

## Licensing Committee

Tuesday 26 July 2011  
7.00 pm  
Town Hall, Peckham Road, London SE5 8UB

### Membership

Councillor Sunil Chopra (Chair)  
Councillor Linda Manchester (Vice-Chair)  
Councillor Michael Bukola  
Councillor Robin Crookshank Hilton  
Councillor Dora Dixon-Fyle  
Councillor Dan Garfield  
Councillor Norma Gibbes  
Councillor Renata Hamvas

Councillor David Hubber  
Councillor Eliza Mann  
Councillor Michael Mitchell  
Councillor Adele Morris  
Councillor the Right Revd Emmanuel Oyewole  
Councillor Althea Smith  
Councillor Ian Wingfield

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### INFORMATION FOR MEMBERS OF THE PUBLIC

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#### Contact

Sean Usher on 020 7525 7222 or email: [sean.usher@southwark.gov.uk](mailto:sean.usher@southwark.gov.uk)  
Webpage: <http://www.southwark.gov.uk>

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Members of the committee are summoned to attend this meeting

**Annie Shepperd**  
Chief Executive  
Date: 18 July 2011



# Licensing Committee

Tuesday 26 July 2011  
7.00 pm  
Room A2, Town Hall, Peckham Road, London SE5 8UB

## Order of Business

Item No.	Title	Page No.
	<b>PART A - OPEN BUSINESS</b>	
1.	<b>APOLOGIES</b>	
	To receive any apologies for absence.	
2.	<b>CONFIRMATION OF VOTING MEMBERS</b>	
	A representative of each political group will confirm the voting members of the committee.	
3.	<b>NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT</b>	
	In special circumstances, an item of business may be added to an agenda within five clear days of the meeting.	
4.	<b>DISCLOSURE OF INTERESTS AND DISPENSATIONS</b>	
	Members to declare any personal interests and dispensation in respect of any item of business to be considered at this meeting.	
5.	<b>MINUTES FROM THE LICENSING COMMITTEE</b>	
	To approve as a correct record the minutes of the open section of the meeting held on 15 March 2011 (to be circulated separately).	
6.	<b>MINUTES FROM THE LICENSING SUB-COMMITTEES</b>	

Item No.	Title	Page No.
	To agree as a correct record the minutes of the open sections of the meetings held on the dates below (to be circulated separately):	
	<ul style="list-style-type: none"> <li>• 21 March 2011</li> <li>• 28 March 2011</li> <li>• 18 April 2011</li> <li>• 27 April 2011</li> <li>• 9 May 2011</li> <li>• 12 May 2011</li> <li>• 25 May 2011</li> <li>• 6 June 2011</li> <li>• 27 June 2011</li> <li>• 29 June 2011</li> <li>• 4 July 2011</li> <li>• 13 July 2011.</li> </ul>	
7.	<b>THE LICENSING ACT 2003 - THREE YEAR REVIEW OF STATEMENT OF LICENSING POLICY</b>	1 - 78
8.	<b>LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - SOUTHWARK SEX ESTABLISHMENTS LICENSING POLICY</b>	79 - 131
9.	<b>RESCISSION OR VARIATION OF LICENCE STREET DESIGNATIONS IN SOUTHWARK</b>	132 - 140

**ANY OTHER OPEN BUSINESS AS NOTIFIED AT THE START OF THE MEETING AND ACCEPTED BY THE CHAIR AS URGENT.**

**EXCLUSION OF PRESS AND PUBLIC**

The following motion should be moved, seconded and approved if the sub-committee wishes to exclude the press and public to deal with reports revealing exempt information:

“That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1-7, Access to Information Procedure rules of the Constitution.”

**PART B - CLOSED BUSINESS**

**ANY OTHER CLOSED BUSINESS AS NOTIFIED AT THE START OF THE MEETING AND ACCEPTED BY THE CHAIR AS URGENT.**

Date: 18 July 2011

<b>Item No.</b> 7.	<b>Classification:</b> Open	<b>Date:</b> 26 July 2011	<b>Meeting Name:</b> Licensing Committee
<b>Report title:</b>		The Licensing Act 2003 – Three Year Review of Statement of Licensing Policy	
<b>Ward(s) or groups affected:</b>		All wards	
<b>From:</b>		Strategic Director of Environment	

## RECOMMENDATIONS

1. That the committee recommend the draft document at Appendix A to this report (as may be amended) to council assembly for approval as the Southwark Statement of Licensing Policy for 2011-2014.
2. That the committee notes that a further report will be provided by officers on the impact of the licensing provisions contained within the current Police and Social Responsibility Bill, upon the council's policy statement, following the Bill's progression through parliament.

## BACKGROUND INFORMATION

3. The Licensing Act came into effect on 25 November 2005. The Act introduced a new regime for the licensing of alcohol, regulated entertainment and late night refreshment, administered by the local licensing authority (within Southwark, this council).
4. Section 5 of the Act requires each licensing authority to prepare and publish a statement of licensing policy, every three years. The policy statement sets out how the authority intends to approach it's licensing responsibilities. Each authority is also required to keep it's statement of policy under review throughout each three year period and make any revisions it considers appropriate.
5. The initial Southwark statement of licensing policy (for 2005-2008) was compiled having regard to the provisions of the Act itself, secondary regulations and Guidance issued by the Department of Culture Media and Sport (DCMS). That initial statement of policy was approved by full council assembly on 6 December 2004.
6. It has since been kept under constant review. By the beginning of 2010, the policy statement was on it's fourth revision (approved on 4 November 2009).
7. Current guidance to the Act makes clear that the requirement to formally review the statement of policy every three years stands, irrespective of any mid-term reviews or revisions that may have taken place.
8. In accordance with the provisions of the Act, the Southwark statement of policy was taken out to public consultation in the summer of 2010. Responses to the consultation have been reviewed and have contributed toward a fifth revision of the policy statement.

9. However, other developments have affected the position. In the summer of 2010, overall government responsibility for alcohol licensing was passed from the DCMS to the Home Office. This realignment of responsibility firstly led to a government consultation proposing reform of the 2003 Act, entitled "Rebalancing the Licensing Act". This consultation in turn, has led to a number of far reaching amendments to the Act being incorporated into the Police and Social Responsibility Bill which, at the time of writing, is at the report stage in the House of Lords. The realignment of responsibility has also led to a Home Office revision of the Guidance to the Act being issued in October 2010.
10. The fifth revision of the Southwark statement of policy has now been checked for compliance with the October 2010 revision of the Guidance and this is now presented to the committee at Appendix A to this report, for consideration. The committee is asked to recommend the revision to council assembly for formal adoption.
11. The policy is anticipated to require further amendment in the light of the outcome of the licensing provisions within the Bill. The progress of the Bill is being closely monitored and the impact of any new provisions upon the statement of policy will be reported back to the licensing committee in due course.

## **KEY ISSUES FOR CONSIDERATION**

### **The purpose of the policy**

12. The purpose of the statement of policy is set out in section three of the document, as follows:
  - To reinforce to elected members on the licensing committee, the powers of and constraints placed upon the local authority and to provide the parameters under which these licence decisions are made;
  - To inform licence applicants of the parameters under which this authority will make licence decisions and how a licensed premises is likely to be able to operate within an area;
  - To inform residents and businesses of the parameters under which licence decisions will be made and how their needs will be addressed; and
  - To minimise the number of licensing decisions that may be challenged in a court of law.

### **The licensing objectives**

13. Central to the statement of policy is the promotion of the four licensing objectives established under the Act. These are:
  - The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.

### **Summary of the main amendments**

14. Given the frequency of the revision of the policy since it's initial formulation, there are no major policy changes. The statement of policy is revised throughout so as to ensure consistency with the latest changes in legislation, guidance and case law and

to reflect current best practice. A summary of some of the main changes follows.

#### **Section 4 – Administration, exercise and delegation of function**

15. Section 4 deals with the administrative arrangements for processing and determining licence applications. This revision
- Notes recent amendments to the process including
    - the availability of the minor variations process for matters that do not impact upon the licensing objectives; and
    - the change to the period allowed for counter notices to be provided by the police in respect of temporary event notices from within 48 hours of receipt of the notice to two working days;
  - Includes a new section dealing with applications for licences in respect of events during the Olympic summer of 2012, which sets out that the need for, and availability of, emergency service resources will be a consideration when determining applications.

#### **Section 6 – Other related legislation and strategies**

16. Section 6 references other associated and complementary legislation and strategy. New references include:
- Policing & Crime Act 2009 – which introduced the mandatory code of practice for alcohol retailers; established elected members as ‘interested parties’; and reclassified lap dancing clubs and similar as ‘sex entertainment venues’ under the sex establishments licensing regime within the Local Government (Miscellaneous Provisions) Act 1982. Note: Any member wishing to receive advice on acting as an interested party under the Act should contact the licensing service;
  - Equality Act 2010 – which replaced many of the provisions of the Disability Discrimination Act and provides new rights for people not to be discriminated against or harassed because they have an association with a disabled person; and
  - EU Services Directive – which introduced new provisions to help facilitate cross-border trade within the European community.

#### **Section 7 – The first licensing objective – The prevention of crime and disorder**

17. Section 7 sets out to provide best practice guidance to prospective licence applicants in pursuit of the prevention of crime and disorder objective. Within this section the broad guide to potential crime and disorder controls has been overhauled, in conjunction with the police and trading standards, and new references include:
- The five new mandatory licence conditions established by statute in 2010 (relating to irresponsible drinks promotions and games; the provision of free tap water; requirements for age verification policies; and for availability of small measures;
  - The western extension of the Borough and Bankside saturation zone;
  - Amendment of the section on adult entertainment to reflect the changed position in law that requires regular striptease and similar to require a sex establishments licence, while exempting occasional performances;
  - New sections on ‘The sale and possession of smuggled, bootlegged or

counterfeit products and the handling of stolen goods’ and ‘Theft of personal property’.

### **Section 8 – The second licensing objective – Ensuring public safety**

18. Section 8 sets out to provide best practice guidance to prospective licence applicants in pursuit of the public safety objective. Within this section the broad guide to public safety considerations has been overhauled, in conjunction with the occupational health and safety team and the fire brigade. New references include
- Expanded sections on the Regulatory Reform (Fire Safety) Order 2005 and the Health and Safety at Work Regulations 1999.

### **Section 9 – The third licensing objective - The prevention of public nuisance**

19. Section 9 sets out to provide best practice guidance to prospective licence applicants in pursuit of the prevention of public nuisance objective. Within this section the broad guide to sound containment and reduction measures has been overhauled in conjunction with the environmental protection team. New references include:
- Extended sections on ‘nuisance outside of premises’ and ‘smoking and licensed premises’

### **Section 10 – The fourth licensing objective – The protection of children from harm**

20. Section 10 sets out to provide best practice guidance to prospective licence applicants in pursuit of the protection of children from harm objective. It has been amended in conjunction with trading standards and the Southwark Safeguarding Children Board. New references include:
- Amendment of the ‘broad guide controlling under age-sales measures’ to incorporate references to ‘Challenge 25’ / ‘Think 25’; and
  - A new section on the Southwark Proof of Age (SPA) card

### **Community impact statement**

21. The Southwark statement of licensing policy recognises that responsible business operators who run, safe, well managed venues and facilities and are prepared to work together with their local community will provide benefit to that community. The policy equally recognises that irresponsible business operators who fail to provide good management practices are likely to have negative impacts on the community.
22. As such, the statement of policy sets out to achieve a necessary balance between providing a platform upon which responsible business operators may contribute toward a thriving business and late night economy while ensuring that the quality of life of those who live and work in the borough is protected and enhanced through the licensing system.
23. Central to this, is a licensing process which aims to be inclusive and ensures that local community concerns are understood, debated and resolved. This is supported by offering broad support to licensees, through the range of involved authorities, to establish best practice management, and by a strong directed enforcement resource.

24. Furthermore, the council, as licensing authority, monitors the impacts of its licensing decisions through regular partnership analysis of statistical information on alcohol related crime and disorder; calls to the police regarding disorder and rowdiness; ambulance 'pick-up' statistics; and noise nuisance calls to the council.
25. The equalities impact assessment has been revisited as part of the revision of this policy. As the primary changes to the policy form technical updates, no new issues are identified at this stage. However, it is anticipated that a new assessment will be necessary in the light of changes to the law proposed in the aforementioned Police and Social Responsibility Bill.

### **Resource implications**

26. The revision and update of the Southwark statement of licensing policy does not have any resource issues in itself. Where new initiatives referenced within the policy statement have resource implications these will have been dealt with at time of conception.
27. This is an update to the existing statement of licensing policy. This policy is mainly advisory / informative, providing guidance to the licensing committee, licence applicants, residents and businesses. Costs associated with implementing the existing policy are currently met from the licensing revenue budget.

### **Consultation**

28. The fifth revision of the Southwark statement of licensing policy has been prepared with public consultation undertaken in accordance with section 5(3) of the Licensing Act 2003. As such this authority has consulted with
  - The chief officer of the police;
  - The fire authority;
  - Representatives of holders of premises licences; club premises certificate holders; and personal licence holders;
  - Representatives of businesses and residents; and
  - All responsible authorities specified under the Act
29. A summary of the responses received to the consultation is attached as Appendix B.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Strategic Director of Communities, Law & Governance**

30. The Licensing Act 2003 ("the 2003 Act") requires the Council, as the licensing authority, to prepare and publish a statement of its licensing policy every three years.
31. In 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 2003 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.
32. Although the Guidance represents best practice, it is not binding on the Council. As long as the Guidance has been properly and carefully understood and 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.

33. 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 any 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.
34. 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
35. Each of these objectives is of paramount and equal importance. There are no other licensing objectives and therefore the Council cannot reject an application for a licence or impose conditions on a licence for any purpose unrelated to the promotion of these objectives. For example, whether or not there is a 'need' for another licensed premises in a given area is a matter for planning committees but is not a matter for a licensing authority in its statement of licensing policy or in discharging its licensing functions.
36. However, the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Council to consider when adopting its statement of licensing policy. The Guidance explains 'cumulative impact' as the potential impact on the promotion of the licensing objectives – for example crime and disorder and/or public nuisance - of a significant number of licensed premises concentrated in one area.
37. 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. The Guidance provides that if the situation the condition is intended to address is already addressed by a provision in the 2003 Act or any other legislation then the condition cannot be said to be 'necessary'.
38. Licensing is about regulating the carrying on of licensable activities within the terms of the 2003 Act. The statement of licensing policy should make it 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 always be part of a holistic approach to the management of the evening and 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.
39. Members should note that the statement of licensing policy must not be inconsistent with the provisions of the 2003 Act and must not override the right/s of any individual

as provided for in that Act. Nor must the statement of licensing policy be inconsistent with 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 functions as a licensing authority under the 2003 Act, to do all it reasonably can to prevent crime and disorder within the Borough.

40. Positive equalities obligations are placed on local authorities, sometimes described as equalities duties, with regard to race, disability and gender. Race equality duties were introduced by the Race Relations Amendment Act 2000 which amended the Race Relations Act 1976. Gender equalities duties were introduced by the Equality Act 2006, which amended the Sex Discrimination Act 1975. Disability equality duties were introduced by the Disability Discrimination Act 2005 which amended the Disability Act 1995.
41. Equality impact assessments are an essential tool to assist councils to comply with our equalities duties and to make decisions fairly and equalities and human rights impact assessments that are carried out should be mindful of the protected characteristics under the Equality Act 2010.
42. 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 committee, decisions relating to the statement of licensing policy cannot be delegated in such a way. The decision on whether to adopt the statement of licensing policy must therefore be taken by council assembly.

#### Finance Director

43. The head of service has confirmed that the cost implications of this updated policy will be contained within the licensing revenue budget for the division.

#### BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Licensing Act 2003 plus secondary regulations	The Licensing Service, C/O The Chaplin Centre, Thurlow Street, London, SE17 2DG	Name: Mrs Kirtikula Read Phone number: 020 7525 5748
The Home Office Guidance to the Act published October 2010		
Local Government (Miscellaneous Provisions) Act 1982		

#### APPENDICES

No.	Title
Appendix A	Draft Southwark Statement of Licensing Policy 2011-14
Appendix B	Summary of consultation responses

## AUDIT TRAIL

<b>Lead Officer</b>	Gill Davies, Strategic Director of Environment	
<b>Report Author</b>	Richard Parkins, Health Safety Licensing & Environmental Protection Unit Manager	
<b>Version</b>	Final	
<b>Dated</b>	27 May 2011	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
<b>Cabinet Member</b>	No	No
<b>Date final report sent to Constitutional/Community Council/Scrutiny Team</b>	28 June 2011	

**Licensing Act 2003**

**Draft Southwark**  
**Statement of Licensing**  
**Policy 2011-14**

## LEGAL BACKGROUND TO THIS DOCUMENT

The Licensing Act 2003 came into effect on 24 November 2005. The Act repealed existing legislation relating to alcohol, entertainment and late night refreshment and introduced a new licensing regime, administered by the local licensing authority.

Section 5 of the Licensing Act 2003 requires each licensing authority to prepare and publish a statement of its licensing policy every three years. The initial Southwark Statement of Licensing Policy received council assembly approval on 8 December 2004. It was developed through public consultation and with full regard to the Act; the secondary regulations made under the Act; and the guidance produced by the Secretary of State for the Department of Culture Media and Sport (DCMS). The council's licensing policy has since been frequently updated and amended, in order to keep abreast of changes in law, guidance and local policy. Such amendments have been formally approved in January 2007, April and November 2008 and November 2009.

This document provides the fifth revision of the statement of policy and represents the authority's policy for the period 2011 - 2014. Regard has been had during the preparation of this latest revision to section 182 Guidance, issued by the Home Office in October 2010.

Revisions to the guidance are issued by the Secretary of State from time to time. When revisions are issued, there may be periods of time where the Southwark policy is inconsistent with the guidance. During such periods this council will have regard, and give appropriate weight, to the revised guidance.

It is important to note that a licensing authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.

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## SECTION ONE – EXECUTIVE SUMMARY

Our policy recognises the change that is taking place within Southwark and how recent development and regeneration projects are adding to the growing value and importance of our borough. It recognises the extent of the contribution of the leisure and entertainments industry.

Southwark enjoys a widespread and diverse selection of licensed premises and venues. More than 1,200 premises are currently licensed for either the sale or supply of alcohol; the provision of regulated entertainment; and / or the provision of late night refreshment. These range from off-licences, shops and supermarkets; restaurants, cafes and take-away establishments; to pubs, bars, members clubs, night clubs, theatres, cinemas and indoor sports facilities. Together they combine to provide a wide-range of leisure and cultural opportunities; support tourism; provide employment; and make a significant economic contribution to the local community.

As long as premises management strive to act responsibly; run safe, well managed venues and facilities; and work together with the local community, they can make a positive contribution toward building community cohesion and cultural development.

Of course, negative impacts can also occur if good management practices are not followed. Potential negative impacts may arise in the form of noise, nuisance, disturbance and crime and disorder problems. We recognise that the misuse of alcohol particularly, while maintaining an important position in our leisure activity, does negatively impact upon both public health and the public purse through the demands made upon A&E; additional policing; additional street cleaning; and the criminal justice system.

Our policy, therefore, seeks to provide a necessary balance between providing a platform upon which responsible business operators may contribute towards a thriving business and late night economy while ensuring that the quality of life of those who live and work in the borough is protected and enhanced through the licensing system. We believe these aims are achievable if all parties concerned work together.

The opening sections of this policy help establish how we address our licensing responsibilities under the Act. Section two of our policy provides an introduction to our borough and our council. Section three sets out the scope of the policy and section four our administrative arrangements. Section five gives an explanation to the determinations process under the Act and section six sets out the background of other legislation, policies, objectives and guidance which support this policy.

Perhaps some of the most important matter is contained in sections seven through to ten in which we cover each of the four licensing objectives in detail. Here we offer guidance on the considerations we would like to see applicants for licences taking into account when conducting risk-assessments of their proposed operation in advance of compiling management operation plans and operating schedules.

Within these, section seven deals with the prevention of crime and disorder. It includes explanation of how this council monitors the impact of its licensing decisions through regular statistical analysis. It details local saturation policies that have been put in place where there is evidence of detrimental cumulative impact. It also includes



considerations around the roles of designated premises supervisors and personal licence holders.

Section eight considers the breadth of issues affecting public safety. Section nine considers nuisance issues. Section ten considers the issues around the protection of children from harm giving particular thought to preventing access to alcohol and age identification schemes.

This authority is committed to working together with responsible premises management to ensure successful licensed operations. Equally this authority will take appropriate action where there is evidence of irresponsible management. To this end, section eleven of our policy sets out our approach to enforcement, examining how we aim to ensure that our enforcement actions are targeted where they are needed most and co-ordinated together with our partners. It also sets out how we aim to ensure that our enforcement actions are carried out in a fair, consistent and transparent manner.

As this latest revision to our policy is prepared, we are closely monitoring the passage of the Policing and Social Responsibility Bill through parliament, which incorporates many proposed amendments to the 2003 Act. All resultant changes to the licensing regime that arise will be incorporated into this policy in due course.

Aside from this, this policy will be regularly reviewed and will be subject of public consultation at least every three years. We welcome your thoughts on its content and the manner in which we undertake our responsibilities under it.

**SECTION ONE – ALL ABOUT SOUTHWARK**



### **Our borough**

1. Alongside the City of London, Southwark is one of the oldest areas of London, with a history stretching back to Roman times. According to statistics produced by the Office of National Statistics (ONS), Southwark's population is estimated to have reached 292,000 in 2009 and is growing. Projections estimate that the population will reach 380,000 by 2031. The population has a young demographic profile and demonstrates rich ethnic and cultural diversity, with around 38% (110,000) of the population from black or ethnic minority communities. Southwark is arguably one of the most diverse areas in the capital.
2. Southwark is made up of eight very distinctive urban neighbourhoods that extend along the river Thames and down into South East London. The borough also encompasses some of London's top attractions, creative hotspots, scenic villages and acclaimed green spaces.
3. Southwark has a wide-range of leisure and cultural opportunities; and makes a significant economic and employment contribution to the local community. The north of the borough is recognised as one of London's fastest growing tourist quarters and a thriving business location.
4. Alongside the borough's rich vibrancy, Southwark has its fair share of challenges. The Index of Multiple Deprivation (IMD) 2007 shows Southwark as the 27th most deprived local authority nationally and 60% of the borough's wards are among the 10% most deprived in the country. Consequently, the borough faces many challenges associated with meeting the complex health and social needs of an inner-city population. Unemployment in Southwark (8.9%) is higher than the London average (6.7%) and the percentage of the working population claiming benefits in Southwark is 15.6% compared to 13.9% across London. Gross weekly earning for both men and women in Southwark is lower than the London average.
5. In terms of violent crime, Southwark records a significantly higher number of violence against the person and robbery incidents compared to the London average.
6. Whilst there have been improvements, the attainment rates for Southwark pupils at key stages 1 and 2, GCSE and A levels are below the national average. Teenage conception rates for Southwark are still one of the highest in England.
7. To meet our challenges, Southwark has a large number of physical regeneration programmes across the borough, alongside a wide range of initiatives aimed at improving educational standards, reducing crime and improving health, housing, social care and the environment.

### **Leading Southwark**

8. Southwark is made up of 21 wards, with 63 councillors; three from each ward. These councillors sit on the council assembly, which is the "sovereign" body of the council. The assembly is chaired by the Mayor of Southwark and is responsible for approving the budget and policy framework. Currently labour holds 33 seats; the liberal democrats 25; the conservatives 3 seats; and independent 1 seat. At the time of writing there is one vacant seat.
9. The council operates a strong leader / cabinet model. The cabinet is headed by the leader and deputy leader, with eight members holding portfolios of

- Housing management;
  - Regeneration and corporate strategy;
  - Health and adult social care;
  - Transport, environment and recycling;
  - Finance, resources and community safety;
  - Children's services;
  - Equalities and community engagement; and
  - Culture, leisure, sport and the Olympics
10. The cabinet is responsible for leading the community planning and consultation process, drafting the budget and policy framework, and taking most decisions on resources and priorities.
  11. Scrutiny committees take a close look at council decisions and activities and call for the council to be open and accountable. They examine services provided by the council and review the council's budget and policies. Scrutiny can look at, or 'call-in' decisions made by the cabinet and recommend decisions are changed or reconsidered.
  12. A licensing committee is established to consider licensing policy with contested licence applications being considered by sub-committees of the main committee as set down in table 1 in section 4 of this document. Licensing matters fall under the responsibility of the cabinet member for finance, resources and community safety.
  13. Eight ward based community councils were established in April 2003 to take local decisions in key areas that have a direct impact on the local neighbourhoods.

### **SECTION THREE – PURPOSE AND SCOPE OF THE LICENSING POLICY**

**Purpose of the policy**

14. This policy has four main objectives:

- To reinforce to elected members on the licensing committee, the powers of and constraints placed upon the local authority and to provide the parameters under which these licence decisions are made;
- To inform licence applicants of the parameters under which this authority will make licence decisions and how a licensed premises is likely to be able to operate within an area;
- To inform residents and businesses of the parameters under which licence decisions will be made and how their needs will be addressed; and
- To minimise the number of licensing decisions that may be challenged in a court of law.

**Scope of the policy**

15. The Licensing Act 2003 regulates the following activities:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- The provision of “regulated entertainment”; and
- The provision of “late night refreshment”

**Types of authorisation**

16. The Act provides for four different types of authorisation as follows::

- Personal licences – to sell or supply alcohol and / or authorise the sale of alcohol;
  - Premises licences – to use a premises for one or more licensable activities; and
  - Club premises certificates – to allow a qualifying club to engage in qualifying club activities; and
  - Temporary event notice (TENs) - to carry out licensable activities at a temporary event.
17. The scope of the policy covers new applications, renewals, transfers and variations of licences including time-limited premises licences. It also covers the review and possible revocation of licences and certificates.
18. In general a reference in this policy to a premises licence will also include a club premises certificate.
19. This policy does not set out to explain the circumstances under which any one of the available licences or notifications may be required, nor does it attempt to set out the licensing process. This information is provided in separate guidance, available from the licensing service. Please see section 4 of this policy for details.

**Definitions**

20. Under the Act “regulated entertainments” includes entertainment and entertainment facilities. Entertainments include:

- The performance of a play;
- The exhibition of a film;

- An indoor sporting event;
- Boxing or wrestling entertainment;
- Performance of live music;
- Any playing of recorded music; and
- A performance of dance;

but only where the entertainment takes place in the presence of an audience and is provided at least partly to entertain that audience

21. Entertainment facilities include facilities for:

- Making music; and
- Dancing

22. "Late night refreshments" constitutes the supply of hot food or hot drink to members of the public from or in the premises, including a vehicle or moveable stall, between the hours of 11pm and 5am for consumption on or off the premises.

### **The licensing objectives**

23. In carrying out its licensing functions the council will promote the four licensing objectives set out in the Licensing Act 2003 (2003 Act). They are:

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

24. Each licence application will be considered on its own merits in the context of the four licensing objectives. It is important to note that there are no other licensing objectives, so that these four objectives are paramount at all times. Each objective is of equal importance. It is the responsibility of all parties involved in the licensing process to work together toward these licensing objectives at all times. Each of the objectives is considered independently and in more detail in sections 7 to 10 of this document.

25. However, the legislation supports a number of other key aims and purposes, which include:

- The necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting licensed entertainment premises;
- The introduction of better and more proportionate regulation to give business greater freedom and flexibility to meet customers' expectations;
- Greater choice for consumers, including tourists, about where, when and how they spend their leisure time;
- The encouragement of more family friendly premises where younger children can be free to go with the family;
- The further development within communities of our rich culture of live music, dancing and theatre; and
- The regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring.

