTEE

27 FEBRUARY 2023

Title:

LICENSING BUDGET 2023/24

Portfolio Holders: Cllr Mark Merryweather
Portfolio Holder for Finance, Assets & Commercial Services

Head of Service: Peter Vickers
Executive Head of Finance (S151)

Key decision: No
Access: Public

1 Purpose and Summary:

- 1.1 The purpose of this report is to seek the Committee's agreement to its draft Revenue Estimates and Fees and Charges for 2023/24 as part of the Budget process. This report updates the Committee on the latest position regarding the draft General Fund Budget for 2023/24.
-

2 Introduction

- 2.1 The report puts forward proposals for the Licensing Service Revenue Estimates and Fees & Charges for 2023/24.

3 General Fund Background

- 3.1 Over the past few years Waverley has faced significant financial pressures and a further pressure is anticipated on top of the substantial reductions already made, resulting in significant savings required over the next four years in addition to those already achieved.

4 2023/2024 Draft Licensing Estimates

- 4.1 The Licensing Service 2023/24 Estimates are attached at Annexe 1.
- 4.2 Annexe 2 provides an analysis of Licensing costs and income for 2023/24, showing the estimated recovery rates. This annexe also demonstrates that the enforcement costs (around 10% of costs) are not recovered through fees.

5 Fees & Charges

5.1 Fees and charges are reviewed annually as part of the budget process. Some fees and charges are statutory, but for those determined by Waverley, an exercise has been undertaken to analyse the fees and ensure that they equate to the costs of the service provided. For 2023/24, the proposed fees and charges for the Licensing Service are at Annexe 3.

5.2 In accordance with Section 70 of the Local Government (Miscellaneous Provisions) Act 1976, any proposed increase to certain fees must be advertised and this relates to hackney carriage proprietors' licences, private hire vehicle licences and private hire operators' licences. Any representations received in response to the advertisement will be brought back to the Licensing and Regulatory Committee in due course.

6 Conclusion

6.1 The licensing fees presented in the budget are subject to the confirmation of the Licensing Committee following the statutory consultation period.

7 Recommendation

7.1 It is recommended that the Licensing and Regulatory Committee:

- a) Notes the draft Revenue Estimates for 2023/23 as shown at Annexe 1; and
- b) notes the proposed level of fees and charges for 2023/24 in accordance with the schedule at Annexe 3, noting that various fees will be subject to advertisement and consultation prior to implementation.

8 Reason for the recommendation(s)

8.1 The Budget is a major decision for the Council and setting a balanced budget is a statutory requirement. Scrutiny of the financial plan and budget proposals demonstrate transparency and good governance

9 Relationship to the Corporate Strategy and Service Plan(s)

9.1 Having a robust, sustainable budget is essential to deliver all aspects of the Corporate Plan

10 Implications of decision(s)

10.1 Resource (Finance, procurement, staffing, IT)

All decisions made with regard to the budget will impact on Waverley's resources.

Provision is made in the Council's budget for the licensing service which is run on a cost recovery basis.

10.2 **Risk management**

There are no risks directly arising from the recommendation above.

10.3 **Legal**

It is the annual responsibility of the Full Council to approve the Budget and set the Council Tax (Constitution Part 3:B6-7. P.40)

Waverley is responsible for licensing Hackney Carriage, Private hire and dual drivers, proprietors and operators within the area, primarily through the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 as well as other legislation.

Reg 18(4) Provision of Services Regulations 2009 provides that charges under an authorisation scheme must be reasonable and proportionate to, and not exceed, the cost of the procedures and formalities under the scheme. The fees can include the administrative costs involved, the costs of vetting the applicants (in the case of applications) and the cost of investigating compliance with licence terms (in the case of renewals). A fee cannot include costs of enforcement. The proposals comply with these requirements.

The relevant caselaw is R (on the application of Abdul Rehman, on behalf of the Wakefield District hackney Carriage and Private Hire Association) v The Council of the City of Wakefield and The Local Government Association (Intervening) [2019] EWCA Civ 2166 – known as 'the Wakefield case' and the mechanism for this is under section 53(2) of the local Government (Miscellaneous Provisions) Act 1976.

10.4 **Equality, diversity and inclusion**

There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the Council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

10.5 **Climate emergency declaration**

There are no direct implications arising from this report but reference is made to the need for the main budget proposals to address the resource requirement for the emerging climate change action plan.

11 **Consultation and engagement**

11.1 The recommended changes to license fees set out above will be subject to consultation with the Taxi and Private Hire trade and the public before being finalised.

12 Other options considered

12.1 No other options considered due to the statutory requirement to cost recover.

13 Governance journey

13.1 The final budget proposals will be presented to Council on 21 February 2023 based on the recommendations made by the Executive. The licensing fees presented in the budget are subject to the confirmation of the Licensing Committee following the statutory consultation period.