26. These are vitally important and should be the principle aims for everyone involved in the licensing process.

### **General information**

27. Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act. Conditions attached to the various permissions will be focused on matters that are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. This will include the direct impacts of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
28. However, the licensing function is only one means of promoting the delivery of the objectives described. While we anticipate that the licensing function will make a substantial contribution in relation to licensed premises, it cannot alone resolve all community problems. For instance, the council recognises that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour caused by individuals once they are away from licensed premises and beyond the direct control of individual licensees or certificate holders. Nevertheless, it is a key aspect of such control and licensing law will always be a part of the holistic approach to the management of the evening and night-time economy in town and city centres.
29. The council will use its full range of powers, engage all relevant responsibilities and work with all partners to deliver the licensing objectives.
30. Other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises include:
- Planning controls;
  - The co-ordinating and tactical resourcing roles played by the likes of the partnership tasking group and the public services operation group with the support of the partnership analyst;
  - Ongoing measures such as the council's community wardens; the safer neighbourhood teams; and street leader schemes, all of which aim to create a safe, clean and green environment through partnerships between the council and the community;
  - The provision of CCTV surveillance across the borough; improved street lighting; late night public conveniences; street cleaning and litter patrols;
  - The introduction of the alcohol control area in November 2006, ranging across the borough with the exception of areas of Dulwich, which brings greater powers to penalize and confiscate alcohol from nuisance drinkers;
  - The introduction of the multi-agency partnership night-time economy team;
  - Enforcement powers to deal with statutory nuisance arising from noise, odours and artificial light;
  - Enforcement powers to curb disorder and anti-social behaviour including the issue of fixed penalty notices;
  - Enforcement powers to prosecute personal licence holders or members of staff who sell alcohol to persons who are drunk or sell alcohol to under-age children;
  - Enforcement powers to close down instantly, for up to 24 hours, any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or nuisance emanating from the premises causing a

- nuisance. This together with the ability to extend the closure via the magistrates' court and initiate a review hearing where appropriate;
- Campaign work undertaken in conjunction with other partners (such as the Drugs and Alcohol Action Team (DAAT)) under the Safer Southwark Partnership such as previous "safe world cup", "safety glasses"; "talking signs" campaigns;
  - 'Conflict resolution training' provided by the council's health and safety team intended for retail staff, aimed at dealing with violence and aggression at work;
  - The 'Revealed' training programme run by the council aimed at helping community event organisers provide safe, well managed events;
  - The development of partnership arrangements intended to take forward schemes that are of benefit to the local community such as the Business Improvement District in Bankside;
  - The establishment of local pub-watch, club-watch and similar schemes. Information about pub-watch can be obtained through their web site on [www.nationalpubwatch.org.uk](http://www.nationalpubwatch.org.uk); and
  - The best practice demonstrated and supported by the Purple Flag, Best Bar None and other similar award schemes.
31. While this statement sets out the council's general approach to the making of licensing decisions, nothing in this statement undermines the right of any individual to apply under the terms of the Act for any of the variety of available permissions and to have the application considered upon its individual merits.
32. Similarly, this statement of policy does not override the right of any person to make representations concerning the grant or variation of any premises licence or club premises certificate or to seek a review of a licence or certificate where provision has been made for them to do so under the Act. Absolute weight will be given to all representations. However, this will not include those that are frivolous, vexatious or repetitious.
33. The council may depart from this policy, if the individual circumstances of any case merit such a decision, in the interests of promoting the licensing objectives. Where such decision is taken, full reasons for the departure from the policy will be given.

#### SECTION 4 – ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTION

34. As stated in Section 3, this document does not set out to deal with the circumstances under which any one of the available licences or consents may be required, nor does it attempt to explain the applications process.
35. Instead, a range of separate guidance documents is available from the Southwark licensing service and can be downloaded from [http://www.southwark.gov.uk/info/200127/apply\\_for\\_a\\_licence/519/licensing\\_act\\_2003](http://www.southwark.gov.uk/info/200127/apply_for_a_licence/519/licensing_act_2003) . These include;



- “Guidance to personal licences”;
  - “Guidance to premises licences”;
  - “Guidance to club premises certificates”;
  - “Guidance to temporary event notices”;
  - “Guidance to representations”;
  - “Guidance to licence reviews”;
  - “Guidance to fees and charges”;
  - “Guidance to designated premises supervisors” and
  - “Public hearings procedure”
36. Contact details for the licensing service are provided in section 12 of this document.

#### **Applications for personal licences**

37. Applications for the grant and renewal of personal licences must be made on the form prescribed under regulations made by the secretary of state. Applications shall not be progressed until the form has been completed in full and received, together with the relevant fee and all other required information, by the licensing authority. Applications will be progressed in accordance with procedures laid down by the Act. Prospective applicants should refer to the separate document “Guidance to Personal Licences” for further details.

#### **Applications for premises licences**

38. Applications for the grant, variation or transfer of a premises licence and applications for a provisional licence, or interim authority, or to change the designated premises supervisor named under a premises licence must be made on the form prescribed under secondary regulations made by the secretary of state. Applications shall not be progressed until the form has been completed in full and received, together with the relevant fee and all other required information, by the licensing authority and other relevant responsible authorities. Applications will be progressed in accordance with the procedures laid down by the Act. Prospective applicants should refer to the separate document “Guidance to Premises Licences” for further details.

#### **Applications for club premises certificates**

39. In order for qualifying clubs to supply alcohol and / or provide regulated entertainment on club premises, a club premises certificate is required.
40. Club premises certificates may be issued to qualifying clubs formerly registered members clubs. To be eligible for a club premises certificate the members must have joined together for a particular social, sporting or political purpose and to purchase alcohol in bulk, for supply to members and their guests. Qualifying conditions are specified in Section 61 of the Act and the council must be satisfied that these conditions have been met. This includes evidence that supports that the club is non-profit making and that there is a minimum of a two-day interval between the application and the acceptance of new members. There is no requirement to specify a designated premises supervisor.
41. Applications for the grant or variation of a club premises certificate must be made on the form prescribed under secondary regulations made by the secretary of state. Applications shall not be progressed until the form has been completed in full and received together with the relevant fee and all other required information, by the licensing authority and other relevant responsible authorities. Applications will be progressed in accordance with the procedures

laid down by the Act. Prospective applicants should refer to the separate document “Guidance to Club Premises Certificates” for further detail.

### **Provision of scale plans**

42. Applicants should note that this council requires that current scale plans be submitted with all new applications for premises licences and for any application for a variation of a premises licence affecting approved layout arrangements. Plans must be submitted in scale 1:100 unless otherwise agreed by this authority in writing. Plans need not be professionally drawn but must include all required detail. The information to be included in the plans is set out in secondary regulations and dealt with in the separate guidance produced by this authority. Applicants are asked to note that plans should detail not only the arrangement of internal areas of the premises but also external areas intended to be used as part of the licence. This includes patio or garden areas and any temporary structures such as marquees or smoking shelters.

### **Variations & new applications**

43. Where a premises licence holder wishes to amend their licence the Act allows, in most cases, for an application to vary to be made rather than requiring an application for a new premises licence. A minor variations process exists for proposed variations to a licence that do not impact upon the licensing objectives. A separate major variations process supplements this for variations that carry potential impacts. It should be noted, however, that some proposals to extend the current physical licensed area of the premises concerned may require a new premises licence application to be made. Applicants should discuss their proposals with the licensing team before submitting an application in order to ensure that the correct route is taken.

### **Provisional statements**

44. While applications for a full premises licence may be made in respect of a premises that is not yet complete, this council would prefer to see provisional statements sought in the first instance in cases where the responsible bodies are not yet able to confirm that works have been carried out in compliance with agreed schedules and to standard. However, the council acknowledges that any person falling within section 16 of the Act can apply for a premises licence before new premises are constructed, extended or changed, as long as clear plans of the proposed structure exist and the applicant is in a position to complete an operating schedule. The schedule will need to contain details of the activities to take place there; the time at which such activities will take place; the proposed hours of opening; where the applicant wishes the licence to have effect for a limited period, that period; the steps to be taken to promote the licensing objectives; and where the sale of alcohol is involved, whether supplies are proposed to be for consumption on or off the premises (or both) plus the name of the designated premises supervisor.

### **Temporary event notices (TENs)**

45. The Act provides a system by way of “temporary event notices” for the temporary carrying on of any licensable activity outside of the terms of a premises licence or club premises certificate. Under this system no authorisation as such is required from the licensing authority. Instead the premises user notifies the event to the licensing authority and the police. In general, only the police may object (on crime and disorder issues) to such an event from taking place. The licensing authority may only intervene of its own volition, if the notice is incorrect or if the limits set out in the Act on the number of events that may be given are exceeded.

46. It is important to recognise that TENS may be given for the occasional extension of licensed hours or activities at currently licensed premises, as well as for events at unlicensed premises.
47. TENS are subject to various conditions and limitations:
  - The duration is limited to a period of up to 96 hours;
  - Events cannot involve the presence of more than 499 people at any one time;
  - The same premises can only be used for up to 12 occasions in a calendar year, but the aggregate number of days must not exceed 15;
  - There must be a minimum of 24 hours between event periods for the same premises by the same premises user;
  - A personal licence holder is limited to 50 events per year; and
  - A person not holding a personal licence is limited to 5 events per year.
48. If the above conditions are not fulfilled then a temporary event at which licensable activities are to take place would require a premises licence.
49. Temporary event notices must be given on the form prescribed under secondary regulations made by the secretary of state. Notifications shall not be progressed until the completed form has been received by the licensing authority and the police, and the relevant fee paid.
50. The law states that at least 10 working days notice must be given to the licensing authority and the police. No relaxation of this requirement may be given. "Ten working days notice" means ten working days exclusive of the day on which the event is to start, and exclusive of the day on which the notice is given. So, if a temporary event is intended for a Saturday or Sunday night, the notice must be given three Fridays before the event date at the latest. If a bank holiday should fall within the period then an additional working day must be allowed for each bank holiday day that occurs.
51. As stated, the police may object to the event, within two working days from when they are given the notice, for reasons of preventing crime and disorder. In a significant number of events it is anticipated that the minimum notice period will not provide sufficient time for proper consideration to be given to any crime and disorder concerns that the police may raise. For this reason, while this authority will accept notifications given with only the statutory minimum notice, it is requested that 28 days notice of an intention to stage a temporary event is provided, together with as much supporting information as possible, in order to prevent unnecessary objections having to be raised by the police.
52. It should also be noted that in cases where there is any element of doubt as to whether the premises user has the consent of the premises owner to use the premises concerned for the purposes given; this authority will wish for both the police and itself to be provided with evidence to this effect.
53. Furthermore, it should be recognised that many temporary events will still have potential to give rise to concerns, particularly around noise nuisance. For this reason applicants should understand that the licensing service may share information on temporary events taking place with other "responsible authorities". This does not provide those responsible authorities with the opportunity to raise representations but will allow any matter of concern to be followed up under other powers. This action does not, however, absolve any premises user from their own responsibility to ensure that any other necessary

consent (including planning permission) is obtained or that their event does not give rise to any safety, nuisance or harm to children issues. Further guidance is available in the separate document “Guidance to Temporary Event Notices” available from the licensing service.

54. Aside from the TENs system, it should be noted that in the event that the environmental protection team considers that a nuisance is likely to be caused by any temporary event, a noise abatement notice may be served on the appropriate person(s) under the provisions of the Environmental Protection Act 1990 to prevent such nuisance occurring.
55. Organisations looking to host a temporary event can contact the environmental protection team for advice on how to best reduce the risk of causing a nuisance.

#### **Major art and pop festivals, carnivals, fairs and circuses**

56. We encourage organizers of major festivals and carnivals to approach the council at the earliest opportunity to discuss arrangements for the licensing of their events. On occasions event organizers may wish to seek a single time-limited premises licence to cover a wide range of activities across a broad footprint. This will involve the preparation of a substantial operating schedule. The Southwark events team co-ordinates a safety advisory group with membership comprising members of all the emergency response authorities which can provide support to event organisers on event planning if good time is allowed. Contact details for the events team are provided in section 12

#### **Consultation arrangements**

57. Southwark council considers it important that the local community is fully aware of local licensing applications being made within its area. Regulations governing the advertising of applications for the grant, variation or review of premises licences and club premises certificates require a public notice to be published in the local press and a brief summary of the application to be displayed immediately on or outside premises concerned. Failure to comply with the requirements in full will result in the progression of the application being delayed.
58. This authority understands that regulations to the Act require public notices to be of a size equal or larger than A4; of pale blue colour; and printed legibly in black ink or typed in black in a font of a size equal to or larger than 16. It also recognises that applications may not be rejected on the basis of improper notification if public notices comply with this minimum standard. However, in order to ensure that the notice of application displayed at the premises may be clearly seen and easily read by passers by, this authority recommends that public notices be of A3 size in pale blue colour printed legibly in black ink in a font of size equal to or larger than 20. This authority also asks that the notice summarises the proposed licensable activities and the proposed hours of opening and remains clearly displayed in a position where it may be readily seen by passers by for the period during which representations may be made. Checks will be made to ensure that the summary is properly displayed.
59. The licensing service supports the consultation process by maintaining a public register at <http://app.southwark.gov.uk/licensing/licenseregister> which details all current licence applications under consideration (alongside detail of currently licensed premises). It is open to any person who wishes to be kept abreast of latest applications in their local area, to subscribe to “licensing alerts”. E-mail notifications are sent to those who have registered when a new licence

application is made within the relevant ward. Furthermore, the licensing service will ensure that local ward councillors are informed of all new applications in their area.

### **Responsible authorities**

60. Contact details for responsible authorities are given in section 12 of this policy. They include public bodies that must be notified of, and that are entitled to lodge representations about, applications for premises licences or club premises certificates or major variations. They may also ask a licensing authority to review a premises licence or club premises certificate. Responsible authorities will also provide advice and information on established best management practice. Some information on preparing an operating schedule is contained within this policy but applicants may also wish to consult with the authorities directly.

### **Interested parties**

61. Interested parties are defined under the Act:
- A person who lives or a body which represents persons who live in the vicinity of the premises in question;
  - A person involved in a business in that vicinity or a body which represents persons involved in such businesses; and
  - A member of the relevant licensing authority.
62. This authority has not attempted to define 'vicinity'. Any issues of vicinity will be considered on a case by case basis upon its merits.
63. The definition of "interested parties" includes local ward councillors. While ward councillors may make representations by right they may also make representations in writing and at a hearing on behalf of another interested party such as a resident or local business where specifically authorised to do so.
64. In recognition that some interested parties may feel disadvantaged in the representations process, this council wishes to make the process of authorizing local ward councillors and other representatives to speak on behalf of other interested parties as easy as possible. For this purpose pro-forma authorization forms may be downloaded from [www.southwark.gov.uk/businesscentre/licensing](http://www.southwark.gov.uk/businesscentre/licensing) or obtained from the licensing service. If using the authorization process you should firstly obtain the consent of the person you intend to represent your views and then provide a completed and signed authorization form to the licensing service before the last date for submission of representations.
65. It should be understood that applicants will normally retain the right to know the name and address of any person who lodges a representation, even if an authorisation form has been completed. However, this authority recognises that in some exceptional and isolated circumstances interested parties may be reluctant to make representations because of fears of intimidation or violence if their personal details are divulged. Where it is considered that the interested party has a genuine and well-founded fear of intimidation and may be deterred from making a representation because of this, this authority will consider withholding some or all of the interested parties' details.

### **Representations**

66. It is open to any “responsible authority” or “interested party”, as defined under the Act, to lodge representations concerning a premises licence club premises certificate application during the set consultation period.
67. A representation will only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. A representation that fails to do this is not “relevant” for the purposes of the 2003 Act. It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious.
68. Representations must be received in writing at the licensing service office by the last date for representations. Representations must be signed, dated, provide the grounds of representation in full and include the name and address of the person / body making the representation.

#### **Determination of applications**

69. In accordance with the provisions of the licensing act this authority has established a licensing committee with a maximum of 15 members and provision for sub-committees of three members to be drawn from the overall pool of the main committee membership.
70. In doing so, the council has sought to establish a speedy, efficient and cost-effective system for determinations of licences. Where the Act carries a presumption of grant for applications to which no objection has been made, the administration of the grant will be delegated to officers. All such matters will be periodically reported for information only to the full licensing committee.
71. Where matters are subject of representations, the licensing service will normally attempt to reach a negotiated conclusion through a conciliation process. This process is operated in recognition of the fact that the most workable solutions are normally ones that all parties concerned can sign up to and in order to attempt to save the time and costs associated with holding a public hearing. Conciliation can be agreed up until 24 hours before a hearing takes place. Where this is not possible the application and representations to it will be considered by the sub-committee at a public hearing.
72. Table 1 sets out the schedule of delegation of decisions and functions to licensing committee, sub-committees and officers. This form of delegation is without prejudice to the council’s right to redirect an application as appropriate in the circumstances of any particular case.

<b>Table 1 – Table of delegations of licensing functions</b>			
<b>Matter to be determined</b>	<b>Full committee</b>	<b>Sub-committee</b>	<b>Officers</b>
Licensing policy issues	& assembly		
Application for personal licence		If a police representation	If no representation
Application for personal licence with unspent convictions		If a police representation	If no representation
Application for premises licence / club certificate		If a relevant representation made	If no relevant representation
Application for a provisional statement		If a relevant representation	If no relevant representation

		made	
Application for a 'major' variation of a premises licence / club certificate		If a relevant representation made	If no relevant representation
Application for a 'minor' variation of a premises licence / club premises certificate			All cases
Application to vary the designated premises supervisor		If a relevant representation made	If no relevant representation
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a relevant representation made	If no relevant representation
Application for interim authority		If a relevant representation made	If no relevant representation
Application to review premises licence / club certificate		All cases unless application and representations are withdrawn	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc			All cases
Decision to object when a local authority is a consultee and not the lead authority			All cases
Determination of police representations to a temporary event notice		All cases	

### Licence reviews

73. At any stage following the grant of a premises licence, a responsible authority or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives. The licensing authority itself cannot initiate the review process.
74. In addition, a review of the licence will normally follow any action by the police to close down a premises for up to 24 hours on grounds of disorder or nuisance, as a result of a magistrate's court's determination sent to the licensing authority. A licence review can have several outcomes, ranging from no action being found necessary to the temporary suspension or revocation of a licence.
75. Where a review of a premises licence is sought this must relate specifically to a particular premises licence relating to an individual premises. Guidance given above on frivolous and vexatious applications applies in respect of applications for reviews of licences also. The licensing authority may also reject an application made by an interested party if it determines that the ground for the review is repetitious, that it is substantially similar to an earlier review, following which a "reasonable interval" has not elapsed since the earlier application or alternatively since the grant of the premises licence.

76. Further information, including an outline of the process that is followed at licence review hearings, can be found in the separate document “Guidance to Licence Reviews”.

### **2012 Olympics**

77. The council is fully committed to a safe and successful Olympic and Paralympics games in London in 2012. The council recognises the resources of the police and the emergency services will be planned out and prioritised for the security of major events before, during and after the games from May 1 2012 until October 31 2012. Due consideration will be given by the council to representations from the police or community safety officers, in relation to licence applications for activity during the games time on the grounds of public safety and security when police and other emergency services resources are insufficient to deal with the risks presented. Where, as a result of representations from a responsible authority, it is identified that a licence or proposed event presents a risk that the licensing objectives will be compromised, it is the council’s policy that such applications will not be granted.

## **SECTION 5 – DETERMINING APPLICATIONS FOR PREMISES LICENCES AND CLUB PREMISES CERTIFICATES**

### **How this policy works**

78. All applications for new premises licences or variations need to be supported by an operating schedule. The schedule must specify (among other things) the steps which the applicant proposes to promote the licensing objectives.
79. If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or interested parties, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory 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.
80. Where, however, there are relevant representations, then (unless the concerns raised within the representations are conciliated) a hearing of the opposed application before the licensing sub-committee will normally follow. After the hearing, the sub-committee must, having regard to the representations, take such steps as it considers necessary to promote the licensing objectives. These



may include refusing the application, or adding to or modifying the conditions proposed in the operating schedule.

81. In exercising its discretion, the licensing sub-committee will have regard (amongst other things) to this licensing 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 an interested party or responsible authority will object to it, or that any representation 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 licence conditions.
82. This is not to say that an opposed application which complies with the 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, necessary to promote the licensing objectives. Nor will blanket or standard conditions be applied without regard to the merits of the individual case. So, for example, following receipt of relevant representations 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 licensing objectives in the individual circumstances of the case.
83. However, the policy represents the licensing authority's view of the best means of securing the 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 the policy, the licensing sub-committee hearing an opposed application will normally expect to be given a good reason for the departure if it is to be asked to make an exception to the policy.
84. In this policy, there are a number of references to the licensing authority's expectations of applicants. As explained above, the policy is only engaged where the licensing authority has a discretion following the receipt of objections. In such cases, the licensing authority will not apply the policy rigidly, but will always have regard to the merits of the case with a view to promoting the licensing objectives.
85. One particular expectation of applicants is that they conduct a risk assessment in relation to the licensing objectives before completing an operating schedule. It is emphasized that there is no statutory requirement for this under the Licensing Act 2003. However, where no such risk assessment has been conducted then if there are relevant representations leading to a hearing, the licensing sub-committee may take a more precautionary approach than if the applicant can demonstrate that a particular risk has been properly evaluated and either discounted or mitigated in the operating schedule.

### **Conditions**

86. Key concepts underscoring the Act are that each application must be considered upon its own merits and any conditions attached to licences and certificates must be tailored to the individual style and characteristics of the premises and events concerned. This is considered essential to avoid the imposition of disproportionate and overly burdensome conditions on premises

where there is no need for such conditions. To this end, following relevant representations, the Council will not impose blanket standard conditions.

87. As stated above, where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or interested parties, the licence or certificate must be granted. In such cases, the licence will be made subject only to conditions as are consistent with the schedule accompanying the application and any mandatory conditions required by the Act itself.
88. Where relevant representations have been made and following a hearing, the licensing authority may determine that the steps needed to promote the licensing objectives proposed by the applicant should be modified. In such cases, the licensing authority may revise the conditions expressed in the operating schedule or club-operating schedule in terms that it considers necessary.
89. Where this discretion is engaged, the council will consider attaching appropriate and proportionate conditions. Reference is made at various points in this document to potential management controls and conditions. Where such conditions are to be applied, it will be on the basis that they are appropriate to suit the specific needs of an individual premises operation. Alternative conditions may also be specifically tailored by the council and attached to licences as appropriate.
90. In order to minimise the need for representations to be lodged by responsible authorities because of insufficient regard being had to the preparation of operating schedules it is recommended that applicants consult with responsible authorities when operating schedules are prepared.

#### **Duplication**

91. So far as possible, this policy is not intended to duplicate other existing legislation and regulatory regimes. To this end, conditions shall only be attached to premises licences that are not provided for within other legislation and are necessary for the promotion of the licensing objectives.

## SECTION 6 - OTHER RELATED LEGISLATION AND STRATEGIES

92. This policy recognises and intends to complement the broad range of other relevant legislation and council and government policy, strategy, responsibility, and guidance.

### **Other relevant legislative requirements**

93. The council has other general statutory requirements relating to crime and disorder, anti-social behaviour, health, nuisance, human rights, disability discrimination and race relations, all of which complement the Licensing Act 2003. These are briefly outlined below.

### **Crime and Disorder Act 1998**

94. Section 17 of the Crime and Disorder Act 1998 is aimed at giving the vital work of crime and disorder reduction a focus across the wide range of local services and putting it at the heart of the local decision-making. It places a duty on key authorities, including local authorities and the police and fire and rescue authorities, to do all they reasonably can to prevent crime and disorder in their area.
95. All local authorities must fulfil their obligation under section 17 of the Act when carrying out their functions as licensing authority under the 2003 Act. The council as licensing authority must consider how the exercise of its functions impacts upon and contributes toward the prevention of crime and disorder within its area.

96. This statement of licensing principles is intended to support the work of the local Crime and Disorder Reduction Partnership, the Safer Southwark Partnership through measures under both the **Crime and Disorder Reduction Strategy** and the **Violent Crime Reduction Strategy**.

#### **The Anti-Social Behaviour Act 2003**

97. The Anti-Social Behaviour Act 2003 identifies types of anti-social behaviour that affect community life and provides local authorities with the tools to deal with these. Of particular note, sections 40 and 41 of the Act provide local environmental health officers complementary powers to those of the police under part 8 of the Act, to close licensed premises causing a public nuisance for temporary periods

#### **Violent Crime Reduction Act 2006**

98. The Violent Crime Reduction Act 2006 received Royal Assent on 8 November 2006. The Act introduced new measures to ensure that police and local communities have the powers they need to tackle guns, knives and alcohol related violence. The Act also provided further powers to local licensing authorities in relation to crime and disorder.

#### **Policing and Crime Act 2009**

99. The Policing and Crime Act 2009 clarifies how police forces and local authorities can work together by placing an explicit duty on police authorities to reflect their priorities in their work. The Act introduced a number of measures which are relevant or made changes to the 2003 Act, including:

- A mandatory code of practice for alcohol retailers;
- Elected members of licensing authorities as interested parties; and
- Reclassification of lap dancing clubs so they require a sex establishments licence.

#### **The Health Act 2006**

100. The Health Act 2006 introduced the ban on smoking in all enclosed workplaces and public spaces, including smoking in pubs, restaurants and members' clubs where bar or other staff are employed. The law is enforced by local authorities.

#### **The Clean Neighbourhoods and Environment Act 2005**

101. This provides local authorities with an additional power to issue fixed penalty notices to any licensed premises emitting noise that exceeds the permitted level between the hours of 11pm and 7am.

#### **The EU Services Directive**

102. The EU Services Directive is a flagship European Directive intended to develop the single market for services by breaking down barriers to cross-border trade within the EU and making it easier for service providers within scope to set up business or offer their services in other EU countries. The Directive requires that all notices and authorisations in scope are able to be completed electronically and via a 'single point of contact'. The Directive was implemented by the Provision of Services Regulations in December 2008. The UK point of single contact is the Electronic Application Facility (EAF) which is part of the [www.businesslink.gov](http://www.businesslink.gov) website.

103. Although only regulated entertainment is a 'service' as defined under the Directive, the Government has extended the electronic application process to all regulated activities under the 2003 Act and to all authorisations and notices

with the exception of applications for, and renewals of personal licences, reviews and representations.

### **The Human Rights Act 1998**

104. The Human Rights Act 1998 incorporates the European Convention on Human Rights, making it unlawful for a local authority to act in any way that is incompatible with a convention right. The council will have particular regard to the relevant provisions of the European Convention of Human Rights –

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

### **Equality Act 2010**

105. From 1 October 2010, the Equality Act 2010 (EA) replaced most of the Disability Discrimination Act (DDA). The Equality Act 2010 aims to protect disabled people and prevent disability discrimination. It provides legal rights for disabled people in the areas of:

- Employment;
- Education;
- Access to goods, services and facilities including larger private clubs and land based transport services;
- Buying and renting land or property; and
- Functions of public bodies, for example the issuing of licences.

106. The Equality Act also provides rights for people not to be directly discriminated against or harassed because they have an association with a disabled person. This can apply to a carer or parent of a disabled person. In addition, people must not be directly discriminated against or harassed because they are wrongly perceived to be disabled.

107. This council firstly recognises that it has a duty to ensure that no disabled person is

- Treated less favourably because they are disabled; nor
- Indirectly discriminated against unless there is clear reason to do so.

108. As will be noted from the contact details provided in section 12 of this document, contact can be made with our licensing and related services in a number of ways. Our customer service centre is available 24/7. Our services can receive telephone; email and postal communications. Advice and information is provided on our web site or direct from our offices. Officers will make personal calls by appointment. If you require our services and have difficulties using our services please talk to us and explain exactly what your needs are to help us understand what adjustments may be necessary to the way we provide our services.