Annexes:

Annexe 1 - Licensing Service 2023/24 Estimates

Annexe 2 - Licensing costs and income for 2023/24

Annexe 3 - Proposed fees and charges for the Licensing Service 2023/24

Background Papers

There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

CONTACT OFFICER:

Name Rosie Plaistowe-Melham
Position: Financial Services Manager
Telephone: 01483 523255
Email: rosie.plaistowe@waverley.gov.uk

Agreed and signed off by:

Legal Services:

Head of Finance:

Strategic Director:

Portfolio Holder:

Licensing			
<i>G3410</i>			
<i>Code</i>		2022/23	2023/24
		Budget	Draft Budget
		£	£
Supplies and Services			
1302	Equipment/Furniture purchase	1,520	1,520
1311	Items for resale	6,000	6,000
1333	Stationery	50	50
1344	Other professional fees	10,000	10,000
1345	Contracted services	35,210	35,210
1353	Telephones - mobiles	178	178
1386	Advertising/publicity/promotions	660	660
1387	Subscriptions	50	50
1393	Health and safety/first aid	460	272
1395	Meeting expenses	150	150
Support Costs			
1600	Recharge Expenditure	291,050	332,710
Gross Expenditure		345,328	386,800
Sales of goods and supply of services			
2301	Hackney Carriage and Car Hire income	136,820	148,587
2302	Licensing income other	144,230	157,211
Total Income		281,050	305,798
Net Cost		64,278	81,002

Licensing								
<i>G3410</i>								
<i>Code</i>		2022/23	2023/24	<u><i>2023-24 Analysis</i></u>				
				Budget	Draft Budget	Liquor Licensing	Hackney Carriage	Other Costs
				£	£	£	£	£
Supplies and Services								
1302	Equipment/Furniture purchase	1,520	1,520		1,520			
1311	Items for resale	6,000	6,000		6,000			
1333	Stationery	50	50	23	23	5		
1344	Other professional fees	10,000	10,000	4,500	4,500	1,000		
1345	Contracted services	35,210	35,210		35,210			
1353	Telephones - mobiles	178	178	80	80	18		
1386	Advertising/publicity/promotions	660	660		330	330		
1387	Subscriptions	50	50		50			
1393	Health and safety/first aid	460	272	123	123	27		
1395	Meeting expenses	150	150	68	68	15		
Support Costs								
1600	Recharge Expenditure	291,050	332,710	149,720	149,720	33,271		
Gross Expenditure		345,328	386,800	154,512	197,622	34,666		
Sales of goods and supply of services								
2301	Hackney Carriage and Car Hire income	136,820	148,587		148,587			
2302	Licensing income other	144,230	157,211	122,625		34,586		
Total Income		281,050	305,798	122,625	148,587	34,586		
Net Cost		64,278	81,002	31,887	49,035	80		
Estimated rate of costs recovered		81%	79%	79%	75%	100%		

Environment						
Schedule of Fees and Charges for 2023/2024						
	Unit of Charge	VAT Indicator	Existing Charge	Proposed Charge	% Increase	
			£	£		
Licences						
Animal Welfare						
Boarding for Cats and Dogs - Kennels						
Part A (Application and Renewal Fee)	Break even service		398.00	437.00	9.8%	
Part B (Grant Fee)	Break even service		312.00	346.00	10.9%	
Total Fee	Break even service		710.00	783.00	10.3%	
Boarding for Dogs - Home Boarding						
Part A	Break even service		346.00	379.00	9.5%	
Part B	Break even service		312.00	346.00	10.9%	
Total Fee	Break even service		658.00	725.00	10.2%	
Boarding for Dogs - Day Care						
Part A	Break even service		398.00	437.00	9.8%	
Part B	Break even service		312.00	346.00	10.9%	
Total Fee	Break even service		710.00	783.00	10.3%	
Breeding Dogs(excl vet fee)						
Part A	Break even service		346.00	379.00	9.5%	
Part B	Break even service		312.00	346.00	10.9%	
Total Fee	Break even service		658.00	725.00	10.2%	
Hiring Horses (excl vet fee)						
1 - 8 horses	Break even service		398.00	437.00	9.8%	
Part B	Break even service		338.00	375.00	10.9%	
Total Fee	Break even service		736.00	812.00	10.3%	
9 - 15 horses	Break even service		476.00	524.00	10.1%	
Part B	Break even service		338.00	375.00	10.9%	
Total Fee	Break even service		814.00	899.00	10.4%	
Over 15 horses	Break even service		549.00	593.00	8.0%	
Part B	Break even service		338.00	375.00	10.9%	
Total Fee	Break even service		887.00	968.00	9.1%	
Selling Animals as Pets						
Part A	Break even service		346.00	379.00	9.5%	
Part B	Break even service		312.00	346.00	10.9%	
Total Fee	Break even service		658.00	725.00	10.2%	
Exhibition of Animals						
Part A	Break even service		346.00	379.00	9.5%	
Part B	Break even service		312.00	346.00	10.9%	
Total Fee	Break even service		658.00	725.00	10.2%	
Dangerous Wild Animals	Break even service	2-yearly OO	210.00	233.00	11.0%	
Zoos	Break even service	4-yearly OO	1,100.00	1,221.00	11.0%	
For each additional activity (to the main activity) the fee is half the standard application and grant fee.						
Each additional inspection/visit	Break even service		156.00	173.00	10.9%	
Each advisory visit	Break even service		156.00	173.00	10.9%	
Variation to the licence (inclusive of one visit)	Break even service		208.00	230.00	10.6%	
Re-evaluation of rating (inclusive of one visit)	Break even service		208.00	230.00	10.6%	
Variations to reduce licensable activities/numbers of animals	Break even service		78.00	86.00	10.3%	
Transfer due to death of licensee	Break even service		78.00	86.00	10.3%	