109. We also recognise that other service providers providing licensable activities including shops, hotels, pubs, theatres and more hold similar responsibilities.

Service providers have an obligation to make reasonable adjustments to premises or to the way they provide a service. Sometimes it just takes minor changes to make a service accessible.

110. While access for people with disabilities is not one of the four licensing objectives, this council expects that responsible licensees will comply with the requirements of the Equality Act 2010. As such the licensing service will work closely with the Southwark Disablement Association (SDA) to ensure that disabled people are not treated less favourably than other people for a reason related to their disability. As part of this arrangement this authority will inform the SDA of new licence applications and will support the SDA and licensees in improving access to services. The SDA can provide advice to any licensee on reasonable adjustments – contact details are provided in section 12 of this policy.
111. Alternatively, the Directgov website provides advice on access to services at [http://www.direct.gov.uk/en/DisabledPeople/Everydaylifeandaccess/Everydayaccess/DG\\_4018353](http://www.direct.gov.uk/en/DisabledPeople/Everydaylifeandaccess/Everydayaccess/DG_4018353) . The web site also includes links to DisabledGo and Direct Enquiries, which are online directories with detailed access information about venues across the UK. You can search the database, and filter results so that you can check whether a venue is suitable for your own individual needs.

#### **The Race Relations Act 1976**

112. The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups.
113. This council recognises Southwark's diversity as one of its strengths and is committed to creating a more inclusive community. The council will aim to ensure that nothing within this Statement of Licensing Policy nor its associated practices discriminates against any group within the community and will pursue any opportunity to promote equality of opportunity and good community relations. To this end the council will undertake equalities impact assessments of the policy at regular intervals to identify the effects the policy may have had for different groups and take appropriate action to prevent direct and indirect discrimination which may have been the result of the policy statement.

#### **Other strategies and policies**

114. The council will look to secure the proper integration of this policy with other council and government policies, strategies, responsibilities, and guidance documents issued.
115. In this context this policy is informed by the following strategies and policies.

#### **Alcohol Harm Reduction Strategy**

116. Southwark's local Alcohol Harm Reduction Strategy, prepared in response to the **National Alcohol Harm Reduction Strategy** ("Safe. Sensible. Social. The next steps in the National Alcohol Strategy" (June 2007)) explores the relationships between alcohol and crime alongside health impacts.
117. In preparing this statement the council is particularly aware that the national strategy has identified a number of priorities that should be considered when taking decisions in connection with licensing matters.

- To reduce the problems arising from under-age drinking;
- To reduce public drunkenness; and
- To prevent alcohol related violence.

### **Enforcement policy**

118. All enforcement actions taken by the licensing service are governed by the council's enforcement policy, which has been drafted with full reference to the enforcement concordat and the provisions of the **BERR Statutory Code of Practice for Regulators**, the **Police and Criminal Evidence Act 1984 (PACE)** and the **Regulation of Investigatory Powers Act 2000 (RIPA)**.

### **Cultural strategy**

119. As part of implementing local cultural strategy, the council will actively encourage and promote a broad range of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays for the benefit of communities.

120. While this authority maintains a natural concern to prevent disturbance in neighbourhoods, it also recognises the wider cultural benefits for local communities. In determining what conditions should be attached to licences and certificates for the promotion of the licensing objectives, this authority will be aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a disproportionate nature. Live performance is central to the development of cultural diversity and vibrant and exciting communities, where artistic freedom of expression is a fundamental right and greatly valued. Traditional music and dancing are parts of the cultural heritage of England and Wales. Music and dancing also helps to unite communities and particularly in ethnically diverse communities, new and emerging musical and dance forms can assist in the development of a fully integrated society. It should also be noted that the absence of cultural provision in an area can itself lead to the young people being diverted into anti-social activities that damage communities and the young people themselves.

121. The council has also pursued a policy of seeking premises licences for its open spaces in its own name. Where such licences are in place, performers and entertainers may not need to obtain a licence or give a TENs themselves in order to perform. Instead they would require permission from the council as premises licence holder. Southwark's Leisure Services has produced the "Community Event Organiser's Toolkit" to support independent activities. Details of licences held by community venues may be viewed at <http://licensing.southwarksites.com>

### **Planning & building regulations regimes**

122. Lastly, it should be made clear that the planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency.

123. It is recognised that licensing applications should not be a re-run of the planning application and should not cut-across decisions taken by the local authority planning committee or permissions granted on appeal. Similarly, the granting by the licensing committee of any variation of a licence which involves a material alteration to a building would not relieve of the need to apply for planning permission or building control where appropriate.

124. While the licensing authority is conscious that there is no legal basis for a licensing authority to refuse a licence application solely because it does not have planning permission, it may be inconsistent for the authority to give a

licence for an activity when it has refused planning permission for the same activity to take place. It is anticipated thereby that applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. Where this is not the case the council would expect the applicant to address the reasons why planning permission had not been granted and provide reasons as to why licensing consent should be.

125. There may also be circumstances when as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes which carries different hours to the licensing hours. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to enforcement under planning law.
126. Borough-wide and area based planning guidance exists through the **Southwark Plan** and supplementary planning guidance. Where relevant representations are made on applications, the Licensing Authority will have regard to the appropriate relevant guidance.
127. Proper integration with the planning regime will therefore be assured. This will include, where appropriate, the provision of regular reports to the planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder.
128. The council is also aware of the Mayor of London's best practice guidance on "**Managing the Night Time Economy**" and will have regard to its contents.

#### **Guidance documents**

129. This policy is also mindful of the direction provided under the following guidance documents:
  - **The Home Office Safer Clubbing Guide** issued to ensure the health and safety of anyone who attends dance events, with a particular emphasis on those who also take controlled drugs;
  - The **LACORS Practical Guide to Test Purchasing** which deals with the involvement of children in the enforcement of legislation concerning the sale of age-restricted goods; and
  - Furthermore, the objectives of the **Private Security Industry Authority (SIA)** will be taken into account in all issues relating to the provision of door supervision at licensed operations.
130. This policy will also be checked for consistency with all current legislation, strategy, policy and guidance on an annual basis.



## SECTION 7 – THE FIRST LICENSING OBJECTIVE – THE PREVENTION OF CRIME AND DISORDER

### **Note: For how this policy is intended to apply see Section 5**

131. The council recognises that well run licensed premises can make a valuable positive contribution to the local community through the local economy, tourism, and cultural development. However, If they are not properly managed and controlled, licensed premises, especially those offering late night entertainment, or alcohol and refreshment for large numbers of people, can become a serious source of crime and disorder or anti-social behaviour problems.
132. Thereby, the Council will expect applicants for premises licences to demonstrate in their operating schedules that suitable and sufficient steps are to be taken to prevent crime and disorder in and around the vicinity of their premises and events.
133. Operating schedules accompanying premises licence and club premises certificate applications should be prepared on the basis of a risk-assessment of the potential sources of crime and disorder. Issues of crime and disorder can take many forms. Relevant issues might include:
- Underage drinking;
  - Drunkenness on the premises;
  - Public drunkenness;
  - Drugs use;
  - Violent behaviour, including the possession of weapons;
  - Anti-social behaviour;
  - Counterfeit goods;
  - Theft of personal property;
  - Prostitution, lewd acts and similar offences;
  - Tax evasion; and
  - Maintenance of smoke-free environments.

134. Applicants are recommended to seek advice from the council's licensing officers and police when carrying out their risk assessments and preparing their operating schedules.
135. Table 2 is provided, together with a key, across pages 33-35. It is intended as a helpful broad guide to applicants as to the types of controls that may be considered when assessing the steps necessary for the promotion of the prevention of crime and disorder licensing objective, following the receipt of relevant representations. The key to table 2 also provides suggested wording for an appropriate condition.
136. It is emphasised that this is neither meant to be a definitive list of possible preventative measures nor will the controls listed be necessary in every circumstance. It is recognised that applicants know their premises and method of operation and controls proposed under the operating schedule should properly reflect the proposed operation of the premises concerned.
137. While it is recognised that there is no requirement in the 2003 Act to do so, applicants may find that it helps the licensing process to provide a copy of their completed risk-assessment upon which the operating schedule is based to the police for consideration at the time of application.
138. Where its discretion is engaged following consideration of relevant representations, the licensing authority will consider attaching relevant conditions to licences and permissions to deter crime and disorder, both inside and immediately outside the premises. As far as possible these will reflect local crime prevention strategies.
139. As an additional aide to good management, this authority recommends the range of qualifications designed to support the licensing objectives, available from the British Institute of Innkeeping (BII). Further information is available by contacting the BII by e-mail at the following address [info@bii.org](mailto:info@bii.org)

#### **Mandatory conditions**

140. A number of mandatory licence conditions are set out in the Act. The following mandatory conditions will apply to all premises licences authorising the retail sale of alcohol (with the exception referred to in paragraph 142 below).
- (a) Where a premises licence authorises the sale of alcohol, every supply of alcohol is to be made or authorised by a person who holds a personal licence; and
- (b) Where a premises licence authorises the supply of alcohol, no supply may be made if no designated premises supervisor has been specified in the licence, or at a time when the designated premises supervisor does not hold a personal licence, or his or her licence has been suspended.
141. Note: The Legislative Reform Order (Supervision of Alcohol Sales in Church and Village Halls) Order 2009 allows for certain community venues to apply for an alternative licence condition – the effect of which will be that the licence holder (i.e. the management committee) becomes responsible for the supervision and authorisation of all sales.
142. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out security activities, the

licence must contain a condition that such individuals must be licensed by the Security Industry Authority (SIA).

143. Furthermore, five new mandatory conditions were introduced under the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010. These new mandatory conditions cover:

- The prohibition of irresponsible drinks promotions (on sales only);
- Restrictions on one person dispensing alcohol directly into the mouth of another (on sales only);
- The provision of free tap water (on sales only);
- Requirements for age verification policies to be established in relation to the sale and supply of alcohol, including photo-identification for persons appearing to be under 18 years of age (on and off sales); and
- Requirements for alcohol to be sold or supplied in small measures (on sales

	Table 2 - Broad guide to the range of crime and disorder controls that might be considered under various categories of premises operation (see key provided by figure 1)																							
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
<b>Off licences / shops / supermarkets</b>		Y	Y	Y	Y																	Y	Y	
<b>Community halls and similar facilities / Members &amp; Sports Clubs</b>	Y	Y	Y		Y	Y	Y									Y						Y	Y	
<b>Restaurants / cafes</b>	Y	Y	Y	Y	Y	Y																Y	Y	
<b>Cinemas / theatres</b>	Y	Y	Y	Y	Y	Y	Y												Y		Y	Y	Y	
<b>Pubs and bars</b>	Y	Y	Y	Y	Y	Y	Y	Y				Y			Y	Y	Y	Y	Y			Y	Y	
<b>Entertainment bars</b>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
<b>Night Clubs</b>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	
<b>Vessels</b>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y			Y	Y		Y	Y	Y	Y	Y	

**Key 1 – Broad Guide to the level of Crime and Disorder Controls that may be considered under various categories of premises operation**

1	<b>Set a safe capacity limit</b> – While often necessary on public safety grounds, this should also be considered where overcrowding may lead to risk of violence or disorder. Example condition “That the maximum number of persons that may be accommodated in the .... (state area of premises concerned) .. shall not exceed ... (state safe maximum number of persons)”
2	<b>Use of crime prevention notices</b> – for use in circumstances where it would be helpful to warn customers of prevalence of crime which may target them, for instance, to warn of pickpockets or bag snatchers. Example condition “That crime prevention notices will be used to provide relevant crime prevention information to customers as deemed appropriate by management in consultation with the police”
3	<b>Publicise details of the premises operation</b> – “That details of the premises opening and closing times will be clearly displayed upon the premises for the information of customers”
4	<b>Install CCTV</b> – The presence of CCTV cameras can be an important means of detecting crime at and immediately outside licensed premises. Example conditions “That CCTV equipment shall be installed upon the premises to the satisfaction of the local police licensing office and shall be maintained in good working order” and “That a library of CCTV recordings shall be maintained for 31 days and made available to any authorized officer for inspection”
5	<b>Maintain control over the removal of open containers</b> – To prevent the use of containers as offensive weapons in surrounding streets after individuals have left the premises. Example condition “That no open containers may be removed from the premises and signs shall be exhibited to this effect”
6	<b>Use of plastic containers and toughened glass</b> – Consideration should be given to the use of safer alternatives to glass which would inflict less serious injuries if containers were used as weapons. “That drinks will only be served in non-breakable plastic containers or toughened glass. Plastic glasses used for draught beer and cider must be legally marked unless a crown stamped beer measuring instrument is in use”
7	<b>Introduce bottle bans</b> – Example conditions “No bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff away from the bar”; “No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public” (though care should be taken where off-sales are provided or bottles of wine for consumption with a table meal)
8	<b>Employ SIA registered door supervisors</b> – Valuable for maintaining orderly behaviour in queues; searching and excluding those suspected of carrying offensive weapons or illegal drugs; keeping out banned individuals; or controlling admissions and departures. Example condition “That (an adequate number) of SIA registered door supervisors will be employed at the entrance of the premises to monitor admissions to and departures from the premises and at other key internal management control points as necessary for the purposes of security, protection, screening and dealing with conflict”
9	<b>Make personal searches by door supervisors a condition of entry</b> – “That all admissions and re-admissions to the premises, including by staff and performers, will be subject to a personal search by SIA registered door supervisors. Signs are to be displayed to this effect at the entrance to the premises”
10	<b>Provide door supervisors with search wands</b> – “That SIA registered door supervisors shall be provided with a hand held search wand, maintained in good working order, for use during all personal searches of customers, staff and performers”
11	<b>Provide search arches</b> – “That a search arch shall be maintained in good working order at the entrance to the premises. All admissions and re-admissions to the premises, including staff and performers, will be via the search arch”
12	<b>Develop a drugs policy in conjunction with local police</b> – “That a drugs policy shall be developed to the satisfaction of the local police licensing office. Signs shall be exhibited at the entrance to the premises stating “Drugs free zone”

13	<b>Provide a drugs and weapons drop box</b> – “That a secured drugs and weapons drop box shall be provided in an area at the front of the premises under the permanent control of management and security staff. All seized drugs or weapons shall be deposited in the box and handed over to the police in accordance with the police code of practice”
14	<b>Maintain a photographic log of all customers</b> – “That a full face photograph shall be taken of all customers admitted to the premises and a photographic log maintained for inspection by any authorized officer upon request”
15	<b>Establish a last admissions policy</b> – “That there shall be no new admissions of the public nor re-admissions after ... (state relevant time) ... Signs shall be displayed to this effect”
16	<b>Establish a dispersals policy</b> – “That a dispersals policy shall be established aimed at encouraging customers to leave the premises quickly, in a quiet and orderly manner”
17	<b>Use text pagers to keep in touch</b> – “That text pagers shall be provided to key management personnel with contact details provided to the local police station in order to receive safety and other important messages”. Such condition should be supported by additional conditions covering that “Text/paging equipment shall be maintained in good working order at all times”; “The pager link must be activated, made available to and monitored by the DPS or a responsible member of staff at all times that the premises are open to the public”; “Any police instructions are complied with whenever given” and “All instances of crime or disorder are reported via the text/pager link by the DPS or responsible member of staff to an agreed police contact point”.
18	<b>Provide seating for customers</b> – “That sufficient seating will be provided to ensure that at any time the majority of customers will not have to stand”
19	<b>Provide restrictions on drinking areas</b> – “That the consumption of alcohol will only be permitted within the areas identified on the plans submitted to the licensing authority (to be appended on the licence document)”
20	<b>Co-operate with the police and local council on venue hire agreements</b> – “That a completed venue hire agreement form (obtainable from the licensing authority) will be provided with at least one month prior notice to the police and the licensing service, in respect of every external promoter or new internal promoter engaged at the premises” and “That the licensee will comply with instructions not to engage a specified promoter where the police indicate that this is necessary for the purpose of promoting the prevention of crime and disorder licensing objective”
21	<b>Avoid certain exhibitions and performances</b> - “That no film will be exhibited / performance take place that is likely to stir up hatred or incite violence toward or against any section of the public on the grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender” and “That no film will be exhibited or performance given that will lead to disorder”
22	<b>Use bona fide suppliers</b> – “That stocks of alcohol and tobacco shall only be sourced from authorized or bona-fide suppliers”
23	<b>Deny access to hawkers</b> – “That no counterfeit products, such as alcohol, tobacco products, DVDs, CDs and other goods, may be supplied from the premises either by the staff or by hawkers entering for that purpose”

### **Cumulative effect**

144. This authority will not consider the issue of “need” in determining any licence application, as this is a matter for planning control and the market. Thereby, this council will not impose quotas of premises or licences.
145. However, the authority recognises that in areas where the number, type and density of premises selling alcohol are high, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from licensed premises. Guidance to the Act sets out that the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider within its licensing policy and that local authorities may adopt special local saturation policies. However, there should be an evidential basis for a decision to include a special policy within the statement of licensing policy.
146. In summary, the steps to be followed in considering whether to adopt a special policy within the policy are:
- (a) Identification of concern about crime and disorder or public nuisance;
  - (b) Consideration of whether there is good evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises or that the risk of cumulative impact is imminent;
  - (c) Identifying the boundaries of the area where problems are occurring;
  - (d) Consultation with those specified by section 5(3) of the 2003 Act and subject to the outcome of the consultation;
  - (e) Include and publish details of the special policy in the licensing policy statement.
147. The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations. This, unless the applicant can demonstrate in their operating schedule, that there will be no negative cumulative impact on one or more of the licensing objectives.
148. However, it should be stressed that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation, referring to information which had been before the licensing authority when it developed its statement of policy, before a licensing authority may lawfully consider giving effect to its special policy. If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.
149. The Council will not use such policies solely –
- As the grounds for removing a licence when representations are received about problems with existing licensed premises; or
  - To refuse modifications to a licence, except when the modifications are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits.

### **Local saturation policies**

150. Since the introduction of the Licensing Act 2003, the council's licensing committee has been monitoring the impact of licensed premises operation across the local Southwark community.
151. On 5 November 2008, council assembly agreed that it was appropriate and necessary to introduce a local policy dealing with the cumulative impact of licensed premises within the Camberwell and Peckham areas of the borough. The assembly added a third policy area, covering Borough and Bankside, on 4 November 2009 while also extending the Peckham saturation area. The Borough and Bankside area was itself subject of an extension on 6 April 2011.
152. In each case decisions to introduce local policies have been taken having had regard to statistical analysis of recent figures for:
- Analysis of statistics, prepared in conjunction with the partnership analyst, of alcohol related violence against the person (VAP) and calls to the police regarding disorder and rowdiness associated with licensed premises (CAD);
  - Analysis of complaints received by the council's environmental protection team regarding nuisance associated with licensed premises;
  - Analysis of figures provided by the London ambulance service of alcohol related ambulance pick-ups;
  - Responses to local consultation carried out in accordance with section 5(3) of the Licensing Act 2003; and
  - Submissions made directly to the committee from the local community
153. Details of the boundaries of the three saturation areas and also the categories of premises to which the policies apply are set out below. Full information on the current position within each policy area (including up to date analysis of statistics, summary of submissions and a map of each area) is available from the licensing team.
154. All applicants for new premises licences or for variation of existing premises licences, in respect of classes of premises affected by the policy, within these areas, must address the saturation concerns within their application and operating schedule. Applicants are advised to discuss their application and how this may be affected by the policy with the licensing team in the first instance.
155. While the council notes that Guidance states that "it would not normally be justifiable to adopt a special policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises" each of the policies incorporates off-licences and similar premises. These decisions have been taken on the basis of concerns relating to issues of under-age sales and proxy purchasing, street drinking and "pre-loading".
156. The effects of each policy will continue to be monitored and reported to the licensing committee periodically. A policy will be removed when no longer needed.



**Camberwell saturation policy**

157. The boundary of the area is defined as follows – From Camberwell New Road at the junction with Wyndham Road progressing via Camberwell Road / Bowyer Place / Edmund Street / Benhill Road / Wilson Road / Graces Road / Graces Mews / Camberwell Grove (via alley) / Grove Lane / De Crispigny Park / Denmark Hill following the Lambeth boundary to Coldharbour Lane / Denmark Road / Flodden Road and Camberwell New Road returning to the start.
158. The classes of premises to which the policy applies is defined as follows – night clubs; pubs and bars; off-licences, grocers, supermarkets, convenience stores and similar premises

**Peckham saturation area**

159. The boundary of the area is defined as follows – Commencing on Peckham High Street at the junction with Kelly Avenue progressing to Gattonby Street / Sumner Road / Jocelyn Street / cross Peckham Hill Street / Goldsmith Road / Meeting House Lane / Consort Road / Heaton Road / Sternhall Lane / McDermott Road / Maxted Road / Bellenden Road / Chadwick Road / Lyndhurst Way / Peckham Road to junction with Talfourd Road and back to start.
160. The classes of premises to which the policy applies is defined as follows – night clubs; pubs and bars; off-licences, grocers, supermarkets, convenience stores and similar premises

**Borough and Bankside saturation area**

161. The boundary of the area to which the policy applies is defined as follows – Commencing at the Lambeth border on the Thames and moving southward to Waterloo Road then St George's Circus / Borough Road / Borough High Street / Long Lane / Crosby Row / Snowfields / Bermondsey Street directly north to the river frontage and then westward back to the Lambeth border.
162. The classes of premises within the area to which the policy shall apply will be night-clubs / public houses & bars / restaurants & cafes / off-licences, supermarkets and grocers.

**Licensing hours**

163. This authority recognises the Government's strong belief that, prior to the introduction of the Licensing Act 2003, fixed and artificially early closing times were one of the key causes of rapid binge drinking prior to closing times; and one of the causes of disorder and disturbance when large numbers of customers were required to leave premises simultaneously.
164. It is understood that the aim, through the promotion of the licensing objectives, should be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times. However, this authority notes that the latest Guidance to the Act states that there is no presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times. Thereby, while applications will be considered upon their own merits, in relevant cases where objections are received to an application and the council's licensing committee believes that granting the hours sought would undermine the licensing objectives,

the committee may reject the application or grant it with appropriate conditions and / or different hours from those requested. Furthermore, relevant saturation policies will be borne in mind where applicable. This authority recognises that all areas are not the same and decisions on opening times must be taken accordingly.

165. Where applications relate to premises that are located within more densely populated areas, stricter controls with regard to noise control may be necessary. For guidance please see section 9 on the prevention of public nuisance.
166. Shops, stores and supermarkets selling alcohol will normally be permitted to provide sales of alcohol for consumption off the premises, at any time when the retail outlet is open for shopping. However, a restriction on the hours during which alcohol sales may be permitted will be considered where relevant representations are received and there are good reasons, based on the licensing objectives, for limiting those hours.

**Designated premises supervisor / personal licence holders and authorisations for the retail sale of alcohol**

167. This authority recognises that neither the Act nor the mandatory conditions outlined elsewhere in this chapter require either a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold or supplied. Nor does the fact that every sale or supply of alcohol must be made under the authority of a personal licence holder mean that only personal licence holders can make such sale or supply or that they must be personally present at every transaction.
168. However, this authority wishes to emphasise that the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the Licensing Act and conditions attached to the premises licence to promote the licensing objectives.
169. This authority considers it reasonable to expect therefore that either the designated premises supervisor or another personal licence holder will normally be present upon the premises at all times that alcohol is either sold or supplied or that proper arrangements are in place for authorisation of staff in their absence and for their monitoring. This authority does recognise that there may be occasions when it is not possible for the designated premises supervisor or another personal licence holder to be present but this authority considers that this should not occur for any extended period and emphasises that there can be no abdication of responsibility in their absence.
170. Furthermore, this authority expects that authorisations of other staff to sell and supply alcohol made by the designated premises supervisor and any other personal licence holders must be meaningful and be properly carried out.
171. It is understood that, ultimately, whether or not an authorisation has been given within the meaning of the Act will be a matter for a court to determine on the evidence before it when the issue arose, but this authority notes the Secretary of State considers that the following factors should be relevant in considering whether there was real authorisation:

- a) The person(s) authorised to sell alcohol at any particular premises should be clearly identified;
  - b) The authorisation should have specified the acts which may be carried out by the person being authorised;
  - c) There should be an overt act of authorisation, for example a specific written statement given to the individual(s) being authorised; and
  - d) There should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.
172. Attention is drawn; however, to the fact that recent provision has been made for certain community premises to apply for the removal of the mandatory condition relating to the requirement for a DPS and personal licence and replace this with an alternative condition making a management committee or board of individuals responsible for the supervision and authorisation of alcohol sales. Where such application is made the council will expect the applicant to demonstrate that the arrangements for the management of the premises by the committee or board are adequate to ensure adequate supervision of the supply of alcohol on the premises. In cases where it is intended to make the premises concerned available for private hire, this authority will wish to consider the arrangements for hiring agreements. This consideration will include steps to be taken to ensure that the hirer is aware of the licensing objectives and offences in the 2003 Act and to ensure that no offences are committed during the period of the hire.

### **Door Supervision**

173. Door supervisors will often play an important key role in ensuring that well managed premises are free from crime and disorder and nuisance problems. A reminder is given that where a premises licence (other than for plays or films) includes a condition that at specified times there must be persons employed for the purposes of security, protection, screening the suitability of persons entering premises or dealing with conflict in pubs, clubs and other licensed premises open to the public, then such persons must be registered with the Security Industry Authority (SIA). In any event it is in operator's own interests to ensure that all security staff employed, whether under contract or employed in-house are so licensed, since the operator may be legally liable for their actions. Licensed door supervisors will have undergone an identity and criminal record check and have received suitable training. More information on the SIA is available from their website at [www.the-sia.org.uk](http://www.the-sia.org.uk) .

### **Police promotion event risk assessment form 696**

174. This authority recommends that for significant events (see note below) further specific comprehensive risk assessments are undertaken by premises licence holders to identify and minimise any risk of serious violent crime. Accordingly, for premises that wish to stage promotions, or events (as defined below) this authority recommends that applicants address the risk assessment and debrief processes in their operating schedules.
175. This authority further recommends the metropolitan police promotion / event risk assessment form 696 and the after promotion / event debrief risk assessment form 696a (both available from the local police licensing office) as useful and effective tools for this purpose. Where the risk assessment forms are used to assess the

likely risks from any promotion or event, this licensing authority anticipates that these will be completed in consultation with the metropolitan police. Risk assessments should be submitted to the metropolitan police and the licensing authority within 14 days of any proposed event and debrief forms submitted within 14 days of the conclusion.

176. Note: The metropolitan police define “a significant event” as any occasion in a premises licensed under the provisions of the licensing act 2003, that is promoted / advertised to the public at any time before the event; predominantly features DJs or MCs performing to a recorded backing track; runs anytime between the hours of 10pm and 4am; and is in a nightclub or large public house. Licensees should consult with the local police licensing office if in any doubt as to whether an event is “significant”.

### **Entertainment involving striptease and nudity**

177. On 20 October 2010, council assembly resolved to adopt the provisions under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009, with effect from 1 April 2011. This legislation established a new extended licensing regime for sex establishments, covering sex shops, sex cinemas and sex entertainment venues.
178. From 1 April 2011, any person wishing to operate a lap dancing club or similar in the Southwark area will require to be licensed as a sex entertainments venue under a sex establishments licence, obtained from this authority. The exemption that existed in law that enabled lap dancing clubs or similar to operate under the provisions of the 2003 Act no longer apply, excepting that occasional striptease performances are permitted without a sex establishments licence. Occasional performances are limited to no more than 12 per year, each of less than 24 hours duration and each at least one month apart.
179. This authority’s approach to the licensing of sex establishments is covered in full under the separate Southwark Sex Establishments Licensing Policy, which is available from the licensing section.
180. Beyond the remit of the 1982 Act (as amended) where activities specified in the operating schedule include any permitted adult entertainment (involving full or partial nudity, occasional striptease or any other kind of adult entertainment) the licensing authority will give particular consideration to the implications of the proposals across the four licensing objectives.
181. In such circumstances, this authority advises that applicants should give specific consideration when conducting their risk assessments and operating schedules to the appropriate management controls. This must include issues around the protection of children and young people from harm.
182. Where occasional striptease performances are provided, the licensing authority will normally expect the operating schedule and, if the application is granted, the licence conditions to address all relevant matters in pursuit of the licensing objectives. These are likely to include conditions relating to:

- The exclusion of persons under 18 at all times from the premises and the prevention of views into the premises;
- The prohibition of exterior advertising of the sex-related entertainment at the premises;
- The prohibition of leafleting or touting for business;
- That the provision of services will be to seated customers only;
- The prohibition of the participation of customers in the performance;
- The maintenance of a minimum distance of 1 metre between performer and customers during the performance;
- The provision of CCTV and the maintenance of a library of recordings;
- A code of conduct for dancers including appropriate disciplinary procedures for failure to comply with the code;
- Rules of conduct for customers, including appropriate procedures for breach of these rules;
- Procedures to ensure that all staff employed in the premises have pre-employment checks including suitable proof of identity, age and (where required) permission to work;
- The provision of supervisors and security staff; and
- Other necessary steps to be taken, including in the recruitment or supply of performers, is free of the influence or organised criminal activity.

### **The sale and possession of smuggled, bootlegged or counterfeit products and the handling of stolen goods**

183. The guidance to the Act indicates that offences can be committed by certain persons in licensed premises if they allow the sale or supply of smuggled, bootlegged or counterfeit goods on the premises. This is in particular relation to alcohol or tobacco products, but may also include the sale of other counterfeited products such as DVDs and CDs and the handling of stolen goods.

- Smuggled – foreign brands illegally brought into the UK;
- Bootlegged (duty free) foreign products brought into the UK in illegal quantities and / or resold in the UK; and
- Counterfeit – Fake goods and packaging. Cheap low quality and often dangerous products packaged to look like premium UK brands.

184. Offences are for selling illicit products but also for employees permitting sales and for employees buying or selling. To prevent these offences occurring, the licensee should consider taking certain precautions. Advice on this can be obtained from the council's trading standards service.

### **Theft of personal property**

185. Recent analysis of crime statistics has given rise to increasing concern over levels of theft of personal property within licensed premises, especially within the developing northern-western riverside area of the borough. Licence applicants are asked to give consideration to appropriate control measures within their risk-assessments and operating schedules.

186. An important first step is to ensure that measures are taken to raise the level of awareness among customers of the risk of theft of personal property. This is especially important within premises where there is a high level of transient, tourist

trade. Other potential controls measures might include controlled cloakroom areas; provision of Chelsea clips under tables; ensuring all areas of the premises are well lit and able to be observed by staff; provision of internal CCTV; ensuring adequate staffing levels and providing appropriate staff training. Officers from the licensing and / or police teams will be happy to visit and discuss arrangements at your premises.

## SECTION 8 – THE SECOND LICENSING OBJECTIVE – ENSURING PUBLIC SAFETY

**Note: For how this policy is intended to apply see Section 5.**

187. The act covers a wide range of premises that require licensing, including cinemas, concert halls, theatres, public houses, stores, cafes / restaurants and fast food outlets. Each of these premises presents a mixture of risks. While many are common to most premises, others are unique to specific operations. It is essential that premises are constructed or adapted and managed in a manner which acknowledges these risks and safeguards occupants against them.
188. This authority is committed to ensuring the safety of people visiting and working in licensed premises. Thereby, this authority expects applicants for premises licenses to demonstrate in their operating schedules that suitable and sufficient steps are to be taken to ensure the licensing objective of public safety in and around the vicinity of their premises.
189. Operating schedules accompanying premises licence and club premises certificate applications should be prepared on the basis of a risk-assessment of the potential risks and hazards posed to the public under the premises operation.
190. Applicants are recommended to seek advice from the council's occupational health and safety officers and / or local fire safety officers (see contact details in section 12 of this document) when carrying out their risk assessments and preparing their operating schedules.
191. The following section of this statement of policy is given over to providing a helpful broad guide to applicants as to the range of issues they may wish to consider under their risk-assessments.
192. It is emphasised that this is neither meant to be a definitive list nor will all the issues be relevant in every circumstance. It is recognised that applicants know their premises and method of operation and controls proposed under the operating schedule should properly reflect the proposed operation of the premises concerned.
193. While, as far as possible, this policy is not intended to duplicate existing legislation and other regulatory regimes that already place obligations on employers and operators, and that it is recognised that there is no requirement in the 2003 Act to do so, applicants may find that it helps the licensing process to provide a copy of the completed risk-assessment upon which the operating schedule is based to the relevant responsible bodies for consideration at the time of application.

**Other relevant legislation**

194. Applicants are firstly reminded of the general duties imposed under other legislation (i.e. the Regulatory Reform (Fire Safety) Order 2005) and the Health and Safety at Work Regulations 1999.

### **Regulatory Reform (Fire Safety) Order 2005**

195. Under the Regulatory Reform (Fire Safety) Order 2005 the “responsible person” as defined by the order, must

- Take such general fire precautions as will ensure, so far as is reasonably practicable, the safety of his or her employees;
- Take such general fire precautions as may be reasonably required in the circumstances of the case to ensure that the premises are safe for the use by other persons;
- Make a suitable and sufficient assessment of fire risks to which relevant persons may be exposed for the purposes of identifying the general fire precautions he or she needs to take; and
- The responsible person MUST record the information gathered by the risk assessment for all premises covered by the Licensing Act 2003, in particular, the significant findings; the measures taken, or to be taken, to ensure general fire safety; and any person identified as being especially at risk.

196. This authority recognises that it may not impose any condition relating to any requirement or prohibition that is or could be imposed under the “Fire Safety Order” and thereby that conditions relating purely to fire safety matters may not be placed on premises licences. Further information and guidance about the Order and fire safety legislation is available from the Communities and Local Government website at [www.communities.gov.uk/fire](http://www.communities.gov.uk/fire) .

### **Health and Safety at Work Regulations 1999**

197. The Health and Safety at Work Regulations 1999 state that:

- (1) Every employer shall make a suitable and sufficient assessment of
  - (a) The risks to the health and safety of his employees to which they are exposed whilst they are at work; and
  - (b) The risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking, for the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.
- (2) Every self-employed person shall make a suitable and sufficient assessment of -
  - (a) The risks to his own health and safety to which he is exposed whilst he is at work; and
  - (b) The risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking,

198. The Health and Safety Executive helpfully provides a range of example risk-assessments which may be viewed at <http://www.hse.gov.uk/risk/casestudies/> .



The examples provided include for night-clubs, pubs, village halls, off-licences and convenience stores.

### **A broad guide to risk-assessment**

199. It is not possible to provide a complete list of the matters which might be covered by risk assessments since circumstances vary from case to case. However, depending on the circumstances of the case and the outcome of the risk assessment, applicants should consider whether the matters indicated on table 3 (on the following page) should be addressed in their operating schedule:

200. It should also be understood that it is not necessarily a simple process to convert the operation of a premises to another usage or activity. For instance, the addition of music and dancing at premises that previously only dealt with the sale and supply of alcohol might raise a number of issues. For instance the provision of a dance floor should be properly risk-assessed to provide customer comfort and a safe environment. Adequate supervision of dancers and a safe position for the DJ or band might be necessary, while issues of lighting, special effects, potential for noise and ancillary issues as bottle storage / collection might all arise.

201. Those preparing operating schedules are recommended to refer to the following guidance:

- **Model National and Standard Conditions for Places of Public Entertainment** and Associated Guidance ISBN 904031 11 0 (Entertainment Technology Press – ABTT Publications);
- **The Event Safety Guide** - A guide to health, safety and welfare at music and similar events (HSE 2002) ("The Purple Book") ISBN 0 7176 2453 6;
- **Managing Crowds Safely** (HSE 2000) ISBN 0 7176 1834 X
- **5 Steps to Risk Assessment: Case Studies** (HSE 1998) ISBN 07176 15804;
- **The Guide to Safety at Sports Grounds** - (The Stationery Office 1997) ("The Green Guide") ISBN 0 11 300095 2;
- **Safety Guide for Street Arts, Carnival, Processions and large scale Performances** published by the Independent Street Arts Network, copies of which may be obtained through [www.streetartsnetwork.org/pages/publications.htm](http://www.streetartsnetwork.org/pages/publications.htm) ;
- **Fire Safety Risk Assessment – Open Air Events and Venues** (ISBN 978 1 85112 823 5) which is available from the Communities and Local Government website [www.communities.gov.uk/fire](http://www.communities.gov.uk/fire) ;
- The London District Surveyors Association's "**Technical Standards for Places of Public Entertainment**" ISBN 0 9531229 2 1;
- **Safer Clubbing** - Produced by the Home Office in conjunction with the London Drugs Policy Forum

202. The following British Standards should also be considered:

- BS 5588 Part 6 (regarding places of assembly);
- BS 5588 Part 9 (regarding ventilation and air conditioning systems);
- BS5588 Part 9 (regarding means of escape for disabled people);
- BS 5839 (fire detection, fire alarm systems and buildings); and

- BS 5266 (emergency lighting systems)

Table 3 – Broad guide to public safety considerations	
Site and general arrangements	Site and layout arrangements / access for emergency vehicles / entry arrangements / pre-opening safety checks
Means of escape	Horizontal escape / seating and gangways / vertical escape / arrangement and maintenance of final exits and escape routes to exits / escape signage
Structure	Stability / barriers and guarding / temporary structures
Fire safety	Fire separation / fire resistance and finishes / smoke ventilation and containment / safety curtains / hangings, drapes, decorations and upholstery / lightning protection / arrangements for contacting emergency services
Building services	Electrical installations, including temporary electrical installations / lighting, including emergency lighting / ventilation / heating and fuel / water supplies and drainage
Hygiene	Sanitary accommodation / cloakrooms and changing rooms / drinking water supplies / refuse storage and disposal
Fire and emergency systems	Fire and emergency warning systems / fire extinguishing arrangements / generators
Communications	Communications systems / safety signs and notices
Special installations and effects	Mechanical installations / stage engineering / special effects / hearing protection for staff / hazardous materials.  Note: The operating schedule should identify all special effects to be used on the premises such as flame, lasers, pyrotechnics, smoke, fog, foam or firearms. A risk assessment should be carried out in respect of each and should detail steps to be taken to prevent risks to patrons and performers.
Capacity	The maximum capacity of the premises and (as appropriate) the maximum capacity for separate areas within the premises / procedures to record the number of persons entering and leaving the premises  Note: The LFEPA request that the proposed maximum capacity is submitted with the scale (1:100) plans, the LFEPA will respond either agreeing with the proposal or recommending an alternative capacity.
Staffing provision and training	Proof that, where necessary, SIA registered door staff are employed / Details of steps that have been taken or will be taken to train staff in matters relating to public safety / first aid provision
Access and egress for disabled persons	Details of access and egress provision for disabled persons should be provided. Particular emphasis should be placed on evacuation procedures.

203. Where its discretion is engaged following the consideration of relevant representations the Licensing Authority will consider attaching relevant conditions to licences and permissions to promote public safety where these are not provided

for within other legislation and are necessary for the promotion of that licensing objective.

### **Safe capacities**

204. The Guidance to the Act sets out that “safe capacities” should only be imposed where necessary for the promotion of public safety or the prevention of disorder on the relevant premises.
205. The position of the authority and the responsible authorities is that the importance of the role of safe capacities in terms of both public safety and crime and disorder should not be overlooked.
206. Accordingly it is recommended that wherever the setting of a safe capacity will assist issues of crowd safety or public order that this is addressed by the operating schedule. It should be borne in mind that the safe capacity should be that which applies at any material time that licensable activities may take place under the premises licence.
207. It should also be noted that where an applicant wishes to take advantage of the special provisions in Section 177 of the Act relating to small venues then a capacity must be set in consultation with the fire authority.
208. For guidance in calculating safe capacities applicants may refer to the London District Surveyors Associations Technical Regulations referenced in this Section.

### **A proactive approach to customer safety**

209. Applicants are also encouraged to take a proactive approach to general safety issues, including that of their customers, and to discuss appropriate measures with the responsible authorities concerned. Arrangements that might be taken into account could include steps;
- To monitor that customers present upon the premises are not continued to be supplied with alcohol to a point where they become drunk;
  - To ensure that customers are able to return home safely, for instance, by providing information on local transport availability or making arrangements with reputable cab companies;
  - To ensure against drinks being “spiked” or otherwise tampered with; and
  - To ensure all (internal and external) parts of the premises are adequately lit and may be monitored by staff.

## SECTION 9 – THE THIRD LICENSING OBJECTIVE – THE PREVENTION OF PUBLIC NUISANCE

**Note: For how this policy is intended to apply see Section 5**

210. Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises. Principal concerns relate to noise nuisance, light pollution and noxious smells.

211. This authority as a result of the above, will expect applicants for premises licences and club premises certificates to demonstrate in their operating schedules that suitable and sufficient steps are to be taken to prevent nuisance in and around the vicinity of their premises and events.

212. Operating schedules accompanying applications should be prepared on the basis of a risk-assessment of the potential sources of nuisance. Relevant issues might include:

- Preventing noise and vibration escaping from the premises, including music, noise from ventilation equipment and human voices;
- Preventing disturbance by customers arriving at, gathering outside of, being admitted or re-admitted to or departing from the premises, particularly between 2300 and 0700 hours;
- Preventing customer or vehicle queues forming outside of the premises, or where some form of queuing is necessary, the steps to prevent disturbance or obstruction;
- Ensuring clear up operations conducted by staff do not cause a nuisance and that staff leave the premises quietly;
- Addressing arrangements made for parking by patrons
- Considering whether there is sufficient public transport provision and where licensed taxis or private hire vehicles are likely, arrangements made to prevent disturbance to local residents
- Controlling disturbance that may be caused by the use of gardens and other open-air areas including the highway – particularly in relation to the recent smoking ban and passage of patrons between customers and outside areas
- Preventing nuisance from the positioning and operation of plant and machinery
- Restricting delivery and collection times
- Limiting nuisance caused by the positioning of external lighting, including security lighting
- Preventing refuse storage and disposal problems and the accumulation of litter in the vicinity of the premises
- The need for regular patrols of the curtilage of the premises

213. Applicants are advised to refer to:

- The Institute of Acoustics “Good Practice Guide on the Control of Noise from Pubs and Clubs”;

- Noise at Work Guidance for employers on the Control of Noise at Work Regulations 2005 issued by the Health and Safety Executive and obtainable from <http://www.hse.gov.uk/pubns/indg362.pdf> ;
- In the case of large music events, the Code of Practice on Environmental Noise Control at Concerts produced by the Noise Council;
- Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems produced by DEFRA; and
- Guidance Notes for the Reduction of Obtrusive Light – Institute of Lighting Engineers (2005)

214. Applicants are recommended to seek advice from the council's environmental protection team when carrying out their risk assessments and preparing their operating plans and schedules.

215. For this purpose, table 4 on the following page, is provided as a helpful guide to applicants as to the types of controls that may be considered when assessing the steps necessary for the promotion of the prevention of nuisance licensing objective, following receipt of relevant representations. It should be noted that it is likely that additional controls may be necessary to prevent nuisance after 2300 hours.

216. This is neither meant to be a definitive list of possible preventative measures nor will the controls listed be necessary in every circumstance. It is recognised that applicants know their premises and method of operation and controls proposed under the operating schedule should properly reflect the proposed operation of the premises concerned.

217. While it is recognised that there is no requirement in the 2003 Act to do so, applicants may find that it helps the licensing process to provide a copy of the completed risk-assessment upon which the operating schedule is based to the relevant responsible bodies for consideration at the time of application.

218. Where its discretion is engaged following consideration of relevant representations, the licensing authority will consider attaching appropriate conditions to licences and permissions to prevent nuisance.

### **Outdoor events**

219. Each year Southwark hosts a large number of outdoor community events. These events add to the vibrancy of the borough and are enjoyed by both residents and visitors alike. It is important that such events are organised and managed so as to ensure that minimum disturbance is caused to people living and working nearby. To help achieve this applicants are asked to submit an **Event Management Plan** to the Council's Environmental Protection Team with their application.

220. The Environmental Protection Team, as a Responsible Authority, will assess all licence applications for their impact with regard to public nuisance. Nuisance from outdoor events can be created by many activities, for example:

- Set up rigging / de-rigging
- Plant & machinery

<b>Table 4 – Broad guide to sound containment and reduction measures</b>	
1	The provision of acoustic double door lobbies
2	The use of double glazing / sound resistant glass
3	The use of acoustic seals on doors and windows
4	Keeping windows and doors closed during performances of licensable entertainment
5	The use of acoustic baffling to the ventilation extract and intake system
6	The provision of additional air conditioning / air cooling
7	The provision of sound transmission insulation to party walls
8	Mounting of sound equipment brackets and free standing equipment away from party walls / floors and use of isolation material
9	The provision of alarms to fire doors / other private external doors
10	Management control of entrance / exit lobby to ensure integrity maintained
11	Restrictions on live music / amplified sound being played in the outside area / garden / patio / marquee or external speaker connection to internal speakers
12	The installation and use of a sound-limiting device for all amplified sound
13	The connection of the fire doors / private external doors to the sound limiting device
14	The reduction of the volume or ceasing of the music / amplified sound e.g. 30 minutes prior to closure
15	Management of customers queuing to gain entry to the premises
16	Management of periodic perimeter checks
17	Management of exit and re-entry smokers / limit the numbers of smokers in the designated area
18	The use of management / security staff to supervise external areas used for consumption
19	Restriction of the use of the outside / garden / patio area after 2300 hours
20	The use of notices / announcements requesting customers to leave the area quietly
21	Arrangements with local car-hire to enter premises to collect customers
22	Notices advising on the use of horns, loud music or slamming doors from private vehicles outside the premises and in ancillary car parks
23	The quick dispersal of customers from outside the premises after closing time
24	Restriction on hours for handling and removal of waste, musical equipment and delivery of goods e.g. to between 0800 and 2000
25	Measures to prevent littering and to clear up any litter e.g. litter patrols
26	Measures to restrict exterior artificial lighting giving rise to nuisance
27	Measures to prevent cooking odours giving rise to nuisance
28	No drinks to be taken outside whilst smoking
29	Provide a 'drinks safe' area whilst the smoker is outside

- Vehicle movements
- Music
- People
- Fireworks and special effects
- Odour and smoke from food preparation
- Litter
- Lighting

221. It is recommended that event organisers include a **Nuisance Management Section** within the **Event Management Plan** assessing all nuisance-causing activities and setting out the measures proposed to mitigate against any nuisance being caused.

222. The nuisance management section should include the following information:

- Location & site plan
- Information on the type of event
- Orientation of stage or music source
- Access onto & from site and site routes
- Location of operational plant & vehicles
- Background noise survey and predictive noise assessment
- During performance sound management responsibility and recording of levels, complaint response and records of action, post event audit meeting with authority
- Contact details of a person at the event responsible for liaison with the Council Officers
- Copy of the leaflet to be dropped to occupiers of nearby noise sensitive premises
- Location of light sources & light impact assessment
- Litter control & recycling
- Noise control measures
  - Maximum noise levels
  - Selection of equipment etc.

#### **Nuisance outside of premises**

223. Nuisance caused by patrons outside of premises, whether this is from a beer garden, on terraces or on the pavement, is of considerable concern to local residents who live in close proximity to licensed premises. Of course noise is often the main concern, however, obstruction of the highway that prevents people passing by on the pavement, access by emergency services, or street cleansing are other serious concerns.

224. Local residents may also be affected by smoke from barbeques and other cooking equipment used in the open air. Licensees should consider carefully the steps required to prevent such nuisances in their operating schedule and in the day to day management of their premises.

225. Licensees wishing to place tables and chairs on the public highway should also note that an additional consent and licence is required from the Council's Street Trading section. Contact details are provided in Section 12 of this document.

#### **Smoking and licensed premises**

226. The Government's smoke free workplaces initiative came into effect on 1 July 2007. One of its impacts has been to prohibit customers and staff from smoking within licensed premises and enclosed areas. While this constitutes a welcome measure in reducing risk to public health from the affects of second hand smoke, this has also given rise to many instances of nuisance being caused outside of

licensed premises as licensees have sought to make provision for customers who wish to continue smoking outside of the premises.

227. It should be understood that licensees have a responsibility for the conduct of their customers while they are in and around their premises. If provision is made for customers to smoke outside of premises then sufficient management controls must be put into place to ensure that no nuisance or disturbance is caused to local residents. Failure to control customers outside of premises may result in licence reviews being submitted and impact upon the premises licence.
228. Licensees are advised to consider the impacts on the local community of any provision made for customers outside of the premises. In cases where the premises is located in a residential area, it may be necessary to consider setting times after which external areas will not be used; to prevent drinks being taken outside of the premises while customers go outside to smoke; to set a no admissions or re-admissions policy in place at a particular time to prevent nuisance; or consider how littering from cigarette butts may be controlled.
229. Licensees should be aware that a range of other consents may be necessary to provide smoking shelters, awnings, tables and chairs or space heaters. Please discuss your proposals with the licensing team in the first instance (see contacts section of this policy).



<b>SECTION 10 – THE FOURTH LICENSING OBJECTIVE – THE PROTECTION OF CHILDREN FROM HARM</b>
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**Note: For how this policy is intended to apply see Section 5**

230. The licensing objective of the protection of children from harm includes the protection of children from moral, psychological and physical harm.
231. The council will expect applicants for premises licences and club premises certificates to demonstrate in their operating schedule that suitable and sufficient steps are to be taken to ensure the licensing objective of protecting children from harm.
232. Operating schedules accompanying licence applications should be prepared on the basis of a risk assessment of the potential sources of harm to children. Relevant issues might include;
- Preventing access to alcohol
  - Removing encouragement for children to consume alcohol
  - Preventing exposure to gaming
  - Preventing exposure to adult entertainments or facilities
233. This Council recognises the Southwark Safeguarding Children Board (SSCB) as being competent to provide advice on matters relating to the protection of children from harm. Applicants are advised to seek advice from the Board when carrying out their risk assessments and preparing their operating plans and schedules. Southwark Trading Standards are also available to give advice around preventing under-age sales. See section 12 for contact details.
234. This section of the policy offers best practice guidance across some of these issues.
235. It is emphasised that this guidance is neither meant to cover all issues nor will the suggestions made be necessary in every circumstance. It is recognised that applicants know their premises and method of operation and controls proposed under the operating schedule should properly reflect the proposed operation of the premises concerned.
236. While it is recognised that there is no requirement in the 2003 act to do so, applicants may find that it helps the licensing process to provide a copy of the risk-assessment relating to the protection of children from harm to the SSCB and the trading standards team when submitting the application.
237. Where its discretion is engaged following the consideration of relevant representations, the licensing authority will consider attaching conditions to protect children from harm.
238. Applicants proposing activity that includes adult entertainment are also referred to the policy set out at pages 41-42. The victims of “people trafficking” often include

young females under 18, and this is a further reason why the policy makes reference to it.

### **Access to licensed premises**

239. The act makes it an offence to permit children under the age of 16, who are not accompanied by an adult to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on those premises, under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice. In addition, it is an offence to permit children under 16 who are not accompanied by an adult, between midnight and 5.a.m. at other premises supplying alcohol for consumption on the premises, under the authority of any premises licence, club premises certificate or temporary event notice.
240. The council recognises, however, that licences may be sought for a great variety of premises, including theatres, cinemas, restaurants, concert halls, take-away and fast food outlets as well as public houses and nightclubs.
241. It is not the council's intention that the access of children should be any further limited to licensed premises, unless it is necessary for the prevention of harm to children. Nor is it the council's intention to require that access to any premises is given at all times. While the council would encourage applicants to make provision for the access of children this remains at the applicant's discretion.
242. However, this authority notes that the Secretary of State has recommended that following receipt of relevant representations (unless there are circumstances justifying the contrary) there should be a strong presumption against permitting any access at all for children under 18 years in any premises with evidence of known associations with or likely to give rise to:
- Heavy or binge or under-age drinking;
  - Drugs;
  - Significant gambling; or
  - Any activity of entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature
243. Additionally, the Secretary of State has said that for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00.p.m. in the evening, following receipt of relevant representations, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time.

### **The purchase and consumption of alcohol by minors**

244. The council shares the government's concern over the purchase and consumption of alcohol by minors.
245. The NHS report on 'Smoking, Drinking and Drug Use Among Young People in England in 2008' notes the average weekly intake for pupils aged 11-15 who had drunk alcohol in the week before they were surveyed was 14.6 units. More than double since 1990. Furthermore, 12,718 children aged between 11-17 were

admitted to hospital in 2008-9 with an alcohol related condition (3,556 aged 11-15 and 9,164 aged 16-17). The UK has one of the highest rates in the EU of admissions to hospital or A&E due to alcohol use by 15-16 year olds.

246. Frequency of drinking is associated with offending in children and young people. The 2004 Offending, Crime and Justice Survey found those who drank alcohol once a week or more committed a disproportionate volume of crime, accounting for 37% of all offences but only 14% of respondents.
247. In the years since the 2003 Act came into being additional enforcement programmes have been funded through the neighbourhood renewal programmes, aimed at reducing the level of under-age sales within the borough. This was in addition to funding made available across the UK through the Home Office's own alcohol harm reduction programme.
248. Figure 5 below shows the results of alcohol test purchase results within Southwark since the 2003 Act was introduced.

Year	Test purchases	Compliance (no. of sales)	Compliance rate %
2005 - 2006	146	65	45%
2006 – 2007	102	76	75%
2007 – 2008	78	57	73%
2008 – 2009	123	101	82%
2009 - 2010	41	29	70%

249. As noted elsewhere in this document, since October 2010 it has been a standard requirement of all premises licences which authorise alcohol sales, that the licence holder must have an age verification policy in place.
250. The trading standards service, in it's role as responsible authority, considers each individual licence application received by the licensing authority and makes recommendations on the appropriate range of management controls around this issue. A broad guide to the service's recommended approach to controlling under-age sales is provided in table 6. While this is intended as guidance only, this authority recommends that all operators should give careful consideration to introducing these controls into their management practices and including them within their operating schedules. We have found that the rate of compliance has been assisted by take-up of these controls. The recommendations support the national 'Think 25' policy.
251. Trading standards also provide practical support. This includes a proof of age card; a 'Good Trader' award scheme; a range of business advice information leaflets; and other support materials such as posters and point of sale material. The service also offers an in-house training programme which, in the near future, will also be backed by the Trading Standards Institute sponsored 'Fair Trader' award.