Environment						
Schedule of Fees and Charges for 2023/2024						
		Unit of Charge	VAT Indicator	Existing Charge	Proposed Charge	% Increase
				£	£	
Other						
Cosmetic Piercing, Electrolysis, Acupuncture	Break even service	per premise	OO	206.00	230.00	11.7%
Cosmetic Piercing, Electrolysis, Acupuncture	Break even service	per person combined fee for premises and personal licence	OO	206.00	230.00	11.7%
Cosmetic Piercing, Electrolysis, Acupuncture	Break even service	per person combined fee for premises and personal licence	OO	300.00	330.00	10.0%
Tattooing	Break even service	per premise	OO	227.00	250.00	10.1%
Tattooing	Break even service	per person combined fee for premises and personal licence	OO	227.00	250.00	10.1%
Tattooing	Break even service	per person combined fee for premises and personal licence	OO	325.00	360.00	10.8%
Semi-permanent skin colouring	Break even service	per premises	OO	227.00	250.00	10.1%
Semi-permanent skin colouring	Break even service	per person combined fee for premises and personal licence	OO	227.00	250.00	10.1%
Semi-permanent skin colouring	Break even service	per person combined fee for premises and personal licence	OO	325.00	360.00	10.8%
Street Trading						
a) Sole Trader	Break even service	Annual	OO	376.00	417.00	10.9%
b) Schedule 2 event - up to 50 traders	Break even service	Annual	OO	484.00	537.00	11.0%
c) Schedule 2 event - 51 or more traders	Break even service	Annual	OO	497.00	552.00	11.1%
d) Schedule 2 event - up to 50 traders	Break even service	Single Event	OO	441.00	489.00	10.9%
e) Schedule 2 event - 51 or more traders	Break even service	Single Event	OO	454.00	504.00	11.0%