Table 6 - Broad guide to controlling under-age sales measures	
Signage	That notices shall be displayed informing customers and staff that sales of alcohol will not be made to under 18s and that age verification will be required
Proof of age compliance scheme	<p>That an age verification scheme shall be established and maintained. The scheme shall require the production of evidence of age (comprising any Proof of Age Standards Scheme (PASS) accredited card or passport or driving licence) from any person appearing to staff engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. Evidence of this scheme (in the form of documented procedures) shall be made available for inspection by authorised officers.</p> <p>or</p> <p>That “Challenge 25” or “Think 25” as part of an age verification scheme shall be supported. The scheme shall require the production of evidence of age (comprising any PASS accredited card or passport or driving licence) from any person appearing to staff engaged in selling or supplying alcohol to be under the age of 25 and who is attempting to buy alcohol. “Think 25” or “Challenge 25” notices shall be displayed informing customers and staff that sales of alcohol will not be made to anyone appearing to be under 25 unless they can prove they are 18 or over. Evidence of this scheme (in the form of documented procedures) shall be made available for inspection by authorised officers.</p>
Staff training	That all staff involved in the sale of alcohol shall be trained in the age verification scheme and records of such training shall be retained on the premises and made available for inspection by authorised officers.
Incident log	That an incident log shall be maintained and details of all age related refusals recorded. This book shall be reviewed monthly by the DPS and any actions taken recorded in the book and signed off by the DPS. This log shall be retained on the premises and made available for inspection by authorised officers.
CCTV	That, if a CCTV recording system is installed inside the premises, it shall be positioned to capture the sale of alcohol. A library of recordings taken by the system shall be maintained for 31 days and made available to authorised officers upon request.
Presence of personal licence holder	That a personal licence holder shall be on the premises at all times that alcohol is supplied.
EPOS System	That, an EPOS (electronic point of sale) system is installed at the premises, it shall be configured to prompt the operator to check proof of age when an alcoholic product is scanned. This prompt should require the operator to confirm the purchaser is over 18 before the next item can be scanned or the transaction completed.
Monitoring of displays	That the DPS shall ensure that, as far as is reasonably practical, alcohol is displayed in an area which can be constantly monitored or supervised by staff, separate from goods likely to be purchased by persons under 18.
Responsible promotions	That, if any advertising campaigns or promotions of alcohol are planned, the premises licence holder shall ensure they are carried out in a socially responsible manner and that they do not encourage irresponsible drinking. If authorised officers raise concerns about any promotion the premises licence holder shall discontinue it.

### **The Southwark proof of age (SPA) card**

252. In order to assist licensees avoid under-sales, the council's trading standards service has introduced a local PASS approved proof of age card. The SPA card is available to 16-18 year olds via their school or college. It is also made available through other youth settings by individual application up to the age of 25.
253. There are currently around 3,500 SPA cards in circulation and 7 of the 13 Southwark secondary schools and colleges have a process in place to make the card available to all students.
254. Anecdotal evidence is that many clubs will only accept driving licences and passports as they are concerned that other cards can be too easily copied. This is not the case. In fact the most commonly copied document is the driving licence. Cards bearing the PASS hologram cannot be easily copied.
255. PASS approved proof of age cards have recently been publicly supported by the Home Office and ACPO as reported in 'The Publican' <http://www.thepublican.com/story.asp?sectioncode=7&storycode=68141&c=1> The Publican Wednesday 27<sup>th</sup> October 2010.
256. For further information on introducing an age verification policy, to access the training programme or to obtain the materials itemised above, please contact the trading standards service.
257. In detailing the council's recommended approach to under-age sales it is recognised that some sales may be made through intimidation or fear. Licensees experiencing such problems are advised to discuss their situation with licensing or trading standards officers. Furthermore, the council's health and safety team offers conflict resolution training aimed at helping deal with the threat of violence and aggression in the workplace. For contact details please see section 12.

### **Children and responsible drinks promotions**

258. The Portman Group operates, on behalf of the alcohol industry, a code of practice on the naming, packaging and promotion of alcoholic drinks. The code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years and older. Complaints about products under the Code are considered by the Independent Complaints Panel and the Panel's decisions are published on the Portman Group's web site, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the code, the Portman Group may issue a retailer alert bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with.
259. This Code was first introduced in 1996 and has been developed to deal with issues ranging from "alco-pops" through to the marketing of alcoholic "energy" or "stimulation" drinks. It is an important weapon in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold on licensed premises in a manner which may appeal to, or attract, minors.

260. The Council commends the Portman Group code of practice on the naming, packaging and promotion of alcoholic drinks to operators accordingly.

#### **Children and cinemas**

261. In the case of premises giving film exhibitions, the council will impose a mandatory condition that “access to any film exhibition will be restricted to only those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification, or in specific cases, the local authority”. Applicants are expected to include within their operating schedule arrangements for restricting children from viewing age-restricted films.
262. Information regarding the classification of films by the council can be requested from the licensing service.

#### **Children and regulated entertainments**

263. This council acknowledges that Guidance states it may be necessary to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment in their productions.
264. Where a theatrical entertainment is specially presented for children, the council advises the presence of sufficient adult staff to control access and egress of children and to protect them from harm as follows –
- (1) An adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof;
  - (2) No child (unless accompanied by an adult) to be permitted in the front row of any balcony; and
  - (3) No standing to be permitted in any part of the auditorium during the performance.
265. Where facilities generally are provided specifically for children, applicants are advised by the SSCB to consider the following steps:
- That applicants should demonstrate that the company / organisation has a policy or statement on keeping children safe from harm;
  - That applicants should demonstrate how employees or contracted agencies will be made aware of the company’s / organisation’s policy / statement on keeping children safe from harm;
  - That applicants should demonstrate that recruitment processes for staff who may have to deal direct with children under the age of 18 seek to ensure, as best the company / organisation can, that the appointed applicant has not been known to have harmed children;
  - That applicants should demonstrate that there will be clear expectations on staff with regard to their personal conduct in direct relations with children under 18 and guidance on what is appropriate in dealing with specific situations which may arise;
  - That applicants should demonstrate that there are systems in place and that staff are aware of them for dealing with possible abuse or violence to children from other users of the licensed facility;

- That applicants should demonstrate that there are clear and accessible complaints systems for children to report if they have been harmed and that there are clear whistle-blowing procedures for staff who may have concerns about the welfare of children on the premises; and
  - That all duty managers or staff in charge of the premises are aware of how to refer any concerns about the welfare of children to the local police, education authority or social services as necessary.
266. Where children are taking part in any regulated entertainment the council expects the arrangements set out in the council's "Guidance Note on Children in Entertainment" at the premises to assure their safety.

**SECTION 11 - ENFORCEMENT**

267. It is essential that licensed premises operate in accordance with the act. Part of the licensing authority's role is to monitor premises and take appropriate action to ensure that the licensing objectives are promoted. The licensing authority recognizes the importance of enforcement to the promotion of those objectives. The licensing authority is committed to continue to undertake enforcement measures and proceedings in partnership with other relevant statutory agencies. Offences against the act are set out in the Act.
268. In accordance with the guidance to the act, the licensing authority will work alongside the police and the other responsible authorities in promoting the licensing objectives. This licensing authority has an excellent relationship with each responsible authority and the police, in particular. Protocols exist with the local police on enforcement issues to provide for a more efficient deployment of local authority and police staff commonly engaged in enforcing licensing law and the inspection of licensed premises.
269. Protocols will also be maintained with the other enforcement bodies that have a role around the operation of licensed premises. As part of the "better regulation initiative" and in order to promote effective use of enforcement resources and reduce the burden on business, the various enforcement agencies involved may from time to time look at references normally dealt with by other relevant agencies during the course of premises inspections. Where issues are identified under those other agencies remits (for instance where a licensing officer notes a fire safety matter) this will be brought to the attention of the person in charge and the matter may be referred on to the agency involved. Where possible appropriate advice and guidance will be given at the time.
270. Inspections will be undertaken on a risk-assessment basis with resources targeted toward agreed problem and high-risk premises, which require greater attention. A lighter touch will be applied in respect of low risk premises, which are well run. Detail of the basis to our risk-assessment approach can be obtained from the licensing service.
271. This approach is supported and facilitated by regular liaison meetings of the primary responsible authorities and beyond through the partnership tasking group, public services operations group and local licensing enforcement group. All complaints and referrals made to such liaison meetings will be investigated appropriately.
272. All enforcement actions undertaken by the range of enforcement agents located within the council's environmental health and trading standards business unit (including the licensing service) will be in accordance with the council's enforcement policy; the Better Regulation Unit's Enforcement Concordat (to which this council is a signatory); and the Regulators Code of Compliance. As such it is our intention that all enforcement actions will be fair, transparent and proportionate. A copy of our enforcement policy may be obtained from the licensing service.
273. As part of this, it should be noted that investigations will be undertaken through a range of means including overt and covert operations. It should be noted, in



particular, that weights and measures officers from the council's trading standards service or officers from the police authority will carry out test purchases of alcohol using young volunteers, where complaints are received concerning the supply to children under the age of 18. Where sales are made all responsible persons may be subject to enforcement action.

274. Additionally, this authority recognises the important role played in preventing crime and disorder by the Security Industry Authority by ensuring that door supervisors are properly licensed and, in partnership with the police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This authority will look to co-operate with the SIA as far as possible and as part of this co-operation has authorised officers to act under the powers of the Private Security Industry Act 2001.
275. It remains the over-riding intention, however, of the licensing authority, the police, and the other enforcement agents to work together with responsible licence holders and operators to help them run a successful business that plays a positive role within the local community. Where operators are acting responsibly we will look to provide support, advice and education and we will look to give early warning of any concerns identified at any premises. However, the authorities will use the range of enforcement powers made available under the Act where individuals act with disregard to their responsibilities.

## SECTION 12 – CONTACT DETAILS

### THE LICENSING SERVICE

#### **Advice and Guidance**

Further details of the licensing application processes and copies of application forms can be obtained from the licensing service. You can contact the service

#### **In writing**

The Licensing Service  
C/O Southwark Environmental Health & Trading Standards Business Unit  
The Chaplin Centre  
Thurlow Street  
London, SE17 2DG

**By phone:** Customer service centre on 020 7525 2000

**By Fax -** 020 7525 5705

**By e-mail:** [licensing@southwark.gov.uk](mailto:licensing@southwark.gov.uk)

**By visiting the web site:** [www.southwark.gov.uk/businesscentre/licensing](http://www.southwark.gov.uk/businesscentre/licensing)

### OTHER RESPONSIBLE AUTHORITIES

#### **Commissioner of Police for the Metropolis**

The Police Licensing Office  
Walworth Road Police Station  
12 – 28 Manor Place  
London, SE17 3RL  
Tel: 020 7232 6210

#### **The London Fire and Emergency Planning Authority**

Fire Safety Regulations (Southwark Borough)  
249-259 Lewisham High Street  
London, SE13 6NH  
Tel: 020 8555 1200 (x36500)  
Fax: 020 8536 5924

**The Environmental Protection Team** (the “responsible authority” dealing with nuisance and pollution issues)

#### **The Occupational Health and Safety Team**

#### **The Trading Standards Service**

C/O Southwark EHTS Business Unit  
The Chaplin Centre  
Thurlow Street  
London  
SE17 2DG  
Tel: 020 7525 2000

**The Council's Building & Development Control Services (including Planning)**

Council Offices  
 5<sup>th</sup> Floor Hub 2  
 Tooley Street  
 London, SE1  
 Tel: 020 7525 2000

**The Local Safeguarding Children Board**

Southwark Social Services  
 C/O Council Offices  
 160 Tooley Street  
 London, SE1  
 Tel: 020 7525 4646

**Notes:**

- If you are applying for a premises or a club premises certificate and part of the premises concerned falls within another licensing authority's area then that authority should be copied in on the application also.
- If the premises concerned is a vessel then a copy of the application should also be sent to the Navigation authority within the meaning of section 22(1) of the Water Resources Act 1991

**OTHER AGENCIES**

**Patrick Horan**  
**Access Officer &**  
**Chair of Southwark Disablement Association**

2 Bradenham Close  
 London, SE17 2QB  
 Tel: 020 7701 1391

**Environmental Enforcement Team (providing the Council's 24 hour rapid response service)**

C/O Southwark Community Safety Business Unit  
 The Chaplin Centre  
 Thurlow Street  
 London, SE17 2DG  
 Tel: 020 7525 2000

**Street Trading (for shop front licences)**

Street trading office  
 Dawes Street  
 London, SE17

**Southwark Events Team**

C/O Council Offices  
 160 Tooley Street  
 London, SE1

Licensing Act 2003 – Three Year Review of the Southwark Statement of Licensing Policy – Responses received to public consultation (summer 2010)

Respondent	Contact	Status	Response	Comment
General				
Alex Trouton (on behalf of Southwark PCT)	NHS Southwark, 160 Tooley Street, SE1	Public health department	<p>From the point of view of health, a local licensing policy offers the opportunity to support a population based approach to reducing alcohol related harm. In particular it protects people who may be at risk of drinking at damaging levels and may also be instrumental in creating an environment that supports lower risk drinking. The recent NICE <i>Guidance Alcohol-use disorders - preventing the development of hazardous and harmful drinking</i>. (available at <a href="http://guidance.nice.org.uk/PH24">http://guidance.nice.org.uk/PH24</a>) notes that alcohol related harm is now a major public health issue and suggests that licensing departments need to take into account the links between the availability of alcohol and also alcohol related harm. NICE guidance offers recommendations that are based on stringent evaluation of current evidence and cost effectiveness as well as consultation with a wide range of experts and stakeholders. Implementing it benefits the whole community. Its first three recommendations are for central government to consider and would require legislation. They relate to setting a minimum price for alcohol; restricting availability and encouraging a stronger role for health in considering licensing applications; and limiting children and young people's exposure to advertising and marketing.</p> <p>Recommendation 4 of the guidance is aimed at Licensing and other relevant authorities:</p> <ul style="list-style-type: none"> <li>• Use local crime and related trauma data to map the extent of alcohol-related problems before developing or reviewing a licensing policy. If an area is '<b>saturated</b>' with licensed premises and the evidence suggests that additional premises may affect the licensing objectives, adopt a 'cumulative impact' policy. If necessary, limit the number of new licensed premises in a given area.</li> <li>• Ensure sufficient resources are available to prevent under-age sales, sales to people who are intoxicated, proxy sales (that is, illegal purchases for someone who is under-age or intoxicated), non-compliance with any other alcohol licence condition and illegal imports of alcohol.</li> <li>• Work in partnership with the appropriate authorities to identify and take action against premises that regularly sell alcohol to people who are under-age, intoxicated or making illegal purchases for others.</li> <li>• Undertake test purchases (using 'mystery' shoppers) to ensure compliance with the law on under-age sales. Test purchases should also be used to identify and take action against premises where sales are made to people who are intoxicated or to those illegally purchasing alcohol for others.</li> <li>• Ensure sanctions are fully applied to businesses that break the law on under-age sales, sales to those who are intoxicated and proxy purchases. This includes fixed penalty and closure notices (the latter should be applied to establishments that persistently sell alcohol to children and young people).</li> </ul> <p>Much of this is present in the draft statement of policy, however as the enforcement recommended will require resources, as will the timely provision of intelligence around emerging problems to the relevant authorities, it is highlighted here.</p>	<p>The comments provided from the PCT are noted and welcomed. This authority looks forward with interest to the outcome of the Home Office consultation on "Rebalancing the Licensing Act" and, especially, whether health matters will receive increased focus within the revision of the Act.</p> <p>In the meantime, we can confirm that each of the matters addressed by recommendation 4 of the guidance are acted upon by this authority and are referenced within the draft policy.</p>

Respondent	Contact	Status	Response	Comment
			<p><b>We suggest that in the final version of the statement of licensing policy, this NICE guidance is referred to and measures that the guidance recommends be strongly supported in the strategy.</b></p> <p>We recognise that this consultation needs to take place within the existing legislative framework – which does have a number of gaps and anomalies harmful to aspects of health and community well-being. It is relevant that that there is currently a Home Office consultation <i>Rebalancing the Licensing Act</i> (closing 8.09.10) which addresses possible deficiencies in the current licensing framework. We particularly support these three objectives believing that they have a significant role in encouraging healthier patterns of alcohol consumption.</p> <ul style="list-style-type: none"> <li>• Increase the opportunities for local residents or their representative groups to be involved in licensing decisions, without regard to their immediate proximity to premises.</li> <li>• Enable more involvement of local health bodies in licensing decisions by designating health bodies as a responsible authority and seeking views on making health a licensing objective.</li> <li>• Ban the sale of alcohol below cost price.</li> </ul> <p>(Although where the last measure is concerned, we would prefer to see the NICE recommendation of a consistent price per unit of alcohol)</p> <p><b>We suggest that the final version of the statement policy notes this consultation as future legislation around licensing may mean that it needs updating before 2014.</b></p> <p>Increasingly there are accessible sources of data for alcohol and its impact locally.  E.G. The Local Alcohol Profile <a href="http://www.nwph.net/alcohol/lape/LAProfile.aspx?reg=h">http://www.nwph.net/alcohol/lape/LAProfile.aspx?reg=h</a>  Alcohol attributable admissions in London  <a href="http://www.lho.org.uk/viewResource.aspx?id=16269">http://www.lho.org.uk/viewResource.aspx?id=16269</a></p> <p>There is also a useful background summary Indications of Public Health in the English Regions   8: Alcohol – Executive summary at :  <a href="http://www.apho.org.uk/resource/item.aspx?RID=39377">http://www.apho.org.uk/resource/item.aspx?RID=39377</a></p> <p><b>We suggest that some of this data might appear in an appendix to this licensing statement in order to provide some kind of context and rationale for the recommended licensing framework as well as giving an indication of trends. Alcohol related crime appears to be a particular issue in Southwark. In 2008/9 4462 crimes (2395 of which were violent) were attributable to alcohol, a slight drop compared to previous years but nevertheless well above the average for London boroughs. It would be helpful if the statement can provide some analysis of patterns of crime and how licensing measures/enforcement will seek to address them.</b></p>	Data sources provided together with this submission are also welcomed.
Executive summary				
Alex Trouton (on behalf of Southwark PCT)	NHS Southwark, 160 Tooley Street, SE1	Public health department	<p>Page 5 paragraph 4.</p> <p>Also mention negative impacts on health and extra costs to the public purse such as extended policing, use of A and E, additional street cleaning, alcohol fuelled cases entering the criminal justice system.</p>	Noted and included.
Section 2 – All about Southwark				

Respondent	Contact	Status	Response	Comment
Alex Trouton (on behalf of Southwark PCT)	NHS Southwark, 160 Tooley Street, SE1	Public health department	Page 8 paragraph 7  Newer demographic data now available based on ONS population projections based on 2008 mid year estimates. Total Southwark population now estimated at 292,000 (27.05.10)	Noted and amended
Section 4 – Administration, exercise and delegation of function				
Robert Faux	City Operations Team, GLA, City Hall, The Queen's Walk, More London, London, SE1 2AA		Thank you for the opportunity to review and comment on the draft Licensing Consultation for Southwark. As part of the City Operations programme, which is working to prepare the City and its services for 2012, we would like you to consider including the below paragraph in your Licensing Policy in the area of Events. At Games time many functions will not be able to operate under business as usual conditions and it should be recognised that London will have a finite emergency services resource in 2012. This wording has been put together collaboratively by a number of Boroughs, the GLA, TfL, Olympic Security Directorate, NHS and the emergency services (LFB, LAS, MPS, BTP) as part of London's 2012 planning and we think its inclusion will be one step in the preparations for the Games.  "The Council is fully committed to a safe and successful Olympic and Paralympic games in London in 2012. The Council recognises that the resources of the police and emergency services will be planned out and prioritised for the security of major events before, during and after the games from May 1 2012 until October 31 2012. Due consideration will be given by the Council to representations from the Police in relation to licence applications for activity during the games time on the grounds of public safety and security when police and other emergency services resources are insufficient to deal with the risks presented. Where, as a result of representations from a responsible authority, it is identified that a licence or proposed event presents a risk that the licensing objectives will be compromised, it is [the Council's policy] likely that such applications will not be granted."	Clause included within draft policy
Alex Trouton (on behalf of Southwark PCT)	NHS Southwark, 160 Tooley Street, SE1	Public health department	Page 19 / 20  Email address given for licensing register does not work. Needs .asp added. Authorisation forms are downloaded from <a href="http://www.southwark.gov.uk/info/20063/licences">www.southwark.gov.uk/info/20063/licences</a> rather than the address provided. Suggest checking all Southwark email addresses provided here as the whole site has been redesigned this year. Needs to be clear and supportive to members of the community who wish to comment on applications	Noted and amended.
Section 6 – Other policies, objectives and guidance				
Alex Trouton (on behalf of Southwark PCT)	NHS Southwark, 160 Tooley Street, SE1	Public health department	Page 29.  Paragraph mentioning the Southwark Alcohol Harm Reduction strategy needs updating to reflect the recent strategy.  We would like to see protection of the public's health added to the three licensing objectives at the foot of the page.	Noted.
Section 7 – The first licensing objective – The prevention of crime and disorder				
Premises licence holder	Global Food & Wine, Lynton Road, Bermondsey, Southwark, SE1	Premises licence holder	Section 7 was very useful because it breaks all or most of the points on what to do and what not to do which refreshes the mind. Other information was useful but in particular I liked section 7.	Comment noted.
Alex Trouton (on	NHS Southwark,	Public health department	Page 36	This enforcement

Respondent	Contact	Status	Response	Comment
behalf of Southwark PCT)	160 Tooley Street, SE1		Although mention is made on P.14 of enforcement powers around selling alcohol to people who are demonstrably drunk, this needs to be added to the table of crime and disorder controls and would apply to all the settings shown in Table 2.	power, while important, is not a matter which should be referenced in potential licence conditions.
Alex Trouton (on behalf of Southwark PCT)	NHS Southwark, 160 Tooley Street, SE1	Public health department	<p>Page 38</p> <p>There is evidently a body of intelligence and mapping around local patterns of alcohol related crime and nuisance. Paragraph 5 states that this is available from the Licensing Team. We would like to see this data made publically available – if there is to be greater input from local communities around this issue and better collaboration, this evidence base needs to be made more accessible.</p> <p>We are supportive of the use of a saturation policy where there is evidence of harmful drinking and negative impacts on the community. The recent NICE review of evidence demonstrated an association between the number of alcohol outlets and increases in alcohol consumption as well as a range of outcomes including rates of violence, drink-driving, pedestrian injury, and child maltreatment.</p>	Partnership analysis is made available at the time that the matter is reported to the Licensing Committee. This occurs on a six-monthly basis.
Alex Trouton (on behalf of Southwark PCT)	NHS Southwark, 160 Tooley Street, SE1	Public health department	<p>Page 42</p> <p>This section may need some updating and redrafting as, the Policing and Crime Act 2009 dealt with some of the concerns outlined in this section. ‘From 6 April 2010, local authorities will be able to require all lap dancing clubs in their area, including existing venues, to apply for a sex establishment licence if they want to continue to operate lawfully. Where the new provisions are adopted, local people will then be able to oppose an application for a lap dancing club on the basis that it would be inappropriate given the character of their local neighbourhood.’ This excerpt taken from <a href="http://www.parliament.uk/briefingpapers/commons/lib/research/briefings/snha-04751.pdf">http://www.parliament.uk/briefingpapers/commons/lib/research/briefings/snha-04751.pdf</a></p>	Section amended and new policy on sex establishments licensing is in preparation.
Emily Scantlebury (on behalf of Local Government Regulation LGR)	C/O		Although paragraph 13.33 of the SoS Guidance states that “it would normally not be justifiable to adopt a special policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption of the premises” several authorities have successfully introduced cumulative impact policies that include off-licences. Local Government Regulation advises that if off licences are to be included within a cumulative impact policy, then it is recommended that the policy highlights specific problems relating to the impact of off licence premises, for example underage sales and proxy purchasing, street drinking and “pre-loading”.	Noted and included.
Sally Slade, Trading Standards Unit Manager	The Chaplin centre, Thurlow Street, London, SE17	Responsible authority	Opening section – Include tax evasion and smoke free environments in list of relevant issues	Noted and included
Sally Slade,	The Chaplin	Responsible	Suggested insertion – The sale and possession of smuggled, bootlegged or counterfeit products and handling stolen goods – The	Noted and

Respondent	Contact	Status	Response	Comment
Trading Standards Unit Manager	centre, Thurlow Street, London, SE17	authority	<p>guidance to the Act indicates that offences can be committed by certain persons in licensed premises if they allow the sale or supply of smuggled bootlegged or counterfeit goods on the premises. This is in particular relation to alcohol and tobacco products but may also include the sale of other counterfeit products such as DVDs and CDs and the handling of stolen goods.</p> <p>Smuggled – foreign brands illegally brought into the UK.</p> <p>Bootlegged (duty free) Foreign products brought into the UK in illegal quantities and / or resold in the UK.</p> <p>Counterfeit – Fake goods and packaging, cheap low quality and often dangerous products packed to look like premium UK brands</p> <p>Offences are for selling illicit products but also for employees permitting sales and for employees buying or selling.</p> <p>To prevent these offences occurring the licensee should consider taking certain precautions. Advice on this can be obtained from the council's trading standards service</p>	included
Section 9 – The third licensing objective – The prevention of nuisance				
Alex Trouton (on behalf of Southwark PCT)	NHS Southwark, 160 Tooley Street, SE1	Public health department	<p>Although litter/appropriate disposal of waste is mentioned, more general issues of street fouling (particularly urination and vomiting) is not. This is something that greatly upsets local residents and needs to be specified as something licensees have a responsibility to avoid.</p> <p>Areas such as Westminster and Camden and which have well-developed night time economies tend to have large numbers of 24 hour public toilets. Currently Southwark has few. Is this an issue that needs to be considered?</p>	Not a matter for this policy.
Section 10 – The fourth licensing objective – The protection of children from harm				
Sally Slade, Trading Standards Unit Manager	The Chaplin Centre, Thurlow Street, London, SE17	Responsible authority	<p>The 2008 Smoking Drinking and Drug Survey found the average weekly intake for pupils aged 11-15 who had drunk alcohol in the week before they were surveyed was 14.6 units. More than double since 1990.</p> <p>12,718 children in England aged 11-17 were admitted to hospital in 2008-9 with an alcohol related condition (3,556 aged 11-15 and 9,164 aged 16-17). The UK has one of the highest rates of admission to hospital or A&amp;E due to alcohol use by 15-16 year olds.</p> <p>Frequency of drinking is associated with offending in children and young people. The 2004 Offending, Crime and Justice Survey found those who drank alcohol once a week or more committed a disproportionate volume of crime, accounting for 36% of all offences but only 14% of respondents.</p>	Noted and included
Sally Slade, Trading Standards Unit Manager	The Chaplin Centre, Thurlow Street, London, SE17	Responsible authority	<p>Revision to section on purchase and consumption of alcohol by minors. The council shares the government's concern over the ease of purchase and level of consumption of alcohol by minors and it's related harm and anti-social behaviour. This was reflected in the years since the Licensing Act was introduced in a commitment to fund an additional enforcement programme to reduce the level of underage sales within the borough funded through the neighbourhood renewal programme. This was in addition to funding made available across the UK through the Home Office funded alcohol harm reduction programmes during 2007-2009. (Test purchase results provided for past 6 years). The trading standards service, in it's role as responsible authority within licensing objective 4, considers each individual licence application and, depending on the identified risks, recommends a range of management controls as set out below in fig 2 (figure 2 provides existing policy update to reference challenge 25 and think 25). Recent changes to the Licensing Act require that a licence holder has an age verification policy in place. This has not changed our approach significantly; however we have updated our business advice to indicate this requirement and to indicate our support for the national 'Think 25' policy. The package that is provided by trading standards includes a local proof of age card, a Good Trader award scheme, a range of business advice information leaflets and other support materials such as posters and point of sale material. We are currently also offering an in-house training programme which, in the near future, will also be backed by the TSI sponsored 'Fair Trader' award.</p>	Noted and referenced
Sally Slade, Trading Standards Unit Manager	The Chaplin Centre, Thurlow Street, London,	Responsible authority	<p>New section – The Southwark Proof of Age (SPA) Card – In order to assist licencees avoid underage sales, the Council's Trading Standards Service has introduced a local PASS approved proof of age card. The SPA card is available to 16 – 18 year olds via their school or college. It is also made available through other youth settings by individual application up to the age of 25.</p> <p>There are currently around 3,500 SPA cards in circulation and 7 of the 13 Southwark secondary schools and colleges have a</p>	Noted and included



Respondent	Contact	Status	Response	Comment
	SE17		<p>process in place to make the card available to all students. This authority would encourage licensees to ask for the card and accept it as evidence.</p> <p>Anecdotal evidence is that many clubs will only accept driving licences and passports as they are concerned that other cards can be copied too easily. This is not the case. In fact the most commonly copied document is the driving licence. Cards bearing the PASS hologram cannot easily be copied.</p> <p>PASS approved proof of age cards have recently been publicly supported by the Home Office and ACPO as reported in 'The Publican'.  <a href="http://www.thepublican.com/story.asp?sectioncode=7&amp;storycode=68141&amp;c=1">http://www.thepublican.com/story.asp?sectioncode=7&amp;storycode=68141&amp;c=1</a>  The Publican Wed 27 October 2010</p> <p>For further information on introducing an age verification policy, to access the training programme or to obtain the materials itemised above, please contact the trading standards service (for contact details see section 12 of this document)</p> <p>In detailing the council's recommended approach to preventing under-age sales it is recognised that some sales may be made through intimidation or fear. Licensees experiencing such problems are advised to discuss their situation with licensing or trading standards. Furthermore the council's health and safety team runs conflict resolution training aimed at helping deal with threat of violence and aggression in the workplace. For further information please see the contact details in section 12.</p> <p><a href="http://www.southwark.gov.uk/ageverification">www.southwark.gov.uk/ageverification</a></p>	
<b>General</b>				
Premises & personal licence holder. Local resident	Peckham Road, Camberwell, SE5	Premises & personal licence holder. Local resident.	Very good	Comments noted.
Emily Scantlebury (on behalf of Local Government Regulation LGR)			It is possible that the provisions of the Crime and Security Act 2010 relating to "early morning alcohol restriction orders" could be brought into force during the consultation / adoption process. DCMS has advised that licensing authorities should devise policies based on provisions that are in force only, and not to include references to early morning restriction orders in draft policies. LGR will update this advice should we receive a likely date for the commencement of this provision. With regard to the likely changes to the TENs timescales, the same principle applies, until the legislation changes the current timescales should remain within draft policies and LGR will provide an update as soon as further information is available from central government.	Noted.

<b>Item No.</b> 8.	<b>Classification:</b> Open	<b>Date:</b> 26 July 2011	<b>Meeting Name:</b> Licensing Committee
<b>Report title:</b>		Local Government (Miscellaneous Provisions) Act 1982 – Southwark Sex Establishments Licensing Policy	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Strategic Director of Environment	

## RECOMMENDATION

1. That the licensing committee recommends council assembly to adopt the draft Southwark sex establishments licensing policy at Appendix A to this report.

## BACKGROUND INFORMATION

2. On 20 October 2010, council assembly adopted new legislative provisions introduced under Section 27 of the Policing and Crime Act 2009 concerning the regulation of lap dancing clubs and similar operations. These provisions had the effect of reclassifying such premises as ‘sexual entertainment venues’ and enabled the council, as the local licensing authority, to introduce a new scheme to licence local venues as sex establishments under schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.
3. The first appointed date for the new sex establishment licensing regime was set as 1 April 2011. On this date transitional arrangements commenced which will lead to the new regime taking full effect from the third appointed date on 1 April 2012.
4. On 6 January 2011, officers returned to the licensing committee with a draft Southwark Sex Establishments Licensing Policy which is intended to support future licensing decisions to be taken by the council under the new regime. The committee considered and agreed the draft document for the purposes of public consultation.
5. The public consultation exercise ran from January through to March 2011. Responses received from the consultation exercise have now been reviewed and a revised policy statement is put to the committee accordingly.
6. The committee is asked to consider the revised document and recommend it to council assembly for adoption as the Southwark Sex Establishment Licensing Policy 2011. A copy of the policy document is provided at Appendix A.

## KEY ISSUES FOR CONSIDERATION

### The new licensing provisions

7. Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended, provides a licensing regime for the following categories of sex establishment:
  - Sex shops;
  - Sex cinemas; and

- Sexual entertainment venues;
8. Full definitions for each of the categories of sex establishment are provided in part D of the draft policy document at Appendix A. From 1 April 2012, it will be illegal to provide any of the above without a licence obtained from this authority.
9. The new licensing regime provides for:-
- Formal applications to be made for a sex establishment licence;
  - Payment of a fee;
  - Public advertisement of all applications;
  - Provision for written objections to be lodged relevant to the grounds for refusal of a licence; and
  - Public hearing of the application and any objection.
10. Guidance on the new 'sexual entertainment venues' licensing scheme has been produced by the Home Office. Copies may be viewed or downloaded at <http://www.lacors.gov.uk/lacors/ContentDetails.aspx?id=23464>

### **The draft policy**

11. Licensing authorities may publish a licensing policy relating to sex establishments so long as it does not prevent any individual application from being considered on its merits at the time that the application is made.
12. While the intention of the licensing regime is to ensure that sex establishments operate in a lawful manner; in appropriate locations; with necessary protection afforded to residents, customers and employees. The draft Southwark sex establishments policy has four main objectives:
- To reinforce to elected members on the licensing committee, the boundaries and powers of the local authority and provide the parameters under which those licensing decisions are made;
  - To inform licence applications of the parameters under which this authority will make licence decisions and how a licensed premises is likely to be able to operate within an area;
  - To inform residents and businesses of the parameters under which licence decisions will be made and how their needs will be addressed; and
  - To support licensing decisions that may be challenged in a court of law.
13. While the draft policy acknowledges all relevant provisions of the Act and Home Office guidance, the basis for some of the most important sections of the draft policy (relating to locality and conditioning of licences) derive from relevant provisions previously contained within the council's current statement of (alcohol, entertainment and late night refreshment) licensing policy made under the Licensing Act 2003. Members will be aware that up until the advent of the Policing and Crime Act 2009, lap dancing and similar venues in Southwark had been licensed as music and dancing venues under the 2003 provisions. These policy provisions, previously agreed by council assembly, had already established the council's initial views on matters of locality and conditioning.

### **The consultation**

14. As noted, the public consultation ran through January to March 2011. The consultation was:

- Advertised in local Southwark press and on the council's website;
  - Brought to each of Community Councils through the January – March 2011 meeting round; and
  - Notified directly to known interested parties (including responsible authorities, representatives of licensees and local residents, and local ward councillors).
15. A draft proforma response was compiled to help interested parties to submit their views.
  16. The consultation ran as scheduled. The matter was brought to each Community Council and notices were given. The responses received are summarised in Appendix B to this report. A low response was received. Some 25 individual responses were given. Two letters written in response to the consultation are provided at Appendices C and D.
  17. Overall the response received was supportive of the steps being taken by the council. Some 80% of the respondents supported the introduction of a licensing regime. Some 87% found the draft policy clearly written and easy to understand.
  18. Some of the main issues within the policy are dealt with below.

### **Locations policy**

19. At the heart of the overall policy lies a proposed 'locations policy'.
20. Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow licensing authorities to refuse applications on grounds related to an assessment of the "relevant locality". A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.
21. The Home Office guidance establishes that it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving applications that certain areas are, or are not, appropriate locations for sex establishments or a particular number of sex establishments.
22. The guidance also sets out that it is for the licensing authority to decide what constitutes 'relevant locality' on the facts of the individual application. Case law has defined, however, that a 'relevant locality' cannot be an entire local authority area or entire city or town.
23. The consultation considered the position by proposing criteria for examining appropriate locality and asking respondents to consider whether they a) supported the stated criteria; and b) if so, whether on the basis of this criteria, their ward provided an appropriate location for any category of sex establishment.
24. The criteria proposed was that already offered as guidance under the 2003 Act policy. The proposal was that applications will not normally be granted where the premises are located:

- Near residential accommodation;
  - Near places of worship, community facilities or public buildings;
  - Near schools, youth clubs, shops, parks, leisure and recreational establishments and any other similar premises directed at, or primarily used by children or families; or
  - Within sight of pedestrian routes or transport nodes (such as stations or bus stops) serving the above categories.
25. The response to the consultation provided 87% support for the first and third categories and 80% support for the second and fourth categories. It is proposed that the criteria are adopted into the council's final policy.
26. However, the response received to the questions as to appropriate location on a ward by ward basis is not so easy to rely on. Of the eight community councils, only three (Bermondsey, Nunhead and Peckham Rye and Walworth fully considered the matter).
- Bermondsey Community Council took a general view on the position from the floor of the meeting and this firmly emphasised that no area within the three local wards was appropriate for any category of sex establishment;
  - Nunhead and Peckham Rye Community Council ran a workshop that considered the issues. The response returned was again that no area within the 3 local wards was appropriate for any category of sex establishment; and
  - Walworth Community Council ran a voting exercise on appropriate location. The outcome of this was an 88% majority supporting the contention that there are no suitable areas for any category of sex establishment within any of the three local wards. This area received the most individual submissions, however, and two respondents from nine suggested that there might be potential for sex shops or a sex cinema in East Walworth ward.
27. The consultation did not identify any specific area as being appropriate for any category of sex establishment. It is proposed, therefore rather than specify specific numbers within any particular ward, that the council policy establish as guidance for future applicants, that no appropriate location within the borough is identified, but that applications will be assessed on their own relative merits against the stated location criteria. In accordance with the current council constitution, every application for sex establishment licences will be determined at member level.

### **Consultation on applications**

28. Applicants for a sex establishment licence must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than 7 days after the date the application is made. A notice should also be displayed on or near the premises in a place where it can be conveniently read by members of the public. The notice should be displayed for a period of 21 day beginning with the date the applications was made. It is open to any person to write in and either object to, or support an application, although objection may not be made on moral grounds.
29. The draft policy document, which went out to consultation, additionally proposed that applications would be advertised on the council's web site and that direct letter notifications would be sent to residents and business operators recorded on the post office database within a 100 metre radius,. This proposed level of consultation received 73% support and is recommended for adoption within the policy.

30. It should be understood that the 100 metre radius, referred to above is a gauge set for administrative purposes only, as being likely to canvass a representative selection of people likely to be affected by the application. It is not intended to represent this council's definition of location. The term 'location' is intended to remain undefined as this may alter given the individual circumstances of a case.

### **Licence conditions**

31. Where a local authority may decide to grant a licence, the authority is able to impose terms, conditions and restrictions on that licence. These may be in the form of either standard conditions applicable to all sex establishments or specific categories of sex establishment or conditions specific to the particular operation under consideration at the time.
32. The policy duly contains proposed standard conditions for each category of premises plus common conditions to apply to all categories of premises. These proposed conditions were compiled using existing best practice. These are set out in part H of the draft policy at Appendix A.
33. The proposed sets of conditions received from 73-80% support and are recommended for adoption within the policy.

### **Licence hours**

34. The draft policy also proposes standard hours of operation for each category of premises, to be applied in the event that any licence may be granted. The suggested standard hours are:
- Sexual entertainment venue, from 09:00 to 23:00hrs on Monday to Saturday;
  - Sex shop, from 09:00 to 18:00hrs on Monday to Saturday;
  - Sex cinema, from 09:00 to 23:00hrs on Monday to Saturday; and
  - Premises shall not open on Sundays, Christmas Day or Good Friday
35. Under this proposal any extended operation outside of these timings would have to be the subject of specific consideration within the initial application or by way of variation application.
36. The proposed timings received 66% support within the consultation and are recommended for adoption within the policy.

### **Community impact statement**

37. The decision to adopt these new licensing provisions was taken to enable better decision making around the adult entertainment market sector. The existence of this licensing scheme means that applications for premises providing adult entertainments will be given full and proper consideration with proper acknowledgement given to the types of entertainment intended to be provided.
38. In doing so, the local community will be properly empowered to take full part in the licensing process; have all relevant concerns raised and considered; and to be afforded necessary protections.
39. It will ensure that the authority is able to give full and proper consideration to appropriate locations for adult entertainments. It will also ensure that such entertainments are properly controlled with adequate protections being afforded local

residents and employees.

40. While operators will find that a more rigorous licensing process will be applied in future, the establishment of this regime and this policy helps establish a clear framework for licensed operations under a licence.
41. In these ways this draft policy looks to support broader council objectives.
42. This new licensing regime has been subject of an equalities impact assessment. The licensing process which supports this new regime is an inclusive and transparent process, designed to be open to all, so as to ensure all issues may be raised, heard and considered. No issues are identified at this time but the situation will be subject of review as the new regime is implemented.

### **Resource implications**

43. Schedule 3 to the 1982 Act provides that the applicant for the grant, renewal, variation or transfer of a sex establishment licence shall pay a reasonable fee determined by the appropriate authority. The term 'reasonable' is not defined.
44. In other circumstances where this authority has some discretion over fees set, those fees have been set with regard to existing guidance issued by the former Local Authority Co-Ordinator for Regulatory Services (LACORs) now Local Government Regulation, on a cost-recovery basis.
45. The same approach was taken toward setting fees under this Act. Present fees for applications for sex establishments licences in 2011-12 stand at £7984.00 (plus an additional compliance charge of £567) for new applications and a fee of £7402.00 for renewal and variation applications.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Strategic Director of Communities, Law & Governance**

46. The licensing and control of sex establishments is governed by Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act"). These provisions previously applied only to sex cinemas, hostess bars and sex shops.
47. The Policing and Crime Act 2009 amended the provisions of Schedule 3 to introduce a new category of sex establishment, called a sexual entertainment venue, which brought venues such as lap dancing clubs within the licensing regime of the 1982 Act.
48. The Council has resolved to adopt these amended provisions, so that sexual entertainment venues (as well as all other types of sex establishment) in Southwark will require a licence under the 1982 Act.
49. The Council is the authority which issues licences for sex establishments.
50. The 1982 Act sets out the grounds on which an application for a licence can be refused. These include instances where the applicant does not meet certain statutory criteria (e.g. they are under 18 or disqualified from holding a licence), and also where the applicant is considered unsuitable.
51. The other grounds of refusal are based on considerations of the locality of the area in

which a premises is situated. These include a consideration of the appropriate number of sex establishments in the locality, and it is open to the Council to refuse on the basis that there should be no sex establishments in the locality.

52. Other reasons include the character of the locality, the use of other premises in the vicinity and the premises themselves.
53. The relevant locality is the area in which the premises are situated, and it will be for the Council to decide the extent of this area in each case, although it cannot be as wide as the whole of Southwark.
54. Each application must be determined on its own merits and a consideration of the particular locality in which a premises is located.
55. Under Schedule 3 the Council can prescribe standard conditions which will automatically apply to sex establishment licences, unless the Council feels that in a particular case those conditions should be excluded or modified.
56. The 1982 Act does not require the Council to publish a statement of its licensing policy in relation to sex establishments which must be considered when determining applications, nor is there statutory guidance which the Council must legally consider, although the Home Office has also issued non-statutory guidance.
57. However both case law and the non-statutory guidance state that the Council may publish a licensing policy in relation to sex establishments, to provide guidance to applicants on whether a sex establishment is likely to be considered appropriate in a particular area.
58. The Council cannot rely on its policy as a ground for refusing an application, although it may look to the policy for guidance. Each application must be determined on its own facts, and this must be made clear to applicants, interested parties and decision makers.
59. Positive equalities obligations are placed on local authorities, sometimes described as equalities duties, with regard to race, disability and gender. Race equality duties were introduced by the Race Relations Amendment Act 2000 which amended the Race Relations Act 1976. Gender equalities duties were introduced by the Equality Act 2006, which amended the Sex Discrimination Act 1975. Disability equality duties were introduced by the Disability Discrimination Act 2005 which amended the Disability Act 1995.
60. Equality impact assessments are an essential tool to assist councils to comply with our equalities duties and to make decisions fairly and equalities and human rights impact assessments that are carried out should be mindful of the protected characteristics under the Equality Act 2010.
61. 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. Under Part 3 of the Council's Constitution, decisions on the Council's licensing policies are reserved to council assembly. The decision on whether to adopt the statement of licensing policy for sex establishments must therefore be taken by council assembly.

#### **Finance Director**

62. This report asks that the licensing committee recommends council assembly to adopt



the draft Southwark sex establishments licensing policy. This is a new licence, and as yet none have been issued.

63. The licence fees included in this report were approved as part of the overall community safety fees and charges report by the cabinet member for finance and community safety on 28 February 2011.
64. For the 2011/12 budget it was assumed that this would be cost neutral (costs and income match). The position will be monitored carefully during the year and any variation will influence the budget proposals for the 2012-13 process.

#### BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Local Government (Miscellaneous Provisions) Act 1982 and related subsequent legislation	Health Safety Licensing & Environmental Protection Unit, C/O The Chaplin Centre, Thurlow Street, London, SE17 2DG	Name: Mrs Kirty Read Phone number: 020 7525 5748
Policing & Crime Act 2009		
Licensing Act 2003		
LACORS Guidance on fee setting		
Various 2003 Act case files		
Home Office Guidance on Sex Entertainment Venues		

#### APPENDICES

No.	Title
Appendix A	Draft Southwark Policy for Sex Establishments
Appendix B	Summary of responses to the public consultation exercise
Appendix C	Letter from Southwark Cathedral
Appendix D	Letter from Metropolitan Tabernacle

#### AUDIT TRAIL

<b>Lead Officer</b>	Strategic Director of Environment	
<b>Report Author</b>	Richard Parkins, Health Safety Licensing and Environmental Protection Unit Manager	
<b>Version</b>	Final	
<b>Dated</b>	15 July 2011	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
<b>Cabinet Member</b>	Yes	No
<b>Date final report sent to Constitutional Team</b>	15 July 2011	



DRAFT

**THE SOUTHWARK  
SEX ESTABLISHMENT POLICY**

# DRAFT

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## **Part A – Introduction**

Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 established a licensing scheme for 'sex shops' and 'sex cinemas'. In the mid 1980's a London amendment extended the definition to include 'sex encounter establishments' but exempted performances of striptease where public entertainments licences enabling music and dancing entertainment had been granted to the premises concerned by the local authority.

This situation continued until 6 April 2010 when the Policing and Crime Act 2009 came into effect in England. This had the effect of removing the exemption and enabling lap dancing and similar to be licensed under a new category of 'sexual entertainment venue' under the 1982 Act.

This authority has adopted the provisions of the 1982 Act and each amendment since the responsibility for the licensing regime was devolved to it following the demise of the Greater London Council in 1986. On 20 October 2010 this authority resolved to adopt the provisions of the 1982 Act as amended by the 2009 Act with effect from 1 April 2011.

A local authority may agree and publish a licensing policy in relation to sex establishments as long as it does not prevent any individual application from being considered on its merits at the time the application is made.

This document represents the policy of Southwark council. It is prepared following public consultation carried out in 2011 and in full acknowledgement of the Act and guidance produced by the home office

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## **Part B - Executive Summary**

This council recognises within its statement of licensing policy made under the Licensing Act 2003, the change that is taking place within Southwark and how recent development and regeneration projects are adding to the growing value and importance of our borough. It particularly recognises the extent of the contribution of the leisure and entertainment industry.

Southwark enjoys a widespread and diverse selection of licensed premises and venues. More than 1,200 premises are currently licensed for either the sale or supply of alcohol; the provision of regulated entertainment; and / or the provision of late night refreshment. These range from night-clubs; public house and bars; members clubs; theatres; cinemas; restaurants, cafes and take-aways; to off-licences, grocers and supermarkets; and indoor sports facilities. Together they combine to provide a wide-range of leisure and cultural opportunities; support tourism; provide employment; and make a significant economic contribution to the local community.

It has always been this council's view that as long as premises management strive to act responsibly; run safe, well managed venues and facilities; and work together with the local community; they can make a positive contribution toward building community cohesion and cultural development.

The council accepts that the adult entertainment industry forms a legitimate part of the leisure and entertainment industry but, through the establishment of this separate complimentary licensing regime and policy, would wish to recognise that there are special considerations to be had in the licensing of adult entertainments.

These include the potential linkages between poorly run adult entertainments and organised crime (such as people trafficking, prostitution, touting and clipping); the negative impact overall on the community's sense of safety (particularly that of women) through fear of heightened criminal and disorderly behaviour, conduct amounting to nuisance and increases in lewd behaviour and sexual offences; and also the impact on local regeneration and development projects by way of the deterrent effect on visitors.

Thereby, while any application made for sex establishments licences will be considered upon it's own merits with all relevant matters taken into account, this new complementary licensing regime and policy look to ensure that any premises licence that may be granted will have had had full and proper consideration given to whether the location is appropriate; the premises well run; and proper protections put in place for local residents, customers and employees.

Part C of our policy provides an introduction to our borough. Part D sets out the purpose and scope of this policy. Part E establishes the arrangements made for administering the processes, including the arrangements for public consultation.

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Part F concentrates on the transitional arrangements from the old licensing regime into the new.

At the heart of this policy, however, is part G which deals with locality. It sets out this council's criteria for determining appropriate location. Part H establishes the standard conditions for each category of licence; and part I deals with our enforcement protocols.

This policy will be subject of regular review. We welcome your thoughts on its content and the manner in which we undertake our responsibilities under it.

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## Part C – All about Southwark



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1. Alongside the City of London, Southwark is one of the oldest areas of London, with a history stretching back to Roman times. Southwark's population reached 274,000 in 2007 and is believed to be growing by as much as 4,000 per year, with a projected population of over 310,000 by 2016. The population has a young demographic profile and demonstrates rich ethnic and cultural diversity, with around one-third (90,600) of the population from black or ethnic minority communities. With this figure set to rise to 38% by 2011. Southwark is arguably one of the most diverse areas in the capital.
2. Southwark is made up of eight very distinctive urban neighbourhoods that extend along the river Thames and down into south east London. The borough also encompasses some of London's top attractions, creative hotspots, scenic villages and acclaimed green spaces.
3. Southwark has a wide-range of leisure and cultural opportunities; which make a significant economic and employment contribution to the local community. The north of the borough is recognized as one of London's fastest growing tourist quarters and a thriving business location.
4. Alongside the borough's rich vibrancy, Southwark has its fair share of challenges. The Index of Multiple Deprivation (IMD) 2007 shows Southwark as the 27th most deprived local authority nationally and 60% of the borough's wards are among the 10% most deprived in the country. Consequently, the borough faces many challenges associated with meeting the complex health and social needs of an inner-city population. Unemployment in Southwark (8.9%) is higher than the London average (6.7%) and the percentage of the working population claiming benefits in Southwark is 15.6% compared to 13.9% across London. Gross weekly earning for both men and women in Southwark is lower than the London average.
5. In terms of violent crime, Southwark records a significantly higher number of violence against the person and robbery incidents compared to the London average.
6. Whilst there have been improvements, the attainment rates for Southwark pupils at Key Stages 1 and 2, GCSE and A levels are below the national average. Teenage conception rates for Southwark are still one of the highest in England.
7. To meet our challenges, Southwark has a large number of physical regeneration programmes across the borough, alongside a wide range of initiatives aimed at improving educational standards, reducing crime and improving health, housing, social care and the environment.

## **Leading Southwark**

8. Southwark is made up of 21 wards, with 63 councillors; three from each ward. These councillors sit on the council assembly, which is the "sovereign" body of the council. The assembly is chaired by the Mayor of Southwark and is responsible for approving the budget and policy



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framework. Currently Labour holds 33 seats, the Liberal Democrats 25, the Conservatives 3 seats and independent 1 seat. At the time of writing there is one vacant seat.

9. The council operates a strong leader / cabinet model. The cabinet is headed by the leader and deputy leader, with a further nine members holding portfolios of:
  - Housing management;
  - Regeneration and corporate strategy
  - Health and adult social care;
  - Transport, environment and recycling;
  - Finance, resources and community safety;
  - Children's services;
  - Equalities and community engagement; and
  - Culture, leisure, sport and the Olympics
10. The cabinet is responsible for leading the community planning and consultation process, drafting the budget and policy framework, and taking most decisions on resources and priorities.
11. Scrutiny committees take a close look at council decisions and activities and call for the council to be open and accountable. They examine services provided by the council and review the council's budget and policies. Scrutiny can look at, or 'call-in' decisions made by the cabinet and recommend decisions are changed or reconsidered.
12. A licensing committee is established to consider licensing policy with contested licence applications being considered by sub-committees of the main committee. Licensing matters fall under the responsibility of the cabinet member for finance, resources and community safety.
13. Eight ward based community councils were established in April 2003 to take local decisions in key areas that have a direct impact on the local neighbourhoods.

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## Part D – Purpose and scope of the policy

### Purpose of the policy

14. This policy has four main objectives:

- To reinforce to elected members on the licensing committee, the boundaries and power of the local authority and provide the parameters under which these licence decisions are made;
- To inform licence applicants of the parameters under which this authority will make licence decisions and how a licensed premises is likely to be able to operate within an area;
- To inform residents and businesses of the parameters under which licence decisions will be made and how their needs will be addressed; and
- To support licensing decisions that may be challenged in a court of law

### Scope of the policy

15. The scope of this policy covers all categories of application for sex establishments licences. This includes new applications, renewal applications, transfers and variations.

### Definitions

16. This policy applies to sex shops, sex cinemas and sexual entertainment venues. Relevant definitions provided in the Act are repeated below.

17. “**Sex shops**” are any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for the use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint associated with sexual activity.

18. “**Sex article**” includes

- a) Anything made for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity; and
- b) Anything containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and to any recording of sound or vision, which:
  - Is concerned primarily with the portrayal or, primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
  - Is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

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19. **“Sex cinemas”** are any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which:
- a) Are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage sexual activity or acts of force or restraint associated with sexual activity; or
  - b) Are concerned primarily with the portrayal of, or primarily deal with or relate to genital organs or urinary or excretory functions, but does not include a dwelling house to which the public is not admitted.
20. **“Sexual entertainment venue”** is defined as any premises at which relevant entertainment is provided before a live audience for the financial gain of the organizer or the entertainer. The category now incorporates venues that were formerly known as ‘sex encounter establishments’.
21. **“Relevant entertainment”** is any live performance or live display of nudity which is of such nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purposes of sexually stimulating any member of an audience (whether by verbal or other means)”. An audience can consist of just one person (e.g. where the entertainment takes place in private booths). “Relevant entertainment” will generally apply to the following types of activity:
- Lap dancing;
  - Pole dancing;
  - Table dancing;
  - Strip shows;
  - Peep shows; and
  - Live sex shows.
22. However this list is not exhaustive and, taking into account that the exact nature of these descriptions may vary, each case will have to be dealt with on its own merits.
23. **“Audience”** includes an audience of one.
24. **“Display of nudity”** means:
- a) In the case of a woman, exposure of her nipples, pubic area, genitals or anus; and
  - b) In the case of a man, exposure of his pubic area, genitals or anus;
25. **“The organiser”**, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of:
- a) The relevant entertainment; or
  - b) The premises;

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## **Exemptions**

26. Premises may provide sexual entertainment on eleven occasions within a period of 12 months without a sexual entertainment licence as long as;
  - The sexual entertainment does not last for more than 24 hours; and
  - Sexual entertainment has not been provided at that premises for a period of one month.
27. Premises that provide infrequent relevant entertainment under this exemption will continue to be regulated under the 2003 Licensing Act and must have obtained the appropriate authorisations under that Act.
28. This exemption does not apply to sex shops or sex cinemas.

## **General information**

29. The licensing authority may depart from this policy, if the individual circumstances of any case merit such a decision. Where such a decision is taken, full reasons for the departure from the policy will be given.
30. While this statement sets out the council's general approach to the making of licensing decisions, nothing in this statement overrides the right of any person to make an application or make objections to an application, as each will be considered on its own merits and according to the statutory requirements of the Local Government (Miscellaneous Provisions) Act 1982.

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## Part E – Administration, exercise and delegation of function

### Applications

31. There are four types of application available to an applicant. These are applications for grant of a new licence; the variation of an existing licence; the renewal of an existing licence; and the transfer of a licence.
32. The following sections of this policy provide information on the application requirements set by this council for each type of licence application.
33. Applications for each type of licence shall only be accepted if made on the appropriate forms provided by Southwark council and accompanied by the appropriate fee. Forms must be completed in full or may be deemed invalid. Forms and details of current fees are available from the Southwark council web site or from the licensing section.