Environment						
Schedule of Fees and Charges for 2023/2024						
	Unit of	VAT	Existing	Proposed	%	
	Charge	Indicator	Charge	Charge	Increase	
			£	£		
Scrap Metal Dealers Licence						
a) Site - new application	Break even service	OO	484.00	537.00		11.0%
b) Site - renewal	Break even service	OO	278.00	308.00		10.8%
c) Site to collectors - variation	Break even service	OO	422.00	468.00		10.9%
d) Collectors - new application	Break even service	OO	443.00	491.00		10.8%
e) Collectors - renewal	Break even service	OO	237.00	263.00		11.0%
f) Collectors to Site - variation	Break even service	OO	484.00	537.00		11.0%
Please Note:						
All of these fees are subject to consideration by the licensing regulatory committee of consultation responses.						
<i>Hackney Carriage - Vehicles (not adapted) *</i>						
- less than 5 years old	Break even service	Annual	OO	291.00	317.00	8.9%
- 5 years old and over - first 6 months	Break even service		OO	291.00	317.00	8.9%
- 5 years old and over - second 6 months	Break even service		OO	84.00	92.00	9.5%
<i>Hackney Carriage - Vehicles (adapted) *</i>						
- under 5 years old	Break even service	Annual	OO	105.00	115.00	9.5%
- 5 years old and over - first 6 months	Break even service		OO	105.00	115.00	9.5%
- 5 years old and over - second 6 months	Break even service		OO	84.00	92.00	9.5%
<i>Missed Appointments (Vehicle Test)</i>						
	Break even service	Per Test	OO	72.00	79.00	9.7%
<i>Re-testing of vehicles following failure</i>						
	Break even service	Per Test	OS	72.00	79.00	9.7%
<i>Private Hire - Operators - renewal (5 vehicles and less)</i>						
	Break even service	5 years	OO	125.00	136.00	8.8%
<i>Private Hire - Operators - renewal (more than 5 vehicles)</i>						
	Break even service	5 years	OO	176.00	192.00	9.1%
<i>Private Hire - New Operators (5 vehicles and less)</i>						
	Break even service	5 years	OO	150.00	163.00	8.7%
<i>Private Hire - New Operators (more than 5 vehicles)</i>						
	Break even service	5 years	OO	197.00	214.00	8.6%
<i>Private Hire - New Operators (5 vehicles and less)</i>						
	Break even service	5 years	OO	221.00	241.00	9.0%
<i>Private Hire -New Operators (more than 5 vehicles)</i>						
	Break even service	5 years	OO	268.00	292.00	9.0%
<i>Private Hire - Vehicles (not adapted) *</i>						
- under 5 years old	Break even service	Annual	OO	291.00	317.00	8.9%
- 5 years and over - first 6 months	Break even service		OO	288.00	313.00	8.7%
- 5 years and over - second 6 months	Break even service		OO	84.00	92.00	9.5%
<i>Private Hire - Vehicles (adapted) *</i>						
- under 5 years old	Break even service	Annual	OO	105.00	115.00	9.5%
- 5 years and over - first 6 months	Break even service		OO	105.00	115.00	9.5%
- 5 years and over - second 6 months	Break even service		OO	84.00	92.00	9.5%
<i>Hackney carriage / private hire - New driver</i>						
	Break even service	3 years	OO	269.00	293.00	8.9%
<i>Hackney carriage / private hire licence renewal</i>						
	Break even service	3 years	OO	175.00	191.00	9.1%
<i>Hackney carriage / private hire - New driver</i>						
	Break even service	1 year	OO	111.00	121.00	9.0%
<i>Hackney carriage / private hire licence renewal</i>						
	Break even service	1 year	OO	71.00	78.00	9.9%

Environment						
Schedule of Fees and Charges for 2023/2024						
	Unit of	VAT	Existing	Proposed	%	
	Charge	Indicator	Charge	Charge	Increase	
			£	£		
<i>Private Hire only - New driver</i>	Break even service	3 years	OO	269.00	293.00	8.9%
<i>Private Hire only licence renewal</i>	Break even service	3 years	OO	175.00	191.00	9.1%
<i>Private Hire only- New driver</i>	Break even service	1 year	OO	111.00	121.00	9.0%
<i>Private Hire only licence renewal</i>	Break even service	1 year	OO	71.00	78.00	9.9%
<i>Knowledge test</i>	Break even service	Per Test	OO	72.00	79.00	9.7%
<i>Resit / non-attendance fee for Knowledge test</i>	Break even service	Per Test	OO	72.00	79.00	9.7%
<i>Surrender and replacement of Hackney Carriage / Private Hire Licence</i>	Break even service		OO	84.00	92.00	9.5%
<i>Hackney Carriage and Private Hire</i>						
- Replacement plate bracket	Break even service		OS	10.30	12.00	16.5%
- New/Replacement plate & window disc	Break even service		OS	20.50	23.00	12.2%
- Replacement driver's badge	Break even service		OO	10.30	12.00	16.5%
- Change of address	Break even service		OS	10.30	12.00	16.5%
Transfer of P/H to H/C (new badge, knowledge test and adm.	Break even service		OO	92.20	101.00	9.5%
<i>Door Stickers for Private Hire vehicles</i>						
- One sticker	Break even service			16.75	New charge	
- Two stickers	Break even service			8.37	New charge	
<i>Gambling Act 2005</i>		Various			Please see website for individual fees	
- Including lotteries, permits, premises, etc						
<i>Licensing Act 2003</i>						
- Personal	Statutory Fee	New	OO	37.00	37.00	0.0%
- Premises	Statutory Fee	ial/Variation	OO	Various depending on rateable value		
- Premises: Sex Establishment	Break even service	ording to RV	OO	4,830.70	5,247.00	8.6%
- Premises	Statutory Fee	Annual Fee	OO	Various depending on rateable value		
- Premises	Statutory Fee	riations, etc	OO	23.00	23.00	0.0%
- Temporary Event Notice	Statutory Fee	Per Event	OO	21.00	21.00	0.0%
<i>Data Barring Service (previously CRB)</i>		Per Applicant	OO	60.00	65.00	8.3%
<i>Vat Indicator:</i>						
		OS = Standard				
		OE = Exempt				
		OZ = Zero Rated				
		OO = Outside Scope				

Please Note:

All of these fees are subject to consideration by the licensing regulatory committee of consultation responses.