### Application requirements for the grant of a new licence

34. An application made otherwise than by or on behalf of a body corporate or an unincorporated body shall state:
  - The full name of the applicant;
  - His permanent address; and
  - His age.
35. An application made by a body corporate or by an unincorporated body shall state:
  - The full name of the body;
  - The address of its registered office or principal office; and
  - The full names and private addresses of the directors or other persons responsible for its management.
36. An application relating to premises shall state the full address of the premises.
37. An application relating to a vehicle, vessel or stall shall state where it is to be used as a sex establishment.
38. Additionally, the following information must also be submitted with each application. This information is sought in order that the council and other responsible authorities, for example the police, may determine whether the applicant and staff members involved with the application are fit and proper to hold a licence; that the premises meets health and safety requirements; and that there are no crime and disorder issues relating to the business.
  - If the applicant is an individual, a birth certificate;
  - If the applicant is an individual, a passport size photograph which must be dated and have the name of the person identified in the photograph printed on the back;

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- If the applicant is a company, a passport size photograph of each of the directors, the company secretary, or any other person responsible for the management of the company which must be dated and have the name of the person identified in the photograph printed on the back;
- A passport size photograph of each person responsible for the management of the premises which must be dated and have the name of the person identified in the photograph printed on the back;
- A site plan at a scale of 1:1250;
- Scale plans of the premises at a scale of 1:100 showing all means of ingress and egress to and from the premises; internal and external layout arrangements; any parts used in common with other buildings and details of how the premises lie in relation to the street;
- Drawings showing the front elevation as existing and as proposed at a scale of 1:50;
- Duly certified documents of title;
- If the applicant is a company; a certified copy of the resolution authorising the application;
- Where the business will be carried on by or on behalf of partners, the written authority for an application of those partners who are not themselves applicants;
- If the applicant is a company, copies of the Memorandum of Articles of Association of the company, the parent company and any ultimate holding company;
- If the applicant is a partnership, a certified copy of the Partnership Deed; and
- A set of audited accounts for the business for the two complete trading years immediately preceding the date of the application.

39. The applicant is also required to publish notice of the application. See section 56.

### **Application requirements for a renewal application**

40. Applicants must provide details of all changes to originally supplied information together with a set of audited accounts of the business for the two complete trading years immediately prior to the date of the application.

41. The applicant is also required to publish notice of the application. See section 56.

### **Application requirements for a transfer application**

42. Applicants must provide the same information and documentation as is required at the time of making of a new application for licences.

43. The applicant is also required to publish notice of the application. See section 56.

### **Application requirements for a variation application**

44. The applicant must provide full details of the proposed variation. Where the terms of the variation impact in any way on the approved arrangements at

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the premises then new scale plans of the premises will be required to be submitted. These must be at a scale of 1:100 showing all means of ingress and egress to and from the premises; internal and external layout arrangements; any parts used in common with other buildings; and details of how the premises lie in relation to the street.

45. The applicant is also required to publish notice of the application. See section 51.

## **Fees**

46. The current fees schedule for applications made under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 is available online from the Southwark council web site or from the council's licensing section.
47. In setting the levels of fee chargeable upon application this council will have regard to requirements of the EU Services Directive which establishes that fees must be non-discriminatory, justified, proportionate, clear, objective, made public in advance, transparent and accessible.
48. Our fee calculations will be made having had particular regard to the work involved in administering the application process based on the likelihood of a large number of objections being received. The fee levels will also take into account the costs of necessary premises surveys and visits; third party costs; management costs; and local democracy costs.
49. A compliance cost is payable on initial application. However, as this relates to inspection of the premises and enforcement once the licence is granted this fee is refundable in the event that a licence is refused.
50. The additional compliance cost is not refundable if the licence is revoked.

## **Consultation arrangements**

51. Applicants must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than 7 days after the date the application is made.
52. Where the application relates to premises, a notice should also be displayed on or near the premises in a place where it can be conveniently read by members of the public. The notice should be displayed for a period of 21 day beginning with the date the applications was made.
53. It should be noted that the police are a statutory consultee for all applications. The applicant must serve the application on the Chief Officer of Police not later than 7 days after the date of application.
54. Failure by the applicant to comply with any of the consultation arrangements set out above will invalidate the application.
55. The council will also consult directly with known residents and businesses within an approximate 100m radius of the application premises. This rule is established as an administrative arrangement being likely to include a

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representative selection of the local community that is likely to be affected by the application. It should not be taken as this council's definition of 'locality' for the purposes of this Act. The definition of 'locality' will be considered on an application by application basis having had regard to the individual circumstances of that application. There will be no restriction on objections made from residents beyond this area.

56. The council will also consult directly with a range of relevant professional bodies, comprising:
- The metropolitan police service;
  - The London fire and emergency planning authority;
  - Trading standards;
  - Planning;
  - Occupational health and safety team;
  - Safeguarding children board; and
  - Environmental protection team.

## **Objections**

57. Any person is entitled to object. Objectors may include residents, resident associations, trade associations businesses and ward councillors (providing they are not part of the licensing sub-committee dealing with the licence application) or MP's.
58. Objections can be made, in writing, within 28 days from the date of the application. The objection should be relevant to the grounds set out in paragraph 65-67 below for refusing a licence. Moral grounds or values will not be considered relevant. The licensing authority shall have regard to any observations submitted by police.
59. Where an objection is made by a representative body this authority will require evidence that the objection has been formally authorised by the body concerned. Such evidence may comprise the minutes of the meeting at which the objection was agreed.
60. Where petitions are submitted, the full personal and contact details of the person organising that petition must be provided. Each page of the petition must be headed with the purpose and grounds of the petition and the date the petition was collected. Each signatory should provide their name and full address.
61. Objections made by an electronic objections, for instance by email, are acceptable as long as the objection includes the name and address of the person making that objection.
62. Personal details of objectors will not be revealed to the applicant without their prior consent.
63. If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the



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licensing sub-committee dealing with the licence application. If there are any doubts then please contact the licensing department.

## **Determination of Applications**

64. Each application will be determined by the council's licensing sub-committee at a public hearing. The sub-committee will have regard to the case made by the applicant for the licence; all relevant objections; and the council's locations policy (see section G of this policy). A copy of the procedure to be followed at a public hearing is available upon request from the licensing section.
65. It should be noted, however, that authority must refuse to grant or transfer a licence to:
- A person under the age of 18;
  - A person who is for the time being disqualified from holding a licence;
  - A person who is not resident in the United Kingdom or was not so resident throughout the period of 6 months immediately preceding the date upon which the application was made;
  - A body corporate which is not incorporated in the United Kingdom;
  - A person who has, within the period of 12 months immediately preceding the date upon which the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.
66. This authority may also refuse to grant:
- An application for the grant or renewal of a licence on one or more of the following grounds for refusal; or
  - An application for transfer of a licence on either or both of the first two grounds shown below.
67. The grounds for refusal are:
- a) That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
  - b) That if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
  - c) That the number of sex establishments in the relevant locality that the application is made is equal to or exceeds the number which the council considers is appropriate for that locality (an appropriate number can be nil); and
  - d) That the grant or renewal of the licence would be inappropriate having regard to: -
    - The character of the relevant locality;
    - The use to which any premises in the vicinity are put; or

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- The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

68. Should the authority decide to grant a licence, standard conditions relevant to the category of licence sought will be imposed upon the licence together with any additional conditions that are shown to be necessary having regard to the specific application under consideration.
69. Each set of standard conditions is included within this policy (see section H of this policy).

## **Duration of Licences**

70. Licences for sex establishments can be granted for up to one year.
71. A licence may be revoked at any time during the licence period. Any failure to comply with the terms, conditions or restrictions of a licence may result in revocation.

## **Appeals**

72. In the event that the licensing authority refuses an application for the grant, renewal or transfer of a sex establishment licence, the applicant may appeal the decision to the magistrate's court, unless the application was refused under either of the reasons provided in parts c) and d) of section 67 above, in which case the Applicant can only challenge the refusal by way of judicial review. An appeal can also be made against the imposition of conditions.
73. Appeals must be made within 21 days from the date of written notification of the decision.

## **Waiver**

74. Southwark council can issue a waiver notice for the requirement for a licence under the Act where this authority considers it to unreasonable or inappropriate to require such a licence.
75. The type of premises that may be granted a waiver will depend on the individual circumstances of each premises applying for the waiver.
76. Generally waivers will be considered where for educational purposes, for instance the sale of medical sex books.
77. Waivers will not be given to accommodate late applicants where an application for a licence could have been made in advance.
78. Applications for a waiver will be determined by the head of environmental health & trading standards

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## Part F – Transitional Arrangements

### Dates

79. There are three dates applicable to the transitional period.
80. The first appointed date is 1 April 2011.
81. The second appointed date is six months after the first date.
82. The third appointed date is a further six months after the second date.

### Sunset provisions

83. Applications for licences may be made from the first appointed day.
84. Applications for licences in respect of existing licensed sex establishment premises may be made up until the third appointed day. However, prior to the first appointed date there are no licensed sex establishments in the borough. Thereby no sex shops, sex cinema or sex encounter establishment will be able to use the transitional arrangements in this borough.
85. However, up until the advent of the amendments brought about by the 2009 Policing and Crime Act, any premises licensed under the Licensing Act 2003, has been exempt from the need to hold a licence for sexual entertainment, including lap or table dancing under the Local Government (Miscellaneous Provisions) Act 1982
86. Premises that hold exempt sexual entertainment activities within their premises, or who have undertaken propriety work to so use the premises as a sexual entertainment premises, and have the relevant authorised activities under the Licensing Act 2003, may continue to operate as such until the third appointed date.
87. Operators of such premises that wish to continue to use their premises as a sexual entertainment venue need to apply for a licence under the Local Government (Miscellaneous Provisions) Act 1982 on and following the first appointed date and on or before the second appointed date.
88. The Authority is not allowed to determine any applications until after the second appointed day by which time all transitional applications will be received.
89. Applications made after the second appointed date but before the third appointed date should not be determined until all the applications made within the first periods are determined.
90. Applications received after the third appointed day should not be determined until applications made within the first and second periods are determined.

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## **Conditions from the transitional provisions**

91. The conditions on the Licensing Act 2003 premises licence/club premises certificate that relate specifically to sexual entertainment will be treated as deleted where a premises providing sexual entertainment applies under the sunset provisions and that licence is granted.
92. This only applies where conditions on the sexual entertainment venue licence are applied and relate to a similar condition on the premises licence or where the condition on the premises licence is less onerous.
93. It is possible therefore that conditions that are provided to promote the licensing objectives cease to have power at the premises even when it is only operating under the premises licence. For instance the premises licence may have a condition for a “challenge 21” policy for the sale of alcohol and a condition for a “challenge 25” policy may be imposed on the sexual entertainment licence, the condition on the premises licence will be treated as deleted and when the premises is serving alcohol but not providing sexual entertainment there may be no condition in place.

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## Part G – Relevant Locality

### Number of sex establishments in the relevant locality

94. Whilst each application will be considered on its own merits, applicants should be aware that following a public consultation no locations in Southwark were identified as suitable for a sex establishment of any kind.

### Character of the relevant locality

95. Whilst each application will be considered upon its own merits, applications will not normally be considered appropriate for premises located:

- (a) Near residential accommodation;
- (b) Near places of worship, community facilities or public buildings;
- (c) Near schools, youth clubs, shops, parks, leisure and recreational establishments and any other similar premises directed at, or primarily used by children or families; Or
- (d) Within sight of pedestrian routes or transport nodes (such as stations or bus stops) serving categories (a), (b) or (c).

96. When considering applications the authority will have regard to levels of recorded crime and, should there be any current licensed premises within the locality at the time of the determination, the cumulative impact of those licensed premises.

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## Part H – Conditions

97. The licensing authority will impose standard conditions for categories of sex licences.
98. The licensing authority will also consider each application on its own merits and additional conditions may be placed on the licence where relevant and appropriate.

### Standard opening hours

99. Standard opening hours shall apply to each category of premises as follows;
100. Sexual entertainment venue, from 09:00 to 23:00hrs on Monday to Saturday.
101. Sex shop, from 09:00 to 18:00hrs on Monday to Saturday.
102. Sex cinema, from 09:00 to 23:00hrs on Monday to Saturday.
103. Premises shall not open on Sundays, Christmas Day or Good Friday
104. The licensing authority reserves the right to adjust these standard opening hours for any particular premises.

### Standard conditions on all licences

105. The following conditions will be standard on all categories of sex licence;
  - a) A copy of the sex establishments licence and the standard conditions made by the authority must be kept exhibited in the public area of the premises in a position where they may easily read by the public;
  - b) Access must be afforded at all reasonable times to authorized officers of the council and the police and fire services;
  - c) Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the council within fourteen days of such change and such written details as the council may require in respect of any new director secretary or manager are to be furnished within fourteen days of a request in writing from the council;
  - d) The name of the person who has been approved by the council as being responsible for the day to day management of the licensed premises shall be prominently displayed within the licensed premises.
  - e) Every person employed on the premises in a capacity where he / she has or will have contact with members of the public in the course of carrying on any activity authorised by the licence, must have first been approved by the council;
  - f) An approved person for the purposes of this condition shall be a person approved in writing in advance by the licensing authority following the submission of:
    - a criminal conviction certificate issued under section 112 or a criminal record certificate issued under section 113A of the Police

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Act 1997 or the results of a subject access search under the data Protection Act 1998 of the Police National Computer by the National Identification Service that has been issued no earlier than one calendar month before submitting it to the council;

- a passport sized photograph in colour.
- g) A person shall only be approved for the purposes of the foregoing condition if the council considers him or her to be a suitable person to have control of the premises;
  - h) At all times during which the premises are open to the public, one or more approved persons shall be present on the premises and shall be responsible for their management;
  - i) The licensee shall notify the Council if at any time during the currency of this licence he or any person employed at the premises is convicted of an offence against Part II of the Local Government (Miscellaneous Provisions) Act 1982, the Obscene Publications Act 1959, the Protection of Children Act 1978, The Indecent Displays (Control) Act 1981 or any offence involving dishonesty, indecency or violence. Such notification shall be in writing within 14 days of the conviction being imposed. Where the licensee is a limited company it shall be the licensee's duty to notify the Council in the same manner of any such conviction recorded against any Director, Secretary or other officer of the company;
  - j) Every person employed on the premises in the furtherance of the business shall wear a form of visible identification of a type approved by the council indicating his/her name and position;
  - k) No person under the age of 18 shall be admitted to the licensed premises;
  - l) All customers appearing to be under the age of 25 shall be required to provide proof of their age before being allowed access to the premises;
  - m) No person under the age of 18 shall be employed by the licensee to work at the licensed premises;
  - n) The licensee shall ensure that no part of the licensed premises shall be used by prostitutes (male or female) for soliciting or for any immoral purposes;
  - o) Neither the licensee nor any employee or other person shall seek to obtain custom for the licensed premises by means of personal solicitation, by means of flyers, handouts or any like thing, outside or in the vicinity of the licensed premises;
  - p) Windows and openings to the licensed premises, other than entrances, shall not be obscured otherwise than with the consent of the council but shall have suspended immediately behind them, plain light coloured screens or blinds of a type and design approved by the council;
  - q) No advertisements or other notices or items shall be displayed so as to be visible from the exterior of the premises, subject to conditions in this licence for the display of notices;
  - r) The council shall approve the design of the front elevation of the shop which shall include reference to the name of the shop, its postal address, opening hours, website address and any security grilles/shutters;

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- s) As a general rule the name of the premises shall be of an uncontentious nature and light colours used throughout to the council's approval;
- t) The exterior and entrance to the licensed premises shall be suitably screened so as to prevent any part of the interior being visible from outside the shop;
- u) There shall be a solid outer and inner door fitted with automatic closures with such devices being maintained in good working order;
- v) On the external facing of the inner door, there shall be displayed a notice in accordance with the requirements of the Indecent Displays (Control) Act 1981 "WARNING Persons passing beyond this notice will find material or activities on display which they may consider indecent. No admittance to persons under 18 years of age";
- w) The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council;
- x) The licensee shall make provision in the means of access, both to and within the premises, for the needs of members of the public visiting the premises who are disabled; and
- y) The licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises.

## **Sexual entertainment licence**

106. The following conditions will be standard on sexual entertainment licences;

- a) On those days where the entertainment is by way of striptease, only those dancers engaged by the licence holder shall be permitted to perform striptease;
- b) A venue code of conduct for all staff and performers shall be compiled and provided to the authority;
- c) Tableside striptease shall only be performed in the area of the club as marked on the deposited plans;
- d) There shall be no physical contact between customers and the striptease performer except for the placing of money or moneys worth in a garter, or from the customer's hand to the hand of the performer at the beginning or at the conclusion of the performance;
- e) A notice outlining that there shall be no physical contact between customers and the striptease performer shall be clearly displayed at each customer's table and at the entrance to the premises;
- f) On any day when tableside striptease performances are taking place, no performer shall dance with or towards any other performer, and shall make no physical contact with another performer;
- g) Tableside striptease performers are to remain standing during a performance of striptease;
- h) Striptease performers are to re-dress at the conclusion of a performance and are to remain fully clothed whilst acting in the capacity of host or hostess;
- i) Striptease performers are to remain a minimum distance of one metre from customer;



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- j) There shall be a minimum charge for entertainment by way of tableside striptease of £10 per music track;
- m) On those days when public entertainment is by way of any form of striptease, no person under the age of 18 years shall be allowed to enter or remain on the licensed premises. A clear notice shall be displayed in those terms in a prominent position at the entrance, so that persons entering can read it;
- n) On those days when public entertainment is by way of striptease, a minimum of (number) SIA registered door supervisors shall be employed on the premises during its opening hours. At least (number) permanently employed in the bar and at least (number) to be permanently employed at the entrance to the public toilets;
- p) The licence holder is to ensure that prior to employment, all performers provide documents proving that they are over 18 years of age. Such documents are to be copied and retained on the performer employment file;
- q) The licence holder is to ensure that prior to employment all performers provide documents proving that they are legally entitled to work in the U.K. Such documents are to be copied and retained on the performer employment file;
- r) All performer employment files are to be retained for a period of at least 6 months after employment is terminated. All files are to be made available to the statutory authorities upon request if required for investigative purposes;
- s) Where the licence holder employs performers from an agency, the performers must provide the relevant documentation as required in conditions above. Details of the agency providing the performers are to be made available to the statutory authorities upon request;
- t) The whole of the venue, excluding performer's locker areas, is to be monitored by CCTV. This system to be installed maintained and operated as agreed with a Police crime prevention officer. The recordings are to be retained for a period of 31 days. The tapes are to be made available to the statutory authorities upon request; and
- u) Prior to employment all staff and performers are to be given a copy of the venue code of conduct. This code of conduct is to be rigorously enforced by the venue management.

## **Sex Shop licence**

107. The following conditions will be standard on sex shop licences;

- a) No sex article or articles, which are obscene, may be sold, lent, hired, stored, kept, or otherwise dealt with at the premises;
- b) No film may be exhibited on the premises unless the premises or the appropriate part thereof are licensed under the Licensing Act 2003;
- c) The Licensee shall not at any time keep or allow to be used on the premises any gaming or amusement machine whether for prizes or not;
- d) No moving picture or display or recorded sound of any description or however provided shall be permitted on the licensed premises except for a period of not more than one minute for the sole purpose of demonstrating to a prospective purchaser or hirer of the article in question and such display shall be in a booth to which there shall only be

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permitted the prospective purchaser or hirer and any one person employed by the Licensee to sell or hire such articles. The Licensee shall not make any charge or permit any charge to be made for such a display;

- e) The licensee shall not supply or permit to be supplied to any person, other than a person employed to work on the premises, any article of food or drink whether for consumption on or off the premises;
- f) The licensee shall make such provision for the reception of goods and articles for sale, hire, exchange, loan, demonstration or display on the premises so that they are received directly into the premises and not subject to storage, for any period of time, on any pavement, footpath, forecourt or yard nor in any vessel or vehicle, etc;
- g) All sex articles and other things displayed for ;supply, sale, hire, exchange or loan within the premises shall be clearly marked to show to persons who are inside the premises the respective prices being charged;
- h) No advertisements, other than advertisements relating to other licensed sex establishments or relating to goods sold from the premises, shall be displayed at the premises;
- i) No part of the premises shall be used as a sex cinema;
- j) A record shall be kept of all mail order transactions (if any) in such form as agreed by the council; and
- k) The licensee shall forthwith notify the council of his ceasing to carry on the business.

## **Sex cinema licence**

108. The following conditions will be standard on sex cinema licences;

- a) Neither sex articles nor other things intended for use in connection with, or the purpose of stimulating or encouraging sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema;
- b) The licensee shall not supply or permit to be supplied to any person, other than a person employed to work on the premises, any article of food or drink whether for consumption on or off the premises;
- c) No fastenings of any description shall be fitted upon any booth or cubicle within the sex establishment, nor shall more than one person (including any employee) be present in any such booth or cubicle at any time;
- d) No film or video film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect, and is a reproduction authorised by the owner of the copyright of the film or video film so certified. Any such film or video film shall comply with the Video Recordings Act 1984;
- e) The licensee shall make such provision for the reception of goods and articles for sale, hire or display on the premises so that they are received directly into the premises and not subject to storage for any period of time on any pavement, footpath, forecourt or yard;

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- f) The wording "ADULT CINEMA" but no other indication as to the nature of the business carried on at the licensed premises shall be displayed externally;
- g) The licensee shall not at any time keep or allow to be used on the premises any gaming or amusement machines whether for prizes or not; and
- h) The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the council.

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## Part I – Enforcement

109. The licensing authority will inspect licensed premises on a risk based method of inspection and as a result of complaints received.
110. All premises granted a licence under the Act will receive an initial inspection from a licensing officer. This initial visit is usually pre-arranged and will act as an induction for the licence holder/manager to assist with complying with conditions on the licence and other relevant issues.
111. Due to the need to inspect the operation the premises further inspections may take place when the premises is open to the public, during the evening or at the weekend, and without prior notice.
112. Premises inspections will involve the officer concerned checking that all licence conditions are complied with and assessing the operation of the premises. The results from this inspection will form the basis of a risk assessment for that particular premises where the risks of harm and nuisance are balanced against the management controls for the premises to achieve a risk score.
113. This risk score will then dictate the frequency of future inspections and assists officer in prioritising premises requiring more frequent inspections and reducing the burden of inspection on both the council and the premises operators where less frequent inspections are required.
114. In the event of an application to vary or transfer the licence or where a complaint has been made about the premises then the inspection program will be brought forward to assist the council in dealing with any issues arising.
115. Police officers also have the power to inspect licensed premises and may do so either accompanying council licensing officers or independently
116. Premises that are found to be non-compliant with the terms of their licence, or operating without the appropriate authorisations will be subject to appropriate enforcement action by the council or the police. The nature of the action taken will based on the merits of each case.
117. The primary role of the licensing inspection is to protect the public and gain compliance to the appropriate legislation.
118. Officers engaged in enforcement activities will endeavour to be:
- **Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised
  - **Accountable:** regulators must be able to justify decisions and be subject to public scrutiny

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- **Consistent:** rules and standards must be joined up and implemented fairly
- **Transparent:** regulators should be open, and keep regulations simple and user friendly
- **Targeted:** regulation should be focused on the problem, and minimise side effects

119. These principles are consistent with principles contained within the council's environmental health and trading standards service enforcement policy which has been drafted with full reference to the enforcement concordat and the provisions of the BERR Regulators' Compliance Code, the Police and Criminal Evidence Act 1984 (PACE) and the Regulation of Investigatory Powers Act 2000 (RIPA).

120. In exercising its enforcement role, the licensing authority will work in close partnership with the community, the police and all other authorities and relevant agencies.

121. It is an offence to obstruct authorised council or police officers from conducting their duties to inspect the premises.

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## **Part J – Contact details**

### **Southwark Licensing Service**

You can contact the Licensing Service in a number of ways

By post or in person by appointment during office hours

Southwark Licensing Service  
C/O Environmental Health and Trading Standards  
The Chaplin Centre  
Thurlow Street  
London, SE17 2DG

By telephone: (Via the Customer Contact Centre 24/7) 020 7525 5000

By e-mail: [licensing@southwark.gov.uk](mailto:licensing@southwark.gov.uk)

By visiting our web site at [www.southwark.gov.uk/businesscentre/licensing](http://www.southwark.gov.uk/businesscentre/licensing)

### **Commissioner of Police for the Metropolis**

The Police Licensing Office  
Walworth Road Police Station  
12 – 28 Manor Place  
London  
SE17 3RL  
Tel: 020 7232 6210

**London Government (Miscellaneous Provisions) Act 1982 as amended by S27 of the Policing & Crime Act 2009  
Southwark Sex Establishments Licensing Policy**

**Summary of responses to public consultation exercise 2011**

General Questions	Yes	No	Don't Know
Q1 – Do you support the decision to adopt Schedule 3 of the 1982 Act and introduce a licensing regime for sex establishments?	80%	20%	
Q2 – Having read the draft policy do you consider that the document is clearly written and easy to understand?	87%	13%	
Q3 – Do you feel it is useful to include definitions of sex establishments in the main body of the report?	93%	7%	
Q4 – Do you agree with the proposed method of consultation set out in the report?	73%	27%	
Q5 – Do you agree with the inclusion of an appropriate locations policy?	73%	27%	
Q6 – Do you agree that it is inappropriate to issue a sex establishments licence near residential accommodation?	87%	13%	
Q7 – Do you agree that it is inappropriate to issue a sex establishments licence near places of worship, community facilities or public buildings?	80%	20%	
Q8 – Do you agree that it is inappropriate to issue a sex establishments licence near schools, youth clubs, shops, parks, leisure and recreational establishments and any other similar premises directed at, or primarily used by children or families?	87%	13%	
Q9 – Do you agree that it is inappropriate to issue a sex establishments licence within sight of pedestrian routes or transport nodes (such as stations or bus stops) serving categories under Q6 – 8 above?	80%	20%	
Q10 – Do you think the council should take into account the cumulative impact of licensed premises when considering applications for sex establishments licences?	87%	13%	
Q11 – Do you think the council should take into account levels of recorded crime in the locality?	73%	27%	
Q12 – See area summaries			
Q13 – See area summaries			
Q14 – Do you agree with the standard proposed opening and closing times for licensed premises?	67%	33%	
Q15 – Do you agree with the proposed standard conditions for all premises?	73%	27%	
Q16 – Do you agree with the proposed standard conditions for sex shops?	80%	20%	
Q17 – Do you agree with the proposed standard conditions for sex cinemas?	80%	20%	
Q18 – Do you agree with the proposed standard conditions for sex entertainment venues?	80%	20%	

**Bermondsey Community Council Area**

Q12 – Do you agree that the policy should set out appropriate numbers of sex establishments by ward?

Q13 – If so, what do you consider the appropriate number of sex establishments in your ward?

Respondent	Q12	Q13 Ward	Sex shops	Sex cinemas	Sex entertainment venues	Comments
<p><b>Bermondsey Community Council</b> received a presentation on the subject as part of the consultation at its meeting of 24 January 2011. A general view on the position regarding appropriate numbers was taken from the floor and is indicated here. Attendees were encouraged to leave their individual views at the end of the meeting. Three individual anonymous responses were left, each emphasising the stated position.</p>	Yes	Grange	0	0	0	
	Yes	Riverside	0	0	0	
	Yes	South Bermondsey	0	0	0	
Resident A, SE1	Yes	Grange	0	0	0	I can't think of any part of Southwark that would be suitable for sex entertainment venues. I'm not so concerned about sex shops as I feel people would be more likely to purchase items from there for use in their own home. The cinemas and entertainment venues, I feel are more likely to encourage objectification of women and increased violence towards women. The levels of sex related violence surrounding sex entertainment venues has been researched and there is a clear link between an increase in sexual



Respondent	Q12	Q13 Ward	Sex shops	Sex cinemas	Sex entertainment venues	Comments
						violence and related crimes and the appears of a sex entertainment venue. I particularly agree with the restrictions around these venues close to schools. There are enough problems with the sexualisation of children in these times (see increased teenage pregnancy levels etc) for the children of Southwark to see these venues on a regular basis and to believe that this is normal and acceptable.
Resident B, SE1	Yes	Grange	0	0	0	It is right to have a detailed policy in place, but I believe the council should refuse licences to any sex establishments. They are exploitative, no matter how tightly regulated, and attract abusive toxic men. The council could lead the way by declaring the borough an 'exploitation free zone'.
Resident C, SE16	No	South Bermondsey				Banning them in certain areas is patently ridiculous. In particular banning them near transport hubs! Similarly near 'places of worship', community facilities or public buildings. What on earth do you think would be the problem? Other than over-zealous religious people crying that they're offended. I do not see that there would be any real impact. Do we want more jobs in our area or not?

<b>Borough and Bankside Community Council</b>						
Q12 – Do you agree that the policy should set out appropriate numbers of sex establishments by ward?						
Q13 – If so, what do you consider the appropriate number of sex establishments in your ward?						
<b>Respondent</b>	<b>Q12</b>	<b>Q13 Ward</b>	<b>Sex shops</b>	<b>Sex cinemas</b>	<b>Sex entertainment venues</b>	<b>Comments</b>
An announcement concerning the consultation was made at <b>Borough and Bankside Community Council</b> on 3 February 2011. The Community Council encouraged those present to submit their individual views but did not take a formal position of its own.		Cathedrals				
		Chaucer				
Resident D, SE1	Yes	Cathedrals	0	0	0	Commented all wards should have 0 premises. Selling human sex relations as a commodity is not a healthy way forward for society and I don't think Southwark Council should permit it in any way.
The Revd Canon Bruce Saunders, Southwark Cathedral		Cathedrals				Copy of supporting letter attached
Chris Cooper, Admin Manager, Metropolitan Tabernacle		Cathedrals				Copy of supporting letter attached

**Camberwell Community Council**

Q12 – Do you agree that the policy should set out appropriate numbers of sex establishments by ward?

Q13 – If so, what do you consider the appropriate number of sex establishments in your ward?

<b>Respondent</b>	<b>Q12</b>	<b>Q13 Ward</b>	<b>Sex shops</b>	<b>Sex cinemas</b>	<b>Sex entertainment venues</b>	<b>Comments</b>
An information stall was provided at <b>Camberwell Community Council at the meeting of 2 February 2011</b> . No formal view was given by the Community Council itself.		Brunswick Park				
		Camberwell Green				
		South Camberwell				
Resident E, SE5	Yes	Brunswick Park	0	0	0	There are good transport links to Soho.

<b>Dulwich Community Council</b>
Q12 – Do you agree that the policy should set out appropriate numbers of sex establishments by ward?
Q13 – If so, what do you consider the appropriate number of sex establishments in your ward?

<b>Respondent</b>	<b>Q12</b>	<b>Q13 Ward</b>	<b>Sex shops</b>	<b>Sex cinemas</b>	<b>Sex entertainment venues</b>	<b>Comments</b>
An announcement concerning the consultation was made at <b>Dulwich Community Council</b> on 24 January 2011. The Community Council encouraged those present to submit their individual views but did not take a formal position of its own.	N/a	College	N/a	N/a	N/a	N/a
	N/a	East Dulwich	N/a	N/a	N/a	N/a
	N/a	Village	N/a	N/a	N/a	N/a
Resident F, SE21	Yes	College	0	0	0	None
Resident G, SE22	Yes	East Dulwich	0	0	0	Re Q14 I would prefer that hours were more restricted and that you should also consider closing on other major faith's religious festivals.

<b>Nunhead and Peckham Rye Community Council</b>
Q12 – Do you agree that the policy should set out appropriate numbers of sex establishments by ward?
Q13 – If so, what do you consider the appropriate number of sex establishments in your ward?

<b>Respondent</b>	<b>Q12</b>	<b>Q13 Ward</b>	<b>Sex shops</b>	<b>Sex cinemas</b>	<b>Sex entertainment venues</b>	<b>Comments</b>
<b>Nunhead and Peckham Rye Community Council</b> received a presentation on the subject as part of the consultation at its meeting of 20 January 2011. This was followed by a workshop session to consider the matter of appropriate location. The views from the workshop session are given here.		Nunhead	0	0	0	No areas in Nunhead that is suitable. Too many families / churches / schools / residential area.
		Peckham Rye	0	0	0	Entire Peckham Rye ward highly residential. Small shopping areas located near schools and community facilities.
		The Lane	0	0	0	Sex work and sex industry activity are not any part of the aspirations I want to see for anyone in our community. If you want it go to Soho.
Resident H, SE15	Yes	Nunhead	0	0	0	Re consultation – Please consider making it a requirement for applicants to give notice in all local newspapers to enable more interested parties / potential objectors to be made aware.
Staff of Bellenden Primary School		The Lane				We feel very concerned of the exposure to children if such establishments were to be permitted. Such establishments come with unsolicited advertising and also crime i.e. curb crawlers etc all of which have an adverse effect on our community. We feel there should be an exclusion zone of at least 2 miles from any education

<b>Respondent</b>	<b>Q12</b>	<b>Q13 Ward</b>	<b>Sex shops</b>	<b>Sex cinemas</b>	<b>Sex entertainment venues</b>	<b>Comments</b>
						establishment where children attend. In addition to this we feel very strongly about advertising such behaviour as can be seen in telephone boxes, we would ask that the same consideration is given when drawing up proposals.
Resident I, SE15		The Lane	0	0	0	I think it is outrageous that Southwark could do this they need to sort out shops first on high streets. We have already been classed as the worst council in London to even think about sex shop it is ridiculous.

<b>Peckham Community Council</b>
Q12 – Do you agree that the policy should set out appropriate numbers of sex establishments by ward?
Q13 – If so, what do you consider the appropriate number of sex establishments in your ward?

<b>Respondent</b>	<b>Q12</b>	<b>Q13 Ward</b>	<b>Sex shops</b>	<b>Sex cinemas</b>	<b>Sex entertainment venues</b>	<b>Comments</b>
<b>Peckham Community Council</b> received a presentation on the subject as part of the consultation at its meeting of 5 February 2011. Several residents expressed the view that places like lap dancing clubs were not acceptable in the borough, and that if they were to exist at all, should be far away from schools and residential areas.		Livesey (West)				
		Peckham				
Resident J, SE15	Yes	Livesey (West)	0	0	0	None
Resident K, SE15	No	Livesey (West)				
Resident L, Evolution Quarter Residents Association	Yes	Peckham	0	0	0	

<b>Rotherhithe Community Council</b>
Q12 – Do you agree that the policy should set out appropriate numbers of sex establishments by ward?
Q13 – If so, what do you consider the appropriate number of sex establishments in your ward?

<b>Respondent</b>	<b>Q12</b>	<b>Q13 Ward</b>	<b>Sex shops</b>	<b>Sex cinemas</b>	<b>Sex entertainment venues</b>	<b>Comments</b>
An announcement concerning the consultation was made at Rotherhithe Community Council on 20 January 2011. The Community Council encouraged those present to submit their individual views but did not take a formal view of its own.	N/a	Livesey (East)	N/a	N/a	N/a	N/a
	N/a	Rotherhithe	N/a	N/a	N/a	N/a
	N/a	Surrey Docks	N/a	N/a	N/a	N/a
Resident M, SE16	Yes	Livesey (East)	Don't know	Don't know	Don't know	Society is divided between races, gender, secular, Liberal and Religious. As such we need all consensus in forming & shaping Policies that affect us all that is the beauty of Democracy for us to establish a Rainbow Coalition.



<b>Walworth Community Council</b>
Q12 – Do you agree that the policy should set out appropriate numbers of sex establishments by ward?
Q13 – If so, what do you consider the appropriate number of sex establishments in your ward?

Respondent	Q12	Q13 Ward	Sex shops	Sex cinemas	Sex entertainment venues	Comments
<b>Walworth Community Council</b> received a presentation on the subject as part of the consultation at its meeting of 24 January 2011. This was followed by a voting exercise on appropriate location. The results are provided here.		East Walworth	88% no suitable location	88% no suitable location	88% no suitable location	
		Faraday	88% no suitable location	88% no suitable location	88% no suitable location	
		Newington	88% no suitable location	88% no suitable location	88% no suitable location	
Resident N, SE1	Yes	East Walworth	2	0	0	None
Resident O, SE17	Yes	East Walworth				None
Resident P, Headteacher, Primary School, SE17	No	East Walworth	0	0	0	Allocation by ward could lead to 2 or more being very close although in different wards. No need for such venues when Southwark is so close to Soho.
Resident Q, SE16	No	East Walworth	0	0	0	I wish this was easier to understand
Resident R, SE17	Yes	East Walworth	2	1	0	None
Resident S, SE17	Yes	Faraday	0	0	0	I strongly opposed to this type of licences. I think this should be confined to an specific

Respondent	Q12	Q13 Ward	Sex shops	Sex cinemas	Sex entertainment venues	Comments
						area already existing in London: Soho area. I think to create more, it will only destroy communities and increment the exploitation of human being. It is not healthy for community development. Bad example to youngsters. Favour exploitation of human being: Enabling unsocial behaviour to our surrounding. More problems with drug related issues etc.
Resident T, SE17	Yes	Faraday	0	0	0	I would like to draw the attention of the council to part F – Relevant Locality of the draft in listing my opposition to issuing licences. Paragraph 101 states applications will not normally be granted where premises are located near residential accommodation. Walworth (Faraday ward) is one of the most densely populated residential area in London. It includes many schools, numerous places of worship, play areas and public parks, not forgetting the sprawling Aylesbury Estate. One would then assume that the applicants would want there business situated where it would generate most income and that would be on the Walworth Road. Part F also states applications will not normally be granted within sight of pedestrian routes or transport modes (stations and bus stops) so this rules out locality. Reference part G conditions paragraph 106 and 108 states opening hours

Respondent	Q12	Q13 Ward	Sex shops	Sex cinemas	Sex entertainment venues	Comments
						for sexual entertainment venue and sex cinema from 09.00 to 23.00 hours Monday to Saturday. Past experience of late ending venues usually brings the complaints of lack of parking spaces and excessive late night noise. After a short while these venues usually apply for late night extensions i.e. 2am. In my opinion the sex industry in London should stay under the control of Westminster City Council in their Soho district, which let's face it, is only a couple of miles away. This area has been very successfully run for many years and it's brand is world famous. For our women and children's sake, I do not wish to see the growth of sex establishments in SE17.
Resident U, SE17	Yes	Newington	0	0	0	I would really hope that the Council would not consider allowing the opening of any sex establishments of any of the three categories anywhere near Walworth or the Elephant and Castle – this is a residential area with many children and families. The Walworth Road is already blighted by too many betting shops: it would be terrible to add to this.
Resident V, SE17	Yes	Newington	0	0	0	None



# SOUTHWARK CATHEDRAL

**From**  
The Revd Canon Bruce Saunders  
Canon Pastor

**Direct Line**  
020 7367 6706

**Email**  
bruce.saunders@southwark.anglican.org

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London Bridge  
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18<sup>th</sup> January 2011

Dear Councillor

## Draft Southwark Sex Establishment Policy

I write on behalf of my Cathedral colleagues to thank and congratulate you, as the Council Member with responsibility for community safety, on the draft Sex Establishment Policy. As you may know, Southwark Cathedral was involved in a long and extremely expensive legal process to achieve the closure of an illegal sex club next door. That process was prolonged by the inadequacies and ambiguities of licensing procedures at the time, which frustrated us, the Council and the Metropolitan Police.

We accept that in today's culture, sex establishments are regarded by many as morally neutral. Although we do not share that view, I am not writing in order to fight that battle, but to support you in your attempts to control and moderate the proliferation of such establishments.

We congratulate you on distinguishing in some detail the wide variety of establishments in which sex is part of the offer, in order to ensure that they can be recognised and licensed as such.

We are grateful that you set the policy within the social context (in paragraphs 9 and 10) of social and economic disadvantage and teenage pregnancy in the Borough. We do not believe that the community needs more establishments (gaming, betting or sex clubs) that prey on the hopes of the poor and vulnerable and take their money, or promote sex as a consequence-free leisure activity among young people.

We therefore welcome the proposals in paragraph 6i that acknowledge that sex establishments can have a wider impact than on local residents alone. They can tarnish an entire neighbourhood and corrode people's lives and values. We therefore welcome paragraph 73c that will limit the number of establishments in an area.

We would, however, hope that paragraph 100 could be modified to allow for limitation *before* an area reaches 'saturation'. By the time the situation is judged to have achieved saturation, damage has already been done. That could be avoided by setting the acceptable limit quite low.

We are aware that Councillors and Community Councils have sometimes found it very difficult to resist some licensing and planning applications (in the case, for example, of a new gaming club in Borough High Street). Although objections were lodged at Community Council meetings and although

**Acting Dean**  
Canon Andrew Nunn

**Canons Residentiary**  
Canon Michael Igrave  
Canon Bruce Saunders  
Canon Jane Steen

**Succentor**  
The Revd Anna Macham

councillors declared themselves to be unhappy at the proposal, these wider 'quality of life' considerations (which impact on the character of the area) were not deemed to be relevant.

We very much hope that this draft policy on Sex Establishments not only reflects the Council's will to be more proactive in protecting and enhancing the quality of life in this borough (not only in connection with sex establishments but in both licensing and planning consents more generally), but will give the Council and the Police the technical and legal means to do so, without being outplayed by clever lawyers who find loopholes in the policy.

It is sometimes argued that Southwark, and particularly the northern part of the borough, has always been 'colourful'. Historically, the raunchy character of the area was closely associated with and largely the result of the extreme poverty of its people. In the interest of helping people towards a better quality of life, we would happily jettison some of the seedier aspects of our Dickensian past.

Some north London boroughs have greatly tightened up their policies on planning, licensing, street drinking etc, and some of the activity now deemed unacceptable there appears to have crossed the River. If this policy is an attempt to manage some of these aspects of urban life in a way which is rational, consistent and responsible, we greatly welcome it and wish you well in its implementation.

Yours sincerely,

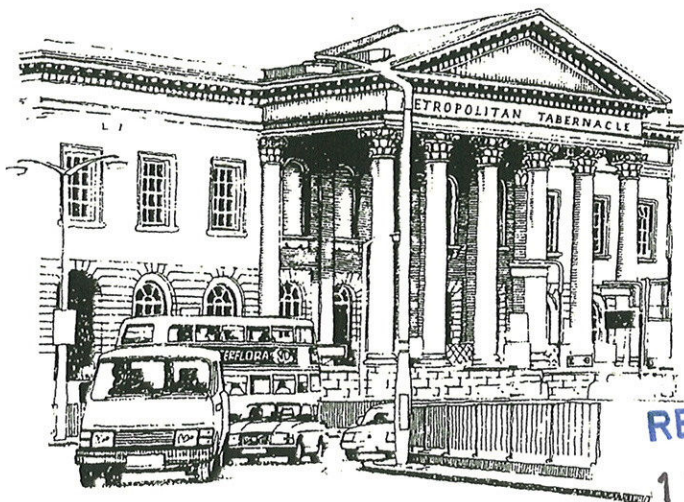
cc

Southwark Licensing Service

Commissioner of Police for the Metropolis

Simon Hughes MP

Bankside Residents Forum



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\*

RECEIVED

11 FEB 2011

Pastor: Dr Peter Masters

Richard Perkins  
Health Safety Licensing & Environmental Protection Manager  
EHTS,  
Chaplin Centre,  
Thurlow St,  
SE17 2DG

8<sup>th</sup> February 2011

### Public Consultation on New Licensing Arrangements for Sex Entertainment Venues

Thank you for the opportunity to comment on the Council's draft policy.

Our general comment on this type of establishment is that they perform no social benefit and indeed encourage the worst aspects of behaviour to the detriment of whatever community they are located in. We would oppose the granting of such licences anywhere in Southwark because we see at first hand the sad effects on families and children of the immoral life encouraged by such places.

We also note in Section 101.

Applications will not normally be granted where the premises are located:

Near residential accommodation;

Near places of worship, community facilities or public buildings;

Near schools, youth clubs, shops, parks, leisure and recreational establishments and any other similar premises directed at, or primarily used by children or families; Or

Within sight of pedestrian routes or transport nodes (such as stations or bus stops) serving any of the categories listed in the three bullet points above.

We would argue that this section will preclude the granting of licences anywhere in the Elephant & Castle area which can easily be seen to conflict with each of these conditions.

Yours faithfully,

Chris Cooper  
Admin Manager

<b>Item No.</b> 9.	<b>Classification:</b> Open	<b>Date:</b> 26 July 2011	<b>Meeting Name:</b> Licensing Committee
<b>Report title:</b>		Rescission or Variation of Licence Street Designations in Southwark	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Strategic Director of Environment and Housing.	

### RECOMMENDATION

1. That the committee resolves to publish notice of its intention to rescind or vary the licence street designations detailed in Appendix 2.

### BACKGROUND INFORMATION

2. Since the London Local Authorities Act 1990 was adopted, a list of designated street trading areas ("licence streets") has been in place throughout the borough. The present list of licence streets is attached at Appendix 1.
3. Over the years the demographics of the borough has changed and certain pitches or markets became less viable or unworkable. Other locations have undergone extensive development and in some instances make it no longer practical for traders to operate from pitches or markets and it would not be viable for street trading in the future to occur in these areas.

### KEY ISSUES FOR CONSIDERATION

4. The committee is advised that the pitches and markets in Appendix 2 operate either on a much reduced capacity or have been vacant for a number of years.
5. The council is required to publish notice of its intention to rescind or vary any licence street designations, and invite representations on the proposals.
6. Section 24 of the London Local Authorities Act 1990 (as amended) states the procedures which must be followed and these are addressed in the concurrent from the strategic director of communities, law & governance.

### Consultation

7. Consultation has been carried out in accordance with legislation with traders affected by these proposals, and they have lodged no objections to the proposals to rescind or vary the designations of these trading areas. The proposals mainly affect former traders of Westmoreland Road on Sundays, who have moved onto East Street, and are happy to continue trading there in the future. The council will continue to charge these traders the Westmoreland Road fees for the next three years.

### Policy implications

8. The council may from time to time pass any of the following resolutions:

- a) a resolution designating any street within the borough as a licence street (a designating resolution)
  - b) a resolution specifying the conditions on which it will issue street trading licences for a licence street.
9. The council may also from time to time by subsequent resolution rescind or vary any such resolution.

### **Community impact statement**

10. The Markets and Street Trading Strategy aims to ensure that markets are inclusive of all residents of the borough and meet all the criteria in the council's equalities policy. The de-designation of these pitches will have little impact on the community.

### **Resource implications**

11. There are no immediate resource implications as these pitches have not been bringing in any income for some time.
12. The street market trading account is currently projected to break even for the financial year 2011/12. The cumulative deficit of £820,000 as at 31 March 2011 in the street markets trading account is of concern. By being ring fenced, the deficit has no immediate implications for the general fund. The council however, has an obligation to recover the deficit to ensure that there is no special burden on the general fund over time. The head of service is currently implementing a number of measures to recover the trading account deficit and put the trading account in a better financial footing. As part of this, a further report will be brought to this committee to approve new trading areas in more appropriate locations that will bring in increased income to reduce the cumulative street trading deficit.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

13. Under Section 24 of the London Local Authorities Act 1990 ("the 1990 Act"), the council can designate streets within Southwark where it considers it appropriate for licensed street trading to take place. These are known as 'licence streets', and the council may issue street trading licences for those streets, in accordance with the terms of the designation.
14. Section 24 also gives the council the power to rescind or vary any such designations. The procedure for rescinding or varying the designation of a street as a licence street is also set out in Section 24.
15. Before passing a resolution rescinding or varying a designation the council must consult with any affected licence holders or their representative body.
16. The council must also publish a notice of its intention to rescind or vary a designation in a locally circulating newspaper. The notice must contain a draft of the resolution and state that persons have 28 days from the publication of the notice to make representations in writing to the council.
17. Once the 28 day period has expired the council must consider any representations received before it decides to pass the resolution.



18. If the council passes a resolution rescinding or varying a designation, within 28 days it must publish a notice stating that the resolution has been passed in a locally circulating newspaper for two consecutive weeks. The notice must be published at least 28 days before the resolution takes effect.
19. If the council fails to comply with the statutory procedure then the resolution may be invalid.
20. 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. Under Part 3 of the council's constitution, decisions in relation to street trading are the responsibility of the licensing committee.

#### **Finance Director**

21. This de-designation and the future report on the new designations are part of the markets and street trading strategy and action plan agreed by cabinet in September 2010.

#### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
London Local Authorities Act (as amended)	Street Trading Section: SAST House, Dawes Street, London SE17 1EL	Sharon Coleman 020 7525 0861
Markets and Street Trading Strategy	160 Tooley Street	John McHenry 020 7525 2105

#### **APPENDICES**

<b>No.</b>	<b>Title</b>
Appendix 1	List of existing markets and street trading pitches
Appendix 2	List of markets & street trading pitches to be de-designated

**AUDIT TRAIL**

<b>Lead Officer</b>	Gill Davies, Strategic Director of Environment	
<b>Report Author</b>	John McHenry, Markets Development Manager	
<b>Version</b>	Final	
<b>Dated</b>	14 July 2011	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
<b>Cabinet Member</b>	Yes	No
<b>Date final report sent to Constitutional Team</b>	15 July 2011	

## Current designated Streets and Pitches

NO.	LOCATION	COMMODITIES	TRADING DAYS	NO. OF PITCHES
	Westmoreland Road	General / Bric-A-Brac	Sun	61
	Westmoreland Road	General / Bric-A-Brac	Mon – Sat	61
	Bermondsey Antiques Market	Antiques	Friday	261
	East Street Market	General	Tue – Sun	244
	Southwark Park Road	General	Mon – Sat	24
	Tower Bridge Road	General	Mon – Sat	42
	Choumert Road	General	Mon – Sat	30
	Bermondsey Street	Antiques	Friday	19
	Blackwood Street	Flowers & Plants	Sunday	16
	Dawes Street	General	Sunday	15
	Horsley Street	Birc-A-Brac	Sunday	17
	London Bridge Approach	General	Mon – Sat	6
	London Bridge	General	Mon – Sat	3
	Atwell Street, Peckham	General	Mon – Sat	5
	Albion Street	General	Mon – Sat	12
	Parkstone Road, Peckham	General	Mon – Sat	4
	Arnside Street	General	Mon – Sat	3
	Beckford Place, Walworth Road	General	Mon – Sat	1
	Blenheim Grove, Peckham	General	Mon – Sat	2
	Dog Kennel Hill	Newsvendor	Mon – Sat	1
	Grove Lane	General	Mon – Sat	1
	Elm Grove	General	Mon – Sat	2
	Bermondsey Square	Refreshments	Friday	1
	Skipton Street		Mon – Sat	1
	Borough High Street – War Memorial	Flowers	Mon – Sat	1
	Camberwell New Road	Newsvendor	Mon – Sat	1
	Camberwell Road	Newsvendor	Mon – Sat	1
	Moncrieff Street	General	Mon – Sat	2
	Mission Place	General	Mon – Sat	1
	London Road	Newsvendor	Mon – Sat	1
	Joiner Street	General	Mon – Sat	1
	Orb Street	Refreshments	Tue – Sun	1
	Old Kent Road	Newsvendor	Mon – Sun	1
	Sumner Road	Newsvendor	Mon – Sun	1
	The Triangle	General	Sat & Sun	1
	Thurlow Street	Newsvendor	Mon – Sun	1

<b>NO.</b>	<b>LOCATION</b>	<b>COMMODITIES</b>	<b>TRADING DAYS</b>	<b>NO. OF PITCHES</b>
	North Cross Road	Arts & Craft, Vintage & Handmade	Mon – Sat	5 & 30
	Brenchley Gardens	Flowers	Mon – Sat	1
	St Georges Road	Newsvendor		
	Peckham High Street	Newsvendor	Mon – Sat	1
	Railway Approach	Newsvendor	Mon – Sat	1
	Rotherhithe New Road	General	Mon – Sat	2
	Sunray Avenue	Newsvendor	Mon – Sat	1

## Streets and Pitches to be De-designated

NO.	LOCATION	COMMODITIES	TRADING DAYS	NO. OF PITCHES	ACTION	REASON
	Westmoreland Road	General / Bric-A-Brac	Sun	61	De-designate Sunday trading at Westmoreland Road.	There have been major works in the area and there has been a big problem with anti social behaviour involving street drinkers and drug addicts. These traders are now trading successfully in East Street.
	Westmoreland Road	General / Bric-A-Brac	Mon – Sat	61	De-designate 55 pitches, leaving 6 at the junction of Walworth Road.	Since 2005 there have been no more than 2 / 3 traders, trading Monday to Saturday. Locating the pitches at the junction of Walworth Road would be more beneficial for remaining and any new traders.
	Bermondsey Antiques Market	Antiques	Friday	261	Reduce designation from 261 to 150 pitches.	This market was originally known as New Caledonian Market with 261 stalls. Following major regeneration there is now only space for a maximum of 150 pitches.
	East Street Market	General	Tue – Sun	244	Reduce designation from 244 pitches to 200.	Pitches have been extended from 9ft to 12ft pitches with a 3ft gap every second pitch this has reduced the amount of pitches from 244 to 200. Traders have requested this change.
	Tower Bridge Road	General	Mon – Sat	42	De-designate the market.	During the development of Bermondsey Antiques Market a red

NO.	LOCATION	COMMODITIES	TRADING DAYS	NO. OF PITCHES	ACTION	REASON
						route TFL road was built through part of the market which restricted traders ability to trade and created parking issues. The market went into decline and didn't recover. The only trader now has a shop front licence.
	Choumert Road	General	Mon – Sat	30	Reduce designation to 5 pitches.	This market has gone into decline; there are 5 stalls each week that are linked to existing shop tenants. We would wish these to remain for the present.
	Bermondsey Street	Antiques	Friday	19	De-designate the market	Redevelopment has removed pitch space
	Horsley Street	Bric-A-Brac	Sunday	17	De-designate the market.	This was an extension of Westmoreland Road when it was flourishing. These pitches haven't been used for at least 5 years as they are no longer viable.
	Arnside Street	General	Mon – Sat	3	De-Designate	There was one trader up until late 2005, since his retirement these pitches haven't been utilised and are not viable.
	Dog Kennel Hill	Newsvendor	Mon – Sat	1	De-designate	This pitch has not been utilised in a good 10 years.

NO.	LOCATION	COMMODITIES	TRADING DAYS	NO. OF PITCHES	ACTION	REASON
	Mission Place	General	Mon – Sat	1	De-Designate	This hasn't been utilised in the past 6 years through redevelopment of the area. If a pitch was sited here it would cause an obstruction.
	Joiner Street	General	Mon – Sat	1	De-designate	This appears to have been developed out by the Shard
	Sumner Road	Newsvendor	Mon – Sun	1	De-designate	This was deemed as dangerous as the trader was robbed on more than two occasions. The receptacle was removed as part of a CGS project as it was deemed a fire hazard.
	The Triangle	General	Sat & Sun	1	De-Designate	This has been developed over and trees have been planted.
	Railway Approach	Newsvendor	Mon – Sat	1	De-designate	This pitch has been swallowed up by the Shard.